

# **PLANNING COMMITTEE AGENDA**

**Tuesday, 28 March 2017 at 07:15 PM**

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

**THIS MEETING IS OPEN TO THE PUBLIC**  
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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 K Bowers	Councillor Lady Newton
Councillor Mrs L Bowers-Flint	Councillor J O'Reilly-Cicconi (Vice-Chairman)
Councillor T Cunningham	Councillor Mrs I Parker
Councillor P Horner	Councillor Mrs W Scattergood (Chairman)
Councillor H Johnson	Councillor P Schwier
Councillor S Kirby	Councillor Mrs G Spray
Councillor D Mann	

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.

N BEACH  
Chief Executive

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

### **Declarations of Disclosable Pecuniary Interest, Other Pecuniary Interest or Non-Pecuniary Interest**

Any member with a Disclosable Pecuniary Interest, other Pecuniary Interest or Non-Pecuniary Interest 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 Disclosable Pecuniary Interest or other Pecuniary Interest 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.

### **Question Time**

The Agenda allows for a period of up to 30 minutes when members of the public can speak. 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) no later than 2 working days prior to the meeting. The Council reserves the right to decline any requests to register to speak if they are received after this time. Members of the public can remain to observe the public session of the meeting.

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### **Mobile Phones**

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## **PUBLIC SESSION**

## **Page**

### **1 Apologies for Absence**

### **2 Declarations of Interest**

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

### **3 Minutes of the Previous Meeting**

To approve as a correct record the Minutes of the meeting of the Planning Committee held on 28th February 2017 (copy previously circulated).

### **4 Public Question Time**

(See paragraph above)

### **5 Planning Applications**

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

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

#### **PART A**

Planning Applications:-

<b>5a</b>	<b>Variation to Section 106 Agreement - Application No. 15 01580 OUT Land South of Halstead Road, EARLS COLNE</b>	<b>5 - 12</b>
<b>5b</b>	<b>Variation to Section 106 Agreement - Application No. 16 01475 FUL Land East of Monks Road, EARLS COLNE</b>	<b>13 - 14</b>
<b>5c</b>	<b>Application No. 16 01813 OUT - Land South of Stonepath Drive, HATFIELD PEVEREL</b>	<b>15 - 81</b>
<b>5d</b>	<b>Application No. 16 01951 FUL - Site of proposed portacabin, Owers Road, WITHAM</b>	<b>82 - 95</b>
<b>5e</b>	<b>Application No. 16 02152 FUL - Land rear of 106 Rosemary Avenue, BRAINTREE</b>	<b>96 - 107</b>

## **PART B**

### **Minor Planning Applications:-**

- |           |  |                  |
|-----------|--|------------------|
| <b>5f</b> | <b>Application No. 16 01721 FUL - 11 Shalford Road, RAYNE</b>  | <b>108 - 116</b> |
| <b>5g</b> | <b>Application No. 16 01788 FUL - Village Hall, 1 Station Road, COLNE ENGAINE</b>  | <b>117 - 126</b> |
| <b>6</b>  | <b>Planning and Enforcement Appeal Decisions - February 2017</b>   | <b>127 - 132</b> |
| <b>7</b>  | <b>Urgent Business - Public Session</b><br>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. |                  |
| <b>8</b>  | <b>Exclusion of the Public and Press</b><br>To agree the exclusion of the public and press for the consideration of any Items for the reasons set out in Part 1 of Schedule 12(A) of the Local Government Act 1972.  |                  |

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

## **PRIVATE SESSION**

## **Page**

- |          |  |
|----------|--|
| <b>9</b> | <b>Urgent Business - Private Session</b><br>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. |
|----------|--|

Variation to resolution to grant planning permission, Land South Of Halstead Road, Earls Colne – 15/01580/OUT		Agenda No: 5a
Portfolio	Environment and Place / Planning and Housing Economic Development / Health and Communities	
Corporate Outcome:	A sustainable environment and a great place to live, work and play A well connected and growing district with high quality homes and infrastructure A prosperous district that attracts business growth and provides high quality employment opportunities Residents live well in healthy and resilient communities where residents feel supported	
Report presented by:	Neil Jones, Principal Planning Officer	
Report prepared by:	Neil Jones, Principal Planning Officer	
Background Papers:		Public Report
Planning Committee Report – Application Reference 15/01580/OUT		Key Decision: No
Planning Committee Minutes – 27.09.2016		
Executive Summary:		
<p>This report concerns a planning application for a residential development that the Planning Committee recently considered and resolved to grant subject to a planning obligation. The applicant seeks to vary one aspect of the Heads of Terms and the matter is duly brought back to Committee for consideration.</p> <p>When the application was previously reported to Planning Committee it had been proposed that the applicant would make land available within the application site for the car park at the Pump House Surgery. This was to be secured through the S106 legal agreement.</p> <p>After Planning Committee passed a resolution to grant planning permission, subject to completion of the S106 agreement, Officers and the Council's solicitor began the process of securing this land.</p> <p>During this process it came to light that there is a separate parcel of land owned by a third party, situated between the existing car park and land in the applicant's control. The requirement to obtain third party approval complicated the process for extending the car park and Officers have investigated further the likelihood of the car park being extended. Having discussed the situation with the Parish Council; the Surgery management / the owner of the Surgery site; and NHS England it is apparent that no-one is willing to fund the car park extension.</p> <p>As a result it is proposed that the Heads of Terms for the S106 are changed and the agreement should no longer secure land for a potential car park extension. This report seeks Members' approval to the revised Heads of Terms and a revised resolution to grant planning permission, subject to completion of the S106 legal agreement.</p>		

**Recommended Decision:**

Members amend the resolution to grant planning permission, omitting the reference to securing land for an extension to the Surgery car park.

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

- Affordable Housing (40% of units provided on-site)
- Pedestrian link to Nonancourt Way
- Provision of a minimum of 0.84ha of on-site Public Open Space including Equipped Play Area and suitable management arrangements for the On-Site Public Open Space within the site
- Financial contribution towards secondary school transport

The Development Manager be authorised to GRANT planning permission under delegated powers subject to the conditions and reasons set out in the original report to Planning Committee and set out below. Alternatively, in the event that a suitable planning obligation is not agreed with two calendar months of the date of the resolution to approve the application by the Planning Committee the Development Manager may use her delegated authority to refuse the application.

**Purpose of Decision:**

To enable the Local Planning Authority to make suitable variations to the terms of the planning permission and associated legal agreement to reflect changes in circumstances regarding the provision of land to extend the car park serving the Pump House Surgery.

**Any Corporate implications in relation to the following should be explained in detail.**

<b>Financial:</b>	None
<b>Legal:</b>	Any legal implications have been considered as part of the assessment.
<b>Safeguarding:</b>	None
<b>Equalities/Diversity:</b>	None
<b>Customer Impact:</b>	The provision of some of the planning obligations, which provide benefits for the whole of the local community, will be varied.
<b>Environment and Climate Change:</b>	None
<b>Consultation/Community Engagement:</b>	Earls Colne Parish Council was consulted to ascertain whether they were willing and able to take responsibility for the project to extend the Surgery Car Park. This included funding the project.
<b>Risks:</b>	None
<b>Officer Contact:</b>	Neil Jones
<b>Designation:</b>	Principal Planning Officer
<b>Ext. No:</b>	2523
<b>E-mail:</b>	<a href="mailto:nejjo@braintree.gov.uk">nejjo@braintree.gov.uk</a>

## INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is brought before the Planning Committee as it is proposed that the Heads of Terms, that formed part of the Officers recommendation to grant planning permission, are varied and that these no longer include provision to secure land for a potential extension to the Doctor's Surgery Car Park.

As it is proposed that the Heads of Terms that formed part of the Planning Committee's reason for passing a resolution to grant planning permission 15/01580/OUT be varied, from those which the Planning Committee considered when they originally considered the application, this proposed change to the Heads of Terms must be reported back to Members to consider.

## SITE DESCRIPTION

The site was described as follows in the Planning Committee report when the development of the site was considered in 2016.

*'The application site is advised to cover 3.44 hectares and consists of an irregularly shaped area, located behind existing housing on the southern side of Halstead Road. The majority of the site is currently in use as agricultural land with arable crops. There are currently two gated accesses to the site – off the Halstead Road at the northern end of the site, between no.12 Halstead Road and Atlas Bungalows. The application states that this was the access to the former foundry works (Atlas Works) that used to exist to the east of the site (now redeveloped). A second gated access is located at the southern end of the site, leading off Thomas Bell Road.*

*The land is generally level with a gentle fall across the site to the south. Within the arable field, at the northern end of the site there is a large Oak tree which is the subject of a Tree Preservation Order.*

*To the east of the site is the Atlas Works development. There are a number of dwellings located along this boundary, with dwellings facing onto the application site; standing side-on; or backing on. In addition to the dwellings there is also the Doctors Surgery and car park adjoining the site and further to the south, at Nonancourt Way, a children's play area. To the north of the site there is a row of semi-detached properties fronting the Halstead Road. These dwellings have an unconventional arrangement with generous front gardens, which form their main amenity area, with only very small gardens or yards to the rear, adjacent to the application site.*

*To the southern and western boundaries there are hedgerows or tree belts that provide some visual enclosure of the site from the open countryside beyond.*

*A small portion of the site, around the northern site entrance, is located within the Earls Colne Conservation Area. Whilst the vast majority of the site is outside the Conservation Area it directly abuts the Conservation Area boundary which runs along the northern and eastern site boundary. In addition there are two Grade II listed buildings close to the site – South Lodge and no's 1 & 2 Thatched Cottages - which are located directly opposite the existing site entrance on Halstead Road. Further to the east, along Halstead Road, there are numerous other Grade II listed buildings'.*

## PROPOSAL

The Heads of Terms reported to Planning Committee included *'Land to be offered for the possible extension to the car park at The Pump House Doctors Surgery'*.

As reported below it has become apparent to Officers that there is no realistic prospect of the Surgery car park being extended. Officers therefore consider that it is no longer appropriate to secure the land for this purpose, or that it form part of the consideration of this application, and recommend that this item is omitted from the Heads of Terms / S106 legal agreement.

No other changes are proposed to the Heads of Terms that were originally reported to Planning Committee.

## CONSULTATION / REPRESENTATIONS

Officers contacted the Parish Council when it became apparent that the extension of the Surgery Car Park would only be possible if third party land were also made available to form part of the car park extension and if the funds could be found to carry out the works.

The issue was discussed at the Parish Council's December meeting and their response to the District Council was: *'Members wish to point out that they were, from the outset, wishing an extension to the car park to be included in any plans for a housing development off Halstead Road. They had, however, always hoped that this would be provided by the developer via Section 106 or other funds and would I can confirm that they unanimously agreed that they would not be agreeable to the Parish Council contributing to the cost of the construction of additional parking bays.'*

*Members continue to be disappointed at the decisions being made on the allocation of S106 monies in the Village and this is yet another case where they had hoped that support to the infrastructure of the Parish would be forthcoming when any housing was agreed'.*

Subsequently Officers have met the Parish Council to discuss the situation further and the Parish Council suggested that the terms of the S106 be amended so that the Public Open Space on the site be transferred to their ownership / management and that the definition of Public Open Space include the ability for them to use part of the Public Open Space to extend the Surgery Car Park. This matter is discussed in further detail below.

## REPORT

When the application was originally reported to Planning Committee there were five items listed in the Heads of Terms –

- *Affordable Housing (40% of units provided on-site)*
- *Pedestrian link to Nonancourt Way*
- *Provision of a minimum of 0.84ha of on-site Public Open Space including Equipped Play Area and suitable management arrangements for the On-Site Public Open Space within the site*
- *Financial contribution towards secondary school transport*



- *Land to be offered for the possible extension to the car park at The Pump House Doctors Surgery*

Officers reported that it was intended that a parcel of land within the application site would be made available by the applicant to allow for the car park serving the Pump House Surgery to be extended, to create an additional 5 car parking spaces. Officers were unaware of any reason why the car park extension could not be constructed, once the land was secured through the S106 legal agreement, when the application was originally reported to Planning Committee.

The offer of land to extend the Surgery Car Park was something that had been referred to by the applicant within the Planning application. It is understood that the Parish Council had highlighted problems with car parking at the Doctors Surgery when the site was first proposed for development, several years ago, in the Council's 'Call for Sites' for the Site Allocations and Development Management Policies Plan (ADMP).

The surgery has its own car park but the Parish Council reported that there were inadequate spaces to meet demand and that this led to issues with visitors to the surgery parking in residential streets near the surgery. This led the Parish Council to call for additional car parking to be provided for Surgery users.

Officers discussed the provision of land to allow for the car park to be extended with the agent, as part of their consideration of the application and it was agreed that land adjoining the existing car park should be included within the Heads of Terms.

In September 2016 Planning Committee passed a resolution to grant outline planning permission, subject to completion of the S106 agreement. Following this resolution Officers proceeded to negotiate the terms of the S106 and this included further consideration of how the land for the car park extension would be secured and how the work could be implemented.

The Pump House Surgery is the Doctor's surgery that serves the village of Earls Colne and the surrounding area. The Surgery premises are not owned by the NHS, or GP Practice. It is currently leased to the Practice by a property investment company.

Officers initially contacted the Practice Manager; NHS England and the owner of the freehold of the property to discuss the potential extension to the car park. Regrettably none of these parties were willing, or able, to commit to fund the cost of extending the car park, in the event that the land were to be made available at a later date through the S106 agreement.

In addition when the Council's solicitor investigated the title of the land they found that there was a narrow strip of land which runs along the site boundary, separating the existing Surgery Car Park and the application site / land owned by the applicant. This strip of land is owned by a third party and for the car park extension to be constructed and accessible the third party landowner would either need to agree to allow unencumbered access over their land, or agree to sell or transfer the land to either the Council or the Surgery. The involvement of a third party casts further doubt over whether it would ever be possible to extend the car park in the manner envisaged.

It should be noted that NHS England in their consultation response to the Outline Planning Application did not object to the proposed development. Neither did they request a financial contribution towards increasing capacity at the surgery, or an extension to the car park currently serving the Pump House Surgery. The existing Surgery building has sufficient capacity to accommodate the additional patients that would be likely to want to join their practice as a result of this proposed development.

As it was the Parish Council who had first raised this as an issue Officers informed the Parish Council of the situation and asked whether they would be willing to take the project on and finance the cost of constructing the extension to the car park. As reported above the Parish Council unanimously agreed that they would not be agreeable to the Parish Council contributing to the cost of the construction of additional parking bays.

The Parish Council went on to point out that they were, from the outset, wishing an extension to the car park to be included in any plans for a housing development off Halstead Road. They had, however, always hoped that this would be provided by the developer via Section 106 or other funds.

The Parish Council state that they are disappointed *'that is yet another case where they had hoped that support to the infrastructure of the Parish would be forthcoming when any housing was agreed'*.

Officers met representatives of the Parish Council to discuss the situation further. At that meeting representatives of the Parish Council were keen to find a solution whereby land could still be made available in the future to extend the surgery car park. The Parish Council asked whether this could be done by broadening the definition of Public Open Space (POS) within the S106 agreement, to allow part of the POS to be used as part of the surgery car park. The Parish Council also stated they were prepared to have the Public Open Space transferred to them, rather than to a Management Company, so they could own and manage the land.

Unfortunately the applicant did not agree to this proposal, instead preferring that the POS be transferred to a Management Company. Whilst Officers had hoped that the applicant would agree to transfer the POS to the Parish Council, the District Council is unable to force the POS to be transferred or managed on that basis. The District Council can only require that Management Arrangements are put in place. In this case there can be no principal objection to the POS being transferred and managed by a Management Company.

Although Officers have tried to secure land for the potential expansion of the Surgery Car Park it is considered that as there is no realistic prospect of a new surgery being provided on this site and as such should be excluded from the Heads of Terms.

As Members will be aware the Council can only require a developer to enter into a planning obligation where it meets the tests set out in Government legislation. Planning obligations should only be sought where they meet all of the following tests:

- *necessary to make the development acceptable in planning terms*
- *directly related to the development*
- *fairly and reasonably related in scale and kind to the development*

Whilst the existing Surgery Car Park may not always have sufficient appointment capacity to meet current demand the need for additional car parking spaces is not considered to be '*directly related to the development*'; indeed residents of the proposed development would be more likely to walk to the Surgery than the majority of existing patients. In addition Officers do not consider that the developer could be compelled to pay for the construction of the car park. Officers do not believe that this would be necessary to '*make the development acceptable in planning terms*'. If the car park is not provided then Officers do not consider this would constitute a reason for the planning application to be refused.

## **CONCLUSION**

Whilst the applicant had agreed to make land available within the application site to extend the Surgery Car Park, it is now recommended that this land is not secured through the S106, as there is no realistic prospect of the car park being extended.

If the land was offered to extend the car park the legal agreement would need to contain a provision whereby the land would be returned to the applicant after a specified period of time if the car park had not been constructed. If there is no realistic prospect of the car park extended then there is little value in including it within the S106 agreement.

Members of the Local Plan Sub-Committee approved the inclusion of the site in the Draft Local Plan which was published last year for public consultation and had previously proposed that residential development be allocated at this site through work undertaken on the Site Allocations and Development Management Policies Plan (ADMP). Although identified as a possibility, it was not a requirement of the draft allocation that the site make provision for an extension to the surgery car park.

Whilst the fact this land is no longer being offered through the S106 legal agreement reduces the potential social benefits arising from the proposed development Officers consider that the legal agreement will ensure that the application complies with the relevant Council policies.

Finally Officers are able to report that there is an agreed draft of the S106 and subject to Members agreeing this resolution it is anticipated that the agreement will be completed and the planning permission issued within a short period of time.

## **RECOMMENDATION**

It is recommended that Members modify the resolution to grant planning permission, that subject to the applicant entering into a suitable legal agreement pursuant to S106 of the Town and Country Planning Act 1990 (as amended) to cover the following Heads of Terms:

- Affordable Housing (40% of units provided on-site)
- Pedestrian link to Nonancourt Way
- Provision of a minimum of 0.84ha of on-site Public Open Space including Equipped Play Area and suitable management arrangements for the On-Site Public Open Space within the site
- Financial contribution towards secondary school transport

the Development Manager be authorised to GRANT planning permission under delegated powers subject to the conditions and reasons set out in the original Committee Report.

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

Variation to resolution to grant planning permission, Land East of Monks Road, Earls Colne – 16/01475/FUL		Agenda No: 5b
Portfolio	Environment and Place Planning and Housing Economic Development Health and Communities	
Corporate Outcome:	A sustainable environment and a great place to live, work and play A well connected and growing district with high quality homes and infrastructure A prosperous district that attracts business growth and provides high quality employment opportunities Residents live well in healthy and resilient communities where residents feel supported	
Report presented by:	Natalie Banks, Senior Planning Officer	
Report prepared by:	Natalie Banks, Senior Planning Officer	
Background Papers:		Public Report
Planning Committee Report – Application Reference 16/01475/FUL		Key Decision: No
Planning Committee Minutes – 22.11.2016		
Executive Summary:		
<p>This report relates to a planning application for a residential development that the Planning Committee recently considered and resolved to grant subject to a planning obligation. Officers are seeking to vary one aspect of the Heads of Terms and the matter is duly brought back to Committee for consideration.</p> <p>Members resolved to grant planning permission for residential development of 50 new homes with highway access from Monks Road, public open space, SUDs, associated hard and soft landscaping and infrastructure on Land East of Monks Road, Earls Colne on 22<sup>nd</sup> November 2016, subject to a S106 Agreement. The draft Heads of Terms secured, amongst other things the sum of £28,719.38 towards off-site play equipment at Hillie Bunnies playground.</p> <p>Subsequently, during the drafting of the S106 Agreement, discussions have been held with Earls Colne Parish Council with regard to the allocation of the contributions secured within the Village. A suggestion has been put forward that some of the off-site play equipment contribution could be used towards equipment aimed at older children/teenagers. The Parish Council rents/leases an area of land at the Recreation Ground on Station Road, which is within approximately 800m of Monks Road. This suggestion is supported by the Parish Council and the applicant.</p> <p>As a result it is proposed that the Heads of Terms for the S106 are varied to enable some flexibility in the provision of outdoor play equipment that would better serve the Village.</p>		

This report therefore seeks Members' approval to the revised Heads of Terms and a revised resolution to grant planning permission, subject to completion of the S106 legal agreement.

### Recommended Decision:

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

- 20 units to be provided as affordable housing;
- A financial contribution towards off-site Outdoor Sports of £42,759.92 towards improvements to the artificial training pitch at Halstead Leisure Centre;
- A financial contribution towards improvements to allotment capacity of £1,357.07;
- £28,719.39 towards play equipment at the Hillie Bunnies Playground *and the Recreation Ground, Station Road*;
- A financial contribution of £5,000 towards a review of on-street parking controls;
- A Management Company to manage all areas of Public Open Space within the development.

The Development Manager be authorised to GRANT planning permission under delegated powers subject to the conditions and reasons set out in the original report to Planning Committee and set out below. Alternatively, in the event that a suitable planning obligation is not agreed with two calendar months of the date of the resolution to approve the application by the Planning Committee the Development Manager may use her delegated authority to refuse the application.

### Purpose of Decision:

To enable the Local Planning Authority to make suitable variations to the terms of the planning permission and associated legal agreement to enable a wider range of play equipment to be provided at a wider range of recreation sites within the village.

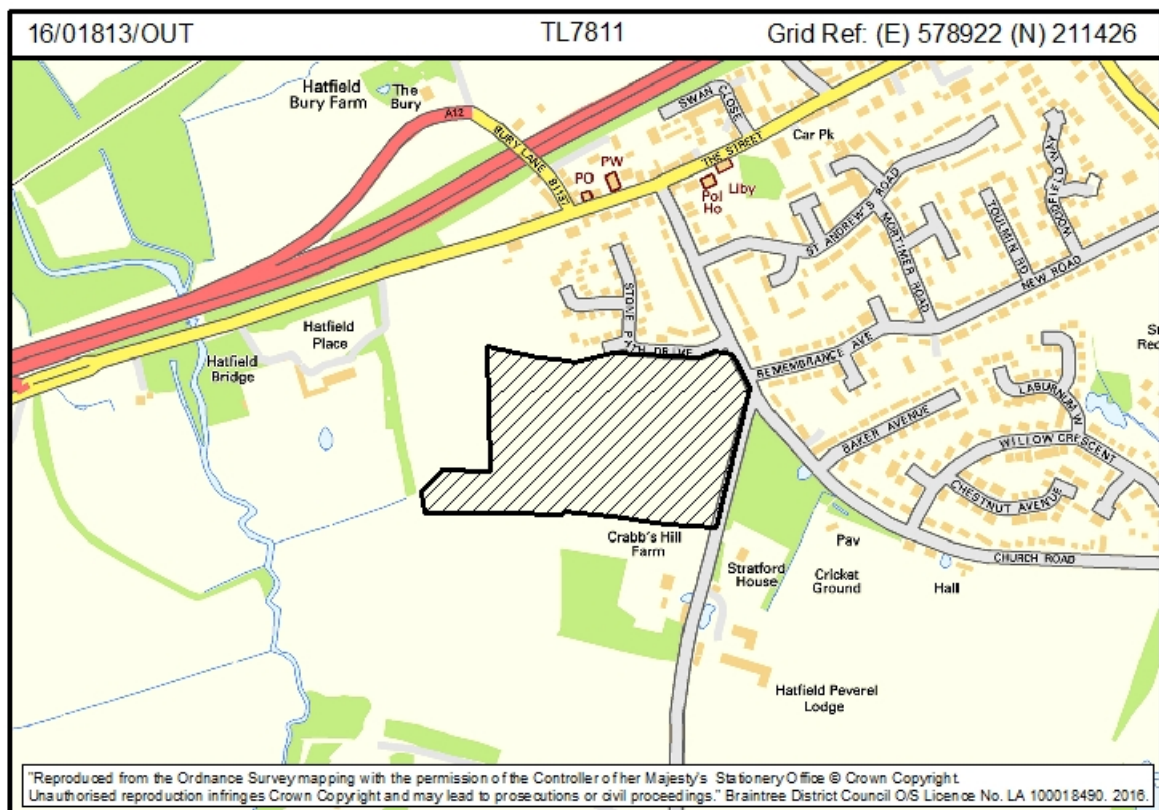
### Corporate Implications

<b>Financial:</b>	None
<b>Legal:</b>	Any legal implications have been considered as part of the assessment.
<b>Safeguarding:</b>	None
<b>Equalities/Diversity:</b>	None
<b>Customer Impact:</b>	The provision of some of the planning obligations, which provide benefits for the whole of the local community, will be varied.
<b>Environment and Climate Change:</b>	None
<b>Consultation/Community Engagement:</b>	Earls Colne Parish Council has been engaged in discussions regarding the provision of play equipment
<b>Risks:</b>	None
<b>Officer Contact/Designation:</b>	Natalie Banks, Senior Planning Officer
<b>Ext. No and E-mail:</b>	2545 / <a href="mailto:natalie.banks@braintree.gov.uk">natalie.banks@braintree.gov.uk</a>

PART A

APPLICATION NO: 16/01813/OUT DATE: 31.10.16  
 VALID:  
 APPLICANT: Gladman Developments Ltd.  
 Gladman House , Alexandria Way, Congleton, CW12 1LB  
 DESCRIPTION: Outline planning permission for up to 140 dwellings (including up to 40% affordable housing), introduction of structural planting and landscaping, informal public open space and children's play area, surface water mitigation and attenuation, site access off Stone Path Drive with associated ancillary works. All matters to be reserved with the exception of site access.  
 LOCATION: Land South of Stonepath Drive, Hatfield Peverel, Essex

For more information about this Application please contact:  
 Mr Timothy Havers on:- 01376 551414 Ext. 2526  
 or by e-mail to: [timha@braintree.gov.uk](mailto:timha@braintree.gov.uk)



## SITE HISTORY

16/00073/REF	Outline planning permission for up to 80 dwellings (including up to 40% affordable housing), introduction of structural planting and landscaping, informal public open space and children's play area, surface water flood mitigation and attenuation, primary vehicular access off Stone Path Drive and associated ancillary works. All matters to be reserved with the exception of the site access.		
05/01108/OUT	Proposed residential development of 29 starter homes	Withdrawn	25.07.05
05/02313/OUT	Erection of 19 no. 2 bed houses, 8 no. 2 bed flats and 16 no. 1 bed flats as affordable housing	Refused	14.02.06
06/00250/T56	Re-site one KX100 style telephone kiosk	No Objections Raised	21.03.06
16/00443/FUL	Change of use of land for the keeping of horses and for the erection of a stable block with associated hardstanding, fencing and access track	Withdrawn	09.05.16
16/00545/OUT	Outline planning permission for up to 80 dwellings (including up to 40% affordable housing), introduction of structural planting and landscaping, informal public open space and children's play area, surface water flood mitigation and attenuation, primary vehicular access off Stone Path Drive and associated ancillary works. All matters to be reserved with the exception of the site access.	Refused	25.10.16



16/00005/SCR	Town & Country Planning Act 1990 (as amended), Town & Country Planning (Environmental Impact Assessment) Regulations 2011 - Screening Request - Outline planning permission for up to 140 dwellings (including up to 40% affordable housing), introduction of structural planting and landscaping, informal public open space and children's play area, surface water mitigation and attenuation, site access off Stone Path Drive with associated ancillary works. All matters to be reserved with the exception of site access.	Screening/ Scoping Opinion Adopted	28.11.16
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## POLICY CONSIDERATIONS

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

The Council is currently working on a Draft Local Plan, which was approved by the Council unanimously for consultation on the 20<sup>th</sup> June 2016 and was the subject of public consultation between the 27<sup>th</sup> June and 19<sup>th</sup> August 2016.

In accordance with paragraph 216 of the NPPF, from the day of publication the Council can give weight to the emerging Draft Local Plan and the weight that can be given is related to:

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

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

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

Accordingly the Council can currently afford some weight to the emerging Draft Local Plan 2016.

It should also be noted that the Council was previously working on a Site Allocation and Development Management Plan (the ADMP). This plan was subject to extensive public consultation in 2013 and 2014. The ADMP was not however submitted to the Planning Inspectorate, due to the decision to begin work on a new Local Plan, to take into account the most up to date Government guidance. However parts of the ADMP have been rolled forward into the Draft Local Plan.

It is therefore considered that it would be consistent with the provisions in paragraph 216 of the NPPF, to afford more weight in decision making to the parts of the Draft Local Plan which have been rolled forward from the ADMP, due to the more advanced stage reached by those elements.

### National Planning Guidance

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

### Braintree District Local Development Framework Core Strategy

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

### Braintree District Local Plan Review

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

RLP70	Water Efficiency
RLP71	Water Supply, Sewerage & Drainage
RLP72	Water Quality
RLP74	Provision of Space for Recycling
RLP77	Energy Efficiency
RLP80	Landscape Features and Habitats
RLP81	Trees, Woodland Grasslands and Hedgerows
RLP84	Protected Species
RLP87	Protected Lanes
RLP90	Layout and Design of Development
RLP91	Site Appraisal
RLP92	Accessibility
RLP93	Public Realm
RLP94	Public Art
RLP100	Alterations and Extensions and Changes of Use to Listed Buildings and their settings
RLP105	Archaeological Evaluation
RLP106	Archaeological Excavation and Monitoring
RLP138	Provision of Open Space in New Housing Developments

#### Supplementary Planning Guidance

Affordable Housing Supplementary Planning Document  
Essex Design Guide  
External Lighting Supplementary Planning Document  
Open Spaces Supplementary Planning Document  
Open Spaces Action Plan  
Essex Parking Standards Design and Good Practice 2009

#### Other Guidance

Landscape Character Assessment 2006  
Braintree District Settlement Fringes – Evaluation of Landscape Analysis June 2015

#### Braintree District Draft Local Plan

SP1	Presumption in Favour of Sustainable Development
SP2	Meeting Housing Needs
SP4	Infrastructure and Connectivity
SP5	Place Shaping Principles
SP6	Spatial Strategy for North Essex
LPP24	Affordable Housing
LPP28	Housing Type and Density
LPP36	Sustainable Access for All
LPP37	Parking Provision
LPP38	Protected Lanes
LPP42	Built and Historic Environment
LPP43	Health and Wellbeing Impact Assessment
LPP44	Provision for open Space, Sport and Recreation

LPP46	Layout and Design of Development
LPP50	Alterations, Extensions and Changes of use to Heritage Assets and their Settings
LPP53	Archaeological Evaluation, Excavation and Recording
LPP56	Natural Environment
LPP57	Protected Species
LPP58	Enhancements, Management and Monitoring of Biodiversity
LPP59	Landscape Character and Features
LPP61	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP62	Energy Efficiency
LPP64	Renewable Energy within New Developments
LPP65	Surface Water Management Plan
LPP66	Sustainable Urban Drainage Systems
LPP68	External Lighting

#### Draft Hatfield Peverel Neighbourhood Plan 2015 – 2033

HPE2	Natural Environment and Biodiversity
HPE5	Sport & Recreation Provision
HPE6	Protection of Important Views
HPE7	Flooding & SUDS
HPE8	Heritage
T1	Sustainable Modes of Transport
T2	Transport Contributions
P1	Parking Provision
P2	Electric Charging Point Provision
EPD2	Safe Routes to School
PCH1	Health & Wellbeing
HPD1	Developer Contributions
HO1	Design of New Developments
HO3	Affordable Housing
HO4	Minimum Garden Sizes
HO5	Creating Safe Communities

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

This application is brought before the Planning Committee as the application is considered to be of significant public interest and represents a departure from the current Development Plan. It is therefore an application which has significant policy implications.

#### NOTATION

The application site is located outside the Hatfield Peverel Village Envelope as designated in the Braintree District Local Plan Review 2005.

The application site is not allocated for development in the Emerging Draft Local Plan.

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

### SITE DESCRIPTION

The application site is located outside but immediately adjacent to the south-western Village Envelope of Hatfield Peverel.

It measures approximately 6.35 hectares, the majority of which is agricultural land. The site covers three fields, encompassing one in its entirety which, with the exception of the northern most portion (which constitutes an area of grassland meadow), is currently being cultivated for crops. The site extends into two further adjoining fields which again consist of arable land. The planning application also includes an area of land measuring 3.54ha which sits immediately adjacent to the application site boundary and also falls within the applicant's ownership, being delineated by a blue line on the submitted plans. This encompasses two further fields in their entirety and parts of two others.

The application site is bounded to the north partly by Stonepath Drive and partly by an adjacent field. To the east lies Church Road and Crabbs Hill whilst to the South is situated Crabbs Hill Farm and further agricultural land. The William Boosey Public House lies to the north-west of the site and Hatfield Place lies to the west. Both are Grade 2\* Listed Buildings.

The northern boundary to Stonepath Drive is delineated by a chain-link type fence with a number of adjacent trees. The remainder of the northern boundary consists of a strong established tree/hedgeline. The eastern boundary consists of a particularly strong tree and hedgeline and the southern boundary also consists of an established tree and hedgeline. The western site boundary is more arbitrary with no natural de-marcation on the ground other than 3 mature trees which the site boundary sits broadly in line with.

Vehicular access to the site is currently achieved via a gated farm access leading from Crabbs Hill. There is also a footpath which crosses the site from east to west, being accessed from Church Road/Crabbs Hill Lane.

In terms of gradient, the site as a whole falls by approximately 10 metres from its north-eastern to its south-western periphery. The eastern area of the site consisting of the single agricultural field falls from north to south by approximately 5 metres. The western area which occupies part of two fields falls by approximately 2.8 metres.

### PROPOSAL

The applicant seeks Outline Planning Permission with all matters reserved except for access, for up to 140 dwellings with associated infrastructure, public open space and landscaping. The planning application also includes a

substantial area of land situated adjacent to the application site which would be provided for existing and future residents as public open space.

Applications for outline planning permission seek to establish whether the scale and nature of a proposed development would be acceptable to the Local Planning Authority, before detailed proposals are submitted at the Reserved Matters application stage.

The proposed vehicular and pedestrian access point would provide access to the site from Stonepath Drive, on the site's northern boundary. Besides access all other matters regarding the proposed development (appearance; landscaping; layout and scale) are Reserved Matters.

The applicant has submitted a site location plan and a proposed access drawing for full consideration. An illustrative Development Framework Plan and an illustrative Masterplan have also been submitted to demonstrate one way in which the site might accommodate the quantum of development proposed. The Framework Plan identifies the developable area of the site, areas of public open space and structural landscaping, proposed children's play area, proposed internal footpaths and a drainage basin. The illustrative site Masterplan is based upon this Framework Plan and provides further detail regarding design and layout.

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

- Planning Statement
- Statement of Community Involvement
- Design and Access Statement (including illustrative Masterplan)
- Transport Assessment
- Framework Travel Plan
- Foul Drainage Analysis
- Flood Risk Assessment and Drainage Strategy
- Utilities Statement
- Contaminated Land Assessment
- Landscape and Visual Appraisal
- Ecology Report
- Arboricultural Impact Assessment
- Archaeological Assessment
- Heritage Statement
- Air Quality Assessment
- Noise Assessment
- Sustainability Assessment
- Socio-Economic Sustainability Assessment

## CONSULTATIONS

### BDC Environmental Health

No objection subject to conditions relating to contaminated land survey; dust control scheme during construction; submission and approval of a Noise Mitigation Scheme for new dwellings and gardens; hours of construction and piling.

### BDC Landscape

No objection.

Landscape – The Landscape Partnership identifies (in the Landscape Analysis Study commissioned by the Council in 2015) this parcel of land as an area of medium capacity to absorb development. The well-defined hedgerow structure relating to pre-18<sup>th</sup> and 18<sup>th</sup>-19<sup>th</sup> century field enclosures provides relatively good visual containment to the parcel in the wider landscape. The parcel has good links to the settlement fringe with visual and physical associations with neighbouring residential streets. The existing edge to the settlement is relatively abrupt and the houses have limited containment to local views, with boundaries to properties formed by a variable mixture of boundary enclosures and fragmented vegetation.

The landscape analysis identifies that there is good scope to provide mitigation to proposed development that is in keeping with the existing landscape pattern. Key points within the analysis identifies that the following are elements of a design proposal that need to be considered as part of an acceptable layout.

- The development should be aligned with existing residential areas to the north-east of the parcel and kept away from any areas that are more exposed in views across the River Ter.
- The existing hedgerow structure needs to be retained and strengthened where necessary to break up the massing of any proposed development.
- The opportunity is taken to integrate the slightly abrupt ‘urban’ edge in local views with an appropriate proposal for a suitable level of tree and shrub planting to screen the development fringes.

In conclusion, the proposed development if designed within a suitable setting could provide a more attractive settlement edge than the open and unsympathetic vistas currently on offer from the available viewpoints.

Ecology – The main area of concern over the evidence as presented by the applicant revolves around the loss of habitat for ground nesting birds and the objection raised in this context by the RSPB. The objection seems to rely

heavily on an information log compiled by local residents. The Council was presented with this Wildlife Assessment in connection with the previous application 16/00545/OUT– no evidence about the qualifications of those making these observations was provided. The log contained an extract compiled by a small group of enthusiasts for observations on the above site and/or its immediate surrounding area for period 2000-2013 with updates in 2016. The text refers specifically to Skylark - a few - now and regularly since 2000 - the information provided can at best be described as anecdotal evidence and is not defined by accurate recording (e.g. *few* and *regular*) and the geographical area it refers to.

Additional information has been supplied by another objection comment (Mr. Bedford, Headington, Oxford) supporting the evidence of the data log to the extent that he – as a surveyor for the British Trust for Ornithology – has recorded an occasional use of the site by up to 4 birds in 2010 and 2016 and although he concludes that Stonepath Meadow is used as a breeding site, there is no observation to this effect and since the observations are intermittent then there is no evidence that breeding was successful. On balance I think the proximity of the settlement boundary, the regular use of the field by residents and the nature of the boundary features would suggest that the use is limited - partly because of the disruptive level of human activity on and around the site.

There are a number of other points that are relevant in this context and these are presented below:

- The loss of the habitat provided by this site was not considered sufficient to warrant any further survey requirements. The current application sits within a larger field-scape where the potential for foraging and nesting opportunities for all recorded species is still undiminished.
- The ecological appraisal provided by FPCR Environment and Design Ltd on behalf of the applicant in March 2016 stated that the arable land on this site provides unsuitable habitat for ground nesting birds given the presence of the public footpath within the north of the field, the open aspect of the field to the adjacent housing estate to the north, the two farm access tracks (one within the centre and along the southern field boundary)
- Recent academic research suggests that skylark density is influenced by the nature of the surrounding boundaries. In general terms, short hedges with trees show a significantly lower density than those found in fields without boundaries.
- From the experience of the Council's Landscape Officer on the times he has visited the site the public footpath is well used by local residents often as a space for walking their dogs. Of the field parcels available on this southern boundary to the settlement this appears to be one of the most disturbed by walkers and also by its proximity to the adjacent



roadway. RSPB standing advice to this effect is *Having a dog to walk is a great reason to get out into the countryside. However, dogs can potentially disturb wildlife or livestock so it is important they are kept under control. Ground nesting birds are particularly vulnerable to disturbance. They may be forced from their nests, which would leave eggs or chicks exposed.*

- In ideal conditions, an area the size of Stonepath Meadow would only support a limited number of breeding pairs of skylarks depending on average territory size – however the site is located next to the settlement edge and traversed by a well-used PROW and farm access tracks; prone to make it more likely to disturbance and predation. The level of use and territory density for skylarks will vary according to the changes in crop used in the field and the field boundary structure since tall structures such as hedgerows and woodland edge reduce the area of a field these birds will use.

Within the scope of a suitable mitigation hierarchy then avoidance, minimisation and rehabilitation cannot be used as suitable approaches. There is however scope for establishing if suitable offset measures can be taken to compensate for any residual impact that cannot be otherwise avoided by the development of the land. Such action would need to be informed by a further survey (- which under these circumstances could be by condition -) to establish the impact of the loss of habitat on local biodiversity. Offsets can take many forms but could include funding positive management interventions such as restoration of degraded habitat elsewhere or possibly in partnership with a recognized conservation agency such as the RSPB.

Trees – as per previous application the masterplan for the site should ensure there is sufficient space provided for the mature oaks located along the Crabbs Hill boundary to ensure that there is no conflict with future householders. Open space provision along this boundary and for the other margins should be greater than the nominal root protection area to reflect this.

#### BDC Landscape External Consultant – Wynne-Williams Associates Ltd

In addition to the assessment made by the Council's Landscape Officer, BDC commissioned an independent report on the landscape impact of the proposed development by an external Landscape Consultant. The Consultant's comments are summarised as follows:

My view is that there would not be landscape harm (either on character or visual impact) of sufficient magnitude to refuse the development on landscape grounds. There would be an impact of the development on the very local landscape. This is a visual impact rather than a landscape character impact, as the existing structure of the landscape (field boundaries and trees) is being retained. The view of open countryside from some of the properties on Stonepath Drive will be affected if the development proceeds. The views back towards the settlement will also be affected, but this is not a major effect as the views are already filtered by existing hedges and woodlands and include

the settlement as a backdrop. The change to residential dwellings from arable field could successfully be mitigated by a well-designed scheme which provided an effective landscape buffer to the adjacent properties and created a good landscape structure on the site.

#### Essex County Council Ecologist

In addition to the assessment made by the Council's Landscape Officer, the Essex County Council Ecologist also reviewed the application and provided a consultation response. This response is summarised as follows:

No objection subject to conditions. Extended Phase 1 Habitat Survey was undertaken at a suitable time of year. Confirmation required that the surveyors were suitably qualified as they are not identified in the report.

Report states that the proposed development has the potential to result in a small increase in visitors to the SPA and RAMSAR site. The LPA therefore need to prepare a Habitats Regulation Assessment screening report to consider likely impacts on Natura 2000 sites (Special Protection Areas; Special Areas for Conservation and Ramsar sites). Mitigation provided for recreational impacts is stated as 2.05ha of on-site public open space and access to offsite public open space to the west of the site measuring 3.54ha. I consider this to be sufficient to avoid a likely significant effect from the development alone although this will be subject to formal consultation with Natural England.

With regard to assessment of in combination impacts the HRA prepared for the BDC Local plan (LUC, August 2016) provides the context although the application site is not included in the document as it was not allocated for development. However, the HRA concluded that the Local Plan allocations (excluding Garden Community developments) would not result in any likely significant effect on natura 2000 sites. This was concluded on the basis that mitigation measures set out in the HRA of the BDC Core Strategy comprising allocations of Suitable Accessible Natural Greenspace (SANG), monitoring site use and enforcing suitable site management are enforced. Subject to the outcome of the HRA screening I therefore believe that development of this site for residential use, if it had been included with the site allocations would not change the conclusion of no likely significant effect.

Satisfied that the applicant's Ecological Assessment has identified those habitats and species likely to be affected by the development with regard to assessments of likely impacts on protected species and priority habitats and species.

Note the objections from the Essex Field Club; Mr Bedford; Stoney Path Meadow Residents Group and Mr Hawkins regarding insufficient information for determination, however based on habitats present on site I consider that those species likely to be affected by the development have been adequately assessed so there is sufficient information to determine the planning application. However, there is a lack of mitigation to be provided within the development, particularly for

farmland birds. This will need to be provided to make the development acceptable and secured by condition.

Should the layout change at Reserved Matters stage or should more than 3 years pass since the Ecological Appraisal was carried out, the Ecological Assessment will need updating and supplementary Ecological surveys will be required for Protected and Priority species.

Note the objection from the RSPB and a local birdwatcher and recommend that supplementary surveys are undertaken at Reserved Matters stage to inform detailed mitigation strategy for farmland bird nesting and foraging habitat. This would enable the LPA to demonstrate it is meeting its statutory biodiversity duty under s40 NERC Act, as it is necessary for all likely impacts to be mitigated. Condition required for submission of a Farmland Bird Mitigation Strategy at Reserved Matters stage for discharge prior to commencement of development in order to avoid impacts on Priority species.

#### BDC Housing Research and Development

No objection. 40% affordable housing required. Details of the mix would be subject to a reserved matters application. Affordable housing should be clustered in 3 areas of the site. Recommend that a 70/30 tenure mix (affordable rent over shared ownership) is secured with an accessibility requirement for 25% of ground floor flats and all 3 bedroom houses to meet Lifetime Homes equivalent Part M 2 of Building Regulations. All affordable units must be compliant with standards acceptable to the Homes and Communities Agency at the point of construction. Affordable houses to be delivered without reliance on public subsidy.

#### BDC Engineers

As per previous application - nothing further to add to the ECC Flood and Water Management consultation response.

#### ECC Historic Environment Officer (Archaeology)

No objection subject to conditions relating to the securing of a programme of archaeological evaluation in accordance with a Written Scheme of Investigation (to include a post-excavation assessment) to be approved by the Local Planning Authority.

#### ECC Public Rights of Way Officer

As per previous application - Footpath 43 (Hatfield Peverel) crosses the site. Footpath 43 is an extremely well-used local asset. The developer may need to make an application to divert this footpath during the construction of the development to allow safe passage of users. The footpath must otherwise be kept open at all times and any damage caused by constructed vehicles repaired to the satisfaction of the Highways Authority. The Highway Authority

would accept no liability in relation to the maintenance of recreational footpaths proposed by the developer.

#### ECC Economic Growth and Development

No objection. Proposed development is located within the Hatfield Peverel and Terling Ward. For Essex County Council to meet its statutory duties it must facilitate sufficient places to meet free childcare entitlement demand and ensure a diverse range of provision so that different needs can be met. A Developer contribution of £175,518 index linked to April 2016 is required to expand early years and childcare provision within the ward to meet demand from the development.

With regard to primary and secondary places, prior to the implementation of the revised Community infrastructure Levy Regulations on the 6<sup>th</sup> April 2015 the County Council would have sought a developer contribution toward additional primary and secondary school places. The revised Regulations restrict the pooling of contributions for a specific item of infrastructure such as the expansion of a school to contributions from 5 separate planning obligations. The scale of the proposed development is relatively small and the impact on pupil places is limited. Seeking contributions from a number of small developments may in the future preclude the County Council from seeking a contribution from a larger development. No contribution toward primary or secondary provision is therefore sought.

#### ECC Flood and Water Management

No objection. Request conditions requiring a detailed surface water drainage strategy to be submitted at the Reserved Matters stage, a scheme to be submitted and approved to safeguard against offsite flooding during the development's construction and a requirement for standard SUDs Maintenance Plan.

#### ECC Historic Buildings Advisor

No objection. Development of the site would result in less than substantial harm to the setting of Hatfield Place, as per paragraph 134 of the NPPF. More specifically this harm can be characterised as being at the lower end of less than substantial harm and the Local Planning Authority should therefore weigh this harm against the public benefits of the scheme.

This scheme follows on from a previous outline application which related to a smaller section of the current application site. With regard to the eastern section of the current application site the previous ECC Historic Building's Consultation response still stands and there is no objection on heritage grounds.

The current proposal also includes the development of land to the west of the previous application site. This brings the development closer to Hatfield Place (Grade 2\* Listed) and a site visit carried out in mid-December would suggest

that at the point at which the landscape boundary is at its least verdant there are some relatively strong views of sections of the Hall from the application site, particularly from within the north-western edge of the red line site. Several upper storey windows of the Hall are partly visible and this would suggest that there would be some visibility of the application site from the Hall. It should be noted however that these views are still partially screened and it is only when looking through the treeline on the section of land to the north of the attenuation pond, which is outside the red line boundary, that full elevations of the Hall become visible.

There is therefore a potential for the proposed development to impact upon the way in which the heritage asset is experienced. Given that the setting of the Hall is partly defined by its isolated nature, insofar as it is distinctly and deliberately separated from Hatfield Peverel, then this is likely to result in some harm to the building. This harm will be less pronounced in the spring and summer months when the intervening vegetation is more progressed. It is therefore suggested that there is harm caused but that the level of harm caused falls at the lower end of less than substantial. The Local Planning Authority should therefore weigh this against the level of public benefit accrued from the scheme.

A site visit would also seem to suggest that there is limited inter-visibility on the site between the William Boosey PH and the application site and that this application would not harm the setting of this Listed Building.

The Applicant has agreed to hand over the remaining land to the north and west as public open space. This area has the greatest potential to cause harm to the setting of the Listed Buildings and there is therefore benefit in this gesture although this must be weighed against the fact that the Local Authority would have control over resisting development on this land anyway.

Planning conditions limiting storey heights of the new dwellings, materials samples, elevational drawings, landscape masterplans and boundary treatments required.

### Historic England

Necessary for the Local Planning Authority to weigh the harm that would result to the setting of the nearby listed buildings against the public benefits that would be delivered by the proposals.

Consider that the setting of Hatfield Place and The William Boosey PH may be eroded by the proposed development. Earlier in 2016 an application for 80 dwellings was refused. The current application seeks to develop 140 houses over a larger area extending further into open countryside to the south and west of the previous application.

On 1<sup>st</sup> December 2016 Historic England raised concerns over viewpoints used in the applicant's Heritage Statement. We believed these were limited in number and scope and also raised concerns relating to the lack of information

provided about the overall massing and height of development and its impact on Hatfield Place. The applicant since submitted additional information in response to these concerns.

The current application proposes a western development edge in much closer proximity to Hatfield Place. Some relatively clear views of Hatfield Place will be visible from within the proposed development site. It is also very probable that clear views of the proposed housing development will be visible from Hatfield Place. Photo montage 3B supplied by the applicant also illustrates that when viewed from ground level within the grounds of Hatfield Place, new development is also visible. Hatfield Place remains an essentially rural setting with views to and from the countryside in many directions. This contributes greatly to its significance and helps to appreciate its heritage values in relatively unspoilt surroundings.

Proposed development would impact upon the significance of the building through change within its setting. The development would be located on fields which greatly contribute to the significance of the listed building by providing an open, tranquil and rural setting to the south and west of Hatfield Place. The degree of separation between Hatfield Place and Hatfield Peverel does make a strong contribution to the historic understanding of the building. Presence of vegetation should not be a determining factor in terms of impact as setting is more than just visual effects and can include noise, lighting, dust and vibration. The proposed development would result in encroachment of suburban development in to the setting of Hatfield Place and would result in harm to its significance. In line with the NPPF any harm to a designated heritage asset requires clear and convincing justification and the harm will need to be weighed against the public benefits. Great weight should be given to the conservation of a Grade 2\* designated heritage asset. There are several recent appeal decisions where harm to the significance of heritage assets was not outweighed by the public benefit if delivering housing in locations lacking a 5 year housing land supply.

Development would also harm the setting of the William Boosey PH by further eroding its semi—rural setting.

Historic England recommended at the Local Plan stage that site HATF314 was not taken forward for allocation for residential development.

### ECC Highways

No objection subject to conditions relating to the provision of a Construction Traffic Management Plan; visibility splays for the proposed access; enhancement of the public right of way which runs through the proposal site provision of Residential Travel Information Packs and a requirement for a Traffic Regulation Order to address the existing commuter parking problem on Stonepath Drive at the location of the proposed site entrance.

#### Highways England

No objection.

#### NHS

No objection. Existing GP Practice does not have the capacity to accommodate the additional growth resulting from the development.

The development would have an impact on healthcare provision in the area and its implications, if unmitigated would be unsustainable.

The development must therefore, in order to be considered under the 'presumption in favour of sustainable development' advocated in the NPPF, provide appropriate levels of mitigation.

The development would give rise to a need for improvements to capacity by way at the Sidney house Surgery (including its main surgery the Laurels) by way of extension, refurbishment or reconfiguration. A developer contribution of £52,992 will therefore be required.

#### Ramblers Association

As per previous application - Landscape and Visual Assessment notes the negative effect the development will have on the open and country aspect of Footpath 43. Site has clear desire line paths on it which are obviously well used but current legal line of Footpath 43 isn't always identified on the plans. Footpath 43 isn't shown on the proposed access drawing. Request that proposed access drawing is updated to show position of Footpath 43 where it would cross the site access. Also request that sight lines are shown with respect to proposed vehicular crossroads.

Provision of a safe non-vehicular route from the south/centre/east side of the site across Church Road to Remembrance Avenue would enhance local footpath links.

#### Anglian Water

No objection. Development would be in the catchment of Witham Water Recycling Centre which has capacity for foul drainage. Sewerage system at present has capacity for the development flows.

#### BDC Waste Operations

No comment.

## Hatfield Peverel Parish Council

Objection. Previous application 16/00545/OUT was refused. The Local Plan Sub Committee decided on 25<sup>th</sup> May 2016 not to include the site in the Local Plan.

The site is located outside the Village Envelope. The application is contrary to Local Plan Policies RLP80 (Landscape Features and Habitats); RLP84 (Protected Species) and Core Strategy Policies CS5 (The Countryside) and CS8 (Natural Environment and Biodiversity).

The application is contrary to paragraph 109 (Conserving and Enhancing the Natural Environment) of the NPPF and to Policies HPE2, HPE6 and HPE8 of the emerging Neighbourhood Development Plan. Also to the environmental key issues of the emerging Neighbourhood Development Plan.

The land is Grade 2 Agricultural land.

## REPRESENTATIONS

At the time of writing, objections have been received from 165 residential addresses. In addition a second person from 17 of these addresses submitted a second, independent objection letter and a third person from one of these addresses submitted a third, independent letter.

The main material and non-material reasons of objection stated are set out below:

### Infrastructure in the area inadequate to sustain further development

- Local infrastructure (surgeries, childcare/schools, library, dentist, refuse collection, local shops, roads, rail and buses) can't cope with current demand
- New development in Witham, Chelmsford and Boreham is already putting pressure on Hatfield Peverel
- Investment in infrastructure, education and healthcare is required – not just a nominal sum of money or non-compliance fine
- Nearest Police Station is several miles away
- Health contribution requested by NHS is far too small
- Utilities statement should not be allowed as evidence and is of no value  
Comments about extending networks are wrong, a network analyst would normally carry out the work before each and every extension or increase in load
- Expect that Anglian Water will confirm there is no foul water and potable water capacity for the development
- Not enough local shops in the village to cater for this and other proposed developments
- Has hydraulic modelling been done with regard to surface water run off to the satisfaction of the Environment Agency



- Village school has just got a bad Ofsted – development will put even more pressure on it
- If this or any other development goes ahead BDC need to invest heavily in local infrastructure
- Braintree Council have previously stated on record that Hatfield Peverel can only cope with limited growth

#### Highway/access problems

- Major traffic congestion in village already. Cannot cope with additional traffic from this development
- Accidents on the A12 already cause major congestion in the village
- Crabbs Hill is a country lane and not designed for increased traffic or use as an emergency access point
- Parking on Church Road is already out of control
- Development would result in increased traffic to Sportsman Lane, a protected lane to the south of the site
- Stonepath drive is already used for commuter parking. Construction vehicles could not access the site and neither could future residents
- Developer should pay for bypass around Hatfield Peverel onto A12
- Combined impact of new development in Maldon District and Chelmsford with this development will make road network unusable
- The five proposed developments of Arla Dairy; Sorrells Field; Bury Farm; Gleneagles Way and Stonepath Drive will inevitably create extra traffic on The Street which is already saturated during rush hour
- Would be better to connect any development to The Street (below William Boosey PH) rather than Church Road, Stonepath Drive or Crabbs Hill which are unsuitable
- Applicants Transport Statement is flawed and misleading. Based on inaccurate assumptions and misleading modelling
- Site and surrounding roads are prone to flooding
- Main access should be onto Church Road. Current position will encourage accidents involving cyclists
- Road network unable to accommodate construction vehicles safely
- Gladman state there are pedestrian crossings on Church Road but there are none – unsafe for pedestrians
- No safe walking route to school for children, alongside the A12 is unsuitable
- Already a high number of HGV's causing congestion in the village
- Noise pollution from the additional cars coming from the development
- BUPA nursing home on Crabbs Hill is frequently visited by blue light emergency vehicles – any traffic disruption could potentially be life threatening to care home residents
- No footpath on Crabbs Hill lane
- Many houses in Church Road do not have driveways and have to park on the road. This situation will be worsened by this development

#### Impact upon wildlife/ecology/landscape

- Specimen ancient trees present on site
- Site previously designated as an area of great landscape value and landscape remains as picturesque as before
- Site home to over 100 species of wildlife including many endangered birds
- Existing footpath and site is close to Crix Woods where Buzzards are now returning to
- Site has high landscape qualities with extended views across the Ter and Chelmer Valleys to Danbury Ridge. These are recognised by Essex County Council as forming an important part of the County's topography. Any development would be visible from Danbury ridge and compromise the current rural setting
- Development would result in light pollution
- Contrary to Neighbourhood Plan Policies HPE2 (Natural and Environmental Biodiversity) and HPE6 (Protection of Important Views)
- Stonepath Meadow is an important wildlife site with a varied range of wildlife and rare wildflowers which would be destroyed
- Site is identified for its merits in the Hatfield Peverel Landscape Character Assessment
- NPPF Paragraph 119 should apply – where the presumption in favour of sustainable development does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined
- Loss of countryside views
- Loss of greenfield land
- Development would be visually damaging to the landscape/loss of open and rural character of the landscape
- Loss of high grade arable farmland
- Topography of the land would result in a risk of pollutants from the development during construction and after completion finding their way into the River Ter and its distribution network
- Conservative Manifesto states that the natural environment should be conserved and enhanced
- Raptors observed at the site
- Detrimental environmental impact to air quality
- The Essex County Council Environmental Report (January 2013) states (clause 3.1) that 'development would be inappropriate in locations where the above species and habitats would be negatively affected by road traffic, noise and vibration, hedgerow, farmland or grassland loss' (species include Skylark, Song Thrush, Pipistrelle Bats)
- Existing agricultural land is unaffected by Black Grass, a major problem that is costing the farming community a small fortune
- Site's wildlife habitat has been endorsed by the RSP. Essex Wildlife Trust (Dr Annie Gordon) shares residents' concerns reading the potential loss of this open land and the wildlife impact
- As someone who conducts bird surveys for the British Trust for Ornithology I observed Skylarks as being present on Stonepath meadow on 31<sup>st</sup> July 2010 (3 birds) and 11<sup>th</sup> August 2016 (4 birds). The grid

reference for these observations was TL788113. The presence of Skylarks in mid-summer would be strongly indicative that this species use Stonepath Meadow as a breeding site. As per the RSPB objection the proposed development would have an adverse ecological impact and should be refused

- NPPF does not mean carte blanche for new development in the Countryside
- New buildings in the countryside that would read as a skyline development or occupy a top of slope/ridge location are unacceptable in planning policy terms

#### Alternative sites

- Housing need for Hatfield Peverel will be met on the Arla Dairy and Sorrells Field sites
- Village welcomes development in the right location and is working hard with developers and planners to achieve this. Stonepath Drive is not a suitable site
- Site is Greenfield land. Better alternative sites are available such as Arla Dairy which is brownfield land, also Sorrells Field
- Development is purely residential with no mixed use element unlike the Arla site
- Braintree Council still has land at the vineyards with no development taking place yet

#### Heritage Impact

- Site is of historic value to the village
- Contrary to Neighbourhood Plan Policy HPE8 (Heritage)
- English Heritage stated during the Local Plan consultation that this site should not be taken forward because of its impact on several listed buildings
- Site boundary is now just 100m from Hatfield Place
- Loss of ancient footpath which crosses the site. Research shows that this was connected to Hatfield Place and the flagstone that lay on route are of historical importance. Development would have a significant negative impact on this asset to the community and introduce the risk of injury/harm to pedestrians contrary to Section 257 to 259 of the Town and Country Planning Act 1990
- Traditional field patterns would be destroyed
- Damage to setting of the adjacent Grade 2\* listed buildings
- The Essex County Council Heritage Assets Impact Assessment (18/05/2016) concluded that site HATF314 was graded Amber. The District has 48 sites of which 26 (54%) were deemed more appropriate for development
- Development would deny walkers views of Heritage Assets including the Marconi Radar Tower, Hill House, Hatfield House, The William Boosey and the Methodist Church Steeple

### General points

- Stonepath Meadow is a prime landing location for Essex Air Ambulance
- Application states up to 40% affordable housing so no guarantee any will be built at all
- Development would result in intrusive construction noise to occupiers of nearby care home on Crabbs Hill
- Site is of social value providing a place for walks and interaction between residents
- Meadow is important for resident's health and wellbeing
- Applicant claims that noise level at the front of the site would be 60db. This exceeds the World Health organisation upper limit of 55Db LA eq and is where the play area would be located
- Development would result in loss of access to countryside for those without cars
- Unacceptable noise levels from A12 to future residents. Windows will have to remain closed
- Meadows are well used for walks and dog walking
- Ridiculous that after an application for 80 houses was refused an application for 140 houses is being made. Should not be allowed
- All planning applications should be deferred until the Neighbourhood Plan is in place
- Previous reason for refusal still stands and is again applicable
- Neighbourhood Plan is well advanced and site is of high importance to the village for wildlife and ecological benefits and protection of the village boundary
- There are many unresolved objections to the application from residents
- Land Registry shows several people named on the planning application are also adjacent land owners. Granting this application may set a precedent for future development
- Closure of Arla Dairy has resulted in loss of 200 local jobs. Applicant does nothing to replace these jobs on a long-term basis while predicting an additional 160 economically active individuals to the existing village population
- Gladmans submission is again full of errors and inaccuracies and their local knowledge is inadequate
- Gladmans paperwork submitted for their pre-application submission indicates that their real aim is for 219 houses. Fear that they will keep submitting applications to wear down the Parish Council and BDC
- Development of site will result in urban creep
- Affordable housing will not be provided as prices will be driven up by the location
- Large percentage of properties which changed hands in the village in the last 3 years were under £250,000. It is not a Dementia Village and schools and sports clubs are full/thriving
- Village is losing its community spirit
- Site is adjacent to a large care home full of vulnerable old folk
- Land is green belt land

- Perplexing that the recent Objectively Assessed Housing Needs Survey carried out by Peter Brett Associates on behalf of Braintree, Chelmsford and Colchester Councils shows an updated housing need of 716 dwellings per annum against the 845 per annum identified in the 2015 study and yet the current planning application has increased from 80 dwellings to 140 dwellings
- Turning Stonepath meadows into a country park would be the best use of the land
- The development would look unsightly – too many houses in one area
- Additional air pollution will result from additional vehicles using the development
- Object to any development on this site given that BDC have yet to reveal their housing quotas and definitive plans for the village
- Where will this expansion end?
- Permission shouldn't be considered for financial gain to the government but for the people living in the area
- Not everyone wants to live in a city or town
- Local Council should be supporting local residents not looking for a quick, short lived financial gain
- Planning Officers attention is drawn to BDC Core Strategy p28 Vision, Aims and Objectives; p29 Spatial Strategy Sustainability; p36 The Countryside; Policy CS5 The Countryside; Policy CS8 Natural Environment and Biodiversity.
- Gladmans interests are purely financial with no regard to the village
- Sure that Councillors of all affiliations will be very concerned about the way the current planning system has become subverted by these 'no win no fee' agents (Gladman) attempting to make excess profits from planning by appeal, at considerable extra time and expense to our Councils
- Development conflicts with Neighbourhood Development Plan which is not at an early stage
- Social impact – young residents already cannot find local full time employment. Development will worsen this.
- Density of this development is higher than the last one
- Stress of application is causing residents ill health
- Development of this site would be a step closer to villages of Boreham and Hatfield Peverel becoming joined
- As a registered childminder I use the meadows as a forest schools experience for education purposes
- Village life and the meadows should be preserved for the next generation
- New development at St Anders Road is replacing the previous development with a 60% increase in the number of properties
- Site has been considered and rejected through the local plan process and I ask that Councillors respect that decision
- The Site Allocations and Development Management Plan is a material consideration in the determination of this application and did not allocate the application site for development
- The site (HATF314) was rejected by the Local Plan Sub Committee on 25 May 2016. This is a material consideration
- The development of the site is contrary to the Local Plan

- The latest Sustainability Appraisal and Strategic Environment Assessment (May 2011) states that 'new development at Hatfield Peverel would not promote economic growth or meet job needs elsewhere in the District due to the absence of an economic base'
- Believed that a property close to the proposed site entrance which is prone to flooding has been subject to a subsidence claim per Commercial Union claim records
- The emerging Neighbourhood Development Plan is with the exception of Bradwell the most advanced in the District and should be afforded more weight
- The emerging Local Plan is at a more advanced stage than it was during the previous application and does not recommend development at this site
- Applicant's submission fundamentally ignores the core planning principles set out at paragraph 17 of the NPPF
- No public consultation regarding this application. Application should therefore be treated less favourably
- The 3 dimensions of sustainable development should be considered holistically and other development proposals within the Village/District are more sustainable they should be considered favourably over this application
- No EIA assessment that considers the cumulative of housing developments in the parish which the RTP1 advised would be a reasonable objection
- Proposal doesn't take local circumstances into account as required by para 10 of the NPPF
- Adverse impacts of this application both significantly and demonstrably outweigh the benefits, in particular Environmental and Social
- New emerging facts and developments since the previous application on this site give sufficient grounds for the application to be refused
- Emergency services have not been consulted
- If this application is rejected would Gladman re-submit their original application for 80 houses to make it look as though they were being reasonable
- Significant amount of ground water already flows into the garden and pond of Crabbs Hill Farm. Development will worsen this.
- Revised site location plan shows that the field next to The Street (B1137) has been annexed from the applicant's control but not the Clients making it impossible for the green open space they are proposing to be maintained by any machinery
- Applicants drainage plan shows water travelling uphill
- As the Parish Paths Partnership representative for the village the threat posed by this development to footpath number FP43 is of particular concern to me at present
- NPPF requires new rural housing to be located where it can enhance or maintain the vitality of the community which this development would not
- Development should be spread more evenly around the District. Other villages will become 'dementia villages' whilst villages like Hatfield Peverel are ruined through over development

- Houses on this development would have the best views in Hatfield Peverel. Is this really a suitable site for 40% affordable housing. Will the developer adhere to 40% affordable housing or alter plans to maximise profit
- Too little detail in the application to grant planning permission
- If permission is granted BDC will have great difficulty refusing permission at a later date for the remaining land on the site

### Local Residents Group

Residents formed a local group to object to the proposed development. The Group submitted a supplementary objection document which covered a wide range of issues including planning policy; housing supply; healthcare; flooding; landscape impact; ecology and the applicant's planning submission, adding further detail to the above residents' objections. A Road Safety Assessment Paper and a Wildlife Assessment Paper, both undertaken by local residents were also submitted with objection against the current planning application and a copy of the group's objection paper against the proposed Local Plan allocation of the site for residential development which was previously submitted to members of the Local Plan Sub-Committee was also re-submitted.

The Group also lodged an additional objection on the grounds of the loss of best and most versatile agricultural land stating that 'the land in question is often referred to as a meadow, however in recent years this would not be an accurate description as it has been used for growing a variety of crops'. The UK Government database confirms the site is located on Grade 2 Agricultural Land (best and most versatile), there being no Grade 1 in the District. Development would concrete over food producing land and nothing is more sustainable than locally grown foodstuffs. Paragraph 12 of the NPPF requires poorer quality land to be used first and the Arla Dairy site provides an alternative. Paragraph 11 of the NPPF also requires the use of brownfield land first. Development of the site would therefore have a clear adverse effect when assessed against the NPPF which would significantly and demonstrably outweigh the benefits.

Objections were also received from the following Parish and District Councillors:

### Councillor Bebb

Objection. Community expects sites to be meticulously evaluated against criteria, not least environmental impact and overall suitability for future needs of villagers. Neighbourhood Plan Group has formulated a well-supported blueprint of development strategy and the plan is now at a very advanced stage, soon to be assessed through examination. BDC's Local Plan Committee applauded the hard work put into producing the Plan and the effective community engagement which has taken place under this process.

Site has been clearly identified within the Neighbourhood Plan as being unsuitable for housing. With a lack of other sites Stonepath Drive was originally and with some reticence allocated within the Local Plan for consideration. Later in the process we became aware that ARLA Dairies were closing and seeking to put forward their site for housing development. Consequently Stonepath Drive was removed on Environmental grounds.

Now with a community supported brownfield site at Arla (approx. 177 homes) and a further site in Bury Lane (35 homes) there are more appropriate sites fulfilling the Neighbourhood Plan criteria. The adjacent Sorrells Field site is already in the Local Plan for approximately 35 homes.

Stone Path Meadow is environmentally sensitive and arguably one of the most scenic parts of the village. It is part of the vistas extending down to the adjacent Grade 2\* Hatfield Place. Proposed development would intrude detrimentally into this treasured landscape.

NPPF requires planning system to protect and enhance valued landscapes, local green spaces, conserve heritage and prioritise brownfield land. Proposed development's exceptionally high density is inappropriate. Further, with existing brownfield sites/allocations the homes in this application would swamp local education and medical services.

Councillor Wallace (Parish Councillor, NDP Group Member)

As a member of the Neighbourhood Plan Group request that Councillors again consider the Neighbourhood Development Plan Policies referred to below, the Vision and Objectives and the Environmental Key Issues. Also the Hatfield Peverel landscape Character Assessment 2015.

The Neighbourhood Development Plan (NDP) group wish to protect Stonepath Meadow for the landscape setting, wildlife and biodiversity and adjoin heritage value. Anticipated that the Plan will be ready for public consultation by BDC early in 2017 and the Plan is gaining more weight as it goes through the regulation process. Land is Grade 2 agricultural with a flagstone public footpath which is well used. It is much valued by the community and development would result in the loss of a scenic and natural environment for wildlife.

Application is contrary to Neighbourhood Plan Policies HPE2 (Natural Environment and Biodiversity); HPE6 (Protection of Important Views); HPE8 (Heritage) and the Environmental Key Issues.

Councillors at the 25<sup>th</sup> May Local Plan Sub Committee did not include the site in the draft Local Plan. Understood that if planning permission was granted the site would be included but it was refused so the site should remain out of the Local Plan. The Arla Dairy site together with Sorrells Field will provide over and above the housing need required. Infrastructure will be overloaded both in the Parish and the adjoining districts of Maldon and Chelmsford. Acknowledge that housing is required for our children to stay in the village and



for those wishing to downsize. Development should be of the right type and in the right location which Stonepath Drive is not. Therefore request that the Planning Committee again refuse the application for the wellbeing of residents and the emerging NDP under the Localism Act 2011.

### RSPB

Objection. We consider that the applicant has not adequately assessed the impact on priority species i.e. Skylarks. Previous application (16/00545/OUT) was refused by Braintree Council citing an unacceptable adverse impact on the ecological value of the site. Skylarks are ground nesting birds, breeding in arable fields and grassland. We understand that the Council was presented with information in the previous application which demonstrated that Skylarks use the site. This is contrary to the applicant's Ecological Appraisal.

The NERC Act requires the Secretary of State to publish a list of habitats and species which are of principal importance for the conservation of biodiversity in England. The list is used to guide decision-makers such as Local Authorities to have regard to the conservation of biodiversity in England when carrying out their normal functions including development and planning.

In accordance with paragraph 117 of the NPPF local authorities are required to take measures to promote the preservation, restoration and recreation of priority habitats, ecological networks and the protection and recovery of priority species.

The evidence suggests that Skylarks breed on the site. Given that the previous application was refused on the grounds of adverse Ecological Impact and in consideration of the Council's biodiversity duty we feel it only appropriate that a full picture of priority species on the site is established before a decision is made. Only with that information can the Council make an informed decision. It is imperative that further survey work does not form part of a planning condition.

Had the Ecological walkover survey been conducted at a more suitable time of year rather than October, this matter could possibly have been concluded sooner.

Further comment – we have made our position clear about the need to conduct a breeding bird survey of the site. As we see matters now it is for the Local Planning Authority to assess our comments against those made by the applicant.

### Essex Police

Comment. Would like to see the development achieve the relevant Secured by Design certification based on the 'Homes for 2016' guide.

### Essex Bat Group

Comment. Applicant proposes to enhance bat habitat by retaining trees and hedgerows and providing bat boxes in the trees. It cannot be guaranteed that bats will not seek to roost in the new houses. Essex Bat Group would therefore like to request that bat friendly materials are used in the construction of the dwellings.

### Essex Field Club

Objection on the basis of the potential nature conservation value and inadequate survey. There can be little doubt that a range of protected, Red Data Book and Priority species listed in S41 of the NERC Act are present on the land. Ecology Appraisal refers to a desk study that includes gaining existing baseline information regarding the presence of ecological sites of interest and protected or notable species from the Essex Field Club (this should refer to the Essex Recorders partnership). This desk study data search isn't provided with the planning application, breaking the Terms of Service agreed by the consultancy when it was ordered and provided. Availability of this document for public consultation is essential.

Desk studies provide a background context to establish which species might be expected in a given area for which survey effort should be targeted accordingly. The importance and potential value of the application land before targeted surveys have been undertaken is clearly identified, including invertebrate assemblages of and close to SSSI favourable condition. Extended Phase 1 Habitat Survey was undertaken on 22<sup>nd</sup> October 2015, much too late in season for botany and invertebrate survey or to assess the presence of NERC Priority Species. The tree assessments clearly suggest there might be deadwood invertebrate importance. There can be little doubt that the probable presence of a range of protected, Red Data Book and Priority species listed in S41 of the NERC Act means that competent protected species, botanical, breeding bird and invertebrate surveys should be undertaken.

Ecological Appraisal Figure 1 shows the location of protected species from existing desk study information in an extremely misleading way by pin-pointing tiny locations that actually derive from much larger recorded grid squares, suggesting precision for occurrences recorded anywhere within a 100m or 1km square area.

We understand that part of the site is ancient meadowland and that an independent ecologist who has assessed the site considers the site an important wildlife corridor and the open nature of the farmland/grassland to be important to breeding species such as Skylarks.

We believe there is currently insufficient information to enable the planning authority to make a lawful decision on biodiversity issues, as required by the NERC Act and contained within the NPPF. NERC listed/Priority Species are

covered by the key principle of the NPPF and the NERC Act and constitute a material consideration. Planning decisions must not be made prior to the availability of the necessary information to inform any planning decision and proposals for compensation and/or mitigation before determination of the planning application and these have not been provided.

#### Mr Paul Hawkins – Bird Survey Report

A Bird Survey Report detailing sightings during a survey carried out on Saturday 7<sup>th</sup> January 2017 was submitted by a third party Mr Hawkins, via local residents. The report states that Mr Hawkins works for The Ecology Consultancy although it does not clarify in what capacity or whether he is a qualified Ecologist. It does state that he has been involved with birds for over 30 years and holds a C bird ringers permit in conjunction with the British Trust of Ornithology. The Ecology Consultancy has since advised that Mr Hawkins works as a sub-consultant for their consultancy conducting ornithological surveys of wintering birds.

The Report states he was assisted by Carlie Mayes (BSc (Hons) Landscape Design and Conservation Management; RSPB 2002 – 2010; and 2012 to current Member of British Beekeepers Association). The report identifies 10 Amber species and 10 Red list species identified on or adjacent to the site during the survey. The report states in conclusion that it seems quite clear that this area is rich in bird life and that a full breeding bird survey should be applied for, to save what is obviously a very important site for declining British farmland/hedgerow species.

#### REPORT

##### Principle of Development

##### 5 Year Housing Land Supply

The Council acknowledges that in terms of what the NPPF requires, it does not currently have a deliverable 5 year supply of land for housing "...that meets the full objectively assessed needs for market and affordable housing", together with an additional buffer of 5%, as required under paragraph 47 of the NPPF. Its view as at the time of writing is, therefore, that its forecast supply for the period 2017 - 2022 is 4.12 years. The NPPF provides specific guidance in relation to the determination of planning applications in such circumstances, stating at paragraph 49 that *'Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites'*.

This is further reinforced at paragraph 14 which identifies the presumption in favour of sustainable development as sitting at the heart of the NPPF, and that for decision-taking this means *'where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any*

*adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework (NPPF) taken as a whole; or specific policies in this Framework indicate development should be restricted'.*

The lack of a 5 year housing land supply is therefore a material consideration which weighs in favour of the proposed application.

#### Hatfield Peverel Neighbourhood Plan

Hatfield Peverel's Neighbourhood Area was designated in March 2015. The draft Neighbourhood Plan has been the subject of a public consultation under Regulation 14 of the Town and Country Planning Act with the consultation ending on 30<sup>th</sup> September 2016. An objection was received from the applicant in response to this consultation against the non-inclusion of land at Stonepath Drive for allocation for residential development in the Draft Neighbourhood Plan. At the time of writing the Draft Neighbourhood Plan has been submitted to Braintree District Council and is currently being reviewed to ensure that it satisfies the legal requirements and conditions to allow BDC to authorise the draft Plan for the second formal consultation process.

The Neighbourhood Plan is not yet adopted and has not been through its second public consultation, examination or referendum process. It can therefore be given only limited weight as a material consideration in the determination of the current planning application.

The application site is not proposed for designation for residential development under the draft Neighbourhood Plan and draft Policy HPE6 identifies the view from Stonepath Drive across the application site to Baddow Ridge as an important view to be protected. The Neighbourhood Planning Group have also identified that the application is contrary to Policies HPE2 (Natural Environment and Biodiversity) and HPE8 (Heritage) due to the loss of natural habitat/greenfield land which would occur and the site's proximity to the Grade 2\* Hatfield Place and the William Boosey Public House.

The proposed development is therefore in conflict with the Neighbourhood Plan, in particular with draft Policy HPE6. However, given that limited weight only can be applied to the draft Neighbourhood Plan the development must still be assessed against the presumption in favour of sustainable development as set out at paragraph 14 of the NPPF. In making an assessment of the planning balance for the current application the NPPF must be given greater weight than the draft Neighbourhood Plan and the application must be considered accordingly.

#### **Site Assessment**

##### Draft Local Plan Assessment

The application site is located immediately adjacent to but outside the Village Envelope of Hatfield Peverel and is situated in the countryside. Hatfield

Peverel is identified in the adopted Core Strategy as a key service village, one of six within the District. Key service villages sit below the main towns but above Other Villages within the settlement hierarchy, and are defined within the Core Strategy as *'large villages with a good level of services, including primary schools, primary health care facilities, convenience shopping facilities, local employment, frequent public transport to higher order settlements and easy access by public transport to secondary schools'*. The designation of Hatfield Peverel as a key service village has been carried forward into the draft Local Plan.

It is therefore accepted that at the strategic level the village of Hatfield Peverel is identified as being one of the more sustainable locations within the District, acting as a local centre for its surrounding rural area, in common with the other key service villages.

Historically the application site has been considered through the Local Plan process. It formed part of a larger parcel of land identified as Site HATF314 which was recently considered for a draft allocation for residential development and informal open space. The current application site proposes a larger developable area than that which was considered and consequently a smaller area of informal open space.

HATF314 was originally recommended for allocation by Officers and was viewed as a sustainable location for new housing. The recommendation was however not taken forward by the Local Plan Sub Committee at their meeting of 25<sup>th</sup> May 2016 and the Committee determined that further consideration would be given to the allocation of sites at Hatfield Peverel in the autumn. In considering this matter members of the sub-committee were informed that land at Arla Dairy and Bury Lane could be put forward as a possible development site.

The Local Plan sub-committee's recommendation was agreed by Full Council on 20<sup>th</sup> June 2016. Following this the site was again considered as part of the Local Plan Process on 15<sup>th</sup> December 2016. Following the outcome of the previous Local Plan assessment and given the fact that no substantial evidence had come forward on the site or village which was not considered by Members on the 25<sup>th</sup> May Officers concluded that the site should not be allocated for development in the draft Local Plan.

#### Previous Planning Application

Planning permission was recently sought for the development of up to 80 dwellings on land which is contained within the current (larger) application site boundary. This previous planning application did not include the 3.54ha of land adjacent to the current application site which is identified as public amenity land as part of the current planning application.

The previous planning application (16/00545/OUT) was recommended for approval by Officers but the recommendation was overturned at Planning Committee on 11<sup>th</sup> October 2016 and the application refused. This application

is currently the subject of an appeal. This previous refusal of planning permission is a material consideration in the determination of the current planning application.

The reason for the refusal of 16/00545/OUT was as follows:

*The site the subject of this application is located in an area designated as countryside in the adopted and emerging Local Plan. In such locations the adopted Braintree District Local Development Framework Core Strategy seeks to resist development other than that which relates to uses appropriate to the countryside. The proposed development, by virtue of its siting and extent, would give rise to an unacceptable impact upon the open and rural character of the landscape, to the detriment of its intrinsic role in providing a rural setting to the settlement edge, contrary to Policy RLP 80 of the adopted Braintree District Local Plan Review, Policies CS5 and CS8 of the adopted Core Strategy and at odds with a core planning principle of National Planning Policy Framework (the Framework). The related loss of the existing aspect onto the countryside from Stonepath Drive would also conflict with the aspiration of the emerging Hatfield Peverel Neighbourhood Development Plan, as set out in Policy HPE6 of that Plan, to protect and enhance this and other important views identified by the community in their Landscape Character Assessment.*

*It is also considered that the proposed development would give rise to an unacceptable adverse impact on the ecological value of the site, contrary to Policies RLP 80 and RLP 84 of the adopted Braintree District Local Plan Review, Policy CS8 of the adopted Core Strategy and paragraph 109 of the Framework. It is acknowledged that the District Council cannot currently demonstrate a 5 year supply of deliverable housing sites and in such circumstance the balancing exercise of Paragraph 14 of the Framework is engaged. In this particular case, it is concluded that the adverse impacts of the development, as outlined above, would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.*

The matters raised in the above reason (landscape impact, ecological impact and conflict with the emerging Neighbourhood Plan) are addressed, in relation to the current planning application in detail below.

#### Design, Appearance and Layout

Policy RLP90 of the adopted Local Plan requires a high standard of design and layout in all developments. Policy CS9 of the Core Strategy requires 'the highest possible standards of design and layout in all new development'. At the national level, the NPPF is also clear in its assertion (para 56) that 'good design is a key aspect of sustainable development' and that (para 58) developments should 'function well and add to the overall character of the area...establish a strong sense of place....are visually attractive as a result of good architecture and appropriate landscaping'.

The current application is an outline application with all matters reserved except access. The applicant has submitted a site location plan and an illustrative Development Framework Plan, the latter demonstrating one way in which the site might be developed. An illustrative site Masterplan is also included within the Design and Access Statement. A detailed access drawing has also been submitted which identifies the proposed main vehicular access onto Stonepath Drive.

It is proposed that up to 140 dwellings would be erected on the site which measures a total of approximately 6.35 hectares, giving a gross density of approximately 22 dwellings per hectare based on a development of the full 140 dwellings. The illustrative Development Framework Plan provides further detail on how the site could accommodate, in accordance with adopted Core Strategy Policy CS10 areas of open space, structural landscaping and drainage features. The resultant developable area would be 4.3ha with 0.03ha for the site access, giving a net density of approximately 32.5 dwellings per hectare and leaving a total of approximately 2.02ha of land outside the identified developable area, to serve primarily as open space, structural landscaping and SUDS provision.

The applicant has also submitted an illustrative site Masterplan which is contained within the Design and Access Statement and is based upon the Development Framework Plan. The Masterplan is based upon 4 character areas, identified as the Stonepath Drive green frontage; main street; secondary roads and green edge. Higher density units are located centrally within the site around a focal square with lower density outward facing units creating a softer outward facing edge to the development.

Although design and layout would be a reserved matter, the general principle of this level of development on the site is considered acceptable and is in keeping with both the site's location on the edge of a key service village and with the need to facilitate on-site strategic landscaping, open space and the retention of existing landscape features.

### Landscape

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

The previous application for 80 dwellings was refused partly on landscape grounds stating that:

*'The proposed development, by virtue of its siting and extent, would give rise to an unacceptable impact upon the open and rural character of the landscape, to the detriment of its intrinsic role in providing a rural setting to the settlement edge'*.

This previous reason for refusal is a material consideration in the determination of the current planning application. Notwithstanding that, the previous Officer recommendation was for approval of that application. The Council's Landscape Capacity Analysis (Braintree District Settlement Fringes) June 2015 has been produced in addition to the 2006 Landscape Character Assessment and evaluates smaller more specific areas of land than the 2006 assessment. The application site is identified as part of land parcel 2c in the 2015 analysis and is assessed as having a medium landscape capacity to accommodate development (sites being rated from low; medium-low; medium; medium-high and high in category).

The assessment found that *'the well-defined hedgerow structure relating to pre-18<sup>th</sup> and 18th-19<sup>th</sup> century field enclosures provides relatively good visual containment to the Parcel in the wider landscape. The Parcel has good links to the settlement fringe with visual and physical associations with neighbouring streets. The existing edge to the settlement is relatively abrupt and the houses have limited containment in local views, with boundaries to properties formed by an inconsistent mix of fencing and fragmented vegetation'*.

The Council's Landscape Analysis identifies that there is good scope to provide mitigation to proposed development that is in keeping with the existing landscape pattern. Key points within the analysis identifies that the following are elements of a design proposal that need to be considered as part of an acceptable layout.

- The development should be aligned with existing residential areas to the north-east of the parcel and kept away from any areas that are more exposed in views across the River Ter.
- The existing hedgerow structure needs to be retained and strengthened where necessary to break up the massing of any proposed development.
- The opportunity is taken to integrate the slightly abrupt 'urban' edge in local views with an appropriate proposal for a suitable level of tree and shrub planting to screen the development fringes.

In terms of the adopted Local Plan, the site is not covered by any particular landscape designation. The site, as part of a large tract of land located to the south of Hatfield Peverel was previously identified as being in a Special Landscape Area. This designation, which previously applied to large areas of land across the District was superseded in September 2011 by Core Strategy Policy CS8 (*Natural Environment and Biodiversity*) which was adopted in 2011. Policy CS8 relies on the more finely grained landscape character assessments set out in the 2006 Landscape Character Assessment and the Council's Landscape Capacity Analysis (Braintree District Settlement Fringes) June 2015. The latter is finely grained to the point where it deals with specific land parcels, in this case Land Parcel 2c discussed above and therefore has significantly more precision than the now superseded Special Landscape Area



designations as identified in the Braintree District Council Local Plan Review which covered large tracts of the District.

Having made their own assessment of the site and having considered both the applicant's Landscape and Visual Impact Assessment (LVIA) submitted in support of the application and the Council's own Landscape Capacity Analysis study of the site Officers remain of the view that there is no objection to the proposed residential development on the grounds of landscape impact.

Notwithstanding the above and given the number of objections received from local residents on landscape grounds the Council commissioned an external landscape consultant (Wynne-Williams Associates Ltd) to carry out an independent review of the applicant's application and the landscape impact of the proposed development. This external review concludes that there would not be landscape harm (either on character or visual impact) of sufficient magnitude to refuse the development on landscape grounds and that the identified impact, which would be visual rather than a landscape character impact would be on the very local landscape only.

The illustrative Draft Framework Plan demonstrates how the site could accommodate the proposed quantum of development whilst incorporating a landscape buffer around the periphery of the site, allowing the retention and bolstering of existing tree and hedgelines and the provision of areas of strategic landscaping and open space. The illustrative site Masterplan provides further detail, giving an example of how a site layout could allow higher density development to be positioned centrally within the developable area, with lower density outward facing dwellings creating a softer, greener edge to the scheme. A condition limiting the maximum height of the proposed dwellings across the site to 2 storeys with accommodation in the roof and limiting the outer line of development on the site's north-western and eastern boundaries to single storey in height is recommended in relation to heritage impact but would also assist with further reducing any landscape impact.

In conclusion, it is Officers' view that the proposed development, if designed within a suitable setting, could provide a more attractive settlement edge than the open and unsympathetic vistas currently on offer from the available viewpoints. Officers do not consider that there are grounds to refuse the current application on landscape impact and this view is reinforced by the findings of the independent external review of the application on landscape grounds carried out by Wynne-Williams Associates Ltd which also finds that there would not be landscape harm (either on character or visual impact) of sufficient magnitude to refuse the development on landscape grounds.

### Ecology

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

granted for development which would have an adverse impact upon protected species.

The site consists primarily of agricultural (arable) land with areas of semi improved grassland, both of which are of relatively low ecological value. There are also a number of established trees and hedges on the site boundary.

The applicant submitted an Ecological Appraisal in support of the application incorporating a desk study, extended Phase 1 Habitat Survey and Preliminary Protected Species Survey, Great Crested Newt Survey and Bat Roosting Survey.

This appraisal has been reviewed by the Council's Landscape Officer. All existing trees and hedges on the site would be retained with the exception of single low quality Ash Tree which would be removed to facilitate the main vehicular access from Stonepath Drive and two short sections of hedgerow located within the western portion of the site containing Blackthorn, Elder and Hawthorn.

The Ecology Appraisal Bat Survey found that the hedgerows and trees at the site boundaries, almost all of which would be retained provide suitable commuting and foraging habitat for bats. Ten trees within the site boundary hedgerows, all of which would be retained, provide potential roosting for bats and a roped access inspection of 3 of these was undertaken due to the potential impacts of artificial lighting from the proposed development upon these trees. A roost of two soprano pipistrelle bats was recorded within one of these trees which is proposed for retention under the development proposals within an area of public open space. New hedgerow and tree planting along the site's southern boundary is proposed to replace an existing section of hedgerow which would be removed, and to improve connectivity to this roost. Other mitigation and enhancement measures include the provision of bat boxes to improve roosting potential and measures to ensure that the existing identified bat roost is not disturbed by artificial light during construction and occupation of the development and a lighting strategy to avoid general disturbance to bats in the locality.

No aquatic habitat was identified within the site to provide suitable breeding habitat for Great Crested Newts. Six ponds were found to be located offsite within 500m of the site boundary and Great Crested Newt Surveys were undertaken. No evidence of Great Crested Newts was found. Enhancements for amphibians were identified in the form of the provision of suitable habitat within the application site with a balancing pond, areas of managed and unmanaged grassland and hedgerow and scrub planting to provide suitable foraging and sheltering habitat.

Very limited suitable habitat for reptiles was found to be present.

The field and site boundary features include hedges and mature trees and were found to provide suitable nesting habitats to support a range of generalist and urban edge bird species. The semi-improved areas of

grassland also provide foraging resources within the existing site. Enhancement measures are proposed in the form of the planting of additional trees and hedges and the erection of bird boxes on the proposed dwellings.

The Ecology Report finds that the arable land which forms the majority of the site is considered unsuitable for ground nesting birds given the presence of the public footpath within the site, the farm access tracks which cross the site and the presence of tall and unmanaged hedgerows at the site boundaries which restrict the line of site.

The Report also states that the detailed design of proposed biodiversity enhancements and their subsequent management following the completion of development should be guided by a Biodiversity Management Plan for the site. A condition is recommended to secure this.

Local Residents have objected on the grounds of the impact upon and loss of wildlife habitat. The Stonepath Meadow Residents Action Group submitted their own Wildlife Assessment Report (May 2016), completed by residents. The report states that a wide range of species, including some protected have been seen on the site, and a wildlife species log is included. The RSPB, although not a statutory consultee were contacted by local residents with regard to the current planning application and have objected to the proposed development as they consider that the applicant has not adequately assessed the impact upon priority species (skylarks). The RSPB state in their objection that *'we understand the Council was presented with information in the previous application (16/00545/OUT) which demonstrated that Skylarks used the site'*. The objection goes on to state that the evidence suggests that Skylarks breed on the site, that the previous application was refused on the grounds of adverse ecological impact and that the Council have a duty to conserve Biodiversity. The RSPB therefore state that a further survey is required, to be carried out during the ground nesting season to establish if ground nesting birds are present and that it is imperative that this survey should be required before a planning decision is made rather than being required by way of planning condition, to allow a full picture of priority species on the site to be established before a decision is made.

The Stonepath Meadow Residents Group Report, the applicant's Ecology Report and the RSPB objection comments have all been reviewed in detail by the Council's Landscape Officer, who has also visited the site. The Landscape Officer remains of the view that whilst resident's comments in their report are noted, the applicant has submitted a formal Ecology Report (incorporating a desk study, extended Phase 1 Habitat Survey, Preliminary Protected Species Survey, Bat Survey and Great Crested Newt Survey) and it remains reasonable to maintain that the biodiversity value of the land, which consists of arable fields and semi-improved grassland is low. Site boundary features providing valuable opportunities for nesting birds and some potential for roosting bats as identified by the applicant's surveys.

Specifically with regard to the RSPB objection and the issue of the loss of habitat for ground nesting birds the Landscape Officer states that the RSPB

objection appears to rely heavily upon the Wildlife Report compiled by residents. This constitutes the information presented to the Council under the previous application 16/00545/OUT which the RSPB state demonstrates that Skylarks use the site. The Council's Landscape Officer reviewed this Report under the previous application and remains of the view that it cannot be given any significant weight in the determination of the current planning application. This is because there is no evidence provided about the qualifications of those making the recorded observations. The log contained an extract compiled by a small group of enthusiasts for observations on the site and/or its immediate surrounding area for period 2000-2013 with updates in 2016. The text refers specifically to Skylark - a few - now and regularly since 2000. The information provided can at best be described as anecdotal evidence and is not defined by accurate recording (e.g. *few* and *regular*) and the geographical area it refers to.

The Council's Landscape Officer also identifies that under the current application additional information has been supplied by another objection comment (Mr. Bedford, Headington, Oxford) supporting the evidence of the data log to the extent that he – as a surveyor for the British Trust for Ornithology – has recorded an occasional use of the site by up to 4 birds in 2010 and 2016 and although he concludes that Stonepath Meadow is used as a breeding site, there is no observation to this effect. Since the observations are intermittent there is no evidence that breeding was successful.

The Council's Landscape Officer's view overall is that on balance the proximity of the settlement boundary, the regular use of the field by residents and the nature of the boundary features would suggest that the use is limited, partly because of the disruptive level of human activity on and around the site.

A number of other points are also raised by the Landscape Officer as being relevant in this context, namely:

- The loss of the habitat provided by this site was not considered sufficient to warrant any further survey requirements. The current application sits within a larger field-scape where the potential for foraging and nesting opportunities for all recorded species is still undiminished.
- Recent academic research suggests that skylark density is influenced by the nature of the surrounding boundaries. In general terms, short hedges with trees show a significantly lower density than those found in fields without boundaries.
- From the experience of the Council's Landscape Officer on the times he has visited the site the public footpath is well used by local residents often as a space for walking their dogs. Of the field parcels available on this southern boundary to the settlement this appears to be one of the most disturbed by walkers and also by its proximity to the adjacent roadway. RSPB standing advice to this effect is '*Having a dog to walk is a great reason to get out into the countryside. However, dogs can*

*potentially disturb wildlife or livestock so it is important they are kept under control. Ground nesting birds are particularly vulnerable to disturbance. They may be forced from their nests, which would leave eggs or chicks exposed’.*

- In ideal conditions, an area the size of Stonepath Meadow would only support a limited number of breeding pairs of skylarks depending on average territory size – however the site is located next to the settlement edge and traversed by a well-used PROW and farm access tracks; prone to make it more likely to disturbance and predation. The level of use and territory density for skylarks will vary according to the changes in crop used in the field and the field boundary structure since tall structures such as hedgerows and woodland edge reduce the area of a field these birds will use.

Within the scope of a suitable mitigation hierarchy then avoidance, minimisation and rehabilitation cannot be used as suitable approaches. There is however scope for establishing if suitable offset measures can be taken to compensate for any residual impact that cannot be otherwise avoided by the development of the land. Such action would need to be informed by a further survey, which under these circumstances could be by condition, to establish the impact of the loss of habitat on local biodiversity. Offsets can take many forms but could include funding positive management interventions such as restoration of degraded habitat elsewhere or possibly in partnership with a recognized conservation agency such as the RSPB.

Overall, whilst the RSPB objection is noted by Officers, it is not considered that it is based upon a professional, technical Ecology Report which could be given proper weight in the planning determination process. Nor is it considered reasonable to delay the determination of the planning application to require a further bird survey when this survey could reasonably be required by way of planning condition. The Council's Landscape Officer is not of the view that the evidence has been presented demonstrating that the site is used by Skylarks. If however a survey found that it was, the applicant could be required to submit a scheme for offset measures to compensate. In addition, given the nature and location of the site and the availability of surrounding arable fields Officers do not consider that any such survey would find that Skylarks used the site in such numbers as to justify a refusal of planning permission when considering the overall planning balance.

Following receipt of an objection from the Essex Field Group Officers considered it would be helpful to consult Essex County Council's Ecologist to review both this objection and the application to date as a whole. Following this consultation a Bird Survey Report was also received from a third party which was also reviewed by the County Ecologist. After completing a full review of the application documentation the County Ecologist issued a formal consultation response stating no objection to granting planning permission subject to conditions. The consultation response identified the following key points:

- The applicant's Ecology Appraisal was undertaken at an appropriate time of year
- Confirmation of the surveyor's qualifications was sought and was subsequently provided to the County Ecologist's satisfaction
- BDC need to prepare a Habitat Regulations Assessment (HRA) Screening Report to consider the specific impact of the proposed development on Natura 2000 sites as the application site is not included in the Local Plan HRA as it was not allocated for residential development
- However, identified proposed mitigation for recreational impacts from the development alone (public open space) on and adjacent to the site is considered to be sufficient although this will be subject to consultation with Natural England under the HRA process
- Mitigation measures already identified in the HRA of the BDC Core Strategy comprising allocations of Suitable Accessible Natural Greenspace are considered sufficient to accommodate this development in terms of combination impacts (i.e. impact of this and other development sites)
- Satisfied that the applicant's Ecology Appraisal has identified the habitats and species likely to be affected by the development with regard to likely impact upon protected species and priority habitats and species

Specifically with regard to objections received which refer to insufficient information being available to determine the application (Essex Field Club; Mr Bedford; Stoney Path Meadow Residents Group and Mr Hawkins Bird Survey), the County Ecologist considers that those species likely to be affected by the development have been adequately assessed and that there is sufficient information to determine the application. However, a lack of mitigation to be provided within the development, particularly for farmland birds is identified. The County Ecologist identifies a planning condition to make the development acceptable in this regard however Officers consider that this should instead be included within the s106 Agreement as it is likely to include a financial contribution. It is also identified that should the layout change at Reserved Matters stage or should more than 3 years pass since the applicant's Ecological Appraisal was carried out it will need updating and supplementary Ecological Surveys would be required.

The County Ecologist also notes the objection from the RSPB and a local birdwatcher and recommends that supplementary surveys are undertaken at the Reserved Matters stage to inform a detailed mitigation strategy for farmland bird nesting and foraging habitat. The County Ecologist advises that this would enable the LPA to demonstrate it is meeting its statutory biodiversity duty under s40 NERC Act, as it is necessary for all likely impacts to be mitigated. As set out above Officers consider that this should be required under the s106 Agreement and the proposed Heads of Terms therefore require the submission of a Farmland Bird Mitigation Strategy prior to the Reserved Matters stage.

With regard to the identified need for BDC to prepare a Habitat Regulations Assessment (HRA) Screening Report this is being undertaken at the time of writing and the Officer recommendation for approval is subject to the outcome of this Screening exercise. The County Ecologist does not consider it is likely to demonstrate that a significant likely effect (which would trigger the need for further appropriate assessment) would be caused by the proposed development on natura 2000 sites in terms of the Habitat Regulations Assessment.

In terms of the wider context the Essex Estuaries Special Area of Conservation (SAC) and the Blackwater Estuary (Mid-Essex Coast Phase 4) Special Protection Area (SPA) and Ramsar Sites are located approximately 7.3km south east of the site. The Long Wood Complex Local Wildlife Site is also positioned approximately 0.53km south west of the application site boundary. The ditch located along the site's southern boundary is connected to further ditch systems which feed into the River Ter. The applicant's Ecological Appraisal identifies the need to ensure that surface water pollution from both construction and operation of the site needs to be avoided to prevent adverse effects on the SAC. The use of SUDs is identified as a method of controlling this.

The previous refusal of planning permission for the residential development of land which forms the eastern portion of the current application site is also a material consideration in the determination of the current application. However, the fact that the previous scheme was recommended for approval by Officers who found no objection on Ecology grounds must also be given due weight. Following a review of the application by both the Council's own Landscape Officer and by the County Council's Ecologist, Officers do not consider that there is any valid technical Ecology reason for recommending refusal of the current application. Therefore, it is not recommended that the current scheme is refused on Ecology grounds.

### Highways and Transport

The applicant seeks full permission for the proposed access point to the site from Stonepath Drive. The vehicular access would measure 5.5 metres in width with an adjacent 2.0 metre wide footpath to each side which would link in to the existing footpath on Stonepath Drive.

The submitted access drawing demonstrates to the satisfaction of the Highway Authority that the access can be safely achieved with adequate visibility splays.

Many objections were received from local residents on highway grounds. However, Essex County Council Highways, as the Highway Authority has no objection to the proposed development and state that from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority. Planning conditions are requested relating to the need for a Construction Traffic Management Plan to be submitted to and approved by

the Local Planning Authority, to include details of vehicle/wheel cleaning facilities.

A condition was also requested to require the upgrade of bus stops on The Street, east of Church Road, in the vicinity of The Swan with the provision of pole and timetable information and real time passenger information on the southern side of The Street and the provision of real time passenger information within the shelter on the northern side of The Street. In addition conditions requiring the provision of Travel Information Packs for sustainable transport and the enhancement of the Public Right of Way which runs through the application site between The Street and Church Road were requested.

In accordance with Braintree District Council's standard procedure the requirements for the bus stop upgrades and Travel Information Packs have been incorporated into the S106 Agreement Heads of Terms.

The applicant's Transport Assessment identifies the requirements of the Essex County Council Parking Standards (2009) as being the relevant standard for on-site parking provision. Officers consider that the proposed quantum of development could accommodate a layout which meets the required parking standards. It is recommended that this level of provision is required by way of planning condition for the purpose of clarity.

Commuter parking was also noted on Stonepath Drive and Officers consider that a condition is required to address this with the developer being required to pay for the necessary Traffic Regulation Orders together with the provision of the associated signing and lining to prevent parking in the vicinity of the site.

Due to the proximity of the site Highways England were also consulted. They have no objection to the proposal.

In terms of its physical location, Hatfield Peverel railway station, which runs to London Liverpool Street via Chelmsford at a rate of 3 services per hour during peak periods is located approximately 1km from the application site and is accessible via public footpaths adjacent to the highway. With regard to bus services, the site is situated in close proximity to The Street, along which there are a number of bus stops which are serviced regularly. The closest of these are located in the vicinity of The Swan Public House and the William Boosey Public House respectively and are positioned approximately 450m and 500m from the application site entrance, in opposite directions along The Street. These bus stops provide regular links to Chelmsford, Colchester and Maldon in addition to providing school only services.

Hatfield Peverel itself is a key service village and provides a wide range of facilities and services which are easily accessible from the application site by foot or bicycle. These include for example a library; recreational ground; Doctors and Dentists Surgeries; Pharmacy; Nursery; several Pubs; a church; two food stores, an Indian takeaway and Infant and Junior Schools.



Overall, it is therefore considered that the site is positioned in a sustainable location with good pedestrian and cycle access to the services and facilities of Hatfield Peverel and good public transport links to the larger settlements of the District and beyond.

### Impact on Neighbour Amenity

To the north, west and east the application site does not abut the boundary of any existing residential properties. To the south is located Crabbs Hill Farm, with a paddock abutting the application site and providing a buffer between the Farm's immediate residential curtilage and the site. The illustrative Development Framework Plan and the illustrative Masterplan indicate how a landscape buffer could also be retained within the application site, further increasing the distance between the developable area of the site and Crabbs Hill Farm.

In terms of outlook, the existing dwellings which front onto Stonepath Drive and Church Road, with an orientation toward the application site would be most affected. The illustrative Development Framework and Masterplan show how a substantial area of open space could be retained at the front of the site and a landscape buffer on the eastern side of the site. The development would in any case be positioned on the opposite side of Stonepath Drive and distances between new and existing dwellings would be in keeping with those required by the Essex Design Guide and also with existing relationships between dwellings on opposing sides of the road in the locality. Officers do not therefore consider that there are any grounds for refusal in terms of the relationship between existing dwellings in the locality and the proposed development.

It is acknowledged that the development of the site would change the character of the street scene of Stonepath Drive, however with an appropriate landscaping scheme and with a requirement for open space to be incorporated within the site layout Officers consider that a detailed layout could be designed which achieved an appropriate relationship with the existing street and which would not be out of keeping with the character of the developed area of Stonepath Drive.

Many objections have been received on the grounds of the loss of the existing view from Stonepath Drive out over the application site and to the wider countryside beyond. In general planning terms there is no ability to protect an existing view such as this. The emerging Hatfield Peverel Neighbourhood Plan however identifies the existing view south from Stonepath Drive, out over the application site as a protected view under draft Policy HPE6 Protection of Important Views. The Neighbourhood Plan Area was designated in March 2015 and the draft Neighbourhood Plan has been the subject of a public consultation under Regulation 14 of the Town and Country Planning Act with the consultation ending on 30<sup>th</sup> September 2016. An objection was received from the applicant in response to this consultation against the non-inclusion of land at Stonepath Drive for allocation for residential development in the Draft Neighbourhood Plan. At the time of writing the Draft Neighbourhood Plan has

been submitted to Braintree District Council and is currently being reviewed to ensure that it satisfies the legal requirements and conditions to allow BDC to authorise the draft Plan for the second formal consultation process.

However, the Neighbourhood Plan is not yet adopted and has not been through its second public consultation, examination or referendum process. Only limited weight can therefore be given to its policies in the decision making process for the current planning application. Whilst the desire of local residents to protect this view is acknowledged, Officers must balance the limited weight applicable to a draft policy contained within an unadopted Neighbourhood Plan against the benefits of the development as required by the NPPF.

### Heritage

Hatfield Place is positioned to the west of the application site and The William Boosey Public House lies to the north-west. Both are Grade 2\* Listed Buildings. Core Strategy Policy CS9 and adopted Local Plan Policy RLP100 seek to safeguard the District's historic environment, including the setting of its listed buildings.

At the national level, Section 66 of the 1990 Listed Buildings and Conservation Areas Act requires Local Planning Authorities to have special regard to the desirability of preserving listed buildings and their settings. The NPPF provides specific guidance relating to heritage assets and decision making. Paragraph 132 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. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification'*.

Paragraph 134 provides clear instruction 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'*.

Both Historic England and the Essex County Council's Historic Buildings Advisor have been consulted.

The Essex County Council's Historic Buildings Advisor has not objected to the application, identifying that the development of the site would result in less than substantial harm to the setting of Hatfield Place and that more specifically this harm can be characterised as being at the lower end of less than substantial. The harm caused to the setting of the building is identified partly as being caused by some views of Hatfield Place from the application site and partly by some views of the application site from Hatfield Place, albeit both are partially screened and would be reduced during the spring and summer period when the established landscape boundary between the two

sites would be heavily foliated. Harm is also identified as being caused by the impact of the proposed development of the application site upon the relatively isolated setting of Hatfield Place. With regard to the William Boosey Public House, also a Grade 2\* Listed Building, no harm is identified. A condition restricting the height of the new dwellings to 2 storeys is required.

Historic England have advised that it is necessary for the Local Planning Authority to weigh the harm that would result to the setting of the nearby listed buildings against the public benefits that would be delivered by the proposed development.

Historic England consider that the setting of Hatfield Place may be eroded by the proposed development and again identify views of Hatfield Place from the application site and views of the application site from Hatfield Place as causing harm. They also state that the proposed development would be located on fields which greatly contribute to the significance of the listed building by providing an open, tranquil and rural setting to the south and west of Hatfield Place and would therefore impact upon the significance of the building through change within its setting and an erosion of the degree of separation between the building and Hatfield Peverel. Historic England advise that they do not consider that the presence of vegetation should be a determining factor in terms of impact as setting is more than just visual effects and can include noise, lighting, dust and vibration. Historic England also identify harm to The William Boosey Public House due to the further erosion of its semi-rural setting.

Overall, Officers therefore consider that the proposed development would result in harm being caused to Hatfield Place and possible harm being caused to the William Boosey Public House. The level of harm to Hatfield Place has been identified by the Essex County Council Historic Buildings Advisor as being less than substantial and more specifically as being at the lower end of less than substantial. Both Essex County Council and Historic England state that the Local Planning Authority should weigh the harm caused against the public benefits of the proposal.

Hatfield Place and the William Boosey Public House are both Grade 2\* listed Buildings. They therefore sit above Grade 2 Listed Buildings (which are categorised as those of 'special interest') being classed as 'particularly important buildings of more than special interest', but sit below Grade 1 Listed Buildings (identified as those of 'exceptional interest'). The NPPF states that 'great weight' should be given to the conservation of heritage asset's and that the more important the asset, the greater the weight should be. It also states that any harm or loss should require clear and convincing justification and requires, where less than substantial harm is identified, Local Planning Authorities to weigh the harm against the public benefits of the proposed development.

The identified harm to the setting of Hatfield Place will, to a degree, be mitigated by the established landscape buffer between the two sites. A planning condition could be used to limit the height of the new dwellings

across the site to 2 storeys. Furthermore, the applicant has agreed to a planning condition restricting the outer line of development along the site's north-western and eastern boundaries to be limited to single storey in height. The effectiveness of this mitigation will increase during the spring and summer months when the vegetation is at its thickest.

Historic England identify noise, lighting, dust and vibration as also having the ability to harm the setting of a listed building, in addition to any visual impact. Dust, noise and vibration could be controlled by way of planning condition during the construction process. The ongoing level of noise generated by a residential development is not considered likely to be significant, given the nature of this type of land use. Lighting could also be controlled by way of a planning condition although any residential development would have a greater light impact than the existing agricultural land use.

The harm caused by the development of the application site in terms of its erosion of the setting of Hatfield Place, and in Historic England's view of The William Boosey Public House cannot be mitigated. However, Officers consider that the actual degree of harm is less than substantial and in the view of the Essex County Council Historic Building's Advisor is at the lower end of this scale. The public benefits of a development of 140 market and affordable houses are significant and although great weight must be given to the preservation of heritage assets, significant weight must also be given to the contribution of such a development to the substantial 5 year housing land supply deficit in the District. Officers therefore consider that on balance, the public benefits of the proposed development would outweigh the less than substantial harm which it would cause to the identified heritage assets and provide a clear and convincing justification to this harm. In accordance with paragraph 134 of the NPPF Officers therefore consider that the overall planning balance lies in favour of the proposed development.

There is also a protected lane (Sportsmans Lane) located to the south of the application site which leads from Crabbs Hill to Nounsley. Adopted Policy RLP87 seeks to protect Protected Lanes and to prevent developments which would result in a material increase in the amount of traffic using them. The proposed site access leads onto the wider road network via Stonepath Drive which in turn leads onto Church Road. It is not considered that the development would result in any significant material increase in traffic using Sportsman's Lane which is not immediately accessible from the site to the extent that it would justify a refusal of planning permission.

### Other Matters

#### **Archaeology**

The applicant submitted a desk-based archaeological assessment of the site which finds that the site is located close to a major Roman Road and on a gravel geology and has moderate archaeological potential for prehistoric and Roman archaeology. Essex County Council Place Services (Archaeology) has no objection to the application, subject to the imposition of 4 conditions

relating to the securing of a programme of archaeological evaluation of the site to the satisfaction of the Local Planning Authority.

### **Construction Activity**

The Council's Environmental Services Team have been consulted regarding the proposed development and have no objection subject to a number of conditions which include, in relation to construction activity, conditions to control hours of working, details relating to any piling to be carried out on site and submission of a dust and mud control scheme for approval.

### **Air Quality**

In relation to air quality the Council's Environmental Services Team have advised that the applicant's Air Quality Report indicates that future occupiers will not be subject to harmful pollutant levels and no objection is raised with regard to the impact of the proposed development on local air quality. A condition requesting electric vehicle charging points is requested.

### **Noise**

With regard to noise, the Council's Environmental Services Team has no objection but recommend a condition to require the submission of a further noise report at the Reserved Matters stage to ensure that internal and external noise levels are acceptable once a detailed design and layout has been proposed.

### **Flood Risk and Surface Water Drainage**

The application site is located within Flood Zone 1 (low probability risk of flooding). The applicant has submitted a Flood Risk Assessment and Outline Drainage Strategy in support of their application and propose to utilise a Sustainable Urban Drainage system to satisfactorily cater for surface run-off water from the proposed development with a detention basin located at the south western periphery of the site.

The Lead Local Flood Authority (Essex County Council) consider that a surface water drainage scheme has been proposed which demonstrates that surface water management is achievable in principle, without causing flooding on site or elsewhere. The details of the surface water drainage scheme would be agreed at the Reserved Matters stage and the County Council have specified a condition which it is recommended is attached to any permission granted relating to the required content of this scheme.

### **Agricultural Land**

Paragraph 112 of the NPPF states that Local Planning Authorities should take into account the economic and other benefits of the best and most versatile agricultural land and where significant development of agricultural land is necessary should seek to use areas of poorer quality. The application site is

located on best and most versatile (partly on Grade 2 ('very good') and partly on Grade 3 ('good to moderate')) Agricultural land and its development would result in the permanent loss of this land. However, in the wider context of the District the site measures only 6.35ha and Officers do not consider this to constitute a significant loss of such land.

### **Public Amenity Land**

The planning application proposes an area of approximately 3.54ha of public amenity land for existing and future residents, situated immediately adjacent to the proposed development. This area of land consists of two self-contained meadows which abut the development's northern boundary and an adjoining area of land which abuts the development's western boundary and the proposed area of on-site open space located within the development site which is shown on the illustrative Development Framework plan to contain a balancing pond.

The provision of this 3.54ha of public amenity land, which would be maintained in its current form would be secured under the Section 106 Agreement and is a material planning consideration which must be taken into account in assessing the overall planning balance. As with every Section 106 obligation there is the possibility of a developer seeking to vary a S106 Agreement at a later date. In order to provide the greatest possible certainty that this land will be provided, which is viewed as essential to the planning balance by Officers, this land would either be transferred to the ownership of the Parish Council if they so wished or would be maintained by a management company set up by the developer of the application site. A covenant would also be placed on the land preventing its development in perpetuity. It would be available for use in its current form by both existing and future local residents for recreational use and represents a significant social benefit, with what is currently privately owned land accessible in part by a public footpath becoming publicly accessible amenity land for use in its entirety for recreational purposes by local residents and the general public. This would also allow the existing public footpath which crosses the application site and land beyond in a relatively straight line from east to west to be enhanced. Walkers would be able to undertake a circular route around the landscaped periphery of the proposed development and the proposed 3.54ha of proposed public amenity land.

### **Reserved Matters Timescales**

The applicant has agreed, at Officer's request, to reduce the time period for the submission of Reserved Matters from 3 years to 2 years. This is a material consideration when assessing the overall planning balance for the current outline planning application and would result in the development being brought forward earlier than could normally be expected, which in turn would assist the Council to address the current shortfall in the 5 year housing land supply.

## **Site Assessment Conclusion**

There are no objections to the application from any statutory consultees. The objections from the RSPB, Essex Field Club and Mr Paul Hawkins have been addressed in detail in the above report. Having assessed the specific merits of the site in terms of its potential to accommodate the proposed development in a sustainable manner, Officers are of the opinion that the proposed quantum of development could be accommodated without significant adverse impacts.

### **Section 106**

The following identifies those matters that the District Council would seek to secure through a planning obligation.

## **Affordable Housing**

The applicant submitted an Affordable Housing Statement in support of the application confirming that 40% of the proposed dwellings would be affordable housing; that is housing that is affordable rented and intermediate housing provided to eligible households whose needs are not met by the market. Based on a development of 140 dwellings this equates to 56 homes.

Policy CS2 of the Core Strategy requires developers to provide affordable housing on site with a target of 40% affordable housing provision on sites in rural areas or 30% affordable housing on sites in urban areas.

The application site is located in the countryside adjacent to the village of Hatfield Peverel where the provision of 40% affordable housing accords with the requirements of Policy CS2.

The Council's Strategic Housing Team recommend that a 70/30 tenure mix (affordable rent over shared ownership) is secured. The affordable homes are required to be clustered in three areas of the site, with an accessibility requirement for 25% of any ground floor flats and all 3 bed houses to meet Lifetime Homes equivalent Part M 2 of Building Regulations. All affordable units must be compliant with standards acceptable to the Homes and Communities Agency at the point of construction.

In addition, if the scheme is to be delivered in phases then the affordable housing is to be delivered equally across each phase.

This is an outline application where design and layout are reserved matters. The Council's Affordable Housing SPD states that the size and type of dwellings will reflect the prevailing housing need and issues such as changes in the benefits regime can impact on the types of affordable housing that is required to meet local need. It is recommended that the S106 Agreement specify that an Affordable Housing Strategy be submitted (as part of a site wide housing strategy to cover phasing and market housing mix) to the

Council for approval prior to the submission of the first application for Reserved Matters.

## **Healthcare**

NHS England advise that the existing GP Practice does not have the capacity to accommodate the additional growth resulting from the development. The development would have an impact on healthcare provision in the area and its implications, if unmitigated would be unsustainable.

The development must therefore, in order to be considered under the presumption in favour of sustainable development advocated in the NPPF, provide appropriate levels of mitigation.

The development would give rise to a need for improvements to capacity at the Sidney House Surgery (including its main surgery the Laurels) by way of extension, refurbishment or reconfiguration. A developer contribution of £52,992 will therefore be required.

## **Open Space**

Policy CS10 requires new development to make appropriate provision for publically accessible green space or improvement of existing accessible green space in accordance with the following adopted standards (all figures are calculated per thousand population); parks and gardens at 1.2 hectares; outdoor sports provision at 2.0 hectares; amenity greenspaces at 0.8 hectares; provision for children and young people at 0.2 hectares.

The Council's Open Space SPD sets out further details on how these standards will be applied. A development of this size would be expected to make provision for equipped children's play areas and informal and casual open space on site with a financial contribution towards the provision of off-site outdoor sports facilities and allotments.

The Development Framework Plan identifies a developable area of 4.3 hectares and an undeveloped area of 2.02 hectares. It is recommended that the S106 Agreement specify that a Locally Equipped Play Area (LEAP) is provided on the site which for a development of 140 dwellings would be required to be 0.066ha. It would also specify that the remaining areas of informal open space would be provided across the site as a whole but would exclude any structural landscaping or SUDS water features. It is also recommended that the S106 Agreement requires the submission of a Landscape Strategy to agree the detail of open space provision on the site prior to the submission of the first application for Reserved Matters.

In terms of off-site contributions, the Open Space SPD requires a financial contribution of approximately £127,760 toward the off-site provision of, or improvements to existing outdoor sports facilities and the provision of allotments. These contributions would be secured through the S106



Agreement and the actual payment would be calculated on the number and size of the dwellings constructed.

### **Public Amenity Land**

The planning application proposes approximately 3.54ha of public amenity land located immediately adjacent to the proposed development site. This is a material consideration in the determination of this planning application and is considered to represent a significant benefit in terms of social sustainability. Officers consider that the provision of this land as public amenity land is an important factor in the overall planning balance and is necessary to make the proposed development acceptable in planning terms.

### **Highways and Transport**

The Highway Authority has advised that works are required to be carried out to mitigate the highways and transportation impacts of the proposed development. These works consist of upgrades to bus stops on The Street, east of Church Road in the vicinity of The Swan, specifically; the provision of pole and timetable information and real time passenger information on the southern side of The Street and the provision of real time passenger information within the shelter on the northern side of The Street.

Residential Travel Information Packs are to be provided by the Developer for future occupants of the development, to include six one day travel vouchers for use with the relevant local public transport operator.

### **Education**

Essex County Council have advised that the proposed development is located within the Hatfield Peverel and Terling Ward. For the County Council to meet its statutory duties it must facilitate sufficient places to meet free childcare entitlement demand and ensure a diverse range of provision so that different needs can be met. A Developer contribution of £175,518 index linked to April 2016 is therefore required to expand early years and childcare provision within the ward to meet demand from the development.

### **Farmland Bird Mitigation Strategy**

Essex County Council's Ecologist has identified the need for the submission and implementation of a strategy for offsite mitigation for Farmland Birds which will need to be informed by supplementary surveys. This is likely to include a financial contribution and is therefore included in the S106 Heads of Terms rather than being required by way of planning condition. The strategy is required to be submitted prior to any Reserved Matters application relating to layout or landscaping being submitted and shall include timescales associated with the implementation of the strategy which will be agreed with the Local Planning Authority.

## CONCLUSION

The presumption in favour of sustainable development sits at the heart of the NPPF. The Framework is clear in its instruction at paragraph 14 that for decision taking, where relevant development plan policies are out of date this means granting planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework. Such an assessment must take account of the economic, social and environmental impact of the proposed development and these matters must be considered in the overall planning balance.

In terms of economic and social sustainability, the development would bring significant public benefits including a substantial number of both market and affordable houses, the provision of public open space and children's play space on site and financial contributions towards the off-site provision of outdoor sports facilities and the upgrading of existing bus stops on The Street. It would also generate construction jobs during the build phase in addition to providing new residents to Hatfield Peverel to provide further support for existing services and facilities. The development would also provide 3.54ha of public amenity space for existing and future residents with significant associated social benefits, which could either be taken on by the Parish Council if they so wished or run by a management company facilitated by the developer of the site.

Environmentally, the site has been assessed as having the capacity to accommodate the proposed quantum of development without significant adverse impacts on the wider landscape and mitigation/enhancement measures have been identified to address the Ecological impact of the proposal. The site is capable of providing strategic landscaping and public open space in accordance with Braintree District Council's adopted policy requirements. It is well positioned for access to the facilities of Hatfield Peverel, which is designated as a key service village in the adopted Local Plan and proposed to retain this designation in the emerging Local Plan and Officers consider the site's location to be sustainable. At the time of writing an HRA Screening Report is being prepared in consultation with Natural England and Officers do not consider it likely that a likely significant effect will be identified.

Importantly, the development would make a substantial contribution toward the Council's 5 year housing land supply deficit, a factor which must be given significant weight in the determination of this application. The applicant has submitted a suite of detailed documents which demonstrate to Officers that the site is free of any constraints to residential development which cannot be resolved by way of conditions, the submission of further information at the Reserved Matters stage and a S106 Agreement.

The adverse impacts of the proposed development are limited and would include the loss of greenfield (agricultural and meadow) land, a degree of

harm (considered by Officers to be at the lower end of less than substantial) to the setting of the two adjacent Grade 2\* Listed Buildings, a limited landscape and ecological impact with associated social impacts and conflict with the emerging Hatfield Peverel Neighbourhood Plan the policies contained within which can be given only limited weight. There are however no objections from any statutory consultees and Officers consider that the significant benefits of the proposal outweigh any adverse impacts. The relevant section of the NPPF also requires the Local Planning Authority to consider whether specific policies in the framework (for example designated Heritage Assets and designated Green Belt) require that development is restricted.

Officers have carefully considered the proposal against such specific policies, including the impact on Heritage Assets and concluded that less than substantial harm to such assets would not outweigh the public benefit arising from the development.

Having assessed the specific merits of the site and the public benefits which the proposal would bring against the Council's policies and the requirements of the NPPF both individually and as a whole, Officers consider that the proposed development would be sustainable and that the planning balance clearly falls in favour of granting planning permission. Accordingly it is recommended that this application is approved.

### RECOMMENDATION

It is therefore RECOMMENDED that subject to:

- 1) The Habitat Regulations (HRA) Screening Report concluding that no likely significant effect will be caused and;
- 2) The applicant entering into a suitable legal agreement pursuant to S106 of the Town and Country Planning Act 1990 (as amended) to cover the following Heads of Terms:
  - **Affordable Housing** (40% provision; 70/30 tenure split (affordable rent over shared ownership); clustered in three areas of the site; to be delivered equally across each phase for a multi-phase development; delivered without reliance on public subsidy; with an accessibility requirement for 25% of any ground floor flats and all 3 bed houses to meet Lifetime Homes equivalent Part M 2 of Building Regulations; all units to be compliant with standards acceptable to Homes and Communities Agency at point of construction.
  - **Site Wide Housing and Phasing Strategy** (to be submitted for approval prior to submission of first Reserved Matters application and to include details of market and affordable housing provision and a phasing plan).
  - **Education** (financial contribution toward Early Years and Childcare required based on the County Council's standard formula, index linked to

April 2016. Trigger point for payment being commencement of development).

- **Health** (financial contribution of £52,992. Trigger point for payment being prior to the commencement of development).
- **Public Open Space** (financial contribution toward outdoor sports provision and allotments to be calculated in accordance with Policy CS10 and the Council's Open Spaces SPD. Trigger point for payment being prior to occupation of 10% of the dwellings).
- **Provision of Locally Equipped Area of Play (LEAP)** on site at 0.066 hectares for a development of 140 dwellings (or otherwise calculated in accordance with the requirements of Policy CS10 for a lesser number of dwellings). Provision of informal open space calculated in accordance with the requirements of Policy CS10 and the Council's Open Space SPD to be provided across the site as a whole but to exclude strategic landscaping or SUDS water features. Management of on-site open space and LEAP to be transferred to a Management Company. Submission and approval of Landscape Strategy required prior to submission of first Reserved Matters application).
- **Public Amenity Land** (provision of 3.54ha of public amenity land as identified on the submitted Development Framework Plan 3015-L-101 REV H dated October 2016 to be maintained in its current form. Ownership of the land to be transferred to Hatfield Peverel Parish Council for nil consideration upon commencement of development (unless the Parish Council state they do not wish to take ownership) and a restriction to be placed on the land which prevents any disposal of the application site (red line land) until the ownership of the public amenity land (blue line land of approximately 3.54ha) has been transferred to the Parish Council. If the Parish Council state that they do not want to take ownership of the blue line land it is to be transferred to a Management Company and its maintenance as managed public open space would be secured in the same way as the on-site open space. Covenant also to be placed on the blue line land preventing any development in perpetuity).
- **Residential Travel Information Pack** (to be approved by Essex County Council. Trigger point being prior to occupation of the first unit. To include six one day travel vouchers for use with the relevant local public transport operator. Travel Packs to be provided to the first occupiers of each new residential unit).
- **Upgrading of bus stops** (two stops located on The Street, east of Church Road in the vicinity of The Swan. Provision of pole and timetable information and real time passenger information on the southern side of The Street and provision of real time passenger information within the shelter on the northern side of the street. Trigger point being prior to occupation of 40<sup>th</sup> dwelling and details to be agreed in writing with the

Local Planning Authority). Financial cap of £40,000 to be placed on the contribution.

- **Farmland Bird Strategy** (submission and implementation of a strategy for offsite mitigation for Farmland Birds which will need to be informed by supplementary surveys. This is likely to include a financial contribution. The strategy is required to be submitted prior to any Reserved Matters application relating to layout or landscaping being submitted and shall include timescales associated with the implementation of the strategy which will be agreed with the Local Planning Authority).

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

Alternatively, in the event that a suitable planning obligation is not agreed within 3 calendar months of the date of the resolution to approve the application by the Planning Committee the Development Manager may use her delegated authority to refuse the application. Members are advised that if the HRA Report concludes that a likely significant effect is expected and further appropriate assessment is required in this regard the application will need to be brought before the Planning Committee again after due consideration by Officers.

#### APPROVED PLANS

Location Plan	Plan Ref: 7015-L-100 A
Access Details	Plan Ref: A095687-SK01 REV C
Tree Plan	Plan Ref: 7015-A-03 REV C

#### 1 Details of the:-

- (a) scale, appearance and layout of the building(s); and the
- (b) landscaping of the site

(hereinafter referred to as "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.

Application for approval of the reserved matters shall be made to the local planning authority not later than 2 years from the date of this permission.

The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.

#### Reason

The particulars submitted are insufficient for consideration of the details

mentioned and also pursuant to Section 92 of the Town and Country Planning Act 1990.

- 2 The submission of reserved matter applications pursuant to this outline planning permission shall together provide for no more than 140 dwellings, parking, public open space, landscaping, surface water attenuation and associated infrastructure and demonstrate compliance with the approved plans listed above and broad compliance with the illustrative Development Framework Plan 3015-L-101 REV H.

Reason

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

- 3 No Reserved Matters application shall be submitted until a site wide strategy for the following has been submitted and approved in writing by the local planning authority:

- details of a parking strategy for the development;
- details of a lighting strategy for the development;
- details of a waste management strategy for the development.

Reserved Matters applications submitted pursuant to Condition 1 shall only be submitted in accordance with the approved strategy.

Reason

The particulars submitted are insufficient for consideration of the details mentioned.

- 4 Prior to the first occupation of the development the primary access shall be implemented as shown on drawing A095687-SK01 REV C.

Reason

To ensure the access is constructed to an acceptable standard and in the interests of highway safety.

- 5 Prior to occupation of any dwelling, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 43 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction is first used by vehicular traffic and retained free of any obstruction at all times.

Reason

To provide adequate inter-visibility between the users of the access and the existing public highway for the safety and convenience of users of the highway and of the access.

- 6 No building erected on the site shall exceed two storeys in height. The outermost line of dwellings located on the western periphery of the developable area and on the northern periphery of the developable area

where it abuts undeveloped countryside, shall not exceed one storey in height.

Reason

To ensure that the development does not have a detrimental impact upon the setting of the Grade 2\* listed Hatfield Place.

- 7 Any Reserved Matters application relating to scale or layout shall be accompanied by full details of the finished levels, above ordnance datum, of the ground floor(s) of the proposed building(s), in relation to existing ground levels.

Reason

To avoid the excessive raising or lowering of any building hereby permitted and the alteration of ground levels within the site which may lead to un-neighbourly development with problems of overlooking and loss of privacy.

- 8 Any Reserved Matters application relating to scale or layout shall be accompanied by a Noise Report demonstrating that the indoor ambient noise levels for the proposed dwellings will comply with the requirements of Table 4 of BS 8233 Guidance on Sound Insulation and Noise Reduction for Buildings (2014) and that the upper guideline noise level of 55Db(a) will be achieved for outside amenity space such as gardens and patios.

Reason

To protect the amenities of the occupiers of the residential properties hereby permitted.

- 9 Any Reserved Matters application relating to landscaping shall be accompanied by a Biodiversity Management Plan for the site which shall set out the site wide strategy for enhancing biodiversity including the detailed design of proposed biodiversity enhancements and their subsequent management once the development is completed. The Biodiversity Management Plan shall be in accordance with the recommendations set out in the submitted Ecological Appraisal Report (FCPR Ltd, September 2016) and its Appendices. The development shall be implemented in accordance with the approved Management Plan.

Reason

To demonstrate that the Local Planning Authority has met its legal responsibilities, including those required by UK Habitats Regulations (2010 as amended), Crime and Disorder Act (1998) and Countryside & Wildlife Act (1981 as amended) and to ensure that the biodiversity of the site is enhanced and effectively managed following the completion of the development.

- 10 The landscaping scheme required by Condition 1 of this permission shall incorporate a detailed specification of hard and soft landscaping works for

each phase of the development. This shall include 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, refuse storage, signs and lighting.

All areas of hardstanding shall be constructed using porous materials laid on a permeable base.

All planting, seeding or turfing contained in the approved details of the landscaping scheme shall be carried out in phases to be agreed as part of that scheme by the local planning authority.

All hard surface areas agreed as part of the scheme shall be carried out before the first occupation of the relevant building which it serves.

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

#### Reason

Landscape planting will add character to the development and it is considered desirable for these to be dealt with concurrently with the other details.

- 11 No development shall commence, including any groundworks, 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.

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

#### Reason

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

- 12 Car parking provision across the development shall be provided in accordance with the minimum standards set out in the Essex Parking Standards Design and Good Practice 2009 which requires the following parking provision for Use Class C3 Dwellinghouses:
- a minimum of 1 car parking space per 1 bedroom dwelling;
  - a minimum of 2 car parking spaces per 2 or more bedroom dwelling;
  - a minimum of 0.25 visitor car parking spaces per dwelling (unallocated and rounded up to the nearest whole number) and to include a minimum of 4 blue badge bays plus 4% of total capacity; and
  - standards exclude garages if less than 7 metres x 3 metres internal dimension.

Reason

To ensure adequate off-street parking space is provided.

- 13 There shall be no discharge of surface water onto the highway.

Reason

To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interests of highway safety.

- 14 Prior to any Reserved Matters application relating to layout or landscaping details of any proposed external lighting to the site for each phase of the development shall be submitted to, and approved in writing by, the local planning authority prior to installation. The details shall include a layout plan with beam orientation and a schedule of equipment in the design (luminaire type, mounting height, aiming angles, luminaire profiles and energy efficiency measures). All lighting shall be installed, maintained and operated in accordance with the approved details. There shall be no other sources of external illumination.

Reason

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

- 15 No vehicular movements relating to the construction of the development to, from or within the site shall take place outside the following times:-

Monday to Friday 0800 hours - 1800 hours

Saturday 0800 hours - 1300 hours

Sundays, Public and Bank Holidays - no vehicular movements

Reason

In the interests of the amenity of residents of the locality.

- 16 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

In the interests of the amenity of residents of the locality.

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

Reason

In the interests of the amenity of residents of the locality.

- 18 a) 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'. Further advice is available in the 'Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers'. Such agreed measures shall be implemented and completed prior to the commencement of development hereby approved.
- b) 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.
- c) The developer shall give one-month's advanced notice in writing to the Local Planning Authority of the impending completion of the remediation works. Within four weeks of completion of the remediation works a validation report undertaken by competent person or persons and in accordance with the 'Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers' and the agreed remediation measures shall be submitted to the Local Planning Authority for approval. There shall be no residential

occupation of the site (or beneficial occupation of the office building hereby permitted) until the Local Planning Authority has approved the validation report in writing. Furthermore, prior to occupation of any property hereby permitted, the developer shall submit to the Local Planning Authority a signed and dated certificate to confirm that the remediation works have been completed in strict accordance with the documents and plans comprising the remediation scheme agreed in writing with the Local Planning Authority.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors. The survey is required prior to the commencement of development to ensure that measures are in place to ensure that the development can be carried out safely without unacceptable risks to workers, neighbors and other offsite receptors before any on-site work commences.

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

Reason

To enable full investigation and recording of this site of archaeological importance. The implementation of the agreed programme of archaeological works is required prior to the commencement of development to ensure that any archaeologically on the site is recorded before construction works start.

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

Reason

To enable full investigation and recording of this site of archaeological importance. The completion of the archaeological fieldwork is required prior to the commencement of development on those areas containing archaeological deposits to ensure that any archaeologically on the site is recorded before construction works start.

- 21 The applicant will submit to the local planning authority a post-excavation assessment (to be submitted within 6 months of the completion of

fieldwork, unless otherwise agreed in advance with the local planning authority). This will result in the completion of post-excavation analysis, preparation of a full site archive and report ready for deposition at the local museum and submission of a publication report.

**Reason**

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

- 22 No development 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 shall subsequently be implemented prior to occupation.

The scheme shall include but not be limited to:

- Discharge to ground;
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event;
- Provide sufficient treatment for all elements of the development.

Treatment should be demonstrated to be in line with the guidance within the CIRIA SUDs Manual C753.

**Reason**

To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site, to ensure the effective operation of SUDs features over the lifetime of the development, to reduce the risk of flooding from overloading the surface water pipe network and to mitigate environmental damage caused by runoff during a rainfall event. The Surface Water Drainage Scheme is required prior to the commencement of development to avoid a system being installed that is not sufficient to deal with surface water occurring during rainfall events which may lead to increased flood risk and pollution hazard for the site.

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

**Reason**

To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk. The Maintenance Plan is required prior to the commencement of development to ensure that a system is not installed that is not properly maintained and may therefore increase flood

risk or pollution hazard from the site.

- 24 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 for each phase of the development. These must be available for inspection upon a request by the Local Planning Authority.

Reason

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

- 25 Development shall not be commenced until details of the means of protecting all of the existing trees, shrubs and hedges to be retained (as identified on the Tree Retention Plan 7015-A-03 REV C dated September 2016) on the site and the trees located outside but adjacent to the site boundary from damage during the carrying out of the development have been submitted to the local planning authority for approval. The approved means of protection shall be installed prior to the commencement of any building, engineering works or other activities on the site and shall remain in place until after the completion of the development to the complete satisfaction of the local planning authority.

No materials, goods or articles of any description shall be stacked, stored or placed at any time within the limits of the spread of any of the existing trees, shrubs or hedges.

No works involving alterations in ground levels, or the digging of trenches, or excavations of any kind, (including the laying or installation of drains, pipes, cables or other services) shall be carried out within the extent of the spread of any existing trees, shrubs and hedges unless the express consent in writing of the local planning authority has previously been obtained. No machinery of any kind shall be used or operated within the extent of the spread of the existing trees, shrubs, hedges.

The Local Planning Authority shall be notified in writing at least 5 working days prior to the commencement of development on site.

Reason

To ensure the protection and retention of existing/remaining trees, shrubs and hedges. The tree protection details are required prior to the commencement of development to ensure that appropriate measures are in place to protect retained trees and hedges before any work commences on site.

- 26 No above ground works shall commence in the relevant phase of the development until a schedule and 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.

- 27 All electrical and telephone services to the development shall be run underground.

Reason

In the interests of visual amenity.

- 28 All service intakes to dwellings, apart from gas, shall be run internally and not visible on the exterior.

Reason

In the interests of visual amenity.

- 29 Prior to installation of any meter cupboards on the dwellings details of the location, design and materials for the relevant phase of the development shall be submitted to and approved in writing by the local planning authority. Development shall only be implemented in accordance with the approved details and shall be permanently retained as such.

Reason

In the interests of visual amenity.

- 30 Prior to first occupation of the development hereby approved details of all gates / fences / walls or other means of enclosure within the relevant phase of the development shall be submitted to and approved in writing by the local planning authority. The details shall include position, design, height and materials of the enclosures. The enclosures as approved shall be provided prior to the occupation of the relevant plot and shall be permanently retained as such and only in accordance with the approved details.

Reason

In order to secure the satisfactory development of the site and in the interests of visual amenity.

- 31 No above ground works shall commence in the relevant phase of the development until details of the location and design of refuse bins, recycling materials storage areas and collection points shall be submitted to and approved in writing by the local planning authority. The development shall only be implemented in accordance with the approved details prior to the first occupation of each respective unit of the development and thereafter so retained.

Reason

To ensure that the development provides suitable facilities, to prevent the unsightly storage of refuse containers and in the interests of amenity.

- 32 No clearance of trees, shrubs or hedges in preparation for (or during the course of) development shall take place during the bird nesting season (March - August inclusive) unless a bird nesting survey has been submitted to and approved in writing by the Local Planning Authority to establish whether the site is utilised for bird nesting. Should the survey reveal the presence of any nesting species, then no development shall take place within those areas identified as being used for nesting during the period specified above.

Reason

To ensure nesting birds are not disturbed during the development.

- 33 Prior to the commencement of above ground construction of the relevant phase of the development details of a scheme for the provision of nest and roost sites for birds and bats shall be submitted to and approved in writing by the local planning authority. Development shall be implemented in accordance with the approved details prior to the first occupation of the dwellinghouses and thereafter so retained.

Reason

In order to ensure that appropriate provision is made for birds and bats on the site.

- 34 Development shall not be commenced until details of the following have been submitted to and approved in writing by the local planning authority:-

- (a) a scheme of mitigation/compensation works, including a method statement, to minimise the adverse effects of the development on roosting bat species which could be affected by the proposed development in accordance with the applicant's Ecology Appraisal completed by FPCR Environment and Design Ltd and dated September 2016;
- (b) a programme of timings for the works referred to in a) above.

Mitigation/compensation works shall be carried out in accordance with the scheme and programme approved in accordance with the above.

Reason

In order to ensure that the impact of the development upon roosting bats in the locality is mitigated. The strategy is required prior to the commencement of development to ensure that an appropriate mitigation strategy is put in place before works commence on site.

- 35 If the development hereby approved does not commence (or, having commenced, is suspended for more than 12 months) within 3 years from the date of the planning consent, the approved ecological measures

secured through Condition 9 shall be reviewed and, where necessary, amended and updated. The review shall be informed by further ecological surveys commissioned to i) establish if there have been any changes in the presence and/or abundance of bats and farmland birds and ii) identify any likely new ecological impacts that might arise from any changes.

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

**Reason**

To ensure that the approved ecological measures are informed by up to date Ecology Surveys.

- 36 Prior to the commencement of above ground construction a scheme for the necessary Traffic Regulation Orders, together with provision of associated signage and lining to prevent parking in the vicinity of the proposed primary vehicle access shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in full by the developer, in accordance with the approved details prior to the first use of the proposed main access by vehicular traffic.

**Reason**

To prevent parking in the visibility splays of the proposed access in the interests of highway safety.

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

**Reason**

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. These details need to be agreed prior to the commencement of development to ensure that measures to minimise the risk of offsite flooding are in place when works commence on the site.



- 38 No occupation of the development shall take place until a scheme for the enhancement of the existing Public Right of Way which runs through the application site between The Street and Church Road has been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved scheme prior to the first occupation of the development.

Reason

To ensure the application site is accessible by pedestrians.

- 39 Any Reserved Matters application relating to landscaping shall be accompanied by cross section drawings showing the relative heights of the proposed dwellings in association with landscape features.

Reason

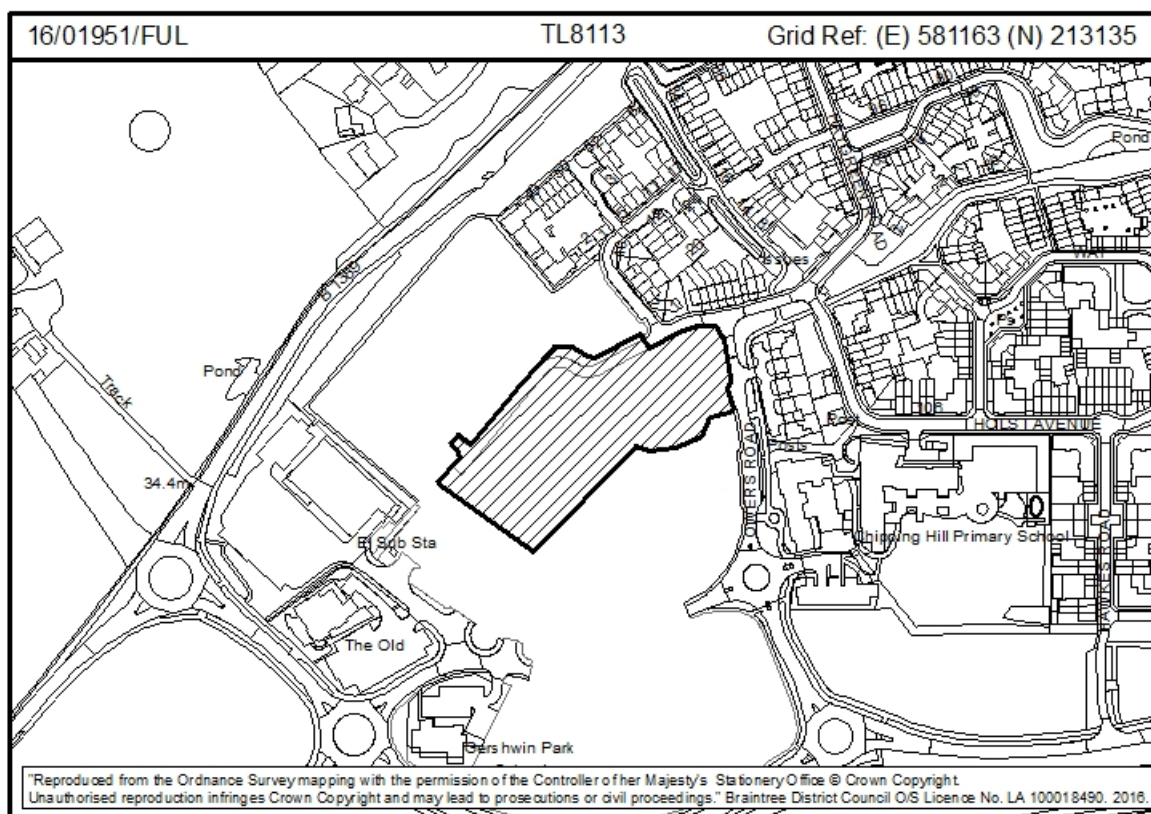
To ensure that the detailed design of the development is acceptable in visual landscape terms.

TESSA LAMBERT  
DEVELOPMENT MANAGER

PART A

APPLICATION NO: 16/01951/FUL DATE: 16.11.16  
 VALID:  
 APPLICANT: Day Lewis Plc  
 Miss Addie Thomas, 2 Peterwood Way, Croydon, CR0 4UQ  
 AGENT: Bennington Green  
 Mr Graham Terry, 60 Cannon Street, London, EC4N 6NP  
 DESCRIPTION: Hardstanding and siting of temporary portacabin for a temporary dispensary for a period of 24 months  
 LOCATION: Site of Proposed Portacabin, Owers Road, Witham, Essex

For more information about this Application please contact:  
 Mrs Sandra Green on:- 01376 551414 Ext. 2557  
 or by e-mail to: [sandra.green@braintree.gov.uk](mailto:sandra.green@braintree.gov.uk)



## SITE HISTORY

None.

## POLICY CONSIDERATIONS

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

The Council is currently working on a Draft Local Plan, which was approved by the Council unanimously for consultation on the 20<sup>th</sup> June 2016 and was the subject of public consultation between the 27<sup>th</sup> June and 19<sup>th</sup> August 2016.

In accordance with paragraph 216 of the NPPF, from the day of publication the Council can give weight to the emerging Draft Local Plan and the weight that can be given is related to:

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

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

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

Accordingly the Council can currently afford some weight to the emerging Draft Local Plan 2016.

It should also be noted that the Council was previously working on a Site Allocation and Development Management Plan (the ADMP). This plan was subject to extensive public consultation in 2013 and 2014. The ADMP was not however submitted to the Planning Inspectorate, due to the decision to begin work on a new Local Plan, to take into account the most up to date Government guidance. However parts of the ADMP have been rolled forward into the Draft Local Plan.

It is therefore considered that it would be consistent with the provisions in paragraph 216 of the NPPF, to afford more weight in decision making to the parts of the Draft Local Plan which have been rolled forward from the ADMP, due to the more advanced stage reached by those elements.

## National Planning Guidance

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

## Braintree District Local Development Framework Core Strategy

CS7	Promoting Accessibility for All
CS9	Built and Historic Environment
CS11	Infrastructure Services and Facilities

## Braintree District Local Plan Review

RLP3	Development within Town Development Boundaries and Village Envelopes
RLP56	Vehicle Parking
RLP90	Layout and Design of Development
RLP158	Community Uses Site, off Maltings Lane, Witham

## Braintree District Draft Local Plan

SP1	Presumption in Favour of Sustainable Development
SP4	Infrastructure and Connectivity
SP5	Place Shaping Principle
SP6	Spatial Strategy for North Essex
LPP37	Parking Provision
LPP42	Built and Historic Environment
LPP46	Layout and Design of Development

## INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is brought to the Planning Committee for determination because the application site is within the ownership of Braintree District Council.

## SITE DESCRIPTION

The site is located within the Witham development boundary on the Maltings Lane Estate. It is not within a Conservation Area or subject to any listing. The site is currently vacant and is identified for community uses on the approved Masterplan submitted in respect of planning application reference 12/01071/OUT.

There are playing pitches and associated parking laid out to the north/northwest of the site which have not yet transferred to the Council from the developer (Taylor Wimpey) and are not accessible to the public at present. There are dwellings to the northeast and east of the site. Aldi, The Old Pottery Kiln Public House, and a nursery school are located to the west/south west of the site. There is a pedestrian route from the site that comes out near Aldi but this is not yet open to the public and is in the ownership of a third party. Chipping Hill Primary School is located approximately 130 metres walk from the site to the southeast.

This part of Owers Road is within the ownership of the Council and is not yet adopted highway. It is currently maintained by Taylor Wimpey. There is some visibility into the site from Hatfield Road to the northwest although this will decrease partly in Spring/Summer months when vegetation comes into leaf along Hatfield Road.

## PROPOSAL

It is proposed to lay an area of hardstanding and to install a temporary portacabin for temporary use as a pharmacy. A temporary portaloo will be located next to the portacabin and a security fence will enclose both structures. The application seeks a temporary consent for a period of 24 months.

The proposed opening hours are 9am to 6pm Monday to Friday, and 9am to 1pm Saturday. All pharmacies are subject to licensing under legislation. The application for a licence specific to this location was granted at appeal and the Licence Appeal Decision lists additional services that the applicant proposed to offer: Sexual Health (EHC, Chlamydia screening/treatment and CCard); Palliative Care; Minor Ailments; Supervised consumption; Stop smoking; Needle exchange; Vascular Health Checks.

During the course of the application, the proposals have been revised twice by the applicant. On 8<sup>th</sup> February, amended plans were submitted which revised the proposed location of the temporary portacabin. Subsequently, further revised plans were submitted on 13<sup>th</sup> March which showing revised parking arrangements, including two staff parking spaces and two visitor parking spaces on the road, with a palisade fence enclosing the portacabin and portaloo. The applicant proposes that the temporary fencing which currently encloses the site be moved to the rear of the staff parking spaces to prevent access into the rest of the site until such time as the road becomes adopted highway. The revised proposal is also supported by a Management Strategy which sets out security arrangements for the proposed use. The Strategy includes issues such as internal security devices, lone working arrangements, an alarm system, and a security presence on site outside of opening hours.

It should be noted that the revised proposals/additional information received on 13<sup>th</sup> March is subject to public re-consultation for a 14 day period between 13<sup>th</sup> March and 27<sup>th</sup> March. Any additional representations received will be reported to Members at the Planning Committee.

## CONSULTATIONS

ECC Highways - The Highways Authority objected to the submitted proposal and the first revised proposal on highways safety grounds due to a lack of off-street parking which it was considered would give rise to vehicles being left parked in the adjoining carriageway in the immediacy of two junctions. The red line on the submitted proposal included parking spaces adjacent to the sports pitches that are currently in the ownership of Taylor Wimpey.

The applicant has since been in further discussion with the Highways Authority to arrive at the layout presented in the most recent site layout drawings (BG-5448-001 Rev D and BG-5448-002) which show parking on the un-adopted part of Owers Road (land which is in BDC ownership), the red line boundary has also been amended to exclude land in the ownership of Taylor Wimpey. A further formal consultation response has been requested from the Highways Authority and members will be updated accordingly by addendum prior to the Planning Committee consideration of the application and/or by a verbal update to be given at the Committee.

Essex Police - Objection (submitted proposal): The planning application contains very little detail of proposed usage, management, duration of use and security. I can understand security not being open for public view but I would have thought it prudent for the applicant to consult the local Police Crime Prevention Tactical Advisor. The proposed site has been visited and this has raised further questions and observations. Without such detail we cannot make an informed decision and mindful of the impending end of consultation period, we must err on the side of caution and oppose this application pending consultation.

Subsequent to receipt of the Police Objection, the applicant has been in discussion with the Crime Protection Tactical Advisor, and has set out additional information in respect of security in the submitted Management Strategy. A further formal consultation response has been requested from the Police and members will be updated accordingly by addendum prior to the Planning Committee consideration of the application and/or by a verbal update to be given at the Committee.

Witham Town Council - (submitted proposal): Voices approval for the siting of the temporary portacabin with consideration to be given for a twelve month time limit.

BDC Environmental Health - (submitted proposal) No adverse comments. It is expected that the site will be managed to ensure that use of the site and equipment relating to the use does not cause noise impact to any nearby residents. If complaints are received about noise from such sources then Environmental Health will investigate under the provisions of statutory noise nuisance legislation.

For this purpose, it is recommended that timings of deliveries and collections (e.g. waste) shall be between 0700 and 1800 hours Monday to Saturday. 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

## REPRESENTATIONS

A site notice was displayed, with a further notice erected for the revised proposal and neighbour notification letters were sent out to adjacent properties. In response, as at 15<sup>th</sup> March, 18 letters of representation have been received from 12 neighbouring premises that have objected to the application on the following grounds:

- Use of the parking area that was only to be used as a car park for the new football sports pitch opening in 2017.
- Little thought given to parking and whether this will cause additional nuisance to residents / traffic congestion/ add to congestion caused by school.
- Inconvenience to people on the estate; not needed plenty in town.
- Location/portacabin is not secure close to playing/open fields.
- There is plenty of room in the fields near Aldi and the nursery for such facilities.
- Too close to residential area/ school.
- Portacabins in use by developer were broken into whilst on site and they are often targets for crime/ will attract crime, nuisance behaviour, graffiti, drug users/dealers to the estate/ recent burglaries in the area/ remote from CCTV coverage in the High Street.
- With the closure of Witham Police station a portcabin with a police officer in would be a much better idea for tackling the growing drug problem near our homes and schools.
- Portacabin not suitable for storage of drugs, well known Witham has a drug problem.
- Contrary to paragraph 58 of the NPPF (create safe and assessable environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion).
- Concerns re. signage – where will this be/ delivery drivers looking for non-address.
- Any drop kerb to the un-adopted road that Taylor Wimpey maintains would require written approval from Taylor Wimpey which has not been granted for this application.
- There is no statement as to how surface water discharge will be dealt with – you cannot discharge private water onto the highway.
- The location of the unit is not in keeping with the development in this location/ no communication with Taylor Wimpey in respect to positioning the unit adjacent to our residents.
- Having moved in to this development in May 2016 we were advised of local amenities such as playing areas and community areas. Not once was the prospect of an obtrusive portacabin full of drugs, being located right outside of my and other neighbours' properties, raised.
- This was not agreed on when we bought this property / unsightly; impact on property values.
- Little supporting information. Why is this a temporary pharmacy? Why are there no proposals for a permanent facility in a purpose built

building? Why only for a 24 month period? Will the portcabin in fact be temporary no indication of plans that there will be a permanent site?

- Plenty of other locations in Witham South to have a new permanent pharmacy and not a temporary one / there are three other pharmacies within easy access of our homes.
- Cannot believe decision deadline has been extended after the original objections, especially by the police.
- Are there any utilities at the proposed site: water/sewage/electric?
- Could after hours cleaners cause a security issue?
- Is the pharmacy for public use/ what are the proposed opening hours?
- Portaloo does not provide sufficient handwashing facilities for hands that need to be 'clinically clean' as required when dispensing controlled drugs.
- There are three pharmacies within easy access to our homes.
- Would give poor impression to people looking to buy new houses in Witham – Maltings Lane Estate being one of the more recent developments in the town and not provided with proper facilities.

A number of the representations do not object to pharmacy in the area in principle but object to the proposed location and use of a temporary portacabin rather than permanent premises.

As highlighted above, it should be noted that the revised proposals/additional information received on 13th March is subject to public re-consultation for a 14 day period between 13th March and 27th March. Any additional representations received will be reported to Members at the Planning Committee.

## REPORT

### Principle of Development

The site is located within a development boundary where there is a general presumption in favour of sustainable development, subject to satisfactory design, highway considerations and subject to there being no detrimental impacts upon neighbouring residential amenity.

Core Strategy Policy CS7 Promoting Accessibility for All states inter alia that: future development will be in accessible locations to reduce the need to travel. The pharmacy will be within walking distance of a large number of residents on the estate and will provide an alternative to travelling into town to access a pharmacy. The nearest pharmacy in town is Borno Pharmacy on Newland Street. For people who do not have access to a vehicle this is approximately a 1 mile walk from the centre of the residential estate, not including the return journey. The site will also be close to the allocated growth location for up to 750 homes at Lodge Farm to the northwest of the Maltings Estate.

Core Strategy Policy CS11 Infrastructure Services and Facilities states inter alia that: the Council will work with partners, service delivery organisations and the development industry, to ensure that the infrastructure services and



facilities required to provide for the future needs of the community (including, but not restricted to, transport, health, education, utilities, policing, sport, leisure and cultural provision, and local community facilities) are delivered in a timely, efficient and effective manner. The timing of the provision of infrastructure will be set out in Master Plans and legal agreements or planning obligations.

Braintree Local Plan Review Policy RLP158 Community Uses Site, off Maltings Lane, Witham states that: Land is allocated within the new neighbourhood, off Maltings Lane, Witham for community uses, which will include a community hall, health facilities and a place of worship. A revised Master Plan was approved under planning application reference 12/01071/OUT. The site on which the portacabin is proposed to be located is part of a larger area zoned for community uses. It is considered that a pharmacy use is appropriate in this zone.

#### Background to the application:

It is necessary under NHS Regulations to secure a licence from NHS England before being allowed to open a pharmacy. Such a licence allows the pharmacy to dispense NHS prescriptions and offer other services that could be expected from a community pharmacy.

The applicant has advised that securing an NHS licence is a very complex and time consuming process which requires the applicant to prove that there is a “gap” in pharmaceutical services (i.e. the local population have difficulties accessing existing pharmacies) within the specified area before an application is approved. The applicant has provided background information about the steps that have been taken leading up to the current planning application; this is summarised in the table below:

Date	Progress Notes
2013	Day Lewis identifies a potential gap in provision within the Maltings Lane development; conversations took place with Churchmanor Estate about securing one of the new retail units within the new neighbourhood centre should the NHS licence application be successful.
January 2014	Day Lewis Licence application submitted with the expectation that by the time the application was processed the new neighbourhood development would be under construction at the very least.
November 2014	Licence application refused by NHS England. Appeal process started which included gaining support from local bodies such as Witham Town Council, Braintree District Council and the local MP.
21 <sup>st</sup> May 2015	Oral appeal hearing.
5 <sup>th</sup> June 2015	Licence application approved – 6 months from 5 <sup>th</sup> June approval to name a definitive unit/location where the pharmacy would actually open; failure to do so would mean that the application would lapse.

June to December 2015	<p>Construction of the neighbourhood centre had not started therefore other options were explored and it was decided by the applicant that the only realistic option was to trade from a portacabin until such time as the new retail units were constructed.</p> <p>Day Lewis reached agreement with the brewery to site a portacabin on the car park of the Old Pottery Kiln Public House but the brewery legal team withdrew. Subsequent conversations with Aldi and the nursery school about securing land on their car parks was not successful.</p> <p>Various meetings and discussions between Day Lewis and Braintree District Council Asset Management to secure a plot of land to the rear of the Aldi store which is owned by the Council.</p>
December 2015	Day Lewis submitted a letter to NHS England stating they had secured a potential site for a portacabin.
6 <sup>th</sup> July 2016	Day Lewis receive confirmation from NHS England that the site proposed is acceptable to NHS England. Under the Regulations the pharmacy is obliged to open within 6 months i.e. 5 <sup>th</sup> January 2017.
July 2016 ongoing	Day Lewis ongoing liaison with Braintree District Council Asset Management to finalise the agreement on the land.
16 <sup>th</sup> November 2016	Planning application received and validated by Braintree District Council Planning Department
9 <sup>th</sup> January 2017	3 month extension for opening granted by NHS England which will expire on 5 <sup>th</sup> April 2017.
8 <sup>th</sup> February 2017	Revised location proposal received and publicised.
13 <sup>th</sup> March 2017	Revised drawings received and publicised showing parking arrangements, fencing, and portaloo. Management Strategy submitted

The applicant has advised that no further extension for opening would be granted beyond 5<sup>th</sup> April. If the pharmacy is not open and trading by that date the licence will lapse and Day Lewis will be forced to start the application again. With the potential that the licence application could take a further 12/15 months with no guarantee that the licence will be approved.

The NPPF, Core Strategy, and the Draft Local Plan all seek to ensure that communities have the necessary community facilities to meet local needs. This is particularly important in the context of the existing pressure on health services and the growth that the town will be experiencing in coming years.

The site is part of a larger area on the Maltings Lane development that is zoned for community uses on the approved Masterplan. In the longer term the aspiration is for a pharmacy to be located in permanent premises in one of the neighbourhood shops in the community zone (subject to commercial agreement). However, the provision of the neighbourhood shops in this zone

is linked to the phases of construction and occupation of the final residential phase of the development under a Section 106 Agreement.

The S106 Agreement stipulates that: the developer shall not occupy or allow, cause or permit to be occupied any more than 100 dwellings on the site prior to submitting a full planning application or a reserved matters application for the neighbourhood shops. A planning application has been received by the Council in this respect. It is pending consideration and it is not yet known when this will be determined.

The S106 Agreement further stipulates that: the developer shall not occupy or allow, cause or permit to be occupied any more than 150 dwellings on the site prior to completion of the neighbourhood shops. To date, 135 dwellings have been occupied on the site. The trigger point of the number of dwellings occupied will not therefore be reached until the final phase of residential development has been commenced and 15 dwellings within it have been occupied. The Council is not in receipt of any reserved matters application for the final phase of development at present. Nor is it aware of any developer interest in the plot. If/when a reserved matters application was to be received for consideration there would be a period of months required for the application to be processed. It is not currently anticipated that the neighbourhood shops will be completed within the next 2-3 years.

A pharmacy licence has been granted by NHS England at appeal and approval is being sought for temporary premises in order that the licence does not expire, and to ensure pharmacy services can be provided on the Maltings Estate in the interim period. There is no objection in principle to the application subject to satisfactory design, highway considerations and subject to there being no detrimental impacts upon neighbouring residential amenity.

Paragraph 13 of the NPPG sets out when conditions can be used to grant planning permission for a use for a temporary period only. It states that:

“Under section 72 of the Town and Country Planning Act 1990 the local planning authority may grant planning permission for a specified temporary period only. A condition limiting use to a temporary period only where the proposed development complies with the development plan, or where material considerations indicate otherwise that planning permission should be granted, will rarely pass the test of necessity.

Circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period.

A temporary planning permission may also be appropriate on vacant land/buildings to enable use for a temporary period prior to any longer term regeneration plans coming forward (a meanwhile use) or more generally to encourage empty property to be brought back into use. This can benefit an area by increasing activity.

It will rarely be justifiable to grant a second temporary permission – further permissions should normally be granted permanently or refused if there is clear justification for doing so. There is no presumption that a temporary grant of planning permission should be granted permanently.

A condition requiring the demolition after a stated period of a building that is clearly intended to be permanent is unlikely to pass the test of reasonableness. Conditions requiring demolition of buildings which are imposed on planning permissions for change of use are unlikely to relate fairly and reasonably to the development permitted.”

Because construction of the neighbourhood shops has not yet begun, and indeed commencement in this respect is not anticipated in the near future, members are asked to consider granting a temporary consent of up to five years to allow sufficient time for permanent premises to be constructed on the site and to avoid a situation where the temporary consent would lapse before completion of the same.

### Design, Appearance and Layout

Core Strategy Policy CS9 Built and Historic Environment seeks to promote and secure the highest possible standards of design and layout in all new development. Furthermore, the Council seeks a high standard of layout and design in all developments, large and small, in the District (RLP90 Layout and Design of Development).

The temporary building is typical in style, providing utilitarian space for use within a short time frame, with minimal consideration given to exterior design beyond functionality. Similarly the proposed use of palisade fencing is functional rather than aesthetic. In this case, the public benefit of the proposal is considered to outweigh the visual harm. This harm is expected to be temporary in nature, with the long-term plan for the pharmacy to move into new permanent accommodation on the Maltings Estate in coming years. Representations have been received in respect of the visual impact of the portacabin. It is considered that it is not unusual for portacabins to be temporarily located on sites that are under development. Financial implications in respect of the value of properties in the vicinity of the site is not a material planning consideration.

Day Lewis have advised that the portacabin is currently in use as a temporary pharmacy in Brixton, South West London due to overrunning works on another project. Prior to that it was in use on a large new residential development at Red Lodge, Suffolk where the applicant advises it traded for several months without incident.

Many representations have been received expressing concerns in respect of security. Essex Police have been consulted in respect of the application. An initial objection was raised due to a lack of information. Further security information has since been combined and submitted in a Management Strategy. Essex Police have been consulted on the revised

proposals/additional information received on 13<sup>th</sup> March and members will be updated accordingly if a further response is received. A condition is recommended that the development be carried out in accordance with the submitted Strategy.

### Impact on Neighbour Amenity

Taking into account the position of the dwelling, and having regard to the proposed works, it is considered that the proposal would not have a detrimental impact upon adjacent residential properties in terms of loss of natural light, overshadowing, overbearing, or in terms of overlooking. The concerns of residents are noted in respect of security. Positioning the portacabin at the eastern end of the spur off Owers Road rather than the western end as originally proposed will result in a greater level of natural surveillance. There is also a street light in reasonably close proximity to the site. The police have been consulted in respect of the revised proposals. It is understood that the original objection was due to a lack of information rather than an in principle objection to the proposal. As noted earlier in this report, the visual harm from the temporary structures is considered to be acceptable in this case, and will not result in permanent harm to visual amenity.

### Highway Issues

Following discussion with the Highways Authority, it is proposed to provide two staff and two visitor spaces on the part of Owers Road that is not yet adopted highway. The land being in the ownership of Braintree District Council. At such time as the road is adopted and the ownership of the sports pitches transferred to Braintree District Council, the temporary fencing will be removed. At which point it is anticipated that the parking spaces adjacent to the sports pitches will be available for visitors to the pitches and the pharmacy, until such time as it moves into permanent premises. A further formal consultation response has been requested from the Highways Authority in respect of the revised proposals/additional information received on 13<sup>th</sup> March, and members will be updated accordingly by addendum prior to the Planning Committee consideration of the application and/or by a verbal update to be given at the Committee. A condition is recommended in respect of the temporary fencing and the adoption of the road to ensure no obstruction of the highway in future.

### CONCLUSION

It is considered that the proposal for the temporary pharmacy and associated structures will provide a local service to serve an identified local need. The public benefit of the proposal is considered to outweigh the temporary harm to visual amenity in the area and the concerns in respect of neighbouring amenity and security can be adequately mitigated.

## RECOMMENDATIONS

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

## APPROVED PLANS

Proposed Site Plan	Plan Ref: 001	Version: D
Proposed Site Plan	Plan Ref: BG-5448-002	

- 1 This permission shall expire on 31.03.2022 and on or by that date the use of the premises/site for the purposes hereby permitted shall be discontinued. All buildings/structures shall be removed from the site to the satisfaction of the Local Planning Authority.

### Reason

This permission for a limited period is granted only in the light of circumstances appertaining in this case.

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

### Reason

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

- 3 The use of the premises/site for the purposes hereby permitted shall be undertaken in accordance with the approved Management Strategy dated 10.03.2017.

### Reason

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

- 4 The 'additional heras fencing to secure access road', the two 'temp staff parking' spaces, and the two 'temp visitor parking' spaces identified within the area of the road as shown on Drawing No. 001 Rev D shall be removed to the satisfaction of the Local Planning Authority immediately prior to the adoption of the road.

### Reason

In order to ensure there is no obstruction of the highway once it has been adopted in the future.

- 5 Deliveries and collections (e.g. waste) shall only take place between 0700 and 1800 hours Monday to Saturday.

Reason

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

- 6 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.

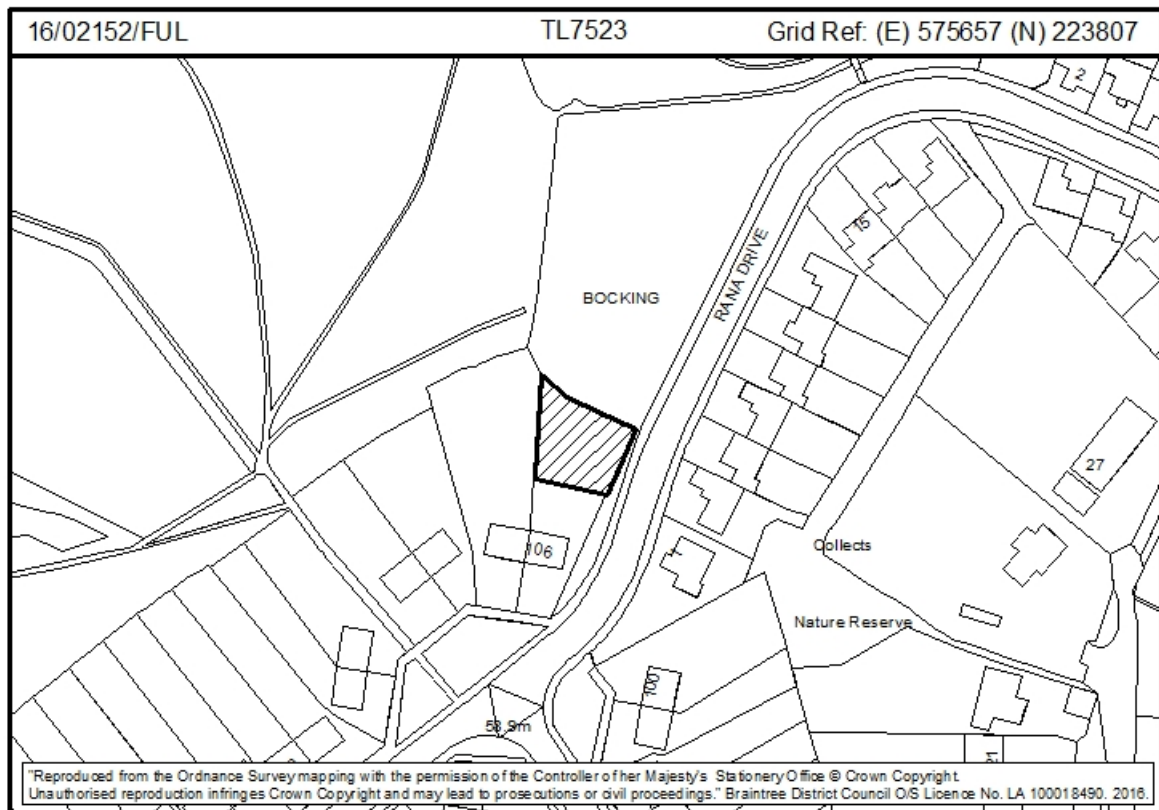
TESSA LAMBERT  
DEVELOPMENT MANAGER

AGENDA ITEM NUMBER 5e

PART A

APPLICATION NO: 16/02152/FUL      DATE: 12.01.17  
VALID:  
APPLICANT: Mr R Jewitt  
275 Coggeshall Road, Braintree, CM7 9EF, Essex  
AGENT: Mr David Farrow  
1 Gore Terrace, Rayne, Braintree, Essex, CM77 6RJ,  
England  
DESCRIPTION: Erection of a new dwelling  
LOCATION: Land Rear Of, 106 Rosemary Avenue, Braintree, Essex

For more information about this Application please contact:  
Juliet Kirkaldy on:- 01376 551414 Ext. 2558  
or by e-mail to: [juliet.kirkaldy@braintree.gov.uk](mailto:juliet.kirkaldy@braintree.gov.uk)





## SITE HISTORY

07/00041/REF	Erection of two semi detached bungalows	Appeal Dismissed	13.09.07
05/02271/FUL	Erection of 2 no. two bed semi-detached houses	Refused	10.01.06
06/02561/FUL	Erection of two semi detached bungalows	Refused then dismissed on appeal	14.02.07

## POLICY CONSIDERATIONS

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

The Council is currently working on a Draft Local Plan, which was approved by the Council unanimously for consultation on the 20<sup>th</sup> June 2016 and was the subject of public consultation between the 27<sup>th</sup> June and 19<sup>th</sup> August 2016.

In accordance with paragraph 216 of the NPPF, from the day of publication the Council can give weight to the emerging Draft Local Plan and the weight that can be given is related to:

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

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

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

Accordingly the Council can currently afford some weight to the emerging Draft Local Plan 2016.

It should also be noted that the Council was previously working on a Site Allocation and Development Management Plan (the ADMP). This plan was subject to extensive public consultation in 2013 and 2014. The ADMP was not however submitted to the Planning Inspectorate, due to the decision to begin work on a new Local Plan, to take into account the most up to date Government guidance. However parts of the ADMP have been rolled forward into the Draft Local Plan.

It is therefore considered that it would be consistent with the provisions in paragraph 216 of the NPPF, to afford more weight in decision making to the

parts of the Draft Local Plan which have been rolled forward from the ADMP, due to the more advanced stage reached by those elements.

#### National Planning Guidance

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

#### Braintree District Local Development Framework Core Strategy

CS9            Built and Historic Environment

#### Braintree District Local Plan Review

RLP2            Town Development Boundaries and Village Envelopes  
RLP3            Development within Town Development Boundaries and Village Envelopes  
RLP9            Design and Layout of Housing and Mixed Use Areas  
RLP10           Residential Density  
RLP90           Layout and Design of Development  
RLP56           Vehicle Parking

#### Braintree District Draft Local Plan

SP1            Presumption in Favour of Sustainable Development  
SP5            Place Shaping Principle  
LPP42           Built and Historic Environment  
LPP46           Layout and Design of Development  
LPP28           Housing Type and Density

#### Supplementary Planning Guidance

Essex Design Guide  
Essex Parking Standards Design and Good Practice 2009  
Parking Standards

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

This application is brought before the Planning Committee as the consultation between the Development Manager and the Chairman and Vice Chairman of the Planning Committee concluded that it might be significant in its impacts.

#### SITE DESCRIPTION

The site is located within development boundary for Braintree and is situated approximately 0.5km north of the town centre. It is located on the western side of Rana Drive. The plot formally formed part of the garden land for 106 Rosemary Avenue and is now divided by fencing. To west of the site is 108 Rosemary Avenue, a semi-detached property. Beyond 106 and 108

Rosemary Avenue is an open area of informal recreation space as set out in the adopted Braintree District Local Plan Review. To the east of the site is a group of ten 1980's built houses all fronting onto Rana Drive. The site falls steeply in a northerly direction and is enclosed on the northern and eastern boundaries by fencing and hedges. The site contains a semi mature conifer located towards the centre of the site.

The description of the application refers to '*land rear of 106 Coldnailhurst Avenue*' however, it is noted that the site and access to/from site would be situated within Rana Drive.

## PROPOSAL

This application seeks full permission for the erection of a single detached two storey dwelling. Access to the site would be from Rana Drive.

## CONSULTATIONS

### Essex County Council Highways

A verbal discussion has been held with the Highways Officer and the proposed vehicle turning area would appear to be tight and below required standards however, a sufficient turning area could be achieved by removing some of the landscaping proposed. Insufficient information has been submitted to determine if a 2.4m x 43m visibility splay can be achieved

### Braintree District Council Landscape Services:

1. Landscape Setting:  
There are no other houses on this side of Rana Drive until you get round the corner, at which point there is a large vegetative barrier between the rear of the houses and the open space. The open space alongside this site is open ground, giving the road and entrance into Bradford Meadows a sense of place that development would erode.
2. Trees and Arboriculture:  
A number of trees would be lost to facilitate this development, I would expect to see some tree planting on the landscaping plan in mitigation. If this application is permitted a Tree Protection Plan outlining how the applicant will protect neighbouring vegetation should be submitted under condition, along with an Arboricultural Method Statement detailing how the driveway can be constructed without damaging the root protection area of retained trees. These reports must be agreed in writing and all protective measures put in place on site prior to development commencing.
3. Biodiversity and Protected Species:  
New houses should consider the inclusion of built in bird or bat boxes to enhance and preserve biodiversity in the area

### Braintree District Council – Engineers:

Based on the information supplied and records held by this authority, this department is unaware of any surface water issues affecting this site. However, as this site is currently greenfield any permissions should have a condition to limit surface water runoff to greenfield rates. If the application is permitted a Condition should be attached requiring details of surface water drainage prior to commencement.

### REPRESENTATIONS

11 representations objecting to the application have been received and are summarised below:

#### **Highway Issues**

- The access to the property will be built on a bend close to a T junction.
- The junction is busy.
- Insufficient parking proposed with will cause further parking on road and congestion.
- There are already too many cars on Rosemary Avenue/Rana Drive.
- The cycle storage is too far away from the house.
- It will make it impossible to reverse out of my drive.
- Dangerous for children who frequently cross here on the way to playing field and local schools.
- Cars may park on the area of green open space as roads are congested causing damage to the space.
- In 2006 an application was refused as access would be too close to the bend.

#### **Wildlife Issues**

- This is a natural wildlife habitat.
- Trees and shrubs will need to be felled. This will have an effect on the wildlife and environment.
- Cause of disturbance to wildlife seen including muntjac deer.
- Detriment to wildlife on the adjoining greenbelt area. Greenbelt is of a considerable size and acts as a home to many creatures.

#### **Drainage and Surface Water Issues**

- There are already surface water and sewer drainage problems another property will add to this.
- The proposal will affect the water table.
- The garden is saturated with rainwater by digging out for foundations and filling with concrete this could further impact.
- There is a drainage ditch that runs behind the fence of the site that backs onto the fields behind.

#### **Lack of Privacy**

- Overlooking will occur.

### **Pressure on schools and GP surgeries**

- Local schools are overcrowded. GP surgeries are full.
- The existing infrastructure cannot cope.

### **Other Issues**

- The property will be situated in Rana Drive and not Rosemary Avenue.
- Builders' lorries and construction vehicles will cause noise, mess and inconvenience.
- It will set a precedent.
- Detrimental to conservation of the area.
- Drawings submitted are not to scale and not a true representation.
- Noise during construction will cause disturbed sleep as we work shifts, disturbance to study and affect our nervous dogs.
- Dust debris and mud on the road.
- What will happen to the existing lamp post?
- Not a pleasing design. The flat roof is out of character with surrounding area. The isolated building will dominate the street scene.
- Oversize of house relative to plot size.
- There are still plots awaiting development on Rana Drive/Rana Court.
- Poor location of site notice. Not clear or visible

## **REPORT**

### **Site History**

There has been previous history on the site for a similar character and form of development. A previous application (05/02271/FUL) for a pair of semi-detached two storey dwellings was refused. It was stated in the decision notice, *'the proposed dwellings by reason of the size, height and location would be harmful to the character and appearance of the site and locality by way of the introduction of unduly prominent and visually intrusive contrast to the existing built form in the locality.'* A further application was submitted (06/02561/FUL) for a pair of semi-detached bungalows and was subsequently refused and then dismissed on appeal. The Inspector stated in his decision, *'the appeal site lies within a primarily residential area characterised by two storey dwellings. The introduction of a pair of semi-detached bungalows would be out of character with the surrounding area by reason of scale, height and massing. The proposed bungalows and parking spaces would take up a substantial part of the site leaving the dwellings with relatively little private amenity space. The rear garden of no 106 would be considerably reduced in area. In my judgement the effect would be that the bungalows would have the appearance of being shoe horned onto too small a site, and the development would also have a cramping effect on No 106. The overall effect would be harmful to the character and appearance of the locality, in conflict with development plan policies and national policy guidance seeking to ensure high standards of design. Turning to the second issue, the proposed access would be close to a blind bend, where the forward visibility for drivers entering Rana Drive, and the visibility towards that bend for drivers leaving the appeal site, is severely impaired. In my view the introduction of a vehicular access as proposed would be detrimental to highway safety, whether or not vehicles*

*could enter and leave the site in forward gear, and is sufficient reason in itself to justify refusal of planning permission.*

These decisions are material planning considerations. The appeal decision is appended to this report for information.

### Principle of Development

The site is located within a development boundary.

Policy RLP 2 (Town Development Boundaries and Village Envelopes) of the Braintree District Local Plan Review states that new development will be confined to the areas within the development boundary. Policy RLP 3 of the Braintree District Local Plan Review permits development within development boundaries only where it satisfies amenity, design and highway criteria and where it can take place without detriment to the existing character of the area. Subject to compliance with the above policies, other relevant policies and material planning considerations this proposal is acceptable in principle.

Since the appeal decision in 2007, national planning policy guidance has been revisited with the introduction of the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG) both of which require all new forms of development to be well designed. It states in paragraph 64 of the NPPF, *'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.'* Furthermore, the NPPF states that new development should seek to improve "streetscapes and buildings to create attractive and comfortable places"

### Design, Appearance and Layout

The NPPF states that good design is a key aspect of sustainable development. It is important to plan positively for the achievement of high quality and inclusive design for all development.

Policy CS9 of the adopted Core Strategy states that the Council will promote and secure the highest possible standards of design and layout in all new development.

Policy RLP 9 of the Local Plan Review states that new development shall create a visually satisfactory environment and be in character with the site and its surroundings. Policy RLP 10 specifically states that the density and massing of residential development will be related to the characteristics of the site, the layout and density of surrounding development, the extent to which car parking and open space standards can be achieved within a satisfactory layout and the need to provide landscaping for the development. Policy RLP 90 states that the scale, density, height and elevational design of developments should reflect or enhance local distinctiveness.

The application proposes a two storey detached dwelling which is sited approximately 2 metres from the boundary of 106 Rosemary Avenue. The proposed dwelling is approximately 9.5 metres wide, with a depth of approximately 10 metres and a height of 7.3 metres. The footprint of the proposed dwelling is similar to that of the previously refused applications (05/02271/FUL) and (06/02561/FUL) albeit this current application is for 1 dwelling. Therefore, previous concerns that it is '*shoe horned onto a small site and has a cramping effect on 106 Rosemary Avenue*' are still relevant and applicable in determining this application.

It is stated on the submitted plan (drawing 403-03) that 100 sqm of amenity space will be provided. This is in accordance with the Essex Design Guide which states a minimum of 100 sqm of garden space for 3 or more bedroom dwellings.

The topography of the site is a significant consideration. The site slopes downward steeply to the rear and the dwelling would be at a prominent and elevated position. Therefore, the dwelling would be poorly related to the pattern of existing built form on the street. It would appear to be a standalone dwelling that would be incongruous in this part of the street scene, which appears to be open and spacious. The existing gardens on Rosemary Avenue, particularly referring to 106 Rosemary Avenue, provided a transition and visual relief between the built up street scene and the designated large area of open space which adjoins the site. It would therefore undermine the appearance of the locality. Therefore, this is considered contrary to Policy RLP 9 and 90.

#### Impact on Neighbour Amenity

The NPPF states that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

RLP 90 states there should be no undue or unacceptable impact on the amenity of any nearby residential properties.

There are 2 proposed first floor windows on the side elevation of the proposed dwelling, for the ensuite and bathroom. There will be some overlooking of the garden to the west. The northerly position of the dwelling in relation to the existing dwellings to the south means that direct shadowing will not arise. Although there would be some shadowing on neighbours to the east, on the opposite side of the road it is not considered this would warrant refusal of planning permission. Similarly, overlooking between these windows would not cause serious harm to the amenity, given that the new dwelling would overlook a public road.

#### Highway Issues

Concern has been raised by objectors that the proposal will cause an increase in on-street car parking and increased congestion.

Policy RLP 56 states that parking should be provided in accordance with the Council's adopted parking standards. For new dwellings with two bedrooms or more the standards indicate that a minimum of two off road parking spaces should be provided. The standards also state that parking spaces should measure 2.9m x 5.5m. Two parking spaces are proposed for the dwelling. This therefore accords with the above standard. It is noted that vehicle turning area has been proposed therefore reducing the likelihood of vehicles reversing on to the highway.

Concern has been raised by objectors that the site access is on a dangerous junction. The access to the property is located to the north of the dwelling. It is noted that the previously refused applications showed the access to the south.

It would appear on the 'location and block plan' submitted a parcel of land between the site and highway is outside of the drawn redline. However, on the 'proposed new dwelling and proposed site plan' the proposed turning area would appear to be sited, in part on this parcel of land, and therefore cannot be considered as part of the application site.

The Essex Vehicle Parking Standards refers to highways adjacent to the highway. It is stated that, *'where garages, gates, and driveways are placed directly adjacent to the highway the setback should be either: 1) no more than 0.5m to allow for the opening of the garage door and with the adjacent distance between the edge of the highway and edge of carriageway being no more than 2m. This gives a maximum distance between garage/gate and running carriageway of 2.5m, thus discouraging inappropriate parking'*. It is not clear from the information submitted whether sufficient setback is provided. Part of the parking and turning area is location on land outside the red line application site and there is insufficient information to demonstrate an acceptable visibility splay can be provided. Accordingly, the application is not considered to be acceptable in terms of highway safety.

#### Other Issues

Pressure on schools and GP surgeries – The increased pressure on schools and GP surgeries would not be significant for 1 dwelling.

Lamp post – the lamp post would be relocated as part of the proposals.

Construction impact – Whilst it is recognised there will inevitably be disturbance during construction this is not a material consideration in determining the application.

Wildlife impact – the site is situated next to a large area of designated open space, however, this is not 'Green Belt'. There is no designated Green Belt land within Braintree District.



## CONCLUSION

The previous appeal dismissed permission for the erection of semi-detached bungalows at the application site. The footprint of the proposal remains the same as the appeal scheme as do concerns relating to the cramped appearance of the development within the street scene. There is insufficient information to determine whether there is sufficient space to provide a vehicle turning area and sufficient visibility to ensure the safe movement of vehicles onto and from the site. For these reasons it is recommended that permission should be refused.

## RECOMMENDATIONS

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

- 1           The proposed development due to its height, bulk and massing would result in a cramped form of development out of keeping with the pattern of surrounding development. It would result in a visually intrusive form of development harmful to the character and appearance of the area contrary to policies RLP3 and RLP90 of the Local Plan Review.
- 2           The turning area indicated falls partly outside the application site resulting in the proposal having a substandard turning area on site. Insufficient information has been submitted to demonstrate acceptable visibility splays can be provided. Accordingly there is potential for the proposal to harm highway safety contrary to policies RLP3 and RLP56 of the Local Plan Review.

TESSA LAMBERT  
DEVELOPMENT MANAGER



## Appeal Decision

Site visit made on 10 September 2007

by Neil Roberts BA DipTP MRTPI

an Inspector appointed by the Secretary of State  
for Communities and Local Government

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

☎ 0117 372 6372  
email: [enquiries@pins.gsi.gov.uk](mailto:enquiries@pins.gsi.gov.uk)

Date: 13 September  
2007

**Appeal Ref: APP/Z1510/A/07/2047640**

**Land at rear of 106 Rosemary Avenue, Braintree, Essex CM7 2TA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Fulcrown Ltd. against the decision of Braintree District Council.
- The application Ref 06/02561/FUL, dated 21 December 2006, was refused by notice dated 13 February 2007.
- The development proposed is construction of two semi-detached bungalows with access from Rana Drive.

### Decision

1. I dismiss the appeal.

### Reasons

2. The main issues are the effect of the development on: first, the character and appearance of the area; and second, highway safety.
3. So far as the first issue is concerned, the appeal site lies within a primarily residential area characterised by two-storey dwellings. The introduction of a pair of semi-detached bungalows would be out of character with the surrounding area by reason of scale, height and massing. The proposed bungalows and parking spaces would take up a substantial part of the site, leaving the dwellings with relatively little private amenity space. The rear garden of No. 106 would be considerably reduced in area. In my judgement the effect would be that the bungalows would have the appearance of being shoe-horned onto too small a site, and the development would also have a cramping effect on No. 106. The overall effect would be harmful to the character and appearance of the locality, in conflict with development plan policies and national policy guidance seeking to ensure high standards of design.
4. Turning to the second issue, the proposed access would be close to a blind bend, where the forward visibility for drivers entering Rana Drive, and the visibility towards that bend for drivers leaving the appeal site, is severely impaired. In my view the introduction of a vehicular access as proposed would be detrimental to highway safety, whether or not vehicles could enter and leave the site in forward gear, and is sufficient reason in itself to justify refusal of planning permission.

5. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

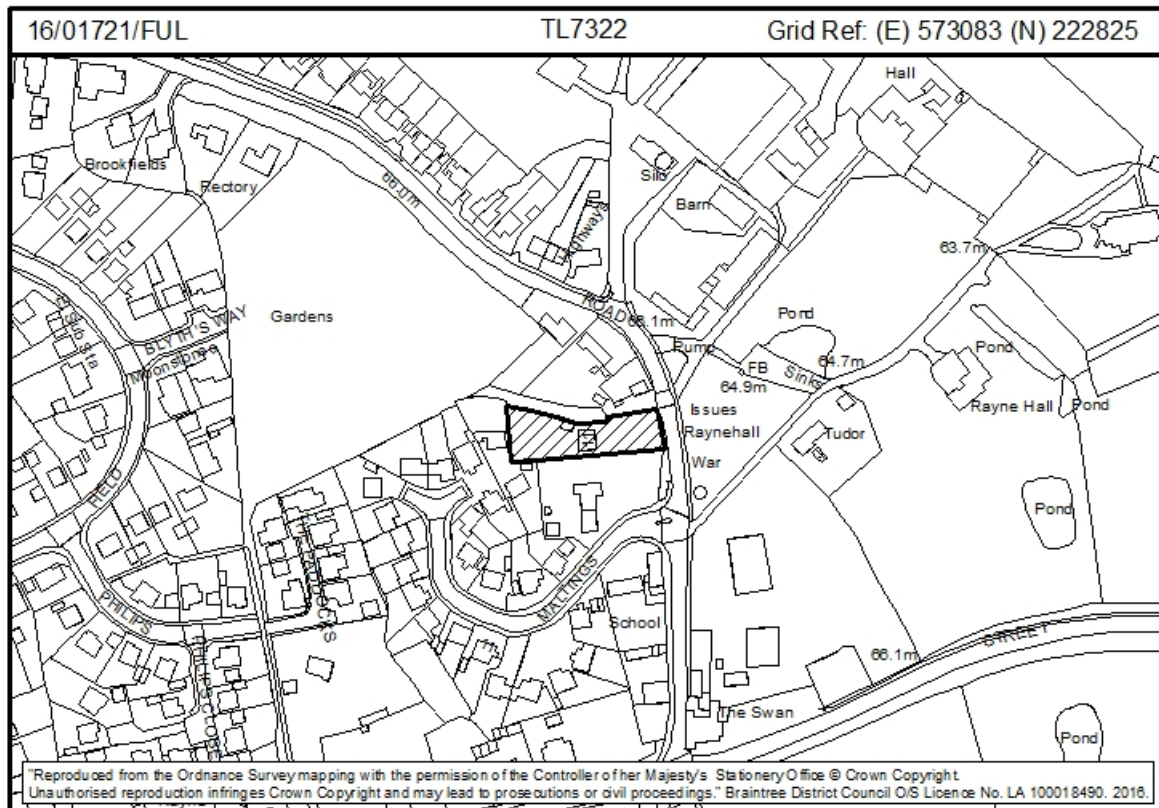
*Neil Roberts*

Inspector

PART B

APPLICATION NO: 16/01721/FUL  
 DATE: 11.10.16  
 VALID:  
 APPLICANT: Mr Stuart Ryder  
 11 Shalford Road, Rayne, Essex, CM77 6BT  
 AGENT: Bowergrange Estates Ltd  
 18 Coggeshall Road, Braintree, Essex, CM7 9BY,  
 DESCRIPTION: Retrospective application for installation of 2 x additional windows on chimney (southern side) elevation; non-installation of the window on the northern side elevation; additional third middle dormer on front elevation; the change of design of 2 x rear conservatory doors and kitchen window and alterations to driveway  
 LOCATION: 11 Shalford Road, Rayne, Essex, CM77 6BT

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)



## SITE HISTORY

14/00799/FUL	Erection of two storey side extension, installation of front dormers and rear gable	Granted	15.09.14
14/00960/FUL	Erection of cartlodge	Granted	12.11.14
14/00240/DAC	Application for approval of details reserved by condition nos. 3 and 4 of approved application 14/00799/FUL	Granted	20.11.14
15/00058/NMA	Application for a non-material amendment following grant of planning permission 14/00799/FUL - Erection of two storey side extension, installation of front dormers and rear gable	Refused	14.09.15
15/01061/FUL	Retrospective application for erection of single storey outbuilding to the rear garden	Granted	23.10.15

## POLICY CONSIDERATIONS

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

The Council is currently working on a Draft Local Plan, which was approved by the Council unanimously for consultation on the 20<sup>th</sup> June 2016 and was the subject of public consultation between the 27<sup>th</sup> June and 19<sup>th</sup> August 2016.

In accordance with paragraph 216 of the NPPF, from the day of publication the Council can give weight to the emerging Draft Local Plan and the weight that can be given is related to:

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

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

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

Accordingly the Council can currently afford some weight to the emerging Draft Local Plan 2016.

It should also be noted that the Council was previously working on a Site Allocation and Development Management Plan (the ADMP). This plan was subject to extensive public consultation in 2013 and 2014. The ADMP was not however submitted to the Planning Inspectorate, due to the decision to begin work on a new Local Plan, to take into account the most up to date Government guidance. However parts of the ADMP have been rolled forward into the Draft Local Plan.

It is therefore considered that it would be consistent with the provisions in paragraph 216 of the NPPF, to afford more weight in decision making to the parts of the Draft Local Plan which have been rolled forward from the ADMP, due to the more advanced stage reached by those elements.

#### National Planning Guidance

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

#### Braintree District Local Development Framework Core Strategy

CS9                Built and Historic Environment

#### Braintree District Local Plan Review

RLP3	Development within Town Development Boundaries and Village Envelopes
RLP17	Extensions and Alterations to Dwellings in Towns and Villages
RLP90	Layout and Design of Development
RLP95	Preservation and Enhancement of Conservation Areas
RLP100	Alterations and Extensions and Changes of Use to Listed Buildings and their settings

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

This application is being reported to the Planning Committee for determination due to an objection from Rayne Parish Council.

#### SITE DESCRIPTION

The site is a detached chalet-type bungalow on Shalford Road in Rayne. It has a large open frontage and curtilage and is set back a significant distance from Shalford Road. It is just outside of Rayne Conservation Area but is in close proximity to a cluster of Listed Buildings which encircle the green opposite, which includes Tudor Cottage, the War memorial and Century Barns, all of which are Listed Grade II. To the north, Sweet Briar and Mary's Cottage are also both Listed Grade II, as is the lock-up to the rear of Mary's

Cottage. The site has been subject to numerous alterations already in regard to the frontage. The site is adjacent to an access to an allotment at the rear. This aspect will not be affected as part of the proposal.

## PROPOSAL

This application seeks to regularise works to the building including the retention of 2 windows on the south side elevation; non-installation of the window on the northern side elevation; additional third middle dormer on front elevation; the change of design of 2 x rear conservatory doors and kitchen window. The proposal also seeks to create a new access and close off the existing access at the site (as confirmed via email).

## CONSULTATIONS

### **Essex County Council Historic Buildings Advisor**

No objection.

### **Essex County Council Highways Officer**

No objection to the proposal:

*“Given the proposed location for the new access located to the south, away from the bend, onto Shalford Road is an improvement in terms of visibility and highway safety for vehicles travelling from the north, and the area to be available for parking and turning within the site which complies with Braintree District Council's adopted parking standards for the proposal”*

Recommended conditions regarding visibility splays, the new access being at right angles to the highway boundary, no unbound material, existing access closed off permanently and no discharge of surface water onto the highway. These conditions have been attached to the application.

### **Rayne Parish Council**

The Parish Council objected to the application and made comments regarding re-establishing the grass verge at the front of the site.

## REPRESENTATIONS

Five objections have been received from Rayne Hall, 7-9 Shalford Road, Highways Cottage and 9 Shalford Road. A general comment was received from 15 Shalford Road. These comments are outlined below:

- Application retrospective for works
- Front of site prominent in Conservation Area
- Not possible to close existing allotment access so three accesses at this site

- The site cannot achieve the stated 43m visibility splays due to existing hedgerows blocking views
- Impact upon privacy of 7-9 Shalford Road by virtue of window altered in elevation

## REPORT

### Principle of Development

The site is located within a village envelope therefore in accordance with Policies RLP2 & RLP3 of the Braintree District Local Plan Review the principle of residential development is acceptable. This is subject to other material planning considerations and compliance with other relevant planning policies which are detailed below.

### Design, Appearance, Impact upon Conservation Area and Setting of Listed Building

Policy CS9 of the Councils Core Strategy and Policy RLP 90 of the Braintree District Local Plan Review specifies further criteria regarding the layout and design of additional development. They states that planning permission will only be granted where the following criteria are met:

- The scale, density, height and massing of buildings should reflect or enhance local distinctiveness;
- Designs shall recognise and reflect local distinctiveness, and be sensitive to the need to conserve local features of architectural, historic and landscape importance, particularly within Conservation Areas;
- 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.

Policy RLP17 of the Braintree District Local Plan Review sets out that within towns and villages that proposals for the extension of an existing dwelling house will be permitted where the following criteria are met: there shall be no over-development of the plot when taking into account the footprint of the existing dwelling and the relationship to plot boundaries; the siting, bulk, form and materials of the extension should be compatible with the original dwelling; there should be no unacceptable adverse impact on the amenities of adjoining residential properties, including on privacy, overshadowing, loss of light; there should be no material impact on the identity of the street scene, scale and character of the area; and there should be no adverse impact upon protected species.

Policy RLP95 of the Braintree District Local Plan Review states that the Council will preserve, and encourage the enhancement of, the character and appearance of the designated Conservation Areas and their settings, including inter alia the buildings and historic features and views into and within the constituent parts of designated areas. Proposals within Conservation Areas will only be permitted where the proposal does not detract from the character, appearance and essential features of the Conservation Area.



Policy RLP100 of the Braintree District Local Plan Review states that development involving internal or external alterations, extensions and partial demolitions to a listed building and changes of use will only be permitted if the proposed works or uses do not harm the setting, character, structural stability and fabric of the building (or structure); and do not result in the loss of, or significant damage to the building or structure's historic and architectural elements of special importance, and include the use of appropriate materials and finishes. The Council will seek to preserve and enhance the settings of listed buildings by appropriate control over the development, design and use of adjoining land.

The site is just outside of Rayne Conservation Area, and as such the application dwelling is not typical of the wider locality in regards to its character. The application seeks to regularise exterior alterations to the building that were not part of approved application 14/00799/FUL. These alterations include the retention of two windows on the South elevation of the dwelling, the non-installation of the window on the northern side elevation; additional third middle dormer on front elevation; the change of design of 2 x rear conservatory doors and kitchen window. As such, it is considered the alterations by virtue of their size, scale and appearance would not have a detrimental impact upon the character of the area or the setting of nearby Listed Buildings. The Historic Buildings Consultant reiterates the above comments and consequently has no objection to the application.

#### Impact on Neighbour Amenity

In addition to the above policies, a core principle of the National Planning Policy Framework is that development should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

The alterations to the property which this application seeks to regularise have not added any additional bulk to the exterior of the building when compared to the previously approved plans. Furthermore, the proposed alterations do not add any additional fenestration to the building at first floor (other than the additional front dormer). Concerns from neighbouring residence in respect of overlooking were raised regarding the first floor side windows on the Southern elevation of the house. The original application 14/00960/FUL proposed to block these windows up. However, the windows were not blocked up, and instead were retained in the same position as they were within the existing dwelling (prior to any alterations being undertaken). As such, the Local Planning Authority cannot reasonably object to the application on this basis.

As such, it is considered that the proposed alterations by virtue of their size, bulk and siting would not have a detrimental impact upon the amenity of neighbouring properties in terms of loss of natural light, overshadowing, overbearing, or in terms of overlooking, and as such it is considered that the proposal is acceptable in this regard.

## Highway Issues

The site is currently accessed via a drive on the North aspect of the site adjacent to Shalford Road. The application proposes to close this existing access off and move the access down to the southern aspect of the site to allow for greater viability. This would include some additional hard standing going across the front drive of the site.

The application is supported by visibility splays which indicate that a 2.4m by 43m visibility can be achieved on either direction. A neighbour however disputes this due to existing hedgerows outside of the applicant's control. However, the proposal in this case relates to a single existing dwelling, where the existing access has significantly restricted visibility splays to the North and as such, moving the access South, would be much safer from a highway perspective than the existing access. The Highways Officer therefore outlined the proposed new access was acceptable subject to conditions including a parallel visibility splay that could be achieved. It is also considered a landscaping scheme to replace the hard standing at the front of the site associated with the existing access would be appropriate and is recommended. As such, it is considered the proposal is acceptable in this regard.

## CONCLUSION

The proposals seek to regularise unauthorised external alterations to the house and the creation of a new vehicular access. It is considered the alterations by virtue of the scale and design would not have a detrimental impact upon the character of the Conservation Area or the setting of nearby Listed Buildings. Furthermore, due to the scale of the alterations, it is considered there would not be a detrimental impact upon neighbouring amenity. Finally, the new access would be safer than the existing access; subject to the old access being permanently closed off and other conditions, the proposal is also considered to be acceptable in this regard.

## RECOMMENDATIONS

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

## APPROVED PLANS

Location Plan	Plan Ref: 357-01
Block Plan	Plan Ref: 357-02
Site Plan	Plan Ref: 357-07
Floor Plan	Plan Ref: 268-05
Elevations	Plan Ref: 268-06

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

Reason

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

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

Reason

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

- 3 The new access shall not be used, unless and until the existing access to the north of the site shown on the location plan has been suitably and permanently closed incorporating the reinstatement to full height of the highway verge along the site frontage, in accordance with details to be submitted to and approved in writing by the local planning authority.

Reason

To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011

- 4 There should be no obstruction above ground level within a 2.4 m wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage. Such vehicular visibility splays shall be provided and retained free of any obstruction at all times.

Reason

To provide adequate inter-visibility between the pedestrian and users of access and the existing public highway for the safety and convenience of the users of the highway and access having regard safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- 5 The vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be less than 3 metres and shall be retained at that width for 6 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the highway verge.

Reason

To ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- 6 No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason

To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- 7 There shall be no discharge of surface water onto the Highway.

Reason

To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- 8 Prior to the first use of the access hereby approved a scheme of landscaping shall be submitted to and approved in writing by the local planning authority. The scheme shall relate specifically to the area at the front of the site (including the existing access to be closed) and should incorporate a detailed specification including plant/tree types and sizes, plant numbers and distances, soil specification, seeding and turfing treatment where appropriate.

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

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

Reason

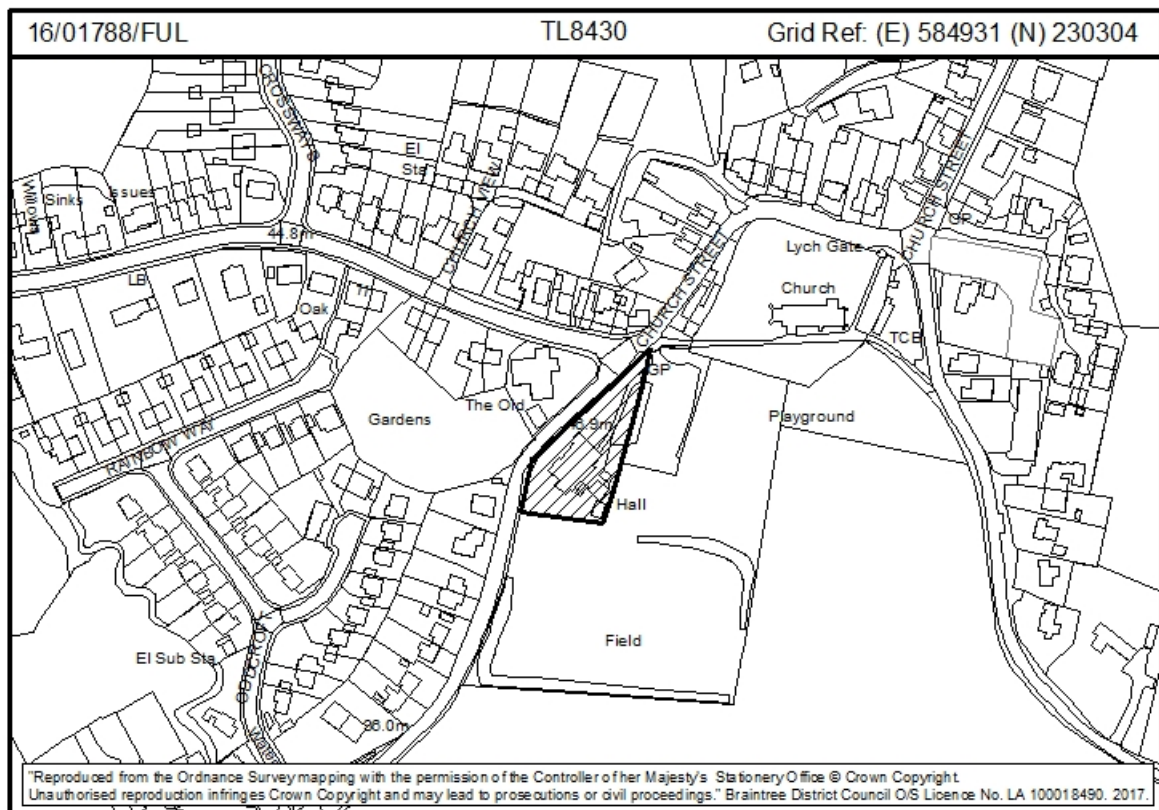
To enhance the appearance of the development and in the interests of amenity and privacy.

TESSA LAMBERT  
DEVELOPMENT MANAGER

PART B

APPLICATION NO: 16/01788/FUL DATE: 09.11.16  
 VALID:  
 APPLICANT: Mr Stuart Rust  
 Railway Sleeper, 19a Station Hill, Bures, CO6 2ES  
 DESCRIPTION: Retention of demountable second hall allowed under temporary permission 11/01206/FUL  
 LOCATION: Village Hall, 1 Station Road, Colne Engaine, Essex, CO6 2ES

For more information about this Application please contact:  
 Mrs Sandra Green on:- 01376 551414 Ext. 2557  
 or by e-mail to: [sandra.green@braintree.gov.uk](mailto:sandra.green@braintree.gov.uk)



## SITE HISTORY

92/00916/FUL	Erection of a scenery store	Granted	15.09.92
10/01107/FUL	Erection of single storey extension to provide new storage and additional changing room facilities	Granted	06.10.10
11/00832/FUL	Erection of pre-fabricated single storey building	Withdrawn	05.09.11
11/00046/NMA	Application for a non-material amendment	Application Returned	
	10/01107/FUL - Erection of single storey extension to provide new storage and additional changing room facilities - APPLICATION NOT PROCEEDED WITH		
11/01206/FUL	Erection of temporary demountable second hall	Granted	28.10.11
12/00013/DAC	Application to discharge condition no. 2 of approved application 11/01206/FUL - Erection of temporary demountable second hall	Part Grant, Part Refused	09.02.12

## POLICY CONSIDERATIONS

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

The Council is currently working on a Draft Local Plan, which was approved by the Council unanimously for consultation on the 20<sup>th</sup> June 2016 and was the subject of public consultation between the 27<sup>th</sup> June and 19<sup>th</sup> August 2016.

In accordance with paragraph 216 of the NPPF, from the day of publication the Council can give weight to the emerging Draft Local Plan and the weight that can be given is related to:

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

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

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

Accordingly the Council can currently afford some weight to the emerging Draft Local Plan 2016.

It should also be noted that the Council was previously working on a Site Allocation and Development Management Plan (the ADMP). This plan was subject to extensive public consultation in 2013 and 2014. The ADMP was not however submitted to the Planning Inspectorate, due to the decision to begin work on a new Local Plan, to take into account the most up to date Government guidance. However parts of the ADMP have been rolled forward into the Draft Local Plan.

It is therefore considered that it would be consistent with the provisions in paragraph 216 of the NPPF, to afford more weight in decision making to the parts of the Draft Local Plan which have been rolled forward from the ADMP, due to the more advanced stage reached by those elements.

#### National Planning Guidance

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

#### Braintree District Local Development Framework Core Strategy

CS9            Built and Historic Environment  
CS11          Infrastructure Services and Facilities

#### Braintree District Local Plan Review

RLP3          Development within Town Development Boundaries and Village  
                 Envelopes  
RLP90        Layout and Design of Development  
RLP153       Community and Village Halls

#### Braintree District Draft Local Plan

SP1          Presumption in Favour of Sustainable Development  
SP5          Place Shaping Principle  
LPP50        Alterations, Extensions and Changes of Use to Heritage Assets  
                 and their Settings

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

This application is brought before the Planning Committee due to the Parish Council supporting the application, contrary to officer recommendation.

## SITE DESCRIPTION

The site is located within the Colne Engaine development boundary and occupies an elevated position beside Station Road, which runs along the north-western side of the application site. The site is not within a Conservation Area. The Village Hall, along with the adjacent caretaker's house was constructed in 1921 with money given by Katherine Mina Courtauld. To this day the hall is also referred to as the Courtauld Memorial Hall. Katherine Mina Courtauld was a member of the significant Courtauld family, who played a considerable role in the industrial history of Braintree in the nineteenth and twentieth century, and were influential benefactors shaping the historic and built landscape of Braintree, Bocking, Halstead and other outlying villages such as Colne Engaine. The building is therefore of considerable local historic and architectural interest, and may be considered to be a non-designated heritage asset, as per paragraph 135 of the NPPF, and the Hall has recently been identified for inclusion on the Local List.

The demountable is prominent in views from the car park to the north of the hall and the playground and the adjacent public open space. There is some screening provided by vegetation at along the south and eastern site boundaries but there is a large gap in the vegetative screening at the rear of the demountable; the side of which is clearly visible from the adjacent open space.

The Hall is an attractive red brick building with a peg tile roof. The main hall runs North to South through the site, with a two-storey domestic scale element at the southern end which is understood to provide caretakers accommodation. In addition to the use of quality building materials there are numerous architectural features of interest – including decorative brickwork, an interesting and varied roofscape including half hips, chimney stacks and a timber framed ventilator.

There are various outbuildings of differing size, style and quality situated to the south east of the main hall; one of which is the demountable currently used as an annexe to the main hall and which is the subject of this application. The demountable has been clad externally with black painted weatherboard to address concerns that the structure would deteriorate over time. It does however still read as a demountable that has been externally clad, by virtue of its proportions and slack roof pitch, and the windows and doors, which stand out in stark contrast to the black. There is a timber and polycarbonate canopy structure over the side door to the hall to provide shelter when crossing to the annexe.

Planning permission was granted in 2010 for the erection of a single storey extension located to the west of the existing Village Hall. The extension was intended to provide new storage facilities to replace outbuildings on the site and to double up as additional changing facilities for the local dramatic society. The applicant has advised that due to differences in ground levels it



was realised that the venture was not economic as “much very expensive piling was required”. The planning approval was therefore allowed to lapse.

## PROPOSAL

The applicant is seeking to retain the demountable for a further period. The applicant advises that the long term aim is now to replace the annexe with a permanent structure in the current location of the annexe but this dependent upon funds in future years. The applicant has provided further information as to the current use of the demountable:

- It is used in the evenings by two language classes and for regular Parish Council meetings.
- Once a month it is used by the Whist group.
- Otherwise if it used in conjunction with the main Hall by the Youth Group.
- In the afternoons by the dance group who use both the annexe and the main Hall at least twice and often three times per week.
- At weekends it is used by the junior football club and the dance group on occasions.
- It is also used for small occasional private parties.
- It is used for voting in General Elections and extensively at our annual village festival or fete.
- We are about to have a beautician/sports massage service start from the Hall who will use the annexe at certain times.

## CONSULTATIONS

ECC Historic Buildings Consultant – Objection: The demountable was installed on the site under a temporary consent, and therefore any harm to the non-designated asset was weighed against its temporary nature. Similarly a lower quality of design was allowed as being acceptable, due to its transitory nature. Now that it is proposed to be a permanent construction, a more rigorous assessment of its acceptability would need to be considered. It is currently a poorly designed building, which makes an unsatisfactory contribution to the environment in which the Village Hall is appreciated, and creates a cramped nature of the site. I would therefore argue that it makes a harmful contribution to the setting of a non-designated heritage asset, which unlike the previous application would not be partly balanced by its transitory nature. The harm should be weighed against any public benefit of the scheme, as per the NPPF.

Colne Engaine Parish Council – Support the application.

## REPRESENTATIONS

As at 15<sup>th</sup> March 2017 56 letters of representation have been received from members of the public that support the application in respect of the following:

- The annexe is the ideal venue for smaller groups when the main hall is in use or too large for purpose/ it is used by a larger number of groups and organisations / provides great additional flexibility / allows for multiple users / is in regular use.
- Think the annexe looks better than the outbuildings it replaced.
- The Village Hall is an important/valuable community asset, it plays a huge part in bringing our community together.
- It would be very difficult for the villagers and the Hall if the temporary permission was not renewed and the annexe had to be demolished / negative impact on many villagers.
- The annexe has allowed the hall to prosper; its loss would be a serious blow to our vibrant community spirit in a time when this is needed more than ever / it would be massively missed now.
- A thriving village in a rural district is unusual these days and the annex is a key piece of this puzzle.
- Impact on young people – restricting number of spaces at the youth club; the annexe is used to provide additional space for indoor activities for the youth club, particularly during winter months.
- It has perfectly adequate facilities – a small kitchen, toilet and a storage space.
- Access is good for those with limited or restricted access or for those with a push chair.
- The annexe should be retained while a detailed plan for the future of the hall and its growth with a feasible funding proposal is produced and consulted on / retention will allow the committee to continue to plan and raise funds for future improvements / the committee is keeping things going within a difficult financial climate.
- It is well maintained and blends in with the surrounding countryside.
- A permanent structure would of course be preferable but until that can happen we must retain the present building.
- The annex provides the option of hiring a smaller and self-contained space for baby related talks from experts for the mother and toddler group.
- Without the annexe, the hall would struggle to remain open, which would be a shame given that the building has served the community for almost 100 years / the annexe generates important revenue / additional funds from the annexe support the upkeep of the village hall.
- Used by young and old for all sorts of activities.
- Loss of the annexe would almost certainly result in the recently formed Colne Engaine Youth Football team having to close - depend on the facilities to run weekly training sessions; disappointing if efforts setting up the club were to be wasted.
- Removal of the annexe would lead to more traffic on the roads to access alternatives beyond Colne Engaine.
- Its use as a Polling Station means activities in the main hall are not displaced for a whole day and evening; nor is the village school therefore disrupted for this purpose.
- The annexe provides storage during dance lessons for personal items which would otherwise be in the dance area creating a risk.

- Haven't heard anyone complaining about the structure, only talking about the activities they attend.
- Some classes would have to be terminated if the annex was to close.

## REPORT

### Principle of Development

The site is located within a development boundary where there is a general presumption in favour of development subject to satisfactory design, highway considerations, to there being no detrimental impacts upon neighbouring residential amenity or heritage assets, and where it can take place without material detriment to the existing character of the settlement.

The temporary 5-year consent for the use of the demountable on the site was approved by members in 2011 contrary to officer recommendation at which time the case officer concluded that the community benefits the additional facilities would provide should not outweigh the harm to the character of the area and setting of the village hall.

Paragraph 13 of the NPPG sets out when conditions can be used to grant planning permission for a use for a temporary period only. It states that:

"Under section 72 of the Town and Country Planning Act 1990 the local planning authority may grant planning permission for a specified temporary period only. A condition limiting use to a temporary period only where the proposed development complies with the development plan, or where material considerations indicate otherwise that planning permission should be granted, will rarely pass the test of necessity.

Circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period.

A temporary planning permission may also be appropriate on vacant land/buildings to enable use for a temporary period prior to any longer term regeneration plans coming forward (a meanwhile use) or more generally to encourage empty property to be brought back into use. This can benefit an area by increasing activity.

It will rarely be justifiable to grant a second temporary permission – further permissions should normally be granted permanently or refused if there is clear justification for doing so. There is no presumption that a temporary grant of planning of planning permission should be granted permanently.

A condition requiring the demolition after a stated period of a building that is clearly intended to be permanent is unlikely to pass the test of reasonableness. Conditions requiring demolition of buildings which are

imposed on planning permissions for change of use are unlikely to relate fairly and reasonably to the development permitted.”

The applicant has advised that a new permanent building of an appropriate quality to replace the demountable on the site is not considered to be achievable in 2017 due to a lack of funding. They have also advised that during the last five years the Hall central heating system has been completely replaced, and the kitchen and toilets have been refurbished at considerable cost. The aim for 2017 is to upgrade the thermal insulation and fire security, and if a further consent was to be received for the retention of the demountable, a new separate entrance which would enable independent use of the annexe at the same time as the Main Hall is being used by the Pre-school group or other activity. Mention is also made of other projects in the village that have needed local fundraising (for the new war memorial and Church development).

It is clear therefore that an appropriate permanent replacement for the demountable is highly unlikely in the short/medium term. The applicant considers that the retention of the demountable is needed to help further fundraising for the Village Hall site by contributing to a thriving and developing community use. As set out above, NPPG states that “It will rarely be justifiable to grant a second temporary permission – further permissions should normally be granted permanently or refused if there is clear justification for doing so.”

Core Strategy Policy CS9 Built and Historic Environment seeks to promote and secure the highest possible standards of design and layout in all new development and the protection and enhancement of the historic environment. Furthermore, the adopted development plan requires that proposals for new development be in harmony with the character and appearance of the surrounding area.

RLP90 seeks a high standard of layout and design in all developments, large and small in the district. There should be no over-development of the plot when taking into account the footprint of the building and the relationship to the boundaries and the siting, bulk, form and materials of the development should be in keeping with the character of the area.

Policy RLP 153 Community and Village Halls states that proposals to upgrade and enlarge existing community and village halls or to create new ones, in sustainable locations, will be supported subject to satisfactory siting, design materials and landscaping.

Two areas of concern were apparent at the time of the original application for the demountable, which remain relevant to the current application to retain the demountable:

#### Building Design:

It is considered that the demountable structure contrasts sharply with the main hall building, in terms of the quality of materials and detailing; the scale of the buildings; and the more traditional design and form of the Hall.

#### Siting of the Building:

The demountable is located in close proximity to the main Hall building with less than 2 metres separating them at the front of the site; the site feels cramped in this respect. The location is prominent in the site and is visible from the car park and by people accessing and using the play area and public open space next to the car park. Whilst the Hall is not listed it is considered to have architectural and historic value locally. It is considered that the demountable is an unsympathetic and uncharacteristic structure alongside the principle elevation of the building that detracts from the character and appearance of the Hall. It is understood that it was previously suggested to the applicant in 2011 that the demountable could be more suitably located at the southern end of the site but the applicant chose not to pursue this option. The southern end of the site is better screened by both vegetation and the lie of the land.

When considering the impact of development on a historical asset the National Planning Policy Framework (NPPF) specifically states in paragraph 132 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. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification”.

Paragraph 135 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 affect directly or indirectly 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.”

Whilst it is clear from the letters of representation that the demountable is valued by the local community, the funding difficulties require that the retention of the demountable be treated as a permanent use and on balance, it is considered that the community benefits the additional facilities would provide should not outweigh the harm to the character of the area and setting of the village hall.

#### Impact on Neighbour Amenities

The application site has a long established use as a community hall without causing any apparent problems for nearby residential properties. The demountable, which is located on the opposite side of the hall to the closest

houses, which are located on the western side of Station Road, has been in use on the site for the past five years and planning officers are unaware of any problems in respect of neighbouring amenity during this time as a result of the use of the demountable. The closest dwelling is approximately 35 metres from the site of the demountable. In order to protect the amenities of the occupiers of nearby residential properties and the surrounding area, Condition 3 of approval 11/01206/FUL stipulated that “there shall be no amplified music played in the pre-fabricated building at any time”. It is considered that there would be no detrimental impact on residential amenity subject to the wording of this condition being carried over to any approval for the retention of the demountable.

### Highway Issues

The hall is located within the village, within easy walking distance of many residents. In addition to residents of the village, the hall attracts visitors from the surrounding villages that travel to the hall by car. There is a car park area immediately adjacent to the application site that serves both the hall and car park. The demountable has been in use on the site for the past five years and planning officers are unaware of any problems with parking at the site. It is considered that there are no highways impacts associated with the retention of the demountable.

### CONCLUSION

Whilst the community benefits associated with the retention of the demountable are noted, on balance in this case, it is considered that these should not outweigh the harm to the character of the area and setting of the Village Hall which is considered to be a non-designated heritage asset.

### RECOMMENDATIONS

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

- 1 The siting of the proposed modular building by reason of its size, siting, materials and design would result in an unacceptable form of development, out of keeping with the existing Hall building, and be out of character with surrounding built development to the detriment of the visual amenities of the locality. The proposal is therefore considered to be contrary to the NPPF, Core Strategy Policy CS9, and Local Plan Review Policies RLP90 and RLP153.

### SUBMITTED PLANS

Location Plan	Plan Ref: AB01 A
Block Plan Roof Plan	Plan Ref: AB02 A
Elevations	Plan Ref: AB03 A
Elevations	Plan Ref: AB04 A

TESSA LAMBERT - DEVELOPMENT MANAGER

<b>Monthly Report of Planning and Enforcement Appeal Decisions Received</b>		<b>Agenda No: 6</b>
<b>Portfolio</b> Planning and Housing <b>Corporate Outcome:</b> A sustainable environment and a great place to live, work and play A well connected and growing district with high quality homes and infrastructure <b>Report presented by:</b> <b>Report prepared by:</b> Liz Williamson – Planning Technician		
<b>Background Papers:</b>		Public Report
Appeal decisions summary		Key Decision: No
<b>Executive Summary:</b>  This is a regular report on planning and enforcement appeal decisions received with specific analysis of each appeal decision.		
<b>Recommended Decision:</b>  That the report be noted.		
<b>Purpose of Decision:</b>  To note a report on appeal decisions.		
<b>Corporate Implications</b>		
<b>Financial:</b>	N/A	
<b>Legal:</b>	N/A	
<b>Safeguarding:</b>	N/A	
<b>Equalities/Diversity:</b>	N/A	
<b>Customer Impact:</b>	N/A	
<b>Environment and Climate Change:</b>	N/A	
<b>Consultation/Community Engagement:</b>	N/A	
<b>Risks:</b>	N/A	
<b>Officer Contact:</b>	Liz Williamson	
<b>Designation:</b>	Planning Technician	
<b>Ext. No:</b>	2506	
<b>E-mail:</b>	lizwi@braintree.gov.uk	

This is the monthly report on appeals which contains a précis of the outcome of each appeal received during the month of **February 2017**.

The full text of decisions is available on the planning website under each respective planning application or, in respect of enforcement cases, a copy may be obtained from the Planning Enforcement Team (Ext 2529). **Commentary Text (Inspector's Conclusions) is given only** in respect of specific cases where the planning decision has been overturned.

1.	<b>Application No/Location</b>	16/00406/FUL – Land East of Lower Green Road Blackmore End
	<b>Proposal</b>	Erection of two detached single story dwellings on the sites of two agricultural buildings with landscaping.
	<b>Council Decision</b>	Refused under delegated authority – RLP2, RLP10, RLP36, RLP56, RLP69, RLP74, RLP80, RLP90, RLP100, RLP138
	<b>Appeal Decision</b>	Allowed
	<b>Main Issue(s)</b>	<ol style="list-style-type: none"> <li>1. The effect of the development on the character and appearance of the area.</li> <li>2. The effect on the setting of neighbouring listed buildings.</li> <li>3. Accessibility to services and facilities</li> <li>4. The overall balance and whether the appeal proposal constitutes sustainable development in the countryside.</li> </ol>
	<b>Inspector's Conclusion</b>	<p>Blackmore End is a recognisable village and is characterised by linear development extending along several roads. There is a dispersed pattern of development along Lower Green Road. The proposed dwellings would be single storey and would be of a simple form. The site is well screened in views from the road by hedging, although the provision of visibility splays would reduce that to some extent. In conclusion, the Inspector considers that the development, subject to appropriate conditions would not result in material harm to character and appearance of the surrounding area.</p> <p>Wright's Farmhouse is Grade II* listed building to the north of the site. Lealands Farmhouse is Grade II listed building to the south of the site. Lealands Barns is a property immediately to the north of the farmhouse, comprising a range of buildings with materials including black timber boarding and tiled roofs. The site is considered to be within the settings of both listed buildings. Until recently, the appeal site contained two agricultural buildings, which formed part of the setting of the listed buildings. The proposed dwellings are single storey and of a simple form, not dissimilar to that of farm buildings. There would be some change in character through residential use and the</p>



		<p>proposed windows and doors. However, subject to conditions, addressing revised window and door details, materials and landscaping and control of extensions, alterations and further curtilage buildings. The Inspector concludes that there would be no material harm to the settings of the listed buildings.</p> <p>Blackmore End has a very limited range of services and facilities. It is likely that those occupying the dwellings would rely heavily on the private car to access everyday services, community facilities and employment. While this weighs against the development, it is consistent with the Framework that sustainable transport opportunities are likely to be more limited in rural areas.</p> <p>The Inspector acknowledges that the LPA have re-assessed the housing supply position since the initial assessment of the planning application and the LPA acknowledges that they cannot demonstrate a five-year supply of deliverable housing sites. Accessibility to services, facilities and employment from the site other than by car would be poor. On the other hand, the development would make a modest contribution to meeting housing need. In addition subject to appropriate conditions, there would not be material harm to the character and appearance of the surrounding area or the setting of the listed buildings. A minor economic benefit would arise from developing the site and the economic activity of those occupying the dwellings. The development would conflict with policies CS5 and RLP2 but the Inspector considers that these are out of date and are worthy of limited weight. The Inspector considers that the proposal would amount to sustainable development, and permission should be granted in accordance with the Framework's presumption in favour of sustainable development.</p>
2.	<b>Application No/Location</b>	16/00021/UBW3 – Land east of Lower Green Road, Blackmore End
	<b>Proposal</b>	Appeal against enforcement notice
	<b>Council Decision</b>	Appeal against enforcement notice
	<b>Appeal Decision</b>	Appeal succeeds / enforcement notice varied and upheld
	<b>Main Issue(s)</b>	<p>The breaches of planning control as alleged on the notice are:</p> <ol style="list-style-type: none"> <li>1. The complete demolition of an existing cattle shed, the partial erection of a detached single storey building and the laying of footings and a concrete base at Plot A, as indicated on the plan attached to the notice; and</li> <li>2. The complete demolition of an existing cattle shed</li> </ol>

		and the laying of footings and a concrete base at Plot B, as indicated on the plan attached to the notice.
	<b>Inspectors Conclusion</b>	<p>The requirements of the notice are to:</p> <ul style="list-style-type: none"> <li>A. Dismantle all wall and roof sections to the partly constructed single storey building in the location marked "A" and hatched red on the plan attached to the notice and remove all resultant materials from the site</li> <li>B. Break up the concrete footings and bases which have been laid for the purpose of erecting two detached single storey buildings at the locations marked "A" and "B" and hatched red on the plan attached to the notice. Remove all resultant materials from the site.</li> </ul> <p>The period of compliance with the requirements is 3 months.</p> <p>The appeal is proceeding on the grounds as set out in section 174(2) (g) of the Town and Country Planning Act 1990 as amended.</p> <p>The appellant considers that the 3 month period for compliance would be insufficient to arrange, manage and carry out safe and responsible demolition of the building on Plot 1 and the concreted footings and bases on both plots. A period of 6 months is suggested.</p> <p>The Inspector concludes that the 3 month period to be an unreasonable time and should be extended to 6 months. Subject to that variation, the notice should be upheld.</p>
3.	<b>Application No/Location</b>	16/01270/FUL – 10 Boars Tye Road, Silver End
	<b>Proposal</b>	Erection of conservatory at rear of property
	<b>Council Decision</b>	Refused under delegated authority – RLP3, RLP17, RLP90, RLP95
	<b>Appeal Decision</b>	Allowed
	<b>Main Issue(s)</b>	1. The effect of the proposal on the character and appearance of the area.
	<b>Inspectors Conclusion</b>	Silver End was a planned village in the 1920s and 1930s to house employees of the Crittall works. The Conservation Area covers the original part of the village. The properties within Boars Tye Road are non-designated heritage assets. An Article 4 Direction is in force which removed permitted development rights in respect of the front and side elevations of the houses but those rights

		<p>still apply to the rear elevations.</p> <p>The Inspector noted from the site visit that there are a number of conservatories which are visible above the rear boundary fences and hedges and from the sports ground. The conservatory subject to the appeal is partially screened from view by a rear boundary hedge. Given the number of similarly sized conservatories on the adjoining parts of the roads the appellant's conservatory is not considered to be unduly prominent or out of character. To the rear of the appellant's house is a full-width lean-to extension which is of modest depth. The conservatory is attached to the area of the extension and occupies approximately 60% of the width of the house. The Inspector notes the concerns of the Historic Building Consultant regarding the size of the conservatory, however, the Inspector does not consider that the extension is disproportionate in relation to the size of the house or its garden. The design and materials used in the conservatory bear little relation to the original house because it is to the rear, so has little effect on the architectural integrity of the building. Because the conservatory is attached to an extension it does not affect the original fabric of the house. The Inspector therefore finds that the conservatory is not harmful to the non-designated heritage asset and would not cause harm to the character and appearance of the Conservation Area.</p>
4.	<b>Application No/Location</b>	16/01649/FUL – Willow Cottage, Fuller Street, Fairstead
	<b>Proposal</b>	Removal of existing single garage, single storey extension to rear, side and front of existing property erection of new detached double garage and alterations to existing property
	<b>Council Decision</b>	Refused under delegated authority – RLP2, RLP18, RLP90
	<b>Appeal Decision</b>	Dismissed insofar as it relates to the single storey extension to rear, side and front of existing property but allowed insofar as it relates to the removal of existing single garage, new detached double garage and alterations to existing property. Accordingly, planning permission is granted for removal of existing single garage new detached double garages and alterations.
	<b>Main Issue(s)</b>	1. The effect of the proposal on the character and appearance of the host dwelling and street scene.
	<b>Inspectors Conclusion</b>	Willow Cottage is a two storey detached dwelling with a frontage close to Fuller Street, the main road running through the rural hamlet of Fairstead.

	<p>The appeal property includes a two storey extension to the southern side, with a smaller two storey element to the northern end, set down from the main roof ridge and set back from the front elevation. Its current appearance is of a well-proportioned two storey dwelling which makes a positive contribution to the street scene. The proposed two storey extension would wrap around the front and side of the property, projecting to the rear across two-thirds of the dwelling's width. The infilling of the set-back at the ground floor would result in a more complex built form which would upset this proportionate and simple appearance. However, the addition of the side seen from the front would reflect the same gable ends of the host dwelling. The effects of the extension as a whole would be seen in views approaching the building along Fuller Street from the north and across the triangular road junction. The extension would appear as a disproportionately wider feature running on a horizontal alignment from the front of the property and extending beyond the rear. Due to its prominence the extension would be harmful to the street scene. The Inspector accepts that there are examples of properties with extensions in the immediate area, including the dwelling opposite, however, given the difference designs and positions of these buildings compared to the appeal property they cannot be considered as direct precedents for what is proposed.</p> <p>The proposed garage would be an ancillary outbuilding within the residential curtilage that would be subordinate in scale and appearance to the host dwelling. As such, together with the removal of the existing garage, its position and appearance would not be harmful. The proposal includes alterations to the left side southern elevation that appear to be independent of the proposed extension. As such, these limited changes would not be harmful to the existing building's character and appearance or that of the street scene.</p> <p>For the reasons given above, the appeal succeeds in respect of the replacement garage and alterations to the existing dwelling but fails in respect of the proposed extension.</p>
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