

# **PLANNING COMMITTEE AGENDA**

**Tuesday, 18 February 2020 at 7:15pm**

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

**THIS MEETING IS OPEN TO THE PUBLIC**  
*(Please note this meeting will be webcast and audio recorded)*  
[www.braintree.gov.uk](http://www.braintree.gov.uk)

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

**Membership:-**

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

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

A WRIGHT  
Chief Executive

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **PUBLIC SESSION**

**Page**

**1 Apologies for Absence**

**2 Declarations of Interest**

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

**3 Minutes of the Previous Meeting**

To approve as a correct record the Minutes of the meetings of the Planning Committee held on 21st January 2020 and 4th February 2020 (copies to follow).

**4 Public Question Time**

(See paragraph above)

**5 Planning Applications**

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

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

### **PART A**

#### **Planning Applications**

<b>5a</b>	<b>Application No. 18 02311 FUL - Toad Hall, Colchester Road, WHITE COLNE</b>	<b>6 - 17</b>
<b>5b</b>	<b>Application No. 19 01516 FUL - Land South of Hedingham Road, BULMER</b>	<b>18 - 28</b>
<b>5c</b>	<b>Application No. 19 01804 OUT - Former Oil Depot, Land West of Hedingham Road, GOSFIELD</b>	<b>29 - 52</b>
<b>5d</b>	<b>Application No. 19 01907 FUL - 54 Witham Road, BLACK NOTLEY</b>	<b>53 - 68</b>

### **PART B**

#### **Minor Planning Applications**

There are no applications under PART B.

<b>6</b>	<b>Local Validation List - Planning Applications</b>	<b>69 - 74</b>
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| <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. |
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| <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. |
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<b>PRIVATE SESSION</b>	<b>Page</b>
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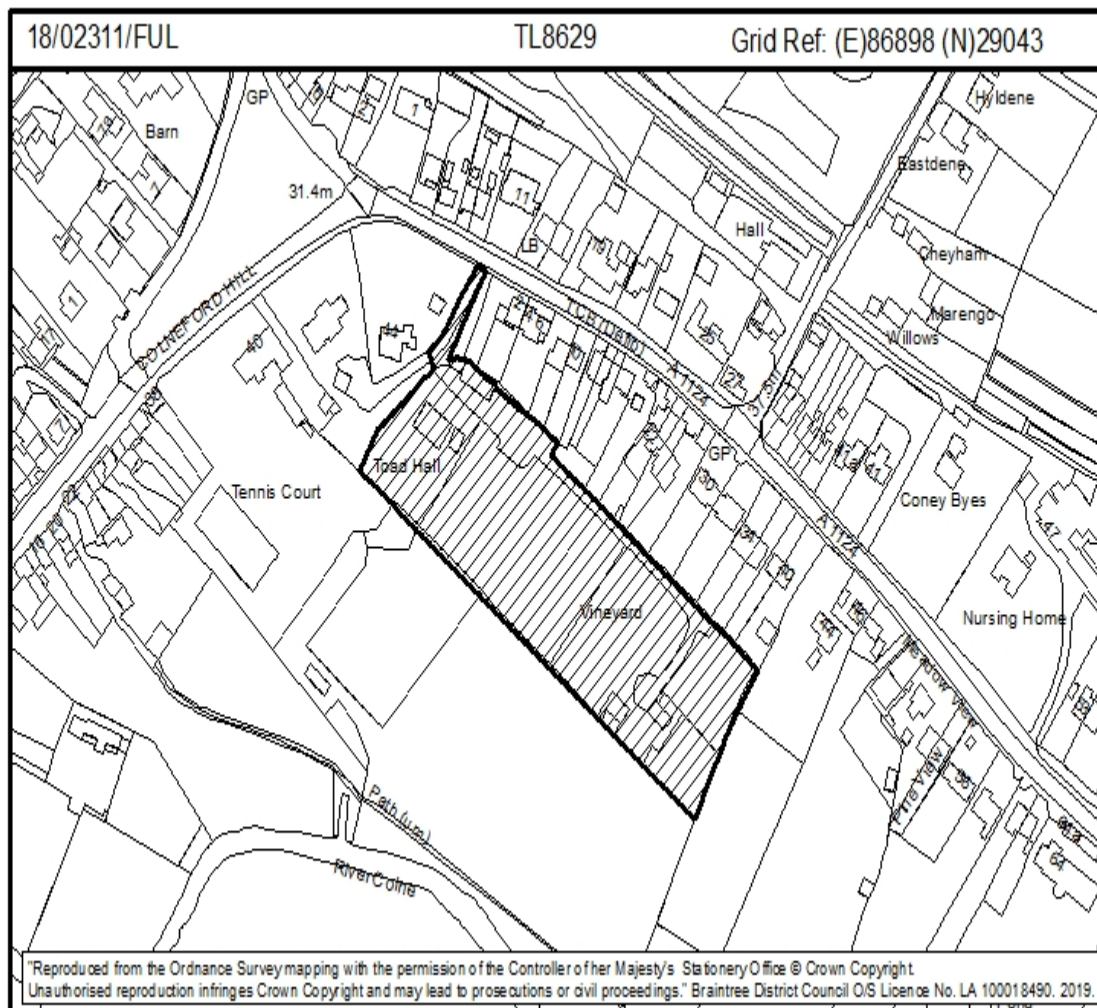
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| <b>9</b> | <b>Urgent Business - Private Session</b><br>To consider any matter which, in the opinion of the Chairman, should be considered in private by reason of special circumstances (to be specified) as a matter of urgency. |
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PART A

AGENDA ITEM NUMBER 5a

APPLICATION NO: 18/02311/FUL  
DATE VALID: 27.12.18  
APPLICANT: Mr & Mrs G Smith  
Toad Hall, Colchester Road, White Colne, CO6 2PW  
AGENT: Mr Andrew Stevenson  
21A High Street, Great Dunmow, CM6 1AB  
DESCRIPTION: Retention of existing building and its use for short term holiday lets  
LOCATION: Toad Hall, Colchester Road, White Colne, Essex, CO6 2PW

For more information about this Application please contact:  
Mr Chris Tivey on:- 01376 551414 Ext. 2539  
or by e-mail to: [chris.tivey@braintree.gov.uk](mailto:chris.tivey@braintree.gov.uk)



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PKA8WZBFLZ800>

## SITE HISTORY

88/00336/P	Erection Of Dwelling And Garage	Granted	24.05.88
88/02023/P	Erection Of Dwelling And Garage (Amendment To Previous Approval Bte/336/88)	Granted	29.11.88
88/02586/P	Stationing Of Mobile Home - Renewal Of Previous Approval Under Bte/1241/85	Refused	16.02.89
89/01774/P	Erection Of Fibre Glass Building To Cover Swimming Pool	Refused	18.10.89
89/02290/P	Construction Of Swimming Pool And Erection Of Building To Cover	Refused	12.02.90
90/00629/PFHS	Retention Of Existing Mobile Home To Be Used As Office/Rest Room For Vineyard	Refused	01.08.90
90/01085/PFHS	Variation Of Condition For Occupation Of Dwelling Without Compliance With Agricultural Occupancy Condition	Refused	28.08.90
90/01467/PFHS	Variation Of Condition For Occupation Of Dwelling Without Compliance With Agricultural Occupancy	Granted	30.10.90
90/01629/PFHS	Change Of Use Of Building To Be Used In Conjunction With Vineyard	Granted	14.12.90
12/01454/FUL	Erection of rear extension to replace existing conservatory, single storey extension to south-west elevation, garage conversion with single storey infill extension, new roof to existing porch and new detached cartlodge	Withdrawn	06.12.12
13/00393/FUL	Erection of rear extension to	Withdrawn	29.04.13

	replace existing conservatory, single storey extension to south-west elevation, garage conversion with single storey infill extension and new cartlodge		
13/00685/FUL	Erection of two storey front and single storey rear and side extensions, erection of replacement garaging and store	Granted	24.10.13
14/00906/FUL	Modifications to existing porch, erection of single storey rear and side extensions and erection of replacement garaging	Granted	08.08.14
15/00081/FUL	Erection of single side extensions; amendments to approved and partially implemented scheme	Granted	08.05.15

## 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. The Draft Local Plan, now referred to as the Publication Draft Local Plan, was approved by the Council on 5<sup>th</sup> June 2017 for consultation and for submission to the Secretary of State. The public consultation ran from 16<sup>th</sup> June to 28<sup>th</sup> July 2017. The Publication Draft Local Plan was submitted to the Secretary of State on the 9<sup>th</sup> October 2017.

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

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

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



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

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

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

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

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

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

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

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

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

Government guidance. However parts of the ADMP have been rolled forward into the Draft Local Plan. It is therefore considered that it would be consistent with the provisions in paragraph 48 of the NPPF, to afford more weight in decision making to the parts of the Draft Local Plan which have been rolled forward from the ADMP, due to the more advanced stage reached by those elements.

#### National Planning Guidance

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

#### Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP56	Vehicle Parking
RLP90	Layout and Design of Development
RLP95	Preservation and Enhancement of Conservation Areas
RLP146	Tourist Accommodation

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

CS4	Provision of Employment
CS5	The Countryside
CS7	Promoting Accessibility for All
CS8	Natural Environment and Biodiversity
CS9	Built and Historic Environment

#### Braintree District Publication Draft Local Plan 2017

SP1	Presumption in Favour of Sustainable Development
SP2	Spatial Strategy for North Essex
LPP1	Development Boundaries
LLP9	Tourist Development within the Countryside
LPP45	Parking Provision
LPP50	Built and Historic Environment
LPP55	Layout and Design of Development
LPP56	Conservation Areas

#### Neighbourhood Plan

None

#### Other Material Considerations

Site Allocations and Development Management Plan  
Essex Design Guide

- Page 81 – 109 – Design

Essex Parking Standards  
White Colne Village Design Statement

## INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

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

## NOTATION

The application site lies outside the White Colne Village Envelope as designated in the Adopted Local Plan and is outside, but to the south and west of the White Colne Conservation Area. There are no other specific designations on the site in the adopted Development Plan. The Draft Local Plan proposals map for White Colne shows the same.

## SITE DESCRIPTION

The application site comprises a detached timber weatherboarded building, built sometime between 2006 and 2009 going by satellite imagery. It replaced another building which was associated with the former use of the land that surrounds it as a vineyard. This land is contiguous with the residential curtilage of Toad Hall, a detached dwelling within the ownership and control of the applicants.

Toad Hall is accessed via a private drive between 44 Colneford Hill and 2 Colchester Road, and all of its curtilage and wider land is located behind residential properties at No.2 - No.40 Colchester Road. A track runs adjacent to the rear garden boundaries of these neighbouring dwellings, on the north eastern edge of the site until it turns 90° and leads to the building in question.

According to Council records, a previous owner of Toad Hall was approached in 2010 by Planning Enforcement, as there was a suggestion that he was looking to let out the building for commercial purposes. The previous owner was also advised that to use the building as a holiday let would require planning permission. He decided not to make an application and no further action was taken, with the enforcement case closed.

The applicants state that they purchased the property in 2011, and the sales particulars of that time, which have been submitted with this application, identify the subject building in a photograph; they also described a *“5 bed property [Toad Hall itself]....amid the 2.5 acres of grounds there is a large paddock, a small vineyard and a ....detached cottage/annexe”*.

Consequently it is clear that the building itself has been in situ for in excess of 4 years and therefore, pursuant to Section 171B of the Town and Country Planning Act 1990 (as amended), is deemed lawful. However, the documented use of the application building remains unclear, and whilst it appears that at times it has been used for quasi-residential purposes, such as to provide accommodation for the applicant's friends and family, no firm

evidence has been submitted to this effect. Indeed, the applicants recognise this, hence the submission of this planning application to formally change the building's use.

## PROPOSAL

Planning permission is sought for the change of use of the building to a short-term holiday let. The application is retrospective as it is believed that the use commenced approximately 12 months ago.

The subject building contains 2no bedrooms, with limited accommodation in the roof space. Overall it is of modest proportions, and is of a simple design with a barn-hipped roof clad in plain roof tiles, over black weather-boarded elevations. It has a small patio area to its rear and space is provided to the side for the parking of up to 2no cars. As explained above, the access onto Colchester Road is shared with Toad Hall.

## CONSULTATIONS

### ECC Highways

No Objection. The documents accompanying the planning application have been duly considered. Given the scale of the proposed development and the area to be available for parking within the site, which complies with Braintree District Councils adopted parking standards, the proposal is acceptable to the Highway Authority.

### ECC Historic Buildings Consultant

No Objection. The host property, Toad Hall, is located within the White Colne Conservation Area, however the boundary for the Conservation Area excludes part of the property's garden and the building this application refers to. Nonetheless, there is always the potential for harm to the setting of a Conservation Area, should any developments take place along boundary lines. In this case, the building is deemed to not cause harm to the Conservation Area due to its size and function, ancillary to Toad Hall itself and the Conservation Area. Access is maintained along existing routes to the host property and there is no harm to any important viewpoints.

## PARISH / TOWN COUNCIL

### White Colne Parish Council

Object. The Parish Council believes that this building does not have planning permission and that Braintree District Council Enforcement has previously prevented the use of this building as a holiday let. The building is outside the village envelope and as such does not conform to the village design statement and therefore they object to this application.

## PUBLICITY

The application was publicised by way of a site notice displayed on the Public Highway, and neighbour notification letters were sent to properties immediately adjacent to the site.

## REPRESENTATIONS

One letter of representation has been received from a local resident, objecting to the application on the following grounds:

- It would not be short-term lets as it is available all year round on websites;
- There was previous enforcement action against use as a holiday let;
- Question whether the Emergency services are able to access the building or be within reach of a fire hydrant; and whether the proposal meets Building Regulations.

## REPORT

### Principle of Development

The National Planning Policy Framework seeks to support a prosperous rural economy, and amongst other things, Paragraph 83 states that planning decisions should enable sustainable rural tourism and leisure developments which respect the character of the countryside.

Policy CS4 of the Adopted Core Strategy states that the Council and its partners will protect and enhance key existing tourist and visitor facilities and will promote suitable new tourist development in appropriate locations, in order to increase the range, quality and type of facilities available. Furthermore, in support of Policy CS5, Core Strategy Paragraph 6.23 also highlights that *“Braintree District covers a large rural area, which contains nearly 50% of its residents. The Council supports protecting the countryside and maintaining the viability of agriculture, small businesses, farm diversification and rural tourism and seeks to expand rural enterprise in line with the recommendations of the Essex Rural Commission Report in 2009.”*

Policy RLP146 of the Adopted Local Plan states that within the countryside, the conversion of existing buildings for tourist accommodation will be encouraged in preference to the construction of new buildings.

Consequently, there is strong policy support for the proposed change of use, which is of benefit to the local economy.

## Design, Appearance and Layout

Paragraph 124 of the NPPF states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

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'*. This is supported by Policy RLP90 of the Adopted Local Plan and these sentiments are also reflected with Policies SP6, LPP37, LPP50 and LPP55 of the Draft Local Plan which are concerned with place shaping principles, housing type and density, the built and historic environment and the layout and design of development.

The subject building has been substantially complete for over 10 years, nonetheless it has been designed and built in a manner which is sympathetic to the Essex vernacular with plain tiles to the roof and black weatherboarding to the elevations. It appears to have been constructed to a good standard and in overall scale and form it is modest in its appearance. The building has its own private parking area and separate rear garden with decking.

The holiday let is located at the end of a long drive and is behind existing established housing along Colchester Road, a public footpath runs along the river corridor to the south, but overall public views of it are limited and it does not appear as an unexpected incidence within the rural scene.

The Historic Buildings Consultant highlights that the host property, Toad Hall, is located within the White Colne Conservation Area, however the boundary for the Conservation Area excludes part of the property's garden and the building this application refers to. In this case, the building is deemed to not cause harm to the Conservation Area due to its size and function. Access is maintained along existing routes to the host property and there is no harm to any important viewpoints. Consequently, it is considered that the proposal would preserve the character and appearance of the Conservation Area and its setting.

The Parish Council have stated that the building is outside the village envelope and as such does not conform to the village design statement and therefore they object to this application. S38(6) of the Planning and Compulsory Purchase Act states that where in making any determination under the Planning Acts, regard is to be had to the Development Plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise. The proposal is in accordance with the Development Plan and whilst the White Colne Village Design Statement is a material consideration in the determination of this planning application, it does not outweigh the statutory status of the Development Plan.

### Impact on Neighbour Amenity

Paragraph 127 of the NPPF states that planning decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. This is supported by Policy RLP90 of the Adopted Local Plan which states that '*there shall be no undue or unacceptable impact on the amenity of any nearby residential properties*'. The Draft Local Plan Policies have similar objectives as those set out in the Adopted Local Plan.

The building is located some distance from the shared rear boundaries with the nearest residential properties which front onto Colchester Road with back-to-back distances of around 60m. Therefore, there would be no material loss of light, outlook or privacy upon nearby residents, whose living conditions would be protected by the proposal.

Furthermore, due to the location of the patio and garden area, the main external activity would be at the rear of the building (south), on the far side from the adjoining properties. Therefore, by virtue of the degree of separation, with the subject building intervening as an acoustic buffer, the proposed use would not likely give rise to a material level of noise or disturbance. It is also noted that there have been no reports of anti-social behaviour since the use began approximately 12 months ago.

In addition, the access driveway is long (around 140m) and is located close to the rear boundaries of the properties fronting onto Colchester Road, however, with a maximum of 2 vehicles likely to be visiting the building during any one booking, it is also considered that there would be no significant noise or disturbance relating to traffic.

Therefore, it is considered that the proposal would protect the amenities of the occupiers of nearby dwellings, in compliance with the policies referred to above.

### Highway and Transportation

The vehicle access is shared with Toad Hall which leads to and from the public highway at Colchester Road. There is sufficient parking provision for two vehicles at the application site, in compliance with the Council's adopted parking standards. The site also has an electric vehicle charging point.

The site is located in close proximity to existing Public Rights of Way, including within the Colne Valley, and within easy reach of lightly trafficked country lanes. No objections have been raised by the Local Highway Authority and consequently it is considered that the proposal is sustainable in terms of its accessibility.

## Other Issues

A third party has stated that the proposal would not be short-term lets as it is available all year round on websites. However, short-term let means the length of time guest/s reside in the building, not the duration that it is available on the market to hire i.e. it could be booked out for the full 12 months of a year, but let to a multitude of people during that period. However, it is considered prudent to control the length stay by guests through the imposition of a condition. This will ensure that it remains as a holiday let and does not become a permanent residential dwelling.

The third party also question whether the Emergency services are able to access the building or be within reach of a fire hydrant; and whether the proposal meets Building Regulations. However, this is not a determining factor for the assessment of this planning application, with the Building Regulations being a separate statutory regime.

## PLANNING BALANCE AND CONCLUSION

The application site lies outside the White Colne Village Envelope as designated in the Adopted Local Plan and is located outside, but to the south and west of the White Colne Conservation Area. There are no other specific designations on the site in the adopted Development Plan. The Draft Local Plan proposals map for White Colne shows the same.

The application site comprises a detached timber weatherboarded building, built sometime between 2006 and 2009. It replaced another building which was associated with the former use of the land that surrounds it as a vineyard. This land is contiguous with the residential curtilage of Toad Hall, a detached dwelling within the ownership and control of the applicants.

It is clear that the building has been in situ for in excess of 4 years and therefore, pursuant to Section 171B of the Town and Country Planning Act 1990 (as amended), is deemed lawful. However, the documented use of the application building is unclear, and whilst it appears that at times it has been used for quasi-residential purposes, such as to provide accommodation for the applicant's friends and family, no firm evidence has been submitted to this effect.

Therefore, planning permission is sought for the change of use of the building to a short-term holiday let, for which there is strong policy support both at the National and Local level.

It has been demonstrated above that the scheme would not give rise to harm to the character of the surrounding countryside, and that it would preserve the character and appearance of the setting of the White Colne Conservation Area.



No material harm would be caused to the residential amenities of neighbouring dwellings, and it would not give rise to issues of highway safety, with it accessible by sustainable means of transportation.

As such, taking into account the above, it is considered that the proposal would provide some economic benefits which weighs in favour of the application. Given the limited environmental harm that has been identified, it is considered that the benefits of the proposal outweigh the harms identified, subject to the inclusion of a suitable condition to effectively restrict the use of the building as a holiday let.

### RECOMMENDATION

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

### APPROVED PLANS

Block Plan	Plan Ref: 02
Existing and Proposed Plans	Plan Ref: 03
Photograph	Plan Ref: 04
Location Plan	Plan Ref: 01

- 1 The accommodation hereby permitted shall be used only for holiday accommodation purposes and shall not be occupied by any leasee, tenant or guest for any period exceeding 28 days consecutively.

#### Reason

The site lies in a rural area where development other than for agricultural and other rural purposes is not normally permitted.

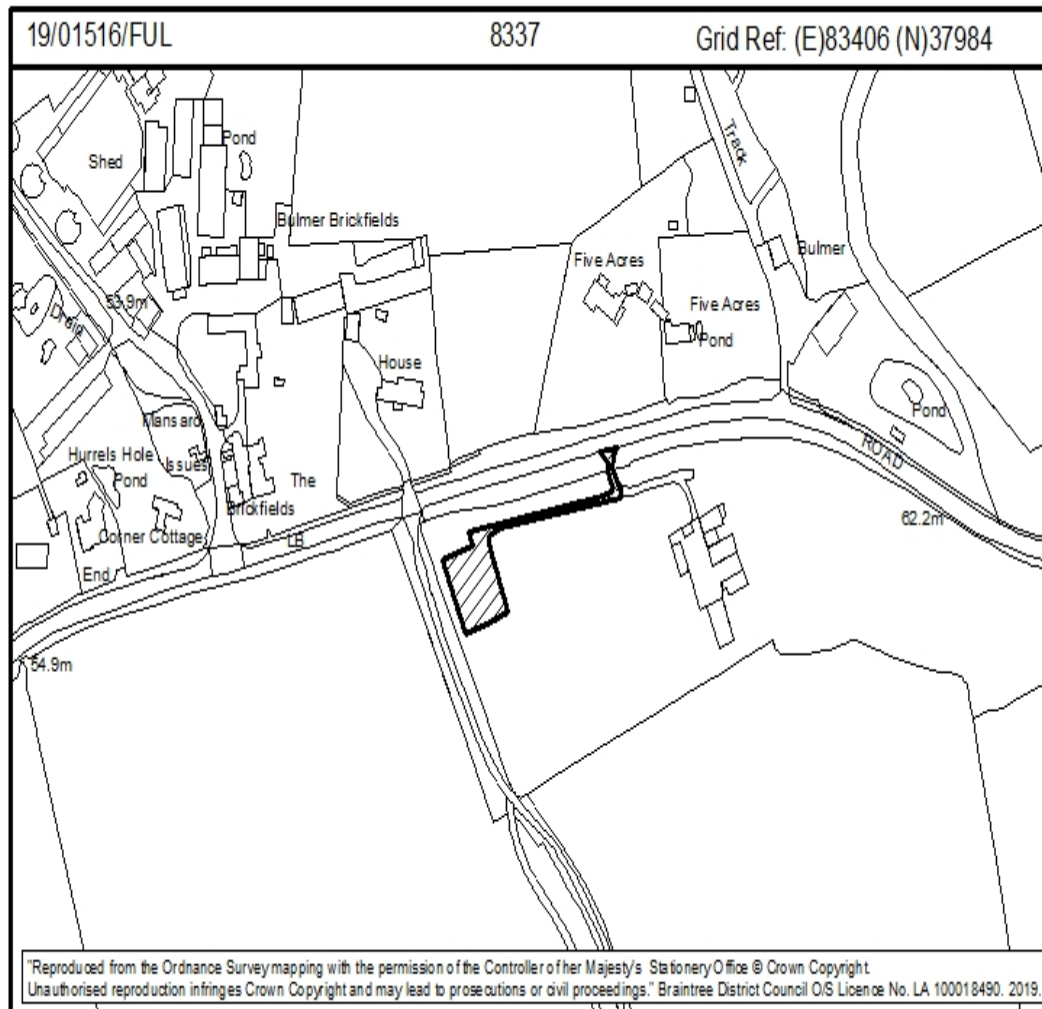
CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

PART A

AGENDA ITEM NUMBER 5b

APPLICATION NO: 19/01516/FUL  
DATE: 16.08.19  
VALID:  
APPLICANT: Mr E Whittle  
C/O Acorus Rural Property Services, 10 Risbygate Street,  
Bury St Edmunds, IP33 3AA, United Kingdom  
AGENT: Acorus  
Mrs Vicky Pike, The Old Market Office, 10 Risbygate Street,  
Bury St Edmunds, IP33 3AA  
DESCRIPTION: Proposed agricultural building  
LOCATION: Land South Of, Hedingham Road, Bulmer, Essex

For more information about this Application please contact:  
Kathryn Oelman on:- 01376 551414 Ext. 2524  
or by e-mail to: [kathryn.oelman@braintree.gov.uk](mailto:kathryn.oelman@braintree.gov.uk)



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PWBI7NBF11500>

## SITE HISTORY

18/00051/REF	New vehicular access		
18/00087/REF	Erection of storage and workshop building.	Appeal Dismissed	01.02.19
18/00210/FUL	Erection of storage and workshop building.	Refused	08.06.18
18/00211/FUL	New vehicular access	Refused	08.06.18
18/01487/FUL	Erection of agricultural storage building and new vehicular access.	Withdrawn	09.10.18
18/02145/FUL	Erection of agricultural storage building and new vehicular access	Withdrawn	02.04.19

## POLICY CONSIDERATIONS

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

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

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

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- Option 1 – Remove the Garden Communities proposals from the Section 1 Plan at this stage, and commit to submitting a partial revision of Section 1 for examination by a defined time.

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

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

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

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

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

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

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

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

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

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

#### National Planning Guidance

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

#### Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP56	Vehicle Parking
RLP80	Landscape Features and Habitats
RLP89	Agricultural Buildings
RLP90	Layout and Design of Development

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

CS5	The Countryside
CS8	Natural Environment and Biodiversity
CS9	Built and Historic Environment

#### Braintree District Publication Draft Local Plan 2017

SP1	Presumption in Favour of Sustainable Development
SP6	Place Shaping Principles
LPP1	Development Boundaries
LPP8	Rural Enterprise
LPP45	Parking Provision
LPP50	Built and Historic Environment
LPP55	Layout and Design of Development
LPP71	Landscape Character and Features

#### Neighbourhood Plan

None

#### Other Material Considerations

None

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

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

## SITE DESCRIPTION

The site is an agricultural field located south of Hedingham Road in an area of countryside close to Bulmer. The red line site area is confirmed to be 667sq.m (0.07ha) as opposed to the 2ha as stated on the application forms.

The site is bordered to all sides by hedgerows with trees. To the east lies agricultural fields containing a complex of agricultural sheds which are in separate ownership. To the west lies a Public Right of Way and an access track to Butler's Hall Farm. On the opposite side of the road, to the north, lies a number of residential dwellings including Five Acres, Stanley and Brickfields. The land slopes gently upwards to the south with open countryside beyond.

## PROPOSAL

The proposal is to erect an agricultural building measuring approximately 12.3m long by 9m wide, 3.6m to eaves and 4.3m to ridge to be used for agricultural purposes. The building would contain an open hay storage area and an enclosed area for storage of machinery etc.

The applicant's planning statement explains that the building is principally required to support the existing hay making enterprise which operates from the site. The applicant currently harvests hay from land owned by the applicant and adjacent land in separate ownership. The absence of dry storage affects the quality of the hay, yield and how long it can be kept for. The applicant has temporarily stationed shipping containers on the site for storage, but has agreed to remove these if the new building is granted permission.

The proposed building would also be used to store feed and equipment associated with hens kept on the land. The applicant has agreed to a limiting condition which would prevent the new building being used to house livestock.

## CONSULTATIONS

### ECC Highways

*Comment that "Having considered the information submitted and given the application does not alter and existing access to the highway, or intensify the use of the access, the highway authority does not wish to raise an objection to the above proposal".*

### BDC Environmental Health

No objections provided the building is only used for storage and not for grain drying. Condition recommended to limit the hours of construction.

## PARISH / TOWN COUNCIL

Object to the proposal, their comments are summarised below:

- Not necessary for agriculture
- Contrary to RLP2 & CS5
- Reasons for dismissed appeal (application ref.18/00210/FUL) are still relevant and nothing has changed
- Conflict in description of materials proposed
- Access located on bend which is accident blackspot

## REPRESENTATIONS

4no. letters of objection have been summarised below:

- Principles upon which appeal to 18/00210/FUL was dismissed still apply
- Need for permanent solution for hay storage is not justified
- Site has not been used for haymaking since 2004 and no pigs present
- Business too small to be viable
- Little haymaking on land given other agricultural uses subsisting
- If haymaking occurred this year there was no storage, therefore no need
- Equipment from groundworks business being stored on the site
- No contribution to rural economy
- Adjoining land in different ownership has several suitable buildings for hay storage
- Differing information provided on materials (Planning Statement v's Forms)
- Conflict with application reference 19/01380
- Unsafe access, tight bend, poor visibility
- Accident occurred at entrance on 6.9.19
- Too close to neighbour, Stanleys
- Height of building will cause it to be overbearing
- Noise and disturbance from machinery

One letter of support has been summarised below:

- Associated holding yields 321 bales of hay for which the applicant is required to store as part of maintenance contract and this could increase if further cuts are made earlier in year
- Machinery needs to be kept secure
- Building is modest in size and will not be overbearing
- Not close to neighbours and screened by vegetation
- Materials are in keeping with rural setting
- Further screening could be required to mitigate any perceived visual impact
- Established business with justifiable need for building

- Access regularly used by machinery and no accidents to date

## REPORT

### Principle of Development

Paragraph 83 of the National Planning Policy Framework (NPPF) is generally supportive towards the provision of ‘well-designed’ new buildings in rural areas where they would support the sustainable growth and expansion of all types of rural businesses. Policy RLP89 of the Adopted Local Plan requires that new agricultural buildings in the countryside should be of a scale and design that is sympathetic to their surroundings in terms of scale, materials, colour and architectural detail.

Policy CS5 of the Adopted Core Strategy states that in areas of countryside development will be strictly controlled to those uses appropriate to the countryside. In this case, the agricultural use has the potential to be appropriate provided it protects the landscape character and amenity of the countryside. The adopted policies do not contain a requirement to demonstrate a need for the agricultural building proposed.

The use of the proposed building, as it would be conditioned, would remain consistent with the existing agricultural use of the site. A small retail element has been witnessed in operation at the site, for example the selling of eggs and hay. At present this commercial use appears incidental to the primary use of the site as an agricultural unit. The building proposed would be required for agricultural storage only and therefore could not be used to contain a retail or commercial use; planning permission would be required if this situation changed. Therefore the proposed building would not create any new uses on the land which would not otherwise be capable of existing without it. The proposal is not therefore deemed to fall under the jurisdiction of Policy LPP8 of the Draft Local Plan and this policy carries limited weight at this time.

A proposal for a building of unrestricted storage and distribution use was refused and then dismissed at appeal in 2019 in connection with a related application for a new access (Application References 18/00210/FUL & 18/00211/FUL – attached as an Appendix to this report). The principle of a B8 use was considered unacceptable by the Inspector, but this differs from the agricultural use proposed here. It is noted however that the Inspector also raised concerns regarding the scale and appearance of the building and the cumulative urbanising impact of the development proposed at the time.

### Design and Appearance

The dimensions of the building currently proposed would be reduced in comparison to the building previously dismissed at appeal (this building was 10m wide x 20m long, 3.5m to eaves and 4.5m to ridge). It is considered that the proposed scale of the revised building would be acceptable given its set back from the road and partially open construction, provided its height is not set relative to the highest part of the site. Given the slope of the land, a



condition is applied requiring approval of relative levels and an informative is included to encourage the building to be set-in to the ground rather than built up.

It is noted that the existing hedgerow which lies outside the red-line site is not proposed to be removed and that the building would be sufficiently modest in scale as to be fundamentally acceptable in this context. It is noted that the site is relatively well contained and the proposed building would not be prominent in distance views from the surrounding landscape.

A conflict has been identified between the materials stated on the application form and those on the drawings/in the planning statement. The timber boarding and a fibre cement / profile tin roof that are proposed have the potential be in keeping with the existing agricultural buildings adjacent or materials commonly used elsewhere in the surrounding area; further details are required to be submitted via a condition to ensure their finished appearance is acceptable. Reference is made via an informative note to an email from the agent who has agreed to use dark stained timber weatherboarding for the walls and a similar finish for the roller shutter door.

#### Impact on Neighbouring Residential Amenities

The proposed building would be located at least 25m from the closest property, Stanley, which is located on the opposite side of Hedingham Road, and a greater distance from Butler's Hall Farm to the south. The agricultural storage use is consistent with the existing use of the site and scaled to serve the existing operation. Conditions are applied to prevent activities occurring which may give rise to unacceptable noise, disturbance or odours, such as grain drying or the housing of livestock. The Council's Environmental Health department have raised no objections to the proposal.

#### Highway Considerations

The existing access would remain in place and no additional vehicle trips are proposed in connection with the building. It is judged that this development would not lead to an intensification of use over and above that which could already occur on the site without planning permission and, on that basis, it would not be reasonable to refuse this proposal on highway safety grounds.

#### Other Issues

The economic contribution and viability of the existing business is not known and is not a relevant material consideration in this case. Adopted and emerging policies do not contain a requirement for the viability of the business to be judged. Whilst the economic contributions may not be significant, they are not negative, and this issue should not prove influential to the planning balance in this case.

Recently an application was made for change of use to residential for the agricultural buildings on the adjacent land to the east (reference 19/01380).

The applicant sold these buildings and land prior to this application being made, but continues to harvest hay from land around these buildings on behalf of the new owner. This application was withdrawn. Letters of representation have raised concerns that the arguments made in this current case, and in relation to application 19/01380 are not consistent, however these arguments do not affect the key planning principles upon which this application should be judged.

### CONCLUSION

The proposal is compliant with policy and would not result in significant adverse impacts, therefore is recommended for approval.

### RECOMMENDATION

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

### APPROVED PLANS

Location / Block Plan	Plan Ref: Whittle S1
Proposed Plans	Plan Ref: Whittle PLEL1

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

#### Reason

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

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

#### Reason

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

- 3 Notwithstanding the submitted details, construction of the hereby approved agricultural building shall not take place above slab level until details of all external materials, together with their colour and finish, have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details and thereafter retained as such.

#### Reason

To ensure an appropriate choice of materials having regard to the location of this site in a rural area and to ensure that the choice of materials will harmonise with the character of the surrounding area.

- 4 Notwithstanding the submitted details, the hereby approved building shall only be used for agricultural storage and not for any other purpose, furthermore the building shall not be used for the drying of grain or the accommodation of any form of livestock.

Reason

In the interests of amenity and protection of the local environment.

- 5 No site clearance, demolition or construction work shall take place on the site, including starting of machinery and delivery of materials, outside the following hours:  
Monday to Friday - 08:00-18:00 hours  
Saturday - 08:00-13:00 hours  
Sunday - No work  
Bank Holidays - No work

Reason

In the interests of amenity, in order to prevent noise and disturbance to the occupiers of properties situated opposite the site.

- 6 Notwithstanding the submitted details, prior to commencement of development, details which show the relative finished heights of the building expressed as an ordnance datum relative to existing ground levels on the site or the carriageway adjacent shall be submitted to and approved by the local planning authority. The development shall only be carried out in accordance with the approved details.

Reason

In the interests of visual amenity, the necessary details were not submitted with the application. It is considered that, if the height stated on drawing reference WHITTLE PLEL1 is set according to the highest ground level on site, this would result in a building which is unduly prominent and excessive in scale given its rural context.

### INFORMATION TO APPLICANT

1 It is advised that further details to be submitted in compliance with condition 3 of this consent should accord with the principles set out in email from henry.dobble@acorus.co.uk dated 10 January 2020 at 17:25: notably the proposed materials for the walls of the building should be timber weatherboard, finished with a dark paint or stain, and the roller shutter door finished in a colour to match.

2 Condition 6 has been applied to ensure the height of the building is not set according to the highest ground levels on site. It is therefore advised that the finished floor level of the building should not be excessively built-up at its most northern extent, where the ground is lower. This may require the

building to be set-in to the ground in the south where the land rises in order to obtain a suitable relative height overall and thus limit the visual impacts to an acceptable level.

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

## PART A

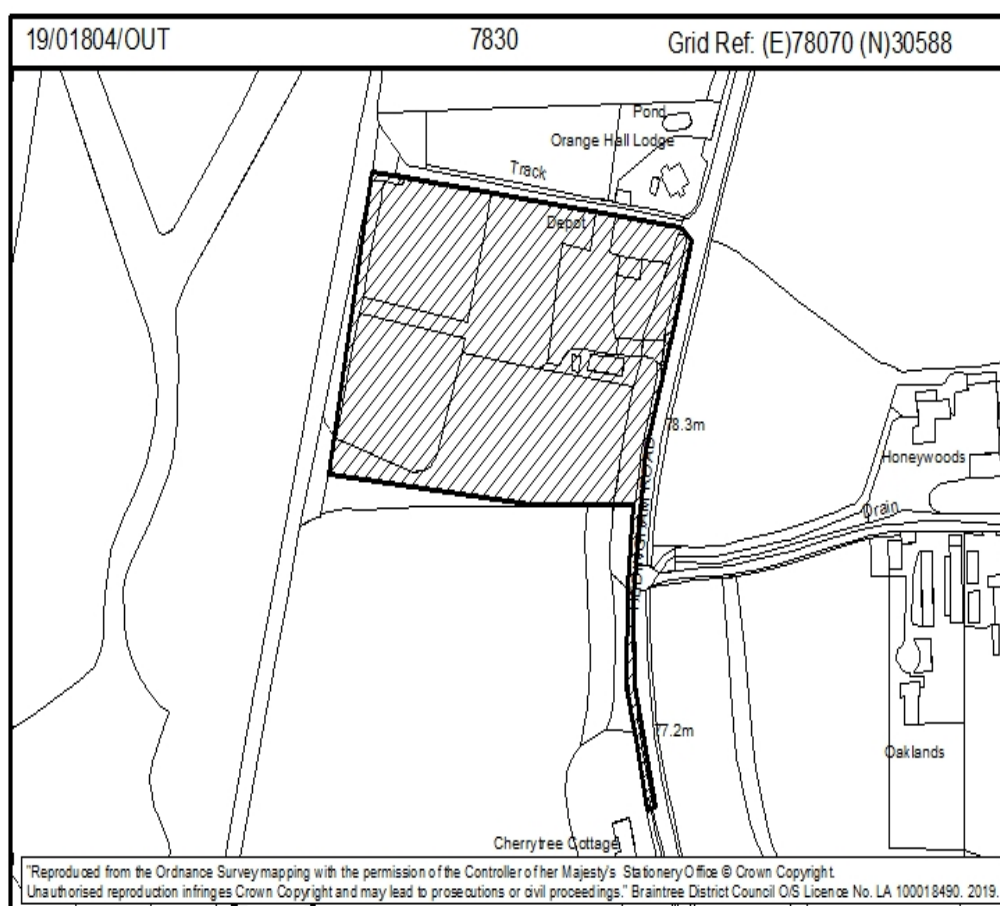
## AGENDA ITEM NUMBER 5c

APPLICATION NO: 19/01804/OUT  
DATE VALID: 02.10.19  
APPLICANT: Mr Terry Marfleet  
C/O Phase2 Planning, 270 Avenue West, Great Notley, CM77 7AA  
AGENT: Mr Michael Calder  
270, Avenue West, Great Notley, CM77 7AA  
DESCRIPTION: Outline planning permission with all matters reserved apart from access for a new residential development comprising of up to 23 dwellings alongside associated works.  
LOCATION: Former Oil Depot, Land West Of, Hedingham Road, Gosfield, Essex, CO9 1PN

For more information about this Application please contact:

Melanie Corbishley on:- 01376 551414 Ext. 2527

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



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PYP5YZBFI/RA00>

## SITE HISTORY

19/00100/REF	Residential development of 8 new dwellings, associated parking and landscaping to replace existing industrial buildings and hardstanding on Land at Hedingham Road, Gosfield, Essex		
89/00905/	Erection of new stores, proposed car park and barrel ramp and demolition of small store.	Granted	20.06.89
89/00905/P	Erection Of New Stores, Proposed Car Park And Barrel Ramp And Demolition Of Small Store	Granted	19.06.89
93/00869/FUL	Relocation of two horizontal cylinder tanks. Removal of earth banks and replacement with concrete walls. Replacement and relocation of vehicle loading gantry	Granted	02.08.93
04/02438/MIN	Change of use to waste transfer station/recycling centre including new sorting shed, re-use of currently redundant buildings and use of land for concrete crushing and soil recycling	Withdrawn	06.04.05
05/01495/ECC	Change of use to waste transfer station/recycling centre including new sorting shed re use of currently redundant buildings and use of land for concrete crushing	Deemed Refused	18.10.05
17/01607/FUL	Proposed development of 40 no. new residential dwellings	Refused	11.12.17
18/01255/FUL	Residential development of 8 new dwellings, associated parking and landscaping to	Refused	31.01.19

replace existing industrial  
buildings and hardstanding  
on Land at Hedingham  
Road, Gosfield, Essex

## POLICY CONSIDERATIONS

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

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

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

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

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### National Planning Guidance

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

### Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP9	Design and Layout of Housing and Mixed Use Areas
RLP10	Residential Density
RLP35	Non-Conforming and Un-Neighbourly Industry
RLP49	Pedestrian Networks



RLP51	Cycle Parking
RLP53	Generators of Travel Demand
RLP56	Vehicle Parking
RLP64	Contaminated Land
RLP65	External Lighting
RLP69	Sustainable Urban Drainage
RLP71	Water Supply, Sewerage & Drainage
RLP74	Provision of Space for Recycling
RLP80	Landscape Features and Habitats
RLP81	Trees, Woodland Grasslands and Hedgerows
RLP84	Protected Species
RLP90	Layout and Design of Development
RLP93	Public Realm
RLP138	Provision of Open Space in New Housing Developments

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

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

#### Braintree District Publication Draft Local Plan 2017

SP1	Presumption in Favour of Sustainable Development
SP6	Place Shaping Principles
LPP1	Development Boundaries
LPP33	Affordable Housing
LPP34	Affordable Housing in the Countryside
LPP45	Parking Provision
LPP55	Layout and Design of Development
LPP67	Natural Environment and Green Infrastructure
LPP68	Protected Species, Priority Spaces and Priority Habitat
LPP69	Tree Protection
LPP70	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP71	Landscape Character and Features
LPP78	Flooding Risk and Surface Water Drainage
LPP79	Surface Water Management Plan
LPP80	Sustainable Urban Drainage Systems
LPP81	External Lighting

#### Neighbourhood Plan

None

## Other Material Considerations

### Essex Design Guide

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

### Essex Parking Standards

## INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

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

## SITE DESCRIPTION

The application site comprises 1.65ha of a large, rectangular area of land located to the western side of Hedingham Road, Gosfield. Part of the site was formerly used as the oil depot for the adjacent airfield and was used for the storage of containers and materials. There were items stored on the site along with a significant amount of broken concrete at the time of the Officer site visit. Notwithstanding, this part of the site can reasonably be regarded as previously developed land. The western (rear) portion of the site remains undeveloped. The trees across the frontage of the site are protected by way of a Tree Preservation Order (REF: TPO 1/22-A2).

The site is served by an access off Hedingham Road and this is to be utilised for the proposed development. The site does not adjoin existing residential development, other than Orange Hall Lodge, a detached property immediately to the north of the site. The site backs on to a public footpath (Public Right of Way), which is also an unmade road and beyond this the Gosfield Airfield and associated commercial operations.

## PROPOSAL

This application seeks Outline Planning Permission, with all matters reserved except access, for the development of up to 23no. dwellings along with associated works.

All matters are reserved with the exception of the main vehicular site access which would be from Hedingham Road and includes a new pedestrian footway link south along Hedingham Road.

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

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

- Design and Access Statement
- Flood Risk Assessment
- Transport Assessment
- Dormouse Survey letter
- Phase 1 Habitat Survey and Great Crested Newt Survey
- Arboricultural Impact Assessment
- Planning Statement
- Indicative Layout Plan
- Drainage Plans and SUDs supporting information
- Land Contamination Assessment
- Accommodation Schedule
- Cycle Catchment Plan
- Housing Need Study
- Walk catchment and local facilities plan

The density of the development would be approximately 13.9 dwellings per hectare over an area of 1.65ha. The development framework plan also indicates children's play area, boundary planting, landscaping and SuDS features.

### CONSULTATIONS

#### SUDs Approval Body ECC

No objection – conditions suggested.

#### BDC Ecology

No objection subject to securing:

- a) Biodiversity mitigation and enhancement measures
- b) Lighting Strategy

#### BDC Environmental Health

No objection. Conditions suggested regarding hours of work, no piling, no burning, submission of a dust and mud control management scheme and contaminated land conditions.

#### BDC Waste Services

Additional information required to judge the feasibility of the waste collections for a number of the plots. The driveway needs to be maintained to a standard similar to adopted highway, and BDC needs written assurance it will not be accountable for damage claims to the driveway. Households on plots 4 and 5 will need to bring their waste towards the main driveway, at least beyond plot 6, on collection days.

#### Anglian Water

Records show that there are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary. The foul drainage from this development is in the catchment of Gosfield Water Recycling Centre that will have available capacity for these flows. Requests informatives regarding sewerage.

#### Historic Buildings Consultant

From a built-heritage perspective, a development which employs the careful and sympathetic approach to design as indicated in the Design and Access Statement, may be feasible at this site. However, no Heritage Statement document accompanies the application. Therefore, the level of impact of a development of this size, with twenty-three new dwellings and associated works, upon the historic rural setting of the nearby heritage assets and non-designated heritage assets has not been assessed.

Paragraph 198 of the NPPF states that in determining applications local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting, in order that the potential impact of the proposal on the significance of the assets can be understood. Therefore the Historic Buildings Consultant is unable to reach a decision regarding this application at this stage.

#### Environment Agency

No objection, subject to the imposition of conditions regarding contamination.

#### ECC Education

Financial contributions requested for additional Early Years and Childcare of £36,064.

#### Ramblers Association

No comments received.

#### ECC Highways

From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to conditions requiring the submission of a Construction Management Plan, provision of a footway at the site frontage, from the access to the south to join with the existing footway provision by Cherrytree Cottage and the provision of a residential travel pack for each dwelling.

### BDC Landscape Services

No comments received.

### BDC Housing Research and Development

No objection- suggestions made with regards the housing mix.

### PARISH COUNCIL

Objected on two main grounds.

- 1 Although it could be classified as a brownfield site, there were other considerations which had to be taken into account which could have priority over the preference for developing brown field sites.
2. The site is remote and has no connection with other settlements.

### REPRESENTATIONS

No comments received.

### Background

An application for 40 no. dwellings was refused by the Planning Committee in December 2017 (Application Reference 17/01607/FUL refers). This application was refused for four different reasons, including: unsuitable and unsustainable location for new residential development, an unnatural enlargement of Gosfield, incompatible suburban layout not sympathetic to countryside location; failure to demonstrate that the intensification of the vehicular access can be safely accommodated; failure to demonstrate that surface water run-off has been sufficiently accommodated; and failure to complete a S106 agreement to secure affordable housing and financial contributions towards public open space, early years and childcare and primary school provision.

A further application for 8 dwellings was refused by the Planning Committee in January 2019, (Application Reference 18/01255/FUL refers). This application was refused for two reasons for refusal including: unsuitable and unsustainable location for new residential development, an unnatural enlargement of Gosfield, incompatible suburban layout not sympathetic to countryside location; and failure to complete a S106 agreement to secure affordable housing and financial contributions towards public open space, early years and childcare and primary school provision.

A subsequent appeal against this refusal is currently being considered by the Planning Inspectorate.

## Principle of Development

### National Planning Policy Framework (NPPF)

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

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

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

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

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

### The Development Plan

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

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

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

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

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

### 5 Year Housing Land Supply

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

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

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

The Council has reviewed the position in respect of the 10 sites which the Secretary of State did not include. The Secretary of State has not explained

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

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

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

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

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

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



## SITE ASSESSMENT

### Location and Access to Services and Facilities

Paragraph 78 of the NPPF states that in order to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.

Paragraph 79 of the NPPF states that planning policies and decisions should avoid isolated new homes in the countryside unless there are special circumstances.

The application site is located adjacent to a dwelling known as Orange Hall Lodge, and to the west of a cluster of dwellings along the access road that serves Shardlowes Farm. Whilst this small cluster of buildings and eight dwellings does not constitute a settlement or village as outlined above, it does mean that the new dwellings would not be isolated in the context of the recent Court of Appeal decision.

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

Policy CS7 of the Adopted Core Strategy states that future development will be provided in accessible locations to reduce the need to travel. Gosfield is an 'other village' within the settlement hierarchy within the Adopted Core Strategy. The Draft Local Plan classes the village as 'third tier'. These are the smallest villages in the District and lack most of the facilities required to meet day to day needs. They often have very poor public transport links and travel by private vehicle is usually required. When considering the tests of sustainable development, these will not normally be met by development within a third tier village.

Notwithstanding the settlement hierarchy it is necessary to consider the amenities/facilities that are available within the village. Gosfield has a primary school, private school, public house, village shop and a small retail offer, recreational ground, social club, tennis club, golf club and a church. The village is served by the No.38/38A and No.352 bus services. The No.38 bus service provides links to Halstead, Braintree, Witham, Cressing, Silver End and Rivenhall and is a ½ hourly service Monday to Saturday. The No.352 service links to Halstead, Braintree, Great Leighs, Chelmsford (including train

station) and Broomfield Hospital. This service runs twice a day Monday – Saturday during the evening (19:00 – 23:00) and every 2 hours on a Sunday between 10:00 and 20:30.

Gosfield does have a variety of amenities and facilities; however the site is located beyond the settlement limits, is disconnected from the village centre and is not within a reasonable walking distance of the site.

Officers acknowledge that a recent appeal decision granted planning permission for a new dwelling in the side garden of a dwelling known as Canberra. This site is located on Hedingham Road, approximately 240m to the south of the entrance of the application site.

The Inspector stated the following:

*‘While beyond the settlement boundary, the appeal site is connected to the village of Gosfield by pavements that run along both sides of Hedingham Road. The speed limit past the site is 40mph before dropping to 30mph at the village sign. As part of the A1017, it is a busy road with larger vehicles including lorries and tractors. At the time of my mid-morning site visit, there were reasonable gaps in traffic although I appreciate this is only a snapshot. The pavements are not especially wide due in part to overgrowing vegetation, but appear safe enough to walk along despite the frequency and proximity of traffic. I observed street lighting between the appeal site and the main part of the village, which indicates that the pavements would be usable after dark.*

*It is around a 5 to 10 minute walk into the centre of Gosfield from the appeal site, which is comparable to other houses on the periphery of the village. The central part of the village contains a primary school, village shop, public houses and bus stops all within walking distance of the site. Based on the timetables, there are frequent bus services throughout much of the week to larger settlements. As a consequence, future occupants of the proposed development would not be overly reliant on the private car to access service and facilities. Thus, there would be little negative social and environmental effects in terms of the accessibility of services and protecting natural resources.’*

Since the appeal decision, a further planning permission has been granted for a new dwelling located in the side garden of a property known as Silverlink, which is adjoined to Canberra. Both properties are served by an existing pavement that runs in to the village.

In terms of location, the application site is located a further 220m out of the village along Hedingham Road from these two sites and there is not currently a safe walking environment from the site. The plans show a new footway on the western side of Hedingham Road, which ECC Highways have assessed and agree could be achieved. However, notwithstanding this, the presence of the Public Right of Way and a proposed footway link fails to satisfactorily address the poor connection of the application site to the village, being located approximately 1km walk from the centre of the village and would result

in an unattractive walk with vehicles travelling at 40mph for approximately 425m of this journey.

Despite the appeal decision at Canberra, and subsequent grant of planning permission at Silverlink, Officers are of the view that development in this specific location would place reliance on travel by car and the specific site circumstances would not encourage sustainable transport choices and this weighs against the proposal in the overall planning balance.

#### Previously Developed Land

Part of the site can be considered to be previously developed land. The NPPF encourages the effective use of previously developed land, provided it is not of high environmental value. This must however be considered in the context of the Framework as a whole. Although broadly the use of brownfield land to deliver housing would be preferable to releasing greenfield sites, when considering a brownfield site it is not the case that all other standards and policies are disregarded. The NPPF does not dictate or presume that the development of brownfield land should be granted planning permission without giving due consideration to all other material considerations, including securing sustainable development. Previously developed land is a consideration and has benefit in terms of sustainability, but it is not the sole determining factor.

To conclude, in terms of the settlement hierarchy in both the Adopted Development Plan and the Draft Local Plan, the site would not be considered a sustainable location for residential development. Furthermore, despite there being facilities within Gosfield village and a regular bus service, the site is disconnected from these despite the introduction of a footway link, and as such it would not encourage sustainable means of travel, such as walking or cycling. This must be a factor in the overall planning balance.

#### Character, Design, Appearance and Layout

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

Paragraph 127 states that planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting. It goes on to state there should be a high standard of amenity for existing and future occupiers

In addition to this, Policy RLP90 of the Adopted Local Plan require designs to recognise and reflect local distinctiveness in terms of scale, density, height and massing of buildings, and be sensitive to the need to conserve local features of architectural and historic importance, and also to ensure development affecting the public realm shall be of a high standard of design

and materials, and use appropriate landscaping. Furthermore it states that there shall be no undue or unacceptable impact on the amenity of any nearby residential properties;

Policy LPP55 of the Draft Local Plan seeks to secure the highest possible standards of design and layout in all new development and the protection and enhancement of the historic environment and that there shall be no unacceptable impact on the amenity of any nearby properties including on privacy, overshadowing, loss of light and overbearing impact.

The Council has adopted the Essex Design Guide as a Supplementary Planning Document. This indicates that dwellings with two bedrooms should be provided with a private rear garden of 50sq.m or more, and three bedroom dwellings should be provided with 100sq.m or more. Furthermore, Policy RLP56 of the Adopted Local Plan requires that sufficient vehicle parking should be provided for all new development in accordance with the Essex County Council Vehicle Parking Standards 2009.

This is an outline application where design, layout and landscaping are reserved matters. The application includes a number of indicative plans that indicate the key aspects of the design and layout, such as access, public open space, landscape features and SuDs features. It is indicated that the density of the development of the whole site of up 23no. dwellings would be 13.9 dwellings/hectare. The dwellings are a mixture of houses and flats.

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

Notwithstanding the above, the application site is located beyond the village settlement and also divorced from the existing development. At this point along Hedingham Road, existing development is entirely separate from the main settlement being sporadic in individual or semi-detached plots. The site is detached and poorly related to the settlement and the development would result in an enclave of housing unrelated to the village and fails to integrate into its setting. A development of this scale in this location would be completely at odds with the character of the settlement and impact upon the amenity afforded to the countryside by introducing residential units beyond settlement limits in a rural location whereby residential development is intermittent. Despite the brownfield nature of part of the site, it is not heavily developed with buildings or infrastructure. The residential development of the site and the introduction of the new footway link would urbanise the rural approach into and out of the village and result in an unwarranted intrusion into the countryside.

The Design and Access Statement suggests that the site layout has been carefully designed to blend the development into the village context. Officers disagree and consider the design and layout has no sense of place nor a character which reflects either the village of Gosfield or has any sympathy to

the countryside location. The proposed development is suburban in arrangement and architectural style which is not reflective of the context in which it would be situated and is unsympathetic to the rural attributes of the site. The site is not suitable for the suburban development this proposal creates. Furthermore the development at depth is out of character with the immediate locality where development is much less concentrated than within the settlement limits.

Whilst layout is a matter for consideration at a later date Officers are concerned about the indicative layout proposed, in particular the parking layout for the affordable units. The entrance to this portion of the site is dominated by car parking which would result in a poor level of amenity for the future occupiers. Furthermore the parking for plot 20 lies within the garden of plot 19 and the parking for plot 21 is antisocially placed in front of plot 20.

The layout would result in a poor outlook for the occupiers of plot 11 due to its orientation and proximity of other properties. The front facing windows of plot 4 would offer views directly in the rear garden of plot 3 and the garden serving plot 12 would be extremely exposed as it is surrounded by public realm and could be overlooked from first floor side windows of plot 3. The rear gardens that serve plots 5 to 9 would all back onto the PRow which would result in private gardens that are vulnerable to insecurity.

As set out earlier in this report, two previous applications have been refused on this site for reasons relation to the disconnected nature of the site and the suburban nature of the proposal which would be at odds with the prevailing character of the nearby countryside. Officers are of the view that the current scheme has not overcome the previous reasons for refusal and to conclude, given the disconnected nature of the site from a settlement, the development of the site for residential purposes would result in an enclave of housing which would be an unnatural and physically separate enlargement of the village and at a scale distinctly at odds with the immediate locality. The proposal by way of the design, layout and introduction of new footway link results in a development which is suburban in character, unrelated and fails to integrate successfully into the countryside location in which it would be situated and cumulatively these weigh against the proposal in the overall planning balance.

Furthermore, as set out above, the indicative layout proposed would fail to provide a sufficient level of amenity for future occupiers. The proposal falls contrary to the abovementioned policies and fails to secure sustainable development in this regard.

#### Impact on Neighbour Amenity

The NPPF requires a good standard of amenity for all existing and future occupiers of land and buildings. Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Draft Local Plan requires no undue or unacceptable impact on the amenity of any nearby residential properties.

The site is well distanced in the main from residential properties, apart from Orange Hall Lodge which is immediately to the north of the application site, but separated by an access road. The proposed development would not give rise to any unacceptable impact on the amenity of this neighbouring property, due to its layout and distance from the neighbouring property.

### Highway Issues

The NPPF requires planning to focus significant development in locations which are or can be made sustainable. Policy CS7 of the Adopted Core Strategy states that the Council will work to improve accessibility, to reduce congestion and reduce the impact of development upon climate change and to this end future development will be provided in accessible locations to reduce the need to travel. The NPPF also requires developments which will generate significant amounts of movement to be supported by a Transport Statement and for decisions to take account of whether i) the opportunities for sustainable transport modes have been taken up and ii) whether safe and suitable access to the site can be achieved for all people.

Policy RLP49 of the Adopted Local Plan states that development proposals will only be permitted where the needs of pedestrians are fully incorporated in to the design and layout. Policy RLP50 of the Adopted Local Plan advises that development proposals will only be permitted where design and layout incorporates routes for cyclists. Policy RLP53 of the Adopted Local Plan states that major new development proposals that are likely to generate significant levels of travel demand will only be permitted where direct public transport services exists or there is potential for the development to be well served by public transport and the layout has been designed to ensure that access to existing or potential public transport lies within easy walking distance.

The application is supported by a Transport Statement, which concludes that the development would have a negligible impact on the local highway network.

ECC Highways are satisfied with the proposal from a highways perspective subject the submission of a construction management plan, provision of a footway at the site frontage from the access to the south to join with the existing footway provision by Cherrytree Cottage and the provision of a residential travel pack for each dwelling, which could be secured by planning condition on the grant of any planning consent.

The sustainability credentials of the proposal and the application site are discussed above.

### Ecology

Policy RLP80 of the Adopted Local Plan and Policies LPP68 and LPP71 of the Draft Local Plan states that proposals for new development will be required to include an assessment of their impact on wildlife and should not

be detrimental to the distinctive landscape features and habitats of the area such as trees, hedges, woodlands, grasslands, ponds and rivers. Development that would not successfully integrate into the local landscape will not be permitted. All new development will be expected to provide measures for any necessary mitigation of their impact upon wildlife and for the creation and management of appropriate new habitats. Additional landscaping including planting of native species of trees and other flora may be required to maintain and enhance these features.

Policy RLP84 of the Adopted Local Plan and Policy LPP70 of the Draft Local Plan states that planning permission will not be granted for development, which would have an adverse impact on badgers, or species protected under various UK and European legislation, or on the objectives and proposals in National or County Biodiversity Action Plans as amended. Where development is proposed that may have an impact on these species, the District Council will require the applicant to carry out a full ecological assessment. Where appropriate, the Planning Authority will impose conditions and/or planning obligations to:

- a) Facilitate the survival of individual members of the species
- b) Reduce disturbance to a minimum; and
- c) Provide supplementary habitats.

The Council's Ecologist has assessed the information submitted in support of the application and is satisfied with the details supplied. Should a recommendation for approval have been made a number of conditions have been suggested by the Ecologist including, development carried out in accordance with the ecological appraisal, submission a badger survey, construction environmental management plan, biodiversity enhancement strategy, wildlife sensitive lighting design scheme and a landscape and ecological management plan.

## OTHER MATTERS

### Heritage Impact

Concerns have been raised by the Council's Historic Buildings Consultant with regards to the impact the development would have on the nearby designated and non-designated heritage assets, in particularly Shardlowes Farm Barn, 250m to the west of the site, Gosfield Hall listed park and garden, 400m to the south of the site and the disused WWII airfield, to the west of the site, in so much as the impact on them has not been assessed rather than an objection in principle to the development of the application site.

This has not been raised as an issue in relation to the two previous applications and therefore given that varying distances between the application site and these assets and that there is no objection to the principle of developing this site in heritage terms, Officers are satisfied that a reason for refusal based on heritage would not be required nor justified in this case.

### Surface Water Drainage

The application is supported by a Flood Risk Assessment which has been revised during the course of the application.

Essex County Council as Lead Local Flood Authority has considered the assessment provided and not does raise an objection. Conditions are suggested by the Lead Local Flood Authority, if the LPA were to approve the development.

### Contamination

The application is supported by a Geo-environmental report which has been reviewed by the Council's Environmental Health Team. The content of the report is considered to be satisfactory. The report outlines the need for further gas monitoring of the site or the provision of gas protection measures. There is some suggestion for the proposed remediation of the site, which the Environmental Health Officer is in broad agreement with, however a more detailed remediation scheme to include details of validation measures is also required. This can reasonably be secured by way of condition on any grant of consent, if the local planning authority were to grant planning permission for the development.

### PLANNING OBLIGATIONS

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

**Affordable Housing** – Policy CS2 of the Adopted Core Strategy states that for developments of this size, affordable housing will be provided on-site with a target of 40% affordable housing provision on sites in rural areas.

In accordance with Policy CS2 of the Adopted Core Strategy, the outline proposal for up to 23 residential dwellings requires 40% to be provided as affordable housing which would equate to 9 affordable dwellings.

**Education** – Financial contribution of £36,064 is sought for Early Years and Childcare.

**Open Space** – Policy CS10 of the Adopted Core Strategy states that the Council will ensure that there is a good provision of high quality and accessible green space. New developments are required to make appropriate



provision for publicly accessible green space or improvement of existing accessible green space in accordance with adopted standards.

The Council's Open Space SPD sets out further details on how these standards will be applied. A development of this size would be expected to make provision on-site for informal and amenity open space and an outdoor equipped play area.

A financial contribution would be sought for outdoor sport and allotments, however exact figures are not known as the application is in outline. There is also a requirement to secure the on-going maintenance of any public open space provided on site. These aspects could be secured through a S106 Agreement.

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

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

The application site subject of this planning application is located outside of the updated Zones of Influence and therefore no appropriate assessment or contribution is required in this case.

#### PLANNING BALANCE AND CONCLUSION

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

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

new Local Plan must add on the backlog from previous years. This will result in a higher 5 year supply requirement.

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

As set out in Paragraph 8 of the NPPF, achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and needed to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives): an economic objective (to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure); a social objective (to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being); and an environmental objective (to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy).

It is acknowledged that the provision of 23 dwellings (14 market and 9 affordable houses) would bring some social benefits. It is also recognised that the building of houses generates economic benefits through the construction process and also the spending power of the residents. This is applicable to housing development generally and the benefit should be given moderate weight only.

In terms of the settlement hierarchy in both the Adopted Development Plan and the Draft Local Plan, the site would not be considered a sustainable location for residential development. Furthermore despite there being facilities within Gosfield village and a regular bus service, the site is disconnected from these, such it would not encourage means of travel, such as walking or cycling, which would weigh against the development.

Given the disconnected nature of the site from a settlement, the development of the site for residential purposes would result in an enclave of housing which

would be an unnatural and physically separate enlargement of the village and at a scale distinctly at odds with the immediate locality. The proposal by way of the design, layout and new footway link results in a development which is suburban in character, unrelated to any settlements and fails to integrate successfully into the countryside location in which it would be situated and cumulatively these weigh against the proposal in the overall planning balance.

Whilst Paragraph 117 of the NPPF encourages the effectively re-use of brownfield land, this is subject to not being in conflict with other policies set out within the Framework.

When considering the planning balance and having regard to the benefits as identified above, and having regard to the requirements of the NPPF as a whole, Officers have concluded that the benefits of this proposal do not outweigh the harm of the proposal and the conflict with the Development Plan. The proposed development does not constitute sustainable development and Officers recommend that planning permission is refused.

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

## RECOMMENDATION

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

- 1 The site is located in the countryside and falls outside of the defined village envelope as identified in the adopted Local Plan Review and adopted Core Strategy. The proposal would introduce 23 no. dwellings in the countryside where development is resisted unless it is sustainable and is located where it will enhance or maintain the vitality of rural communities. Facilities and amenities are beyond reasonable walking distance of the site and development in this location would undoubtedly place reliance upon travel by car and would not encourage sustainable transport options to be made.

In addition the disconnected and divorced nature of the site from the existing settlement results in an enclave of housing which would be an unnatural enlargement of the village and at a scale distinctly at odds with the immediate locality, of harm to the amenity afforded to the countryside location and the character of the settlement. Furthermore the proposal by way of the design, layout and new footway link results in a development which is suburban in character, unrelated to its context and failing to integrate in to the countryside location in which it would be situated and failing to

secure a high standard of design or good level of amenity for future occupiers.

Cumulatively the adverse impacts of the development outweigh the benefits and the proposal fails to secure sustainable development, contrary to the NPPF, Policies RLP2, RLP9, RLP10, RLP80 and RLP90 of the Adopted Local Plan and Policies CS5, CS7, CS8 and CS9 of the Adopted Core Strategy.

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

- A financial contribution towards public open space
- On site open space and maintenance
- On site affordable housing
- A Financial contribution towards Early Years and Childcare

This requirement would be secured through a S106 Agreement. At the time of issuing this decision a S106 Agreement has not been prepared or completed. In the absence of such a planning obligation the proposal is contrary to Policy RLP138 of the Adopted Local Plan, Policies CS10 and CS11 of the Adopted Core Strategy, and the Open Space Supplementary Planning Document (2009).

### SUBMITTED PLANS

Location Plan	Plan Ref: 16/10/201	
Site Plan	Plan Ref: 16/10/202	
Street elevation	Plan Ref: 16/10/203	
Access Details	Plan Ref: 16/10/204	
Drainage Plan	Plan Ref: 1804-162-001	Version: C

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

## PART A

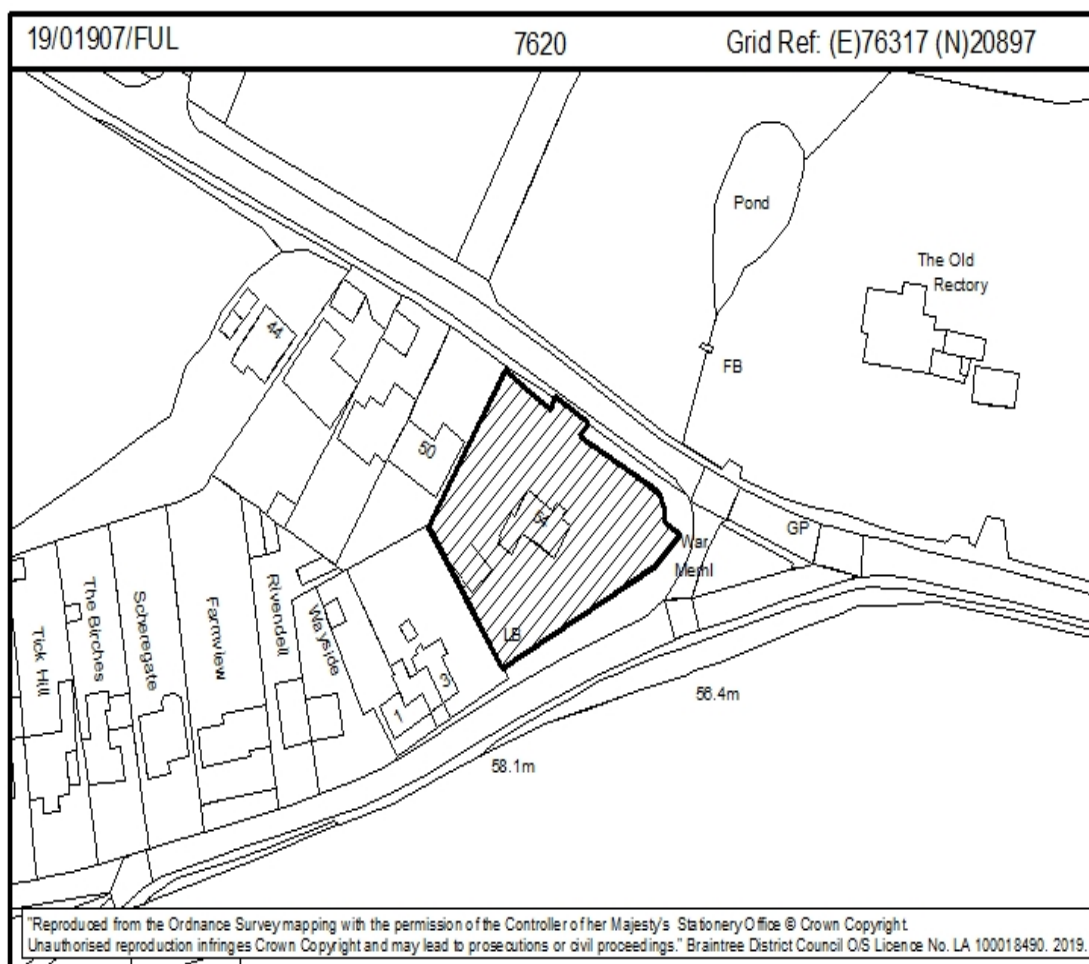
## AGENDA ITEM NUMBER 5d

APPLICATION NO: 19/01907/FUL  
DATE: 18.10.19  
VALID:  
APPLICANT: Mr Jewitt  
4 The Oak, Chapel Hill, Braintree, CM7 3QT  
AGENT: Mr Scott Andrews  
West End Barn, The Street, Rayne, Braintree, CM7 6RY  
DESCRIPTION: Erection of a two-storey 4 bedroom detached dwellinghouse  
LOCATION: 54 Witham Road, Black Notley, Essex, CM77 8LH

For more information about this Application please contact:

Mrs Natalie Banks on:- 01376 551414 Ext. 2545

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



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PZKMVOBF/Z300>

### SITE HISTORY

18/00002/FUL	Proposed single and two storey extensions	Granted	28.02.18
87/01984/P	Proposed double garage	Granted	13.01.88
18/01894/FUL	Erection of a detached single-storey cart lodge/garage	Granted	29.03.19

### POLICY CONSIDERATIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## National Planning Guidance

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

## Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP10	Residential Density
RLP16	Hamlets and Small Groups of Dwellings
RLP56	Vehicle Parking
RLP80	Landscape Features and Habitats
RLP90	Layout and Design of Development
RLP100	Alterations and Extensions and Changes of Use to Listed Buildings and their settings

## Braintree District Local Development Framework Core Strategy 2011

CS5	The Countryside
CS8	Natural Environment and Biodiversity
CS9	Built and Historic Environment

## Braintree District Publication Draft Local Plan 2017

SP1	Presumption in Favour of Sustainable Development
SP6	Place Shaping Principles
LPP1	Development Boundaries
LPP41	Infill Developments in Hamlets
LPP45	Parking Provision
LPP50	Built and Historic Environment
LPP55	Layout and Design of Development
LPP71	Landscape Character and Features
LPP78	Flooding Risk and Surface Water Drainage

## INTRODUCTION/REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is being reported to the Planning Committee in accordance with the Council's Scheme of Delegation as Black Notley Parish Council has objected to the proposal contrary to Officer's recommendation.

## SITE DESCRIPTION

No 54 Witham Road is positioned to the east of the road's junction with Church Road. It is a mid-20<sup>th</sup> Century detached dwelling set on elevated ground within a large plot at the end of a row of similar dwellings. Its rear boundary abuts that of the Grade II Listed Building at No. 3 Church Road. The War Memorial is sited to the west, opposite which is the Grade II Listed



Old Rectory. The site is outside of the Village Envelope in the Adopted Local Plan.

## PROPOSAL

This application seeks permission for the erection of a 2-storey 4-bed dwelling on the land between No. 50 and 54 Witham Road. Revised plans have been submitted to address concerns regarding potential overlooking of existing premises in Church Road. The plans indicate that the new dwelling has been moved forward by 2.0m with the aim of ameliorating the impact on No.3 Church Road and to increase the amenity space for the new dwelling. '45 degree' fixed privacy louvres are also proposed within the reveal of the window serving Bedroom 4 of the proposed dwelling. These louvres would restrict the outlook to the rear amenity space of the new dwelling and block views towards No.3 Church Road and the host dwelling. An additional window on the side elevation is also proposed to provide a means of escape. This would be obscure glazed to avoid any loss of privacy over the host dwelling.

The dwelling would be square-shaped in plan set roughly level with the existing dwellings either side. It would measure approximately 8.2m in height, 11.0m in width and 10.6m in depth. It would have gabled sides with the front roof-slope lower than the rear to provide a sloping porch roof detail. It also features a single flat roofed dormer and roof-light, together with a shallow projecting gable on both the front and rear elevations. There is also a flat-roofed bay window on the front. The materials proposed are brick and render with a plain clay tiled roof.

## CONSULTATIONS

### ECC Highways

No objection, subject to conditions.

### ECC Historic Buildings Consultant

No objection.

### BDC Environmental Services

No objection subject to conditions to during the construction phase.

### BDC Landscape Team

No objections.

## PARISH / TOWN COUNCIL

Black Notley Parish Council objects to the proposal on the grounds that the site is outside the Village Envelope and is not included in the emerging Local

Development Plan so therefore lies in the open countryside and is not within a location for future development.

## REPRESENTATIONS

The adjacent neighbour at No.50 Witham Road objects to the proposal on the grounds that it would have a negative impact on highway safety. The gap between their property and the application dwelling is also too narrow which would take out light and make maintenance impossible.

## REPORT

### PRINCIPLE OF DEVELOPMENT

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

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

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

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

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

In this regard, and in considering the overall planning balance as to whether the proposed development subject to this application constitutes sustainable development, an important material consideration in this case is whether the Council can robustly demonstrate a 5 Year Housing Land Supply. This will affect whether Paragraph 11 of the NPPF is engaged and consequently the weight that can be attributed to the Development Plan.

### The Development Plan

Currently the Council's statutory Development Plan consists of the Braintree District Local Plan Review (2005) and the Braintree District Core Strategy (2011). The application site is located outside of a designated development boundary and as such is located on land designated as countryside in the Local Plan Review (2005) and the Core Strategy (2011). Policy RLP2 of the Adopted Local Plan states that new development will be confined to areas within Town Development Boundaries and Village Envelopes. Outside these areas countryside policies will apply. Policy CS5 of the Adopted Core Strategy specifies that development outside Town Development Boundaries and Village Envelopes will be strictly controlled to uses appropriate within the countryside in order to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside.

The Council is working on a Draft Local Plan which has been submitted to the Secretary of State for Housing, Communities and Local Government and is the subject of an examination by an Inspector appointed by him. The examination was paused but resumed in January 2020.

### 5 Year Housing Land Supply

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

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

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

of State has by default accepted the Council's evidence in respect all other sites.

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

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

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

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

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

## SITE ASSESSMENT

### Location and Accessibility to Services and Facilities

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

Policy CS5 of the Adopted Core Strategy states that 'development outside town development boundaries, village envelopes and industrial development limits will be strictly controlled to uses appropriate to the countryside, in order to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside'.

The strategy set out in the Draft Local Plan is to concentrate growth in the most sustainable locations – that is, by adopting a spatial strategy that promotes development in the most sustainable locations, where there are opportunities for walking, cycling and public transport links to nearby shops, services and employment opportunities.

The site is located in the countryside with the centre of the village at a distance of 856m, and Braintree at a distance of 1214m. Black Notley is identified in the Draft Local Plan as a 'Third Tier' village, defined as '..... the smallest villages in the District and lack most of the facilities required to meet day to day needs.

It is acknowledged that Black Notley is not a village the Council considers sustainable for housing development in the overall spatial strategy, taking into account the settlement hierarchy and that it does not offer the range of services and facilities that would be found in a key service village. Black Notley has a small number shops in the centre of the village and leisure facilities on the old Hospital site and the Village Hall. A regular bus service connects the Village to Braintree and Witham. The site is therefore well connected to these facilities with provision of a lit footpath from the site to the village and into Braintree. As such, it is considered that the proposal would make only a modest contribution to the 5 year housing land supply.

Officers do not object to the proposed development in terms of its location and suggest that it would fulfil the social and economic role of sustainability in this regard.

### Exceptions Policy

Notwithstanding the above and the policies of restraint in the countryside, Policy RLP16 of the Adopted Local Plan states that exceptions may be made for the filling of a gap for a single dwelling, between existing dwellings where there is a defined nucleus of at least ten dwellings and where it would not be detrimental to the character of the surroundings. It would not apply to gaps,

which could accommodate more than one dwelling. This principle is carried forward at Policy LPP41 of the Draft Local Plan.

The site is within a nucleus of more than 10 dwellings and the gap could clearly accommodate one dwelling only. The proposal is therefore acceptable in principle, subject to other relevant policy criteria as set out below.

### Design, Appearance and Layout

Paragraph 124 of the NPPF clearly recognises that good design is a key aspect of sustainable development, which should ensure that new development will function well and add to the overall quality of a given area. In order to do this, development proposals fall to be assessed in terms of their compatibility with and their ability to be absorbed into the local context without harmful impacts.

Criteria set out in Policy RLP10 of the Adopted Local Plan indicates, amongst other things, that the density and massing of residential development will be related the characteristics of the site and the layout and density of surrounding development. Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Draft Local Plan requires design to recognise and reflect local distinctiveness in terms of scale, density, height and massing of buildings. Policy CS9 of the Adopted Core Strategy similarly seeks a high standard of design and layout in all new developments. As the site is within the close environs of a listed building, Policy RLP100 of the Adopted Plan is also relevant. This policy requires that the settings of listed buildings are protected and enhanced by appropriate control over the development, design and use of adjoining land.

The Council has also adopted the Essex Design Guide which is a useful tool in assessing the compatibility of new development within the existing context. The Guide recommends minimum garden sizes of 100sq.m for a three-bedroom or more dwelling. The site plan submitted with the application demonstrates that both the existing and proposed dwelling would both have rear amenity space of between 127sqm – 400sqm, thus exceeding this Standard.

In terms of assessing this proposal it is relevant to note that the dwellings in the locality are domestic in scale and form, with a mix of traditional design detailing such as projecting gables, dormer windows and a mix of plot shapes and sizes. They are also constructed mainly of brick with render and are set on a discernible building line. The proposed dwelling follows the existing building line and is of a form and scale that is compatible with the adjacent development as it is of a similar height and scale, featuring some of the design detailing already apparent in the street scene. The proposed materials are also compatible.

The Historic Buildings Consultant has raised no objections to the proposal concluding that the new dwellings would not have a negative impact on nearby listed buildings.

Overall, it is considered that the design, appearance and layout of the proposed dwelling respects local context, will blend well with the character of the existing street scene and will not impinge on the setting of the nearby listed building.

### Countryside and Visual Impact

The NPPF states as a core principle that planning must take account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside.

Policy CS5 of the Adopted Core Strategy seeks to protect the countryside from, for example, urban sprawl and ribbon development. It is generally accepted that one of the founding principles of the planning system has been to prevent urban sprawl and avoid unplanned coalescence between settlements and this is one of the principles that underpins Policy CS5.

Policy CS8 of the Adopted Core Strategy states that development must have regard to the character of the landscape and its sensitivity to change and where development is permitted it will need to enhance the locally distinctive character of the landscape in accordance with the landscape character assessment. Policy RLP80 of the Adopted Local Plan states that development that would not be successfully integrated into the local landscape will not be permitted.

The dwelling will have limited impact on the immediate vicinity, however, in terms of the wider landscape, this would be negligible. Given that the Landscape Officer does not object, it is concluded that a refusal on the basis of impact on the landscape would be difficult to sustain.

### Highway Issues

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

Policy RLP10 of the Adopted Local Plan and LPP37 of the Draft Local Plan require that new development is assessed against the adequacy of the access and adjacent road system to cope with the traffic likely to be generated. Policy RLP90 Criterion (vii) of the Adopted plan also requires that significant increases in traffic movement, particularly in residential areas are avoided. Policy RLP56 of the Adopted Local Plan and LPP45 of the Draft Local Plan require that all new development is provided with sufficient off-street parking spaces in accordance with Essex County Council Vehicle Parking Standards. In this case 2 spaces measuring 2.9m x 5.5m would be required for the existing and proposed dwelling.

Whilst the concerns of the neighbour are noted, ECC Highways has not objected to the proposal provided that relevant conditions are imposed in

relation to highway safety as set out below. There is also sufficient land within the site to ensure that the minimum parking provision can be provided in accordance with the Standards. In terms of impact on the existing road network, the impact of a single dwelling is considered to be negligible.

#### Impact on Neighbouring Residential Amenity

Paragraph 127 of the NPPF not only requires development to look good and function well but to also provide a high standard of amenity for existing and future users. Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Draft Local Plan indicate that development should not result in an undue, unacceptable impact on the amenity of nearby residential properties as a result of overlooking, overshadowing or loss of light or privacy.

As referred to above the positioning of the footprint of the dwelling has been adjusted to reduce the potential impact on No.50 Witham Road and No.3 Church Road. Privacy louvres would also restrict outlook from the proposed dwelling towards these existing premises. Whilst the neighbour's comments are noted, the proposed dwelling would also retain a gap of 1.2m to the boundary of the dwellings either side, which is considered reasonable.

It is concluded therefore that the dwelling would have an acceptable relationship with its neighbours and would not result in any undue harm to residential amenity.

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

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

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

In accordance with the revised interim guidance an appropriate assessment has been completed for this application, as it falls within the threshold of a scheme of 99 residential units or less and is located within the updated Zones of Influence. Where an appropriate assessment concludes that a likely significant effect would occur, the Local Planning Authority is required to secure a financial contribution towards off site mitigation at the identified natura 2000 sites to mitigate the impact of the development upon these sites. However, whilst the appropriate assessment of the Local Plan has identified a likely significant effect for all residential development in-combination with other plans and projects, the amount of minor and major development proposals for 1-99 houses that is likely to be granted planning permission prior to the adoption of the RAMS, which will require financial contributions for all residential proposals, is considered to be de minimis considering that the



RAMS will be dealing with the in-combination effects of housing growth across Essex over a 15 year period. As such, it is concluded that this proposal would not have a likely significant effect and therefore no financial contribution is requested in this case. Notwithstanding the above, at the present time, there are no specific costed projects identified and no clear evidence base to give the Local Planning Authority any ability to impose such a requirement for a proportionate, evidence based contribution.

## PLANNING BALANCE AND CONCLUSION

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

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

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

As set out in Paragraph 8 of the NPPF, achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and needed to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives): an economic objective (to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the

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

It is considered that the development of the site, would lead to marginal social and economic benefits in terms of the provision of one dwelling which would contribute to the Council's housing land supply and increased economic benefits during the construction period and after the development was occupied.

In terms of the environmental objective of sustainable development set out in the NPPF, whilst the site is located outside of the Village Envelope, Policy RLP16 of the Adopted Local Plan provides for exceptions to be made for the filling of a gap between existing dwellings where there is a defined nucleus of at least ten dwellings and where it would not be detrimental to the character of the surroundings. In the absence of any negative responses from the Council's consultees, it is considered that the proposal will not result in any environmental harm. In any event, Policy RLP16 of the Draft Local Plan sets out that 'in-fill' plots, such as this site, can be developed as a matter of principle. Given that the proposal complies with other policies referred to above relating to context, design, highway safety and residential amenity, and in considering the planning balance, having regard to the Development Plan and having regard to the NPPF as a whole, Officers have concluded that the proposed development would be acceptable and recommend that planning permission is granted.

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

### RECOMMENDATION

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

## APPROVED PLANS

Location Plan	Plan Ref: 01	
Block Plan	Plan Ref: C-02	
Street elevation	Plan Ref: C-06	
Proposed Site Plan	Plan Ref: C-03	Version: A
Proposed Floor Plan	Plan Ref: C-04	Version: A
Proposed Elevations	Plan Ref: C-05	Version: A

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

### Reason

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

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

### Reason

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

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

### Reason

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

- 4 No above ground development shall commence until samples of the materials to be used on the external surfaces have been submitted to and approved in writing by the local planning authority. The development shall only be implemented in accordance with the approved samples.

### Reason

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

- 5 The privacy louvres installed on bed room 4 as indicated on the submitted plan reference C-05A shall be installed prior to the occupation of the dwelling and retained as such thereafter.

Reason

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

- 6 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 shown on Drawing No. 10874 H-01), as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason

To provide adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety.

- 7 The existing vehicular access shall not be less than 3 metres, shall be retained at that width for 6 metres within the site.

Reason

To provide adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety.

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

Reason

To avoid displacement of loose material onto the highway in the interests of highway safety.

- 9 No site clearance, demolition or construction work shall take place on the site, including starting of machinery and delivery of materials, outside the following times:-

Monday to Friday 0800 hours - 1800 hours

Saturday 0800 hours - 1300 hours

Sundays, Public and Bank Holidays - no work

Reason

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

- 10 No burning of refuse, waste materials or vegetation shall be undertaken in connection with the site clearance or construction of the development.

Reason

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

CHRISTOPHER PAGGI - PLANNING DEVELOPMENT MANAGER

Local List Planning Application Validation Requirements		Agenda No: 6
Portfolio Corporate Outcome:	<b>Planning and Housing</b> <b>A sustainable environment and a great place to live, work and play</b> <b>A prosperous district that attracts business growth and provides high quality employment opportunities</b> <b>A high performing organisation that delivers excellent and value for money services</b> <b>Delivering better outcomes for residents and businesses and reducing costs to taxpayers</b>	
Report presented by:	Neil Jones, Principal Planning Officer	
Report prepared by:	Neil Jones, Principal Planning Officer	
Background Papers:	Public Report	
Town and Country Planning Act 1990 (inserted by the Growth and Infrastructure Act) Town and Country Planning (Development Management Procedure) (England) (Order) 2015 National Planning Policy Framework (2019) National Planning Practice Guidance	Key Decision: No	
<b>Executive Summary:</b>		
<p>Local Planning Authorities are required to maintain Local Validation Lists which set out the information that applicants must submit with planning applications that are made within their areas.</p> <p>The current Braintree Local Validation List has been reviewed and a new list drafted. Having been subject to public consultation Officers now seek Members endorsement for the new Local Validation List, so that it can be formally adopted.</p>		
<b>Recommended Decision:</b>		
<p>To endorse the new Local Validation List so that this may be formally approved by the Portfolio Holder and adopted for use, and pass a resolution to further amend the Local Validation List at a later date to require the Essex SuDS pro-forma, and the submission of information required to prepare legal agreements to secure financial contributions towards the Essex RAMS, subject to the outcome of a further public consultation exercise.</p>		

**Purpose of Decision:**

To provide the Planning Committee with the opportunity to review and endorse the Council's Local Validation List, which will establish the information that the Council will require to accompany all new planning applications.

**Corporate Implications**

<b>Financial:</b>	No matters arising out of this report.
<b>Legal:</b>	The Local Validation List must comply with National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG).
<b>Safeguarding:</b>	No matters arising out of this report.
<b>Equalities/Diversity:</b>	No matters arising out of this report.
<b>Customer Impact:</b>	The Local Validation List should ensure that applications contain necessary information to allow the proposed development to be assessed. It should only require the submission of information within planning applications that is relevant, necessary, and material to the application. Requesting further information could result in customers incurring additional costs and delay in processing planning applications.
<b>Environment and Climate Change:</b>	No matters arising out of this report.
<b>Consultation/Community Engagement:</b>	The Council has undertaken a public consultation on the draft Local Validation List which included writing to planning agents and developers who have operated within the District.
<b>Risks:</b>	Failure to maintain a Local Validation List could lead to disputes with applicants over the supporting information that must be submitted with a planning application.
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## **1. Introduction**

- 1.1 Before applications can be considered and determined they must be assessed by the local planning authority to be valid applications. For an application to be valid it must comply with the national and local validation requirements.
- 1.2 The national requirements are set out in legislation and include the Application Form, Site Location Plan, Ownership & Agricultural Certificates, Application Fee, and for specified applications a Design and Access Statement.
- 1.3 The Local Validation List sets out each local planning authorities additional information requirements. The National Planning Policy Framework (NPPF) states the validation requirements should only request supporting information that is relevant, necessary and material to the application in question (Paragraph 44), and that the list should be reviewed at least every 2 years.
- 1.4 The Council's Local Validation List is published on the Council's website but needs to be updated as the current list was published in February 2015.
- 1.5 In addition to the Governments requirement to review the Local Validation List every two years there continues to be a significant number of changes to planning legislation, policy, and guidance. It is therefore considered timely to review the current validation requirements.

## **2. Review Process**

- 2.1 The NPPG states that local planning authorities should undertake a three stage process when it reviews its local list and Officers have followed this advice:

### Step 1: Reviewing the existing local list

- 2.2 The legislation and guidance clearly states that the information requested on the Local Validation List must be:
  - reasonable having regard, in particular, to the nature and scale of the proposed development; and
  - about a matter which it is reasonable to think will be a material consideration in the determination of the application.
- 2.3 These statutory tests are set out in Section 62 (4A) of the Town and Country Planning Act 1990 (inserted by the Growth and Infrastructure Act) and Article 11(3) (c) of the Town and Country Planning (Development Management Procedure) (England) (Order) 2015.
- 2.4 Officers have reviewed the existing Local Validation List against these statutory requirements and identified the key drivers for each item on the existing list, such as statutory requirements; policies in the NPPF; Development Plan; or published guidance. The Local Validation List has been updated as part of this review to set out more clearly the drivers behind each of the requirements.

- 2.5 Additionally Officers have reviewed Local Validation Lists at other local planning authorities and discussed the information requirements with key consultees, such as the Council's Historic Environment and Ecology advisers. Where Officers have identified that the Local Validation List does not provide information that is required to assess applications currently, additional items have been added to the list.
- 2.6 The main changes to the Local Validation List can be summarised as follows:
- The information requirements have been clearly specified for different types of applications to demonstrate compliance with the statutory tests;
  - Amendments to all sections to make the requirements clearer and updating the references to current legislation, guidance and standing advice;
  - All website references have been updated where necessary; and
  - Revision of new requirements to demonstrate compliance with policies in the Council's Development Plan.
- 2.7 Items of information that have been added to the Local Validation List include:
- Joinery Details – large scale drawings of joinery details for windows, doors to be used on listed buildings;
  - Telecommunication Supporting Information – additional information which depending on the type of application can include: evidence of the consideration of any other possible sites and why they were discounted; evidence that the use of an existing mast, building or structure has been considered; additional technical information;
  - Applications from Council Members or Staff – requirement that this relationship is identified in all applications;
  - Evidence – setting out more explicitly the type of evidence that the Council require to be able to consider applications for Lawful Development Certificates;
  - Ecology checklist – A new requirement that an Ecology Checklist is supplied completed and submitted with applications for Householder; Minor Development and Major Development to ensure a consistent early check on the sites ecological value. The checklist has been developed with the Council's Ecologist and Ecological Advisers (Place Services) and is in line with the approach already adopted by Uttlesford District Council.

#### Step 2: Consulting on proposed changes

- 2.8 As it is proposed to amend the Local Validation List, in accordance with the NPPG, the Council undertook a public consultation exercise for a 3 week period, between 2nd January 2020 and 24th January 2020. The Council publicised the Local Validation List was being reviewed, and a new Local Validation List produced, in the following ways:
- Providing links from the Council's planning web pages;



- Sending an electronic mailing to over 600 companies and individuals who have submitted a planning application in the last 2 years;
- Advertisement in the BDC newsletter.

2.9 In total, the consultation exercise yielded just three responses. One from a regular local planning agent; one from a semi-retired Conservation Officer who previously provided advice to BDC, and one Parish Council.

2.10 In summary the key issues raised in the responses and an Officer response in italics:

- The list is quite a tome – the list was only published this way for consultation purposes. When adopted the list will be web based and applicants will be able to search for the information requirements for different types of applications.
- There is no requirement to provide information on sustainability, e.g. energy efficiency – we can only require that information is submitted if there is a policy basis. Until national planning policy changes, or the new Local Plan advances, there is no policy basis for requesting this information.
- Outline applications can be submitted with very little information – outline applications are intended to provide a means to establish the principle of development and in such cases only limited information has to be provided.
- Additional need for section drawings for works to listed buildings – It was suggested that additional drawings showing sections through buildings should be required, where first floor accommodation is proposed below the roof or where advertisement signs are being attached to buildings. Officers have discussed this with the Council's Historic Buildings Consultants and they have agreed that this information is usually required in order to fully understand the impact of such proposals on listed buildings. This requirement has been added to the Local Validation List.
- Information required for Listed Building applications is confusing – the Local Validation List has been amended. The text concerning this item has been reviewed and revised to clarify what is required. In addition links are provided, as suggested by the respondent, to direct applicants to advice that has been published explaining what should be included within Heritage Statements.

### Step 3: Finalising and publishing the revised local list

2.11 The NPPG states that the consultation responses received should be assessed and where appropriate taken in to account by the local planning authority when preparing the final revised list.

2.12 The Local Validation List has been amended in line with the comments above and the revised list has been posted on the Council's website. Members can

view the draft Local Validation List through the Council's website, using the following link: [https://www.braintree.gov.uk/info/200137/consultations/1246/consultation\\_on\\_local\\_validation\\_list](https://www.braintree.gov.uk/info/200137/consultations/1246/consultation_on_local_validation_list)

- 2.13 If Members approve the new Local Validation then the website will be updated and the new list will constitute part of the Council's validation requirements.

### **3. Review / Amendments to the Local Validation List**

- 3.1 Officers will keep the Local Validation List under review and it is envisaged that further amendments will be required as new policies are developed and adopted, for example through the adoption of the new Local Plan.
- 3.2 In addition to approving the draft Local Validation List, Members are also being asked to support two further revisions to the Local Validation List, which are not included in the current draft Local Validation List.
- 3.3 Officers are in the process of implementing plans to secure financial contributions towards HRA mitigation, through the Essex Recreational Avoidance Mitigation Strategy (RAMS). It is envisaged that applications which seek permission to create new residential dwellings within one of the Zones of Influence, identified by Natural England, will need to submit details with their application that will allow the drafting of a legal agreement to secure the required financial contribution.
- 3.4 Officers are also aware that Essex County Council SuDS Team are in the process of introducing a new proforma that they need applicants to submit as part of their planning applications. The will replace the SuDS checklist which was on the previous Local Validation List.
- 3.5 Once these forms are available the Council will need to carry out a further public consultation to implement these changes but with Members approval, Officers seek a resolution from the Planning Committee that will allow the list to be amended in this way without having to report the application back to the Planning Committee.

### **4. Recommendation**

- 4.1 Having followed the process set out in the NPPG Members are requested to endorse the new Local Validation List, in order that this can be formally adopted and used to set out the information requirements for future planning application submissions.
- 4.2 In addition Members are asked to also endorse a further change to the Local Validation List to require the Essex SuDS pro-forma, and the submission of information required to prepare legal agreements to secure financial contributions towards the Essex RAMS, subject to the outcome of a further public consultation exercise.