

# PLANNING COMMITTEE AGENDA

**Tuesday 28th September 2021 at 7.15pm**

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

**THIS MEETING IS OPEN TO THE PUBLIC**

*(Please note this meeting will be broadcast via the Councils YouTube Channel,  
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 F Ricci
Councillor K Bowers	Councillor Mrs W Scattergood (Chairman)
Councillor P Horner	Councillor P Schwier
Councillor H Johnson	Councillor Mrs G Spray
Councillor D Mann	Councillor N Unsworth
Councillor A Munday	Councillor J Wrench
Councillor Mrs I Parker (Vice Chairman)	

**Substitutes:** Councillors T Cunningham, A Hensman, D Hume, P Thorogood,  
Mrs S Wilson, Vacancy (*Substitutes who wish to observe the  
meeting will be required to do so via the Council YouTube  
Channel*).

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

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

A WRIGHT  
Chief Executive

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

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

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

### **Public Question Time – Registration 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 second working day** before the day of the Committee meeting. For example, if the Committee Meeting is on a Tuesday, the registration deadline is midday on Friday, (where there is a Bank Holiday Monday you will need to register by midday on the previous Thursday).

The Council reserves the right to decline any requests to register to speak if they are received after this time.

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, and then 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)

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

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

**Public Attendance at Meeting:** Public attendance is welcomed, but is subject to restrictions due to the Council's arrangements for keeping Causeway House COVID secure and visitors safe.

Public attendance is limited and will be on a first come first served basis with priority given to public registered speakers. In order to maintain safe distances, the Council may have to refuse entry to members of the public. The public will not be able to sit in the Council Chamber, but will be permitted to observe the meeting from a public gallery through a large screen. Alternatively, the Council meetings are webcast and are available via the Council's YouTube Channel and can be viewed by the public as a live broadcast, or as a recording following the meeting.

Public speakers and public attendees are required to attend on their own, and where possible only one representative of any community group, family household or Company should attend.

Members of the public intending to come to Causeway House to observe a meeting are recommended to watch the meeting via the webcast, or to contact the Governance and Members Team to reserve a seat within the public gallery.

### **Health and Safety/COVID:**

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

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>. The meeting will also be broadcast via the Council's YouTube Channel.

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

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

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

**3 Minutes of the Previous Meeting**

To approve as a correct record the Minutes of the meeting of the Planning Committee held on 14th September 2021 (copy to follow).

**4 Public Question Time**

(See paragraph above)

**5 Planning Applications**

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

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

**PART A Planning Applications**

<b>5a</b>	<b>App. No. 20 02127 OUT – Land off Brain Valley Avenue, BLACK NOTLEY</b>	<b>6-56</b>
<b>5b</b>	<b>App. No. 21 00031 OUT – Land at Burghey Brook Farm, London Road, Rivenhall End, RIVENHALL</b>	<b>57-89</b>
<b>5c</b>	<b>App. No. 21 01309 OUT – Land South of Brook Street, COLNE ENGAINE</b>	<b>90-117</b>
<b>5d</b>	<b>App. No. 21 02034 OUT – Land South of Bovingdon Road, BRAINTREE</b>	<b>118-155</b>

**PART B Minor Planning Applications**

<b>5e</b>	<b>App. No. 21 00384 HH – 1 Scarletts Close, WITHAM</b>	<b>156-162</b>
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**6 Urgent Business - Public Session**

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

**7 Exclusion of the Public and Press**

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

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

**PRIVATE SESSION**

**Page**

**8 Urgent Business - Private Session**

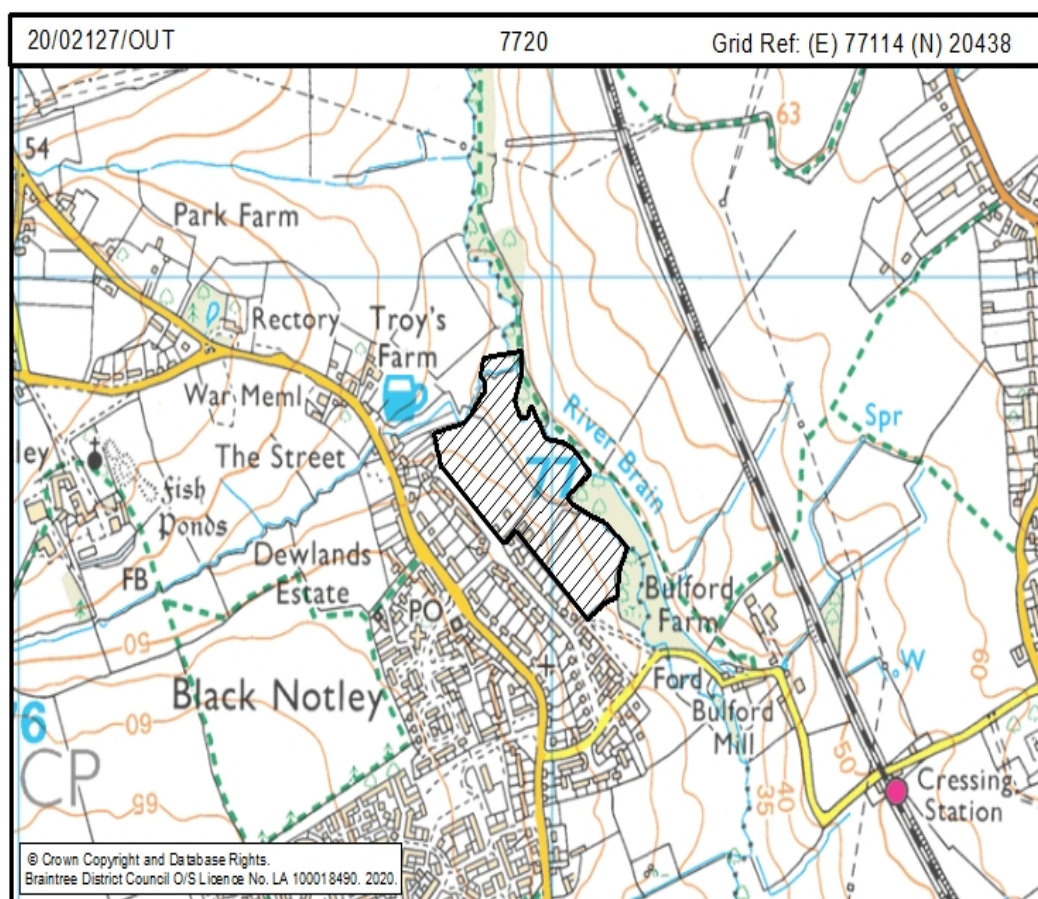
To consider any matter which, in the opinion of the Chairman, should be considered in private by reason of special circumstances (to be specified) as a matter of urgency.

PART A

AGENDA ITEM NUMBER 5a

APPLICATION NO: 20/02127/OUT  
DATE VALID: 07.01.21  
APPLICANT: Gladman and Mrs K Geraghty  
Gladman House, Alexandria Way, Congleton, CW12 1LB  
DESCRIPTION: Outline application, with all matters reserved except access, for the demolition of existing farm outbuildings and the erection of up to 90 dwellings (including 40% affordable housing) with community park and public open space, landscaping and sustainable drainage system (SuDS) and a vehicular access point from Brain Valley Avenue.  
LOCATION: Land Off, Brain Valley Avenue, Black Notley, Essex

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



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QLC77HBF/AN00>

## SITE HISTORY

21/00066/NONDET	Outline application, with all matters reserved except access, for the demolition of existing farm outbuildings and the erection of up to 90 dwellings (including 40% affordable housing) with community park and public open space, landscaping and sustainable drainage system (SuDS) and a vehicular access point from Brain Valley Avenue.		
00/01918/HDG	Notice of Hedgerow Removal - Five separate stretches of hedgerow	Granted	21.02.01

## POLICY CONSIDERATIONS

On the 22nd February 2021, Braintree District Council adopted the Shared Strategic Section 1 Local Plan.

On adoption, the policies in the Shared Strategic Section 1 Local Plan superseded Policies CS1, CS4, CS9 and CS11 of the Core Strategy (2011).

The Council's Development Plan therefore consists of the Braintree District Local Plan Review (2005) ("the Adopted Local Plan"), the policies of the Core Strategy (2011) (the Core Strategy) which are not superseded, the Shared Strategic Section 1 Local Plan (2021) ("the Section 1 Plan"), and any Adopted Neighbourhood Plan.

The local authority is now moving forward with the examination of Section 2 of the Draft Local Plan. In accordance with Paragraph 48 of the NPPF, from the day of publication the Council can give weight to the policies of this emerging Draft Section 2 Local Plan ("the Section 2 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 affords some weight to the Section 2 Plan.

### National Planning Guidance

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

### Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP8	House Types
RLP9	Design and Layout of Housing and Mixed Use Areas
RLP10	Residential Density
RLP22	Accessible Housing and Lifetime Housing
RLP49	Pedestrian Networks
RLP51	Cycle Parking
RLP52	Public Transport
RLP53	Generators of Travel Demand
RLP54	Transport Assessments
RLP56	Vehicle Parking
RLP62	Development Likely to Give Rise to Pollution or the Risk of Pollution
RLP65	External Lighting
RLP69	Sustainable Urban Drainage
RLP70	Water Efficiency
RLP71	Water Supply, Sewerage & Drainage
RLP72	Water Quality
RLP74	Provision of Space for Recycling
RLP77	Energy Efficiency
RLP80	Landscape Features and Habitats
RLP81	Trees, Woodland Grasslands and Hedgerows
RLP84	Protected Species
RLP86	River Corridors
RLP90	Layout and Design of Development
RLP91	Site Appraisal
RLP92	Accessibility
RLP93	Public Realm
RLP100	Alterations and Extensions and Changes of Use to Listed Buildings and their settings
RLP105	Archaeological Evaluation
RLP106	Archaeological Excavation and Monitoring
RLP138	Provision of Open Space in New Housing Developments



## Braintree District Local Development Framework Core Strategy 2011

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

## Braintree District Shared Strategic Section 1 Local Plan (2021)

SP1	Presumption in Favour of Sustainable Development
SP2	Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
SP3	Spatial Strategy for North Essex
SP4	Meeting Housing Needs
SP6	Infrastructure & Connectivity
SP7	Place Shaping Principles

## Braintree District Draft Section 2 Local Plan (2017)

LPP1	Development Boundaries
LPP33	Affordable Housing
LPP34	Affordable Housing in the Countryside
LPP37	Housing Type and Density
LPP44	Sustainable Transport
LPP45	Parking Provision
LPP49	Broadband
LPP50	Built and Historic Environment
LPP53	Provision of Open Space, Sport and Recreation
LPP55	Layout and Design of Development
LPP60	Heritage Assets and their Settings
LPP63	Archaeological Evaluation, Excavation and Recording
LPP67	Natural Environment and Green Infrastructure
LPP68	Protected Species, Priority Spaces and Priority Habitat
LPP69	Tree Protection
LPP70	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP71	Landscape Character and Features
LPP73	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP74	Climate Change
LPP75	Energy Efficiency
LPP77	Renewable Energy within New Developments
LPP78	Flooding Risk and Surface Water Drainage
LPP79	Surface Water Management Plan
LPP80	Sustainable Urban Drainage Systems
LPP81	External Lighting

## Neighbourhood Plan

### **Black Notley Neighbourhood Plan**

No plan has been submitted at the time of writing.

## Other Material Considerations

Essex Design Guide  
Essex Parking Standards/Urban Space Supplement  
Village Design Statement  
Open Space SPD

## INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is being reported to Planning Committee in accordance with Part A of the Council's Scheme of Delegation, as the application is categorised as a Major planning application. The application has also been appealed for non-determination by the Applicant. Members therefore need to determine what the Council's decision would have been if an appeal for non-determination had not been submitted.

## DESCRIPTION OF THE SITE AND SITE CONTEXT

The application site is located to the East of Brain Valley Avenue in Black Notley. It would measure 5.94ha and include land to the front of No.65-95 Brain Valley Avenue and land to the rear of 54-20 Brain Valley Avenue. It would directly adjoin Cokers Peace to the south east and run parallel with the River Brain on the eastern boundary. The site would not project any further northwards than the garden boundary of No.107 Witham Road. The land therefore is in close proximity to residential development on the western boundary, but is adjacent to undeveloped/greenfield land on the south eastern, eastern and northern boundaries.

The topography of the land slopes down towards the river and then rises again on the other side (outside of the application site). The site currently comprises a stable building and some older agricultural buildings, mostly in a poor state of repair. The land primarily is used for grazing by horses or as ancillary land for No.54 Brain Valley Avenue. Part of the site is also located within Flood Zones 3A, 3 and 2; this is primarily land on the north eastern aspect, but it does also project into some of the land on the remaining eastern parcel.

The site is not located in a Conservation Area, nor are there any Listed Buildings in close proximity to the site. There is a protected tree on the south eastern boundary with Cokers Peace but is otherwise free of other trees with Tree Protection Orders. The site does however contain other vegetation but this is mostly around the site boundaries. The site does not contain a public

right of way, however it is in close proximity to footpath PROW 74\_21 which runs on the other side of the river, as well as having visibility from footpath PROW 74\_31 which goes up towards the railway line on the opposite side of the valley.

## PROPOSAL

The application in this case seeks outline consent for the erection of up to 90 dwellings. Access is a matter for consideration, however 'Scale', 'Appearance', 'Layout' and 'Landscaping' have all been reserved for later consideration should outline planning permission be granted.

Notwithstanding the above, a parameter plan has been submitted with the application which seeks to identify the developable areas and the areas of open/green space including a 'community park'. The parameter plan initially proposed a developable area of 2.32ha, with the remaining land (3.62ha) utilised for open/green space/other infrastructure. This aligned with the initial flood modelling as the majority of the open space proposed would be on land within the flood plain / flood zone. However, following concerns raised by the Environment Agency, the flood risk modelling was revised to take into account of climate change which reduced the total developable area to 2.06ha outside of a projected future flood zone. As such, a revised parameter plan was submitted to address this.

Access is proposed from the northern cul-de-sac of Brain Valley Avenue to serve the development in its entirety. SuDS ponds are also indicatively shown on the parameter plan.

## SUMMARY OF CONSULTATION RESPONSES

### Essex Police

No apparent safety concerns at this stage – require further detail at a later stage.

### Essex Fire

No objection.

### Natural England

No objection subject to RAMS payment.

### ECC Archaeology

No objection subject to conditions.

### Anglian Water

Sewage system has capacity for the flows – no objection.

### Essex SUDS

No objection subject to conditions.

### BDC Waste

Need to be able to accommodate 26 tonne waste vehicles – no more than 20m walking distance from the adoptable highway. Indemnity to be agreed if road is not to be adopted.

### ECC Ecology

Initially raised a holding objection – further surveys required to determine if there are any otters and any further reptiles on the site. Following the submission of additional surveys – the Ecology Officer was satisfied that the development could proceed subject to a number of conditions and a Habitat Regulations Assessment being undertaken in accordance with the Council's standard procedure.

### ECC Historic Buildings Consultant

Development some distance from heritage assets – site adjacent to 20<sup>th</sup> century housing. Overall no objection.

### Environment Agency

The Environment Agency initially raised a holding objection to the application:

*“The flood maps do not account for climate change and the FRA should consider the flood risk for the lifetime of the development, which means it should take climate change into account. As the FRA does not currently follow the latest climate change advice, we cannot be certain that the proposed 90 dwellings forming part of this application, would be provided outside of the floodplain. I understand the planner has stated that they can secure that the built form would not be in the floodplain if the application is approved, but without the climate change information, we do not know how far (if at all) the floodplain would encroach upon the built area shown within the framework plan. It could mean that the number of homes has to be reduced (if the available flood zone 1 area is smaller than currently thought), and could also mean that compensatory storage may be required (if some homes end up being proposed within the future flood zone 3 outline). Based upon the above our current holding objection should remain. In addition to this, our response also raised concerns over the flood risk associated with the watercourse to the north-west of the site, which has not been modelled”*

The developer subsequently updated their modelling, which reduced the developable area. The Environment Agency reviewed this information and had no objection noting that:

- The applicant has assessed climate change at 35% allowance and supplementary document 881918 FRA confirms all residential development will lie within Flood Zone 1.
- Supplementary document 881918 FRA also confirms that any development within Flood Zone 3 (proposed Community Park) will not involve any land raising.
- The access and egress route travels through Flood Zones 1 and therefore does have a safe route of access.
- Flood Storage Compensation is not required.
- A Flood Evacuation Plan has not yet been proposed.

If development were to be approved, a flood evacuation plan could be conditioned.

The Environment Agency also confirm that because the developable site area is located within Flood Zone 1, the Sequential and Exception Tests will not need to be undertaken as part of this planning application.

#### Highways

No objection subject to conditions.

#### Environmental Health

Raised concerns that a contamination report had not been submitted with the application. Following these concerns, a contamination report was submitted. Comments on this were unable to be received prior to the publication of the report but Members will be updated when the comments are submitted.

The Environmental Health Officer raised no objections regarding air quality but suggested a number of conditions regarding noise levels and construction controls if approved.

#### ECC Education

No objection but set out requirements for financial contributions towards:

- Early Years and Childcare - £138,144
- Primary - £466,236
- Secondary Transport - £427,950
- Library - £77.80 per dwelling

The development is within the priority admissions area of John Ray Infant and Junior School but the nearest primary school is Cressing primary. This is discussed further within the below report.

### Arboricultural Officer (Landscapes Team)

The Arboricultural Officer initially raised a number of issues with the revised layout:

*“There is an error regarding TPO status. Report claims no TPOs present on or near site, however T9 within the report is part of TPO 3A/2000. There are further TPOs on this order sited to the south east of the proposed development. The road plan mock up raises concerns regarding proximity to various groups of Cat A and Cat B trees. Although I appreciate this is only provisional. Three trees granted Cat A status were also given thought for veteran status, and although not found to be, more consideration should be granted these trees in order to allow that to occur. T1 is away from development but within the proposed community park, T9 is outside of the boundary but has a TPO and will be impacted upon by development. Pressure upon T12 and adjacent T13 due to location within development will need to be considered however, as both continue to age, pressure regarding safety will rise, putting the veteran potential of the mature large Oaks at risk. Both trees are valuable landscape features and will need to be treated as such”*

Following further clarification provided by the developer in the updated parameter plan, the Arboricultural Officer had no objection, commenting that:

*“With regards to the space next to T9 (the tree with the TPO), more detailed plans will determine whether the works for what I’m assuming to be a suds bowl or pond, impacts upon the tree directly. The level of detail for that should be able to be covered within an AIA if they get approval, as they will need to submit greater detail regarding finished levels and housing etc. So I am confident this can now be dealt with at a later stage if needed.”*

### Independent Landscape Advice

From conducting an independent review of the landscape impacts of the development, including the submitted LVA, the Independent Landscape Officer commissioned by the Council to assess the Landscape impact of the proposal concluded that the development would have a harmful impact on the lower valley slopes and be detrimental to the rural Brain River valley character. This response is discussed further in the below report.

### NHS

The CCG and the Mid and South Essex HCP has identified that the development will give rise to a need for additional healthcare provision to mitigate impacts arising from the development which cannot be met by four of the existing five surgeries in the Braintree Primary Care Network (Blyes Meadow, Mount Chambers, Blandford House, Silver End Surgery, Church Lane).

The CCG sets out that patients can exercise choice within the network area and so the capacity of the overall network should be considered. Additional population growth in the area resulting from new development would add to the deficit of capacity in the network area and so would be unsustainable if unmitigated. The CCG and the Mid and South Essex HCP therefore requested that a contribution be secured through a S106 legal agreement attached to any grant of planning permission. This would amount to approximately £34,400.

In the absence of such mitigation the development would impose an unsustainable burden on local healthcare services.

### PARISH / TOWN COUNCIL

#### Black Notley Parish Council

Object for the following summarised reasons:

- Speculative application outside of village envelope – dismissed at local plan stage as an allocation
- Sloping site towards the river – high risk area for housing
- Within the Brain Valley which offers habitat to all wildlife – any building would upset this balance
- Flooding at the ford often which makes it impassable
- View down Brain Valley Avenue across the valley has been considered as an open aspect to prevent village being an urban corridor
- Add to traffic congestion
- No school in the village – car or limited bus service, or a mile walk to school along busy Witham Road – travel by car will only exacerbate issues
- No other infrastructure to support the housing
- Too high density housing – if allowed want to see bungalows on views from brain valley avenue with residents of Black Notley given first options on them
- S106 contributions for the Parish

Further comments following the parameter plan re-consultation were also received by Black Notley Parish Council, reiterating many of the above comments but adding that:

- Site is within the Brain Valley where water already percolates then floods down further into the valley
- Amendments do nothing for other impacts on river and ecology

#### Cressing Parish Council

Agree with BNPC in objecting to the application with similar comments to above;

- Historically not allocated for development – unsustainable location, character and landscape impacts

- 1.5 miles to John Ray School – walking this far people would be unlikely to do it
- Nothing of this size in comparable village in the area

## REPRESENTATIONS

In total, 212 objections (although some from the same address) and 1 general comment were received in relation to the first public consultation setting out the following summarised comments and concerns:

- Unsuitable location outside of settlement limits in the local plan
  - Purposefully not allocated in new local plan and rejected in SHELA
  - Poor public transport options and unsafe access to railway station – no evening service and no/limited bus service on Sundays
  - Railway station has inadequate car park resulting in parking on the lane near the station – more cars not able to be accommodated and only 6 cycle parking bays
  - No jobs available to support the houses
  - Already large developments in Cressing
  - No jobs in area and Schools far away and no safe walking or cycling route – Notley High (secondary school) is over capacity as well as other schools – possible 170+ children from this development – some schools have no space left to expand into
  - Footpath to John Ray School is barely safe – 40mph road – no footpath at all to Cressing Primary
  - Third tier village - All services other than a small nursery, post office and small shop are inaccessible without transportation – and would put pressure on existing services elsewhere
  - Spatial strategy sets out growth should be within the main towns and key service villages
  - Large settlement planned (1700) houses off Bakers Lane in Black Notley too
  - Existing electricity and water problems and outages – new development make this worse
  - Services available such as doctors etc are at capacity already elsewhere
  - New community parkland would only benefit residents of new development- and is often waterlogged – not usable
  - No footpath to railway – dangerous road for pedestrians – no street lights
  - No access to PROW on opposite side of river from inside site
  - Should be a preference for brownfield sites
  - Previous refusal to develop land 30 years ago
  - Black Notley has had 51% additional development from 2001-2011
- Site not able to successfully accommodate 90 dwellings without design and layout issues
  - Likely insufficient garden and parking



- Foundation issues due to subsidence and poor soil quality
  - Should be no flats – out of character
  - Overdevelopment of the site
- Roads into the site inadequate to accommodate additional traffic
  - Will be an impact – especially on the narrow road to Cressing & the proposed access unsuitable
  - Village already serving as a cut-through between Braintree and Witham on Bullford Lane – traffic jams and HGV's use it too especially at peak times
  - Only two roads into the village
  - More traffic equals higher chance of accidents and unsuitability for pedestrians/wheelchair users
  - Bus stop nearby could become more accident prone with more traffic
  - If approved the road infrastructure in village needs improving
  - Lead to additional parking on the road blocking drives and making passing difficult
  - Possibly 108/180 extra vehicles using Brain Valley Avenue – a traffic survey should be completed
  - Already speeding problems through the village
- Have a high negative landscape impact – block views and urbanise the environment
  - Remove quiet status of village - lose its character
  - Area of natural beauty
  - Cokers Peace will be affected
  - Remove green buffer
  - Sensitive area in SHLAA
  - Brain Valley should be an AONB
- Flooding an issue, especially around the ford – increasing the impermeable area will only make this worse – affects the whole village
  - Part of site in flood zone 2/3 – river has burst its banks recently too
  - Sometimes flooding means access through to Cressing is not possible
  - Water table too high to build
  - SUDS will not be adequate to manage water run off
  - Sequential and exception tests needed
  - Surveys completed in dry seasons – not representative of wet season
  - Sewage system affected by surface water- more development exacerbate issue
  - Affect drinking water and source protection zone
  - Discharging into water course will increase risk of flooding
  - Environment Agency have concerns about flooding in the area
  - Photos of flooding have been included
- Unacceptable impact on ecology and trees
  - North East Essex Badger Group not been approached for data
  - Insufficient evidence submitted on ecology impacts
  - Land is not low quality as asserted by applicant – many species have been seen on it

- Destroy priority habitat to deciduous woodland
  - No ornamental trees should be planted
  - TPO's affected
  - No space for 'retained' trees and hedges
  - Climate change emergency – loss of trees devastating
- Noise and disturbance during construction – dust would be health hazard
  - Cars parked on either side of road will be issue for construction vehicles in the cul-de-sac
  - Affect wildlife in Cokers Peace Meadow
- Loss of views, light and privacy for neighbours in close proximity & impacts of additional traffic noise, light pollution
  - Especially for the existing bungalows
  - Affect physical and mental health of existing residents
  - More carbon emissions from residents – cars, bonfires, bbqs etc
- Expensive homes will not attract people from the local area/first homes for young people – homes would not be affordable even if 40% were put forward – need for smaller homes
- Larger homes very expensive 12.9 x average house prices to average earnings
- Poor community engagement by applicant
- Council can demonstrate adequate housing numbers
- Economic gains not outweighed by environmental harms – already two playgrounds in the village – contradictions in the various supporting documents
- Reported waiting lists for jobs was only up during pandemic when survey was looked at
- Land should be purchased by BDC to create a Linear country park instead
- Village should be protected – former famous botanist lived here
- Disturb archaeological remains
- Crime rate increase

Following a period of re-consultation owing to the change in parameter plan, a further 24 objections were received. These comments repeated many of the same issues identified above but also commented specifically on the revisions:

- No work should be allowed on any land not owned by the developer – how would they get access to buffer zone around Cokers Peace?
- Even though developable area reduced the number of units has not reduced – higher density – totally out of character
- Flood zone still in very close proximity to new dwellings – could increase even further in the future
- Landscape harm identified in Independent Landscape Report

## REPORT

### Principle of Development

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

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), the Braintree District Core Strategy (2011), and the Braintree District Shared Strategic Section 1 Local Plan (2021).

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

The site was put forward as part of the Local Plan Call for Sites process for the Section 2 Plan as BLAN 119. The site was not allocated for residential development. This is considered further in the below report.

As such, the application site is not proposed for allocation and is therefore contrary to the Section 2 Plan, in particular Policy LPP1 which also states that outside development boundaries development will be strictly controlled to uses appropriate to the countryside.

## 5 Year Housing Land Supply

The Council publishes a 5 year housing land trajectory as of 31st March each year, the most recent position therefore is that of 31st March 2021. Within this trajectory the Council considered that it has a 5.34 year supply of housing, based on a 5% buffer.

At its full Council on the 22nd February 2021, Braintree District Council approved the adoption of the Shared Strategic Section 1 Plan. On its adoption, the Council must meet the housing requirement set out in that Plan. This is a minimum of 14,320 homes between 2013-2033 or an annual average of 716 new homes per year. This replaces the previous consideration of housing need based on the Standard Methodology.

The latest Housing Delivery Test (HDT) results were published in January 2021. The new results (which include an allowance for the impact of the current pandemic) confirm that the Council no longer needs to apply a 20% buffer and can revert to the usual 5% buffer. This applies from the day of the publication of the results.

This supply position does not include sites which are proposed to be allocated within the Section 2 Plan but do not yet have planning permission or a resolution to grant planning permission.

These allocations without permission will be tested at the forthcoming Section 2 Plan Examination. Once the Section 2 Plan is adopted, these sites will become adopted allocations and greater weight can be given to them, if there is clear evidence that there is a realistic prospect that housing will be delivered on the site within five years.

Given all of the evidence before it – including the use of the new housing requirement from the Shared Strategic Section 1 Plan and the use of a 5% buffer, the Council considers that the current 5 year Housing Land Supply for the District is 5.34 years.

As the Council can demonstrate the required five Year Housing Land Supply the 'tilted balance' pursuant to Paragraph 11d) of the NPPF is not engaged due to a lack of housing land supply.

## SITE ASSESSMENT

### History

#### **Previous Dismissed Appeal in 1990**

Part of the site (0.6ha), namely that in front of No.65-95 Brain Valley Avenue, was historically put forward for the development of 17 bungalows and garages. A copy of the Inspectors decision is attached to this report for ease of reference. While much has changed in terms of Planning Policy since 1990, the site at that time was also outside of the settlement boundary of Black Notley. From reading the Inspectors report, it is apparent that the site shares many similarities still from when it was considered for development 31 years ago.

The Inspector in paragraph 4 comments “... *It (the site) is an attractive area of fields, trees and hedges and there is open land to the north-west and north-east... It seems that the bungalows would be a substantial extension of the built up area of the village onto open land which at the moment is clearly part of the fields in the surrounding countryside...*”

In Paragraph 5, the inspector concludes... “*However, the site can be seen from an area of the valley which includes several public footpaths, road and the edge of the village of Cressing on the far site. All in all I conclude that your clients proposal would be detrimental to the open character of the countryside around the village and the scenic quality of the valley.*”

The inspector therefore dismissed the appeal at the time. The current proposed outline planning application includes the land of the dismissed bungalows (0.6ha), but also includes an additional 5.34ha of land. While matters of scale and appearance are not known at this stage, it is evident that a development of 90 houses over a larger area would have an even greater impact than that previously identified by the Inspector. This is explored further in the below report.

## **Call for Sites Process (Local Plan)**

In more recent history, the site in its totality was put forward for residential development through the call for sites process (BLAN119). This was not however allocated. The Officer comments at the Local Plan Sub-Committee held on 9th May 2016 were as follows:

*“5.77 The site is approximately 6 ha in size. It could accommodate up to 45 homes and open space.*

*5.78 Black Notley Parish Comment – This is an exposed site on a gradient sloping down to the river, the surrounding land is very boggy. Houses on Witham Rd and Brain Valley Ave have experienced flooding due to water running down to the river valley both above ground and from seepage. Any further development would probably experience the same problem.*

*5.79 There is no school in the village and further development will add to the burden on the local infrastructure, traffic exiting to Chelmsford, Stansted via Bakers Lane. There has already been huge expansion in the village with 384 houses on the Hospital Site. Therefore it is not a suitable site.*

*5.80 Officer Comment – The site is identified as having medium-landscape capacity (7b). The rear of the site is within Flood Zone 2 and 3. Development in this location would not be a natural extension or infilling of development in Black Notley. It would significantly change the character of the village edge in this location which would be visually prominent from public rights of ways, and across the river valley”.*

As such, the site was not allocated for development due to the detrimental negative effect it would have on the character of the village and the surrounding landscape. Even if it were to be allocated, the Officer concluded that it could only reasonably accommodate 45 dwellings, not up-to 90 dwellings as currently proposed. It should also be noted that the smaller parcel BLAN118 (the same area as the 1990 appeal) was also put forward at the call for sites stage but dismissed for similar reasons.

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

The NPPF Paragraph 105 states that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. The NPPF also defines sustainable transport modes as: *“Any efficient, safe and accessible means of transport with overall low impact on the environment, including walking and cycling, low and ultra-low emission vehicles, car sharing and public transport.”* The NPPF also recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Furthermore, Paragraph 110 of the NPPF sets out new development should ensure inter alia; appropriate opportunities to promote sustainable

transport modes can be – or have been – taken up, given the type of development and its location.

Paragraph 79 of the NPPF also states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.

Policy CS7 of the Core Strategy states that future development will be provided in accessible locations to reduce the need to travel. Policy LPP44 of the Section 2 Plan reiterates this but with a focus on sustainable transport.

In this case, the site would not be isolated as it is adjacent to other residential development on one boundary. Nonetheless, the Framework does not imply that dwellings have to be isolated in order for restrictive policies to apply and there may be other circumstances where development in the countryside should be avoided. In that respect, there are other relevant policies of the Development Plan in terms of the suitability of the location which relate to matters such as the accessibility of local services, amenities and facilities.

One such policy is the Spatial Strategy for Braintree District. The Spatial Strategy as contained within the Core Strategy and Section 2 Plan directs new development towards the most sustainable locations and provides the framework in which the growth should be provided. The settlement hierarchy ranks areas of the District in order of their sustainability merits and the size, function and services that each of the areas can offer. These areas include the 'main towns' (e.g. Braintree, Witham), the 'key service villages' (e.g. Earls Colne, Coggeshall) and all remaining 'other villages'. In this case, Black Notley, is an 'other village' in the Core Strategy. These villages are those with the lowest level of services and facilities required for day-to-day living.

The Section 2 Plan carries over a similar Spatial Strategy, but categorises the villages slightly differently; main towns, key service villages, second tier villages and third tier villages. The introduction of second tier villages was in order to better categorise some areas of the District which have a higher level of services and facilities, but not enough to be a key service village. In this case, even with the introduction of second tier villages, Black Notley is still considered to fall within the lowest category of village (third tier). Paragraph 5.10 of the Section 2 Plan describes Third Tier villages as:

*“All other villages which have a development boundary are considered third tier villages. 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.”*

The Settlement Hierarchy sets out that small scale development may be able to be accommodated within third tier villages but that larger developments should be directed to higher order settlements.

Each aspect of the sustainability of Black Notley as a location is explored below.

### **Services, Facilities and Amenities**

In terms of the facilities / amenities available in Black Notley, these are limited and include a convenience shop with post office, laundrette / beauty salon, village / community hall, public house, place of worship, a single nursery, play areas and a sports field. The services available in the village would therefore not be able to meet the day to day needs of future residents, for example access to dentists/doctors/pharmacies as well as stores for the weekly grocery shop, or reasonable walkable access to primary and secondary schools. Travel would therefore be required to higher order settlements such as Braintree to meet these needs.

In terms of distances (road), the nearest doctors would be in Great Notley 2.6 miles away on an unsafe walking route, or in Braintree also at 2.6 miles away but on an unattractive walking route (more detail of walking route discussed further in the report). The NHS lists 5 surgeries in the Braintree Primary Care network and only Blyths Meadow surgery in Braintree has capacity to accommodate the development.

In terms of supermarkets, the nearest store would be in Braintree Town centre at 2 miles away, the nearest dentist 2.8 miles away and the nearest pharmacy is also 2.8 miles away.

In terms of primary schools, existing residents are either required to travel to Cressing Primary School (approx. 2.3km away road distance) or John Ray Junior School in Braintree (approx. 1.9km away road distance) from the site entrance. There is no footway that links Black Notley to Cressing, therefore future residents would be unable to safely walk to Cressing Primary School.

There is however a footway which links Black Notley to Braintree, and therefore John Ray Junior School. Officers have walked this route and also carried out measurements of the footway at 20m intervals from the site entrance following the safest possible route to the school. A thorough analysis has therefore been able to be completed assessing the suitability and attractiveness of this walking route for future occupiers. A summary of this analysis is below.

### **Black Notley – Braintree, Walking Route**

*From the site to John Ray Junior School:*

The walking route within the Black Notley village itself is reasonable; there is a usable footway on one side for most of the village section with regular street lighting. However, the walking route as one traverses outside of the village is far less reasonable. The regular street lighting stops (albeit there is an occasional small LED light attached to a power pole on the opposite side of the road to the footway). The footway is also only on one side of the road, and



is consistently narrow in places reducing down to 0.8m at one of the lowest points. The footway widths vary but there are certainly prolonged narrow points such as outside of 54-44 Witham Road. The route also requires unaided road crossings at various points (on junctions) which are either not lit or inadequately lit. A large section of the route is also a 40mph speed limit. The footway and general only becomes wider leading up to the bridge over the A120 and then into Braintree itself.

### *Highway Record Search*

The Council asked Essex County Council to carry out a highway record search on the route to ascertain if there were any possibilities of widening the footpath at various points.

It is apparent that in Black Notley Village itself, that there would be some scope to widen the existing footpaths on the western side by eating into more of the verge. There is less space on the opposite side of the road.

Outside of the village leading up to the war memorial junction, there is no space to widen the existing footway on the southern side of the road. There may be some scope to provide a narrow footpath on the northern side of the road from near the Pavilion to the War memorial junction, however this scope would be entirely reduced just after the war memorial heading towards Braintree.

After the Memorial junction, there is no space to widen the existing footway or provide a footway on the opposite side of the road from 44-54 Witham Road. There may however be some space in the verge on the opposite side of the road from near Park Gate Farm, Witham Road to provide a footway; however the majority of this land is covered by trees that front the road, which would need to be removed to facilitate any new footpath.

Moving past the A120 bridge, it does appear that the highway boundary extends beyond the footway on the southern side, but is either constrained by a verge or hedging. There does also appear to be some scope for a footpath on the opposite side of the road leading most of the way to the school.

### *Summary*

From completing this assessment, it is clear that the walking experience within Black Notley itself would likely be reasonably acceptable for future occupiers to walk (although the footway is narrow in some places). The issues start as one goes out of the village into the long middle section between Black Notley and Braintree. As recorded above, this section requires numerous unaided crossing points which are not adequately lit (if at all), with large sections of footpath with inadequate widths to be able to safely pass another person(s) without having to step into the road or climb the embankment. Large parts of this route also have no residential accommodation nearby, meaning that the footway has little to no public surveillance in places which only adds to its unattractiveness.

The Highway Record shows that there is no scope to extend large parts of the existing footway on this middle section where it is narrowest. While there may be some scope to introduce a narrow footway on the opposite side of the road, it would be inconsistent and sporadic given changes in widths, proximity of properties and existing vegetation. As such, in reality the prospect of introducing a secondary footway would be very unlikely and would introduce its own poor walking environment requiring crossing to the existing footpath at various points (where there is insufficient space to accommodate a new footpath).

As such, taking into account the above, while there is a continuous footway from Black Notley into Braintree, it is considered that the walking route to the primary school would not realistically be attractive to future users. This is notwithstanding the large 1.9km distance required to walk, which is a considerable distance for children of primary school age, the majority of whom in the younger year groups also needing escorting by parents or carers, some of whom may well have other younger children accompanying them. As such, the unattractiveness of the route, coupled with the distance, means that future occupiers are in real terms highly unlikely to walk to the primary school.

With a development of up to 90 houses, a large proportion of these are likely to be family housing (2-5 bedrooms) – therefore the number of trips which are likely to be generated (without walking) to the primary school would not be insignificant either from the private car or the bus.

### **Public Transport**

While Black Notley has limited facilities and amenities, it does have some public transport options. The edge of the site is approximately 265m to the nearest bus stop, which operates a half hourly bus service (No.21 Stephensons) into Braintree. The first departure from Black Notley is 06:15 and last departure is 20:00 Monday – Friday. The Saturday service is similar but starts at 06:45. A different transport provider (Heddingham) provides a Sunday service starting at 08:59 on a Sunday which is every hour (minus 9:59) and finishes at 18:59. There is also the No.345 Bus service which departs in the morning at 10:24 on Monday – Friday and returns at 13:01 (this is the only service from this bus as it serves some of the other surrounding villages too).

Taking into account the above, it is considered that Black Notley is reasonably well served by a bus service, which could be utilised by a commuter or school age child. However, the buses are not frequent enough to avoid being late if a bus is missed. The private car may therefore be preferred for convenience and security, especially if the bus times are not compatible with school/work times and children need escorting to school.

The site would also be approx. 1.2km away (road distance) from the site entrance to Cressing Railway Station. It is understood there are usually two trains an hour to Witham and Braintree respectively (either direction). The

railway station is not however intended for a large number of users; it has a small car park and only 6 cycle parking bays. It also requires access through Bullford Lane, a protected lane in the Local Plan. This is a single track, narrow and unlit road with a number of pinch points and critically does not contain a footway. Numerous reports and photos have been received by residents showing flooding by the ford too (on the route to the railway station), which would make the route impassable at times for pedestrians, cyclists and cars. Residents also report that due to the inadequacies of the car parking, some commuters park on the road further towards Cressing, which is also narrow and creates traffic issues for other road users. As such, while the railway station isn't a significant distance away, it is not attractive or safe to walk there, either requiring a cycle or private means of transportation. As such, while having a railway station relatively nearby is a benefit, due to the above it is considered this benefit is of reduced value.

## **Summary**

Black Notley has limited amenities and services which would require future occupiers to travel to higher order settlements to access day-day services and important amenities. While a footway link exists into Braintree, this route is not attractive and does not feel overly safe, with a number of problem areas as described above. This would be particularly the case for those with limited mobility, parents with young children or at night, or in inclement weather. There is however a bus service operating every 30 minutes at normal times, and a railway station for further travel (albeit only really safely accessible by car but with limited parking available).

Taking into account the services facilities and amenities above, it is considered that the classification of Black Notley as an 'Other Village / Third Tier Village' in the Settlement Hierarchy is correct and that new development in the village should be proportionate to the limited services and facilities offered.

In this case, the application seeks up to 90 dwelling units. This quantum of development represents a large major development (especially comparatively to a village the scale of Black Notley). It would result in a significant number of vehicle trips to access day-to-day facilities and the need for additional school places and other services / infrastructure.

In this case, Black Notley is unable to accommodate these day-to-day services and facilities that would be required. While it is acknowledged that Braintree, a main town, lies to the North, it is still some distance away and on an unattractive walking route. While some public transport options exist, most of the trips generated by the proposal would likely be by the private car owing to the frequency of services, distance and unattractiveness of the walking route. As such, it is considered that 90 dwellings would not be proportionate to the services available in the village and would lead to a significant reliance on the private motor vehicle to access these services elsewhere, contrary to the overall aim of the Core Strategy and NPPF to reduce/limit the need to travel.

This is a significant factor weighing against the scheme in its own right. District wide, the cumulative effect of allowing developments in locations such as the application site would considerably increase the number of unsustainable journeys made i.e. by private motor vehicle, which would be at odds with the Development Plan strategy. This harm is weighed in the planning balance at the end of the report.

### Landscape Character

Paragraph 174 of the NPPF states inter alia that planning policies and decisions should contribute to and enhance the natural and local environment by inter alia; protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan); recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland and minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

Policy CS8 of the Core Strategy specifies that development must have regard to the character of the landscape and its sensitivity to change. 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 new development should not be detrimental to the distinctive landscape features and development that would not successfully integrate in to the local landscape will not be permitted. This sentiment is reiterated in Policy LPP71 of the Section 2 Plan.

Policy RLP86 of the Adopted Local Plan states inter alia that development will not be permitted which would harm the open character, nature conservation importance or recreational importance of the floodplains of the River Brain.

The application in this case was supported by a Landscape and Visual Impact Assessment (LVA) document and a Framework Plan. Officers in this case also instructed an Independent Landscape Consultant (ILC) to review the proposals and the Applicants LVA. This section draws on the findings of these documents as well as existing landscape studies.

Focusing firstly on existing broad landscape studies, there have been a number completed. The purpose of these studies is to provide a baseline for assessment of landscape character and capacity for accommodating development.

## **Landscape Character Assessment**

The most local of these studies is the Braintree Landscape Character Assessment (2006) (BLCA) where the site is identified within the Brain River Valley character area. This character area is described as the relatively narrow valley which links Witham in the south with Braintree in the north. The 2006 BLCA identifies the following key characteristics of the Brain River Valley; shallow valley, the River Brain valley is narrow with undulating valley sides. Settlements tend to be on the valley sides near the highest points making them very visible. Pastoral irregular shaped fields slope down the valley sides to the river.

The BLCA highlights a number of sensitivities to change that are relevant to the proposed development:

*“Sensitive key characteristics and landscape elements within this character area include pockets of wet alder/willow woodland along the river banks, which are sensitive to changes in land management. The skyline of the valley slopes, in particular at the edges of Black Notley, White Notley and Cressing, are visually sensitive to potential new development (which may be visible within several views to and from adjacent character areas). There is also a sense of historic integrity, resulting from enclosed meadow within the valley bottom and a dispersed historic settlement pattern, comprising isolated manors, church hall complexes, farms, moated sites and small villages. Overall, this character area has moderate – to high sensitivity to change”*

The BLCA description acknowledges that the settlements in the valley have historic cores with the main residential areas being modern housing with unscreened exposed boundaries to the surrounding farmland.

The BLCA also suggests planning guidelines for development (if it were to come forward). The core ethos of these broad measures is to ensure that small scale development is secured that responds to context, be in keeping with landscape character and doesn't affect cross valley views. The analysis and findings within the BLCA are important for assessing the potential landscape impact of any development. This will be explored further later in the section.

## **Landscape Capacity Analysis**

In addition to the Landscape Character Assessment, the further studies relevant to the assessment of this site in terms of the likely impact of development are:

- The Braintree District Settlement Fringe Landscape Capacity Analysis for Halstead (Chris Blandford Associates 2007) and
- The Braintree District Settlement Fringes Evaluation of Landscape Analysis Study for Halstead (The Landscape Partnership 2015)

These studies were commissioned by the Council to provide an evidence base for the emerging Local Plan.

Firstly, in the 2007 Landscape Capacity review, the site is within an area of land classified as B7, which was assessed to have an overall low-medium capacity for development. In making this assessment, the analysis was split into 3 areas; landscape character sensitivity (medium-high), visual sensitivity (medium) and landscape value (medium-high). The report concludes that some development could be accommodated, but it would need to respond to site specific constraints and be limited to smaller scale developments (as these would likely have less impact).

The 2015 Landscape Capacity review provides a finer grain settlement fringe analysis and sub-divides the B7 setting area. The site in this case falls within the new '7b' area. 7b is assessed as having medium capacity for development. The eastern side of the valley immediately across from the site was scored as having low capacity for development. The assessment makes specific reference to the north end of Brain Valley Avenue:

*“Where the boundary with Brain Valley Avenue is open, the houses have direct, views of the neighbouring paddock. The close associations with settlement edge and containment in the wider landscape present moderate scope to accommodate development within the Parcels. However, the rural landscape has a role in preserving the separation between Black Notley and Tye Green, and any development would need to be sensitive to this.”*

It should be noted that Cokers Peace, which lies immediately adjacent to the site on its south eastern boundary is a public access space bought by the Parish Council in 2004 and subsequently enhanced through volunteer work and grant funding.

### **Overall Landscape and Visual Impact Analysis**

The above baseline character studies highlight the site's high sensitivity to change and medium capacity to accept new development. Various aspects of landscape value are also emphasised with guidelines for development strategies suggested. As such, the question is not whether there would be some capacity for development at the site, but instead whether the scale of development proposed would have such an adverse impact on the relatively sensitive landscape and visual character of the site (as set out by the above documents), that a development should be refused on landscape grounds.

In terms of assessing the landscape impact of this development, reference must be had to best practice, which includes reviewing different key viewpoints and assessing the likely impact of the development on these viewpoints (in the context of the above 2006, 2007 and 2015 studies). The Applicants LVA considers a number of viewpoints and the impact that

development would have. The Council's Independent Landscape Consultant (ILC) considered these viewpoints and the findings of the Applicants LVA.

The ILC broadly considers that the viewpoints assessed in the applicants LVA are acceptable in scope. The ILC also accepts many of the conclusions set out at some of these viewpoints. There are however some areas of disagreement as set out in Paragraphs 10.6-10.9 of the ILC's report. In summary:

- Viewpoints 1 and 2 (from Brain Valley Avenue) – ILC considers that after 15 years the effect would be moderate/major adverse (not moderate adverse as asserted by the applicant) because of the loss of the irreplaceable open valley view. Considers the receptor is High opposed to Medium High (as asserted by the applicant)
- Viewpoints 4, 5 and 13 (from PROW on opposite side of river) – ILC considers the effect would be Moderate to Major Adverse, and not moderate adverse (as asserted by the applicant). Considers the receptor is High opposed to Medium (as asserted by the applicant)
- Viewpoints 8, 9 and 12 (from Cokers Peace) – ILC Considers Moderate Adverse impact at 15 years (not minor adverse) & Receptor High (not Medium high as asserted by the applicant)

In terms of overall conclusions, the Applicants LVA considers that that the site's landscape character would have the ability to absorb change through the introduction of "high-quality" development as presented by the development framework plan. The Applicants LVA also considers that the proposed development would be appropriate within this landscape context and effects. The Applicants LVA therefore considers that as a result of the proposed development, it would not give rise to any unacceptable landscape and visual harm.

The Independent Landscape Consultant (ILC) commission by the Council however reached different conclusions:

*10.1 Although the site has been assessed as having medium capacity for development in the most recent capacity assessment. This is not an unconditional assessment. The capacity assessment notes that any development will need to be sensitive to the settlement pattern and scale of the valley and rural context. Although the framework plan allows for open space alongside the River, in my assessment, the scale of the development proposed will have a harmful impact on the lower valley slopes and be detrimental to the rural Brain River valley character.*

*11.1 The site forms part of an area to be assessed as having a medium capacity for development and is considered to have a high sensitivity to change. It also lies outside of the current settlement boundary for Black Notley and on the lower slopes of the River Brain valley, which are largely undeveloped.*

*11.2 The scale of development proposed would result in the urbanisation of the lower valley slopes and in my view, even with mitigation planting, would have an adverse visual impact on the valley, perceived both from residential properties and from the footpath running alongside the river. The scale of development proposed would have an adverse effect on the relatively small landscape character area of the Brain Valley. For these reasons my assessment is that there are grounds for refusing planning consent on harmful landscape impact.*

The Councils Independent Landscape Consultant (ILC) therefore identifies that the development as proposed would have a harmful landscape and visual impact. Officers consider that this weighs heavily against the proposal in the planning balance.

Furthermore, in terms of whether the site is a 'valued landscape' in the context of the NPPF, it is evident from the above that the site plays an important role in the continuity of the Brain Valley Landscape and the setting for Black Notley.

The Landscape Institute has published new technical guidance (TGN-02-21) on assessing landscape value outside of designated landscapes which suggests that factors such as perceptual scenic factors such as river corridors and strong sense of identity are to be considered when identifying landscape value. Following further discussions with the ILC taking into account all of the above factors, it is considered that the site is a 'valued landscape' for the purposes of Paragraph 174 of the NPPF.

Officers have considered the information contained with the Character and Capacity documents, applicants LVA and Independent Landscape Advice. In this case, Officers consider that the proposal, due to its scale and location, would fail to appreciate the intrinsic value of the countryside and the function it plays in this particular location. Furthermore, the development would not protect or enhance a valued landscape. As such, it is considered that the development would result in a detrimental impact upon the character and visual amenity of the countryside contrary to the NPPF, Policies CS5 and CS8 of the Core Strategy, Policy RLP80 of the Adopted Local Plan, and Policy LPP71 of the Section 2 Plan. This harm is weighed in the planning balance at the end of the report.

#### Design, Appearance and Layout

Paragraph 126 of the National Planning Policy Framework (NPPF) states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. It also 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.

Paragraph 130 of the NPPF states, amongst other things, that developments should ensure that they: function well and add to the overall quality of the area



for its lifetime; are visually attractive as a result of good architecture layout and appropriate and effective landscaping; are sympathetic to local character and history including the surrounding built environment and landscape setting; establish a strong sense of place; optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development; and 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.

Paragraph 131 of the NPPF states that trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree-lined (unless in specific/compelling cases), that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible.

Paragraph 112 of the NPPF also states that developments should:

- a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;
- b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;
- c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;
- d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and
- e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

Paragraph 134 of the NPPF states that development which is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. However, it sets out that, significant weight should be given to:

- a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes; and/or

- b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings

Policy RLP90 of the Adopted Local Plan requires designs to recognise and reflect local distinctiveness in terms of scale, density, height and massing of buildings, and be sensitive to the need to conserve local features of architectural and historic importance, and also to ensure development affecting the public realm shall be of a high standard of design and materials, and use appropriate landscaping. Policies LPP50 and LPP55 of the Section 2 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.

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.

The application in this case seeks outline consent for the erection of up to 90 dwellings. Scale, Appearance, Layout and Landscaping have all been reserved for future consideration. However, a framework plan has been provided indicating the areas for built development, open space, SUDS and play space. In addition to this, the Design and Access Statement (Page 38) includes an illustration of how development could be laid out on the site.

Focusing firstly on the areas for development, these are limited to the two parcels adjacent to the village. According to the Design and Access Statement, the yellow 'developable' areas amount to 2.32 Hectares (ha), which for up to 90 dwellings would amount to an approximate density of 39 dwellings per hectare (dph).

However, the framework plan had to be revised during the course of the application to account for the revised flood plain calculations. The developable area was therefore reduced to 2.06ha. The quantum of development however has remained the same with up to 90 dwellings. As such, this has a consequential impact on the density which would now be approximately 43.6dph.

The preamble (Paragraph 6.115) to Policy LPP37 of the Section 2 Local Plan sets out that density of new development should be determined by a number of factors including the location, access points, local road network and characteristics of the surrounding area. The density will also need to factor in achieving garden sizes, parking, open space and drainage all in accordance with the standards to be considered acceptable. The preamble (Paragraph

6.116) also states that the Council would expect densities in the District to be at least 30 dwellings per hectare to ensure an efficient use of land.

In this case, the site is located on an edge of village location in a visually sensitive area of the Brain Valley. Development in the core of the village is primarily older dwellings at lower densities, ranging from 19dph to 27dph, although the former hospital site (on the opposite side of the village to the site) is a more modern development and has a higher density at an average of 30dph. There is a notable difference in the character and density of the hospital development comparably to the remainder of the village.

Taking the above context into account, the proposed density of up to 43.6dph dwellings per hectare is far in excess of existing development in the village, and far beyond the 30dph sought to achieve an efficient use of land in Policy LPP37 of the Section 2 Local Plan. It would also be in breach of local design guidance within the Essex Design Guide. Significant positive weight cannot therefore be given to design in the planning balance as per Paragraph 134 of the NPPF.

If this development were to be permitted, the Reserved Matters application would only be able to be submitted in a form which would be completely at odds with the prevailing character of the village if 90 dwellings were to be achieved on the site whilst maintaining all of the appropriate garden standards, parking standards and back to back distances. In addition, Paragraph 131 of the NPPF now requires 'tree lined streets'. This would also have a consequential impact on reducing the density achievable without compromising on the above factors. It is therefore considered that the quantum of development proposed is far too high and would not be achievable without resulting in an inappropriate, poor quality development.

Some of this poor quality development is captured in the illustrative layout plan within the Design and Access Statement. While it is based on the old parameter plan (with a lower density), it still appears to be deficient in a number of respects; back to back distances do not appear to be 25m in order to maintain privacy between future occupiers, parking courts are poorly placed and designed and poor enclosure boundaries with existing development and within the development itself are shown. Parking and garden spaces are less clear from the plan but the scheme may be deficient in these areas too. These issues would only be exacerbated if up to 90 dwellings were granted on the site with less developable area and the requirement for tree lined streets.

Focusing particularly on open space and green space, there are three areas within the core of the developable area; a small area of green space by the site entrance housing play equipment, and two SUDS features, one on either parcel. These features are shown to have water in them at this stage and it is not clear whether they would in reality be usable as amenity space or not.

This application also includes a large area of green space, labelled as a community park, on the northern parcel of the site. This area is located within Flood Zone 3A, 3 and 2. It is therefore at the highest sensitivity for flooding,

other than serving as a function flood plain. This will be covered more in a later section of this report in terms of flood risk on future occupiers. The actual usability of this land for parts of the year, especially in winter months, would therefore be reduced and during times of flooding completely prevented. In addition, the community park area lacks any natural surveillance due to the trees which separate it from the development. The area is also large; it would be transferred to a management company to maintain if approved, however the charges for the number of units may be quite high. It would most likely make any proposed dwellings here less affordable. Other areas of green space adjacent to the river on the other parcel are also in the flood plain as existing or projected (with climate change). As such the usability of these spaces will also be reduced during times of flooding.

Overall, while the proposal is only in outline form, it is considered that the site would not be able to accommodate up to 90 dwellings without significant implications for the character of the area, relationship to the village, or amenities of future occupiers through poor design (parking & garden standards and overlooking/back to back distances). It is also questionable how usable and safe the areas of open space would be. As such, it is considered this is a significant harm weighing against the application.

### Heritage

Paragraph 199 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

In this case, there are no designated heritage assets in close proximity to the site. The Historic Buildings Consultant has assessed the application and determined that it would not prejudice any heritage assets. If however to accommodate the density of development, the number of stories increased to three and beyond, the Historic Buildings Consultant may take a different view.

Overall, as submitted at this stage it is considered there are no detrimental heritage implications of the development.

### Impact on Neighbour Amenities

A core principle of the National Planning Policy Framework is that development should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Section 2 Plan states that development shall not cause undue or unacceptable impacts on the amenities of nearby residential properties.

The application is in outline form, with all matters of scale, appearance, layout and landscaping reserved for later consideration. As such, it is difficult at this

stage to adequately assess the impact of the development on neighbouring properties, this being undertaken in detail at the Reserved Matters Stage of the planning process. It is considered however in general terms that an appropriate development could be accommodated here without significant detriment to neighbouring properties, although the proposed density of development would be likely to pose additional challenges in this regard.

Concerns have also been raised by local residents in respect of construction activities at the site, including possible road closures for infrastructure and movements of heavy goods vehicles. Construction activity however is a temporary disturbance that is associated with any development. The Local Planning Authority cannot reasonably refuse an application because construction works may temporarily disturb neighbouring properties/commercial premises. A condition could however be imposed to ensure that construction works would not occur outside of unreasonable hours. Any damage caused by construction vehicles would be a civil matter and not something that the Local Planning Authority could control by way of condition although a degree of control over construction vehicle routing could be exercised. Any necessary road closures would be dealt with by the Highways Authority.

### Highway Issues

Paragraph 110 of the NPPF sets out new development should ensure that (inter alia); safe and suitable access to the site can be achieved for all users; the design of streets, parking areas, other transport elements and any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree. Furthermore, Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

‘Access’ is a matter for consideration as part of this outline application. Access would be taken from the western leg of Brain Valley Avenue, opposite the bungalows which overlook the site and would consist of a ‘T’ junction to operate under priority control. The visibility splays would be 2.4m by 40m in both directions for a 30mph road. A 2m footway would be installed on both sides of the access arm. Essex Highways have reviewed the access arrangements and are satisfied that the access would be safe and suitable for the proposed development. As such, Officers consider the proposed access to the site would be acceptable.

The application was also supported by a Transport Statement and Travel Plan which not only review the acceptability of the access, but also look at likely trip generations, implications for the local road network and opportunities for walking and cycling. Essex Highways have reviewed these documents. Essex Highways are content that the proposal would not have a detrimental impact on highway safety, and comment that while the development would certainly generate additional trips, these would not be severe and as such the highway

network should be able to accommodate them. Essex Highways also comment that from a pure highway perspective, that there are opportunities to travel to and from the site by more sustainable modes of travel (although the limitations of this have been discussed in detail in the above report).

As such, taking all of the above into account, Essex Highways are satisfied that the development would not have a detrimental highway safety or capacity impact. They do however suggest conditions (if approved) regarding a Construction Management Plan, provision of the access, upgrading bus stops, provision of dropped curbs and provision of Travel Information Packs. As such, it is considered from a highway safety and capacity perspective that the development would be acceptable.

While Essex Highways state that there are some opportunities to travel by more sustainable means of transport, this view is taken purely in highway terms as opposed to as part of a holistic package taking into account other factors such as walking distances and other services and facilities offered in the village. Officers by contrast have thoroughly explored the practicalities and attractiveness of the public transport options in conjunction with the services and facilities available in the village. As such, while Essex Highways are satisfied from a highway perspective, considering the overall sustainability of the location in planning terms is a more holistic process. Officer's views on the sustainability of the site are as set out in the "Location and Access to Services and Facilities" section of the above report.

### Ecology & Arboricultural Impacts

Paragraph 174 of the NPPF states inter alia that planning policies and decisions should contribute to and enhance the natural and local environment by: minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

Paragraph 179 of the NPPF promotes the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity. Paragraph 180 of the NPPF states inter alia that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Policy RLP81 of the Adopted Local Plan states that the Planning Authority will encourage landowners to retain, maintain and plant, in appropriate locations, locally native trees, woodlands, grasslands and hedgerows.

Policy RLP84 of the Adopted 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. This is echoed by Policy LPP68 of the Section 2 Plan.

## **Ecology**

Firstly in terms of Ecology, the application was submitted with an Ecological Appraisal relating to the likely impacts of the development on designated sites, protected species and priority species/habitats. The Ecology Officer reviewed the submitted documentation and initially raised a holding objection due to the lack of information around a potential Otter living on the site. Further information was also required about on site reptile receptors. This objection was kept sensitive at first due to a possible Otter holt/breeding place.

Further investigation was completed to determine if there were indeed any active Otters living on the site. It is understood that some additional holes were discovered, however there was evidence that these were historic and not used by Otters at the time. Camera trapping was utilised to double check that the Otters were not using the identified holts – and this confirmed that Otters were not using them. The Ecology Officer reviewed the additional information and was satisfied that sufficient information was available to determine that there wouldn't be any detrimental ecological impacts as a result of the development. The Ecology Officer recommended a number of conditions if development were to be approved, these include protection for ecology during construction, Landscape and Ecological Management Plan, Biodiversity Enhancement Strategy and a wildlife sensitive lighting scheme. A condition was also recommended requiring further fresh surveys 18 months after the issue of planning permission (if development had not commenced).

As such, from an ecological perspective, it is considered that the development is acceptable.

## **Arboricultural Impacts**

Turning to tree impacts, the development was also supported by an arboricultural assessment. The arboricultural assessment identifies the areas of trees and hedges on the Framework Plan, which primarily are on the site boundaries. The arboricultural assessment identifies that most trees and hedges would remain on the site, with only three exceptions removing three small groups of category C trees to facilitate access through to the other parcel and the development itself. Category C trees are not the lowest value trees, but they are generally common and able to be replaced through appropriate planting. The Tree Protection Plan shows that no category B or A tree and tree groups would be removed as part of the development.

This arboricultural assessment was updated during the life of the application in response to concerns raised by the Councils Tree Officer. These concerns can be summarised as; TPO (T9) adjacent to the site not identified as a TPO

with possible impacts due to development proximity, and concerns about the possible setting and long term management of two other category A Oak Trees (T12 and T13). In response, the arboricultural report amended the developable area around the tree subject to a Preservation Order T9 so that it had more room and a sufficient root protection area. The arboricultural report did not however amend the boundaries around T12 or T13 concluding that there was sufficient space, and that a Reserved Matters submission could be submitted to be sensitive to the trees. Also it is suggested that the trees could be appropriately managed by a management company. The Landscape Officer reviewed this again and raised no objection; concurring that the reserved matters application could be sensitively designed to protect T9, T12 and T13.

Overall, Officers are therefore satisfied that the development would have a minimal impact on trees and hedges, and that those important trees and hedges identified could be retained sufficiently. As such, it is considered there are no unacceptable detrimental arboricultural implications associated with the development.

#### Habitat Regulations Assessment (HRA)

Policy SP2 of the Section 1 Plan states that Contributions will be secured from the development towards mitigation measures in accordance with the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy 2018-2038 (RAMS).

The site is situated within the Zone of Influence (ZOI) for the Blackwater Estuary SPA/Ramsar site. As such, the developer is required to pay a financial contribution towards offsite visitor management measures for the Blackwater Estuary SPA & Ramsar site, (£127.30 per dwelling). No HRA payment has however been secured at this stage. As such, until such time as contribution is secured, it is considered the development would have an unacceptable impact on the Blackwater Estuary SPA/Ramsar site. These matters could be resolved through a S106 agreement if the development was approved.

#### Flood Risk

Paragraph 159 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. The NPPF and Planning Practice Guidance (PPG) classifies development types according to their vulnerability to flood risk and gives guidance on which developments are appropriate in each flood zone. In this case, part of the application site lies within the fluvial Flood Zone 3A.

A Flood Risk Assessment (FRA) was submitted with the application to determine the level of flood risk from the development. The FRA showed the



extent of the flood plain was limited to the field labelled as 'proposed community park' on the north eastern side of the site, and to a smaller extent on the south eastern part of the site. This study assisted with the formation of the developable areas, as defined on the Framework Plan. By locating the proposed residential development outside of this area, the applicant seeks to avoid the need to complete a sequential or exception test, as otherwise required by Paragraphs 161, 162 and 163 of the NPPF.

The Environment Agency reviewed the FRA and raised an objection to the application on the basis that the flood maps did not account for climate change (the latest advice), as well as not including modelling of the North West watercourse. The Environment Agency therefore raised an objection to the application and suggested that a sequential and exception test were required.

Following this objection from the Environment Agency, the latest climate change modelling was included with an addendum document. When these figures are taken into account, the developable residential area has had to be reduced on the south eastern side, so that the area of open space has expanded by 0.26Ha.

This addendum document also reviewed the watercourse along the north western boundary of the site. The modelling has shown that the developable area remains outside of the area of flooding for the 1 in 100 year + 65% climate change and the 1 in 1000 year event.

The Environment Agency reviewed the submitted additional information and were satisfied that the revised developable area was outside of the existing and projected flood plain. Therefore they suggested that the sequential and exception tests need not to be applied and overall raised no objection to the development.

Officers are satisfied that the developable area is now outside of the flood zone (existing and projected), however with the majority of the open space located within the existing or projected flood zone, it calls into question the usability of the space. This is discussed further in the design and layout section of the report above.

### SUDS, Surface Water, Sewerage and Drainage

Policy RLP69 of the Adopted Local Plan and Policy LPP78 of the Section 2 Plan states that where appropriate, the District Council will require developers to use Sustainable Drainage techniques such as porous paving surfaces.

Government Policy as set out in Paragraph 169 of the NPPF strongly encourages a sustainable drainage system (SuDs) approach to achieve these objectives. SuDs offer significant advantages over conventional piped drainage systems in reducing flood risk by reducing the quantity of surface water run-off from a site and the speed at which it reaches water courses, promoting groundwater recharge, and improving water quality and amenity.

A large number of concerns have been raised by residents in regards to flooding in the area and the possible ill effects of increased surface water run-off from any development at this site. In this case, the application is supported by a Flood Risk Assessment and Foul Drainage Analysis report. These documents set out in principle how surface water will be taken from the development and stored, while also assessing how foul drainage can be accommodated at the site.

Focusing firstly on surface water attenuation, this is proposed to be through a Sustainable Urban Drainage SuDS scheme. This is often where water is piped from drains on the development into an attenuation basin, where it is held for a period of time as it slowly releases into the water course. The first indication of the possible SuDS features are indicated on the Framework Plan, which shows two blue areas that would be the attenuation ponds for surface water to flow into.

Essex SuDS have been consulted on the application, reviewing the proposed SuDS strategy in principle. Essex SuDS have raised no objection subject to the imposition of a number of conditions. These conditions relate to ensuring that the final designed SuDS scheme is suitable and that there would not be an increased flooding risk as a result of the development. As such, while residents' concerns are noted regarding surface water drainage, Officers are in this case satisfied that this could be adequately controlled if approved.

In terms of waste water treatment and used water network, Anglian Water have confirmed that flows could be made available to accommodate the development. As such, it is considered the proposal is acceptable in terms of its SUDS, sewage and drainage.

### Lighting

Policy RLP65 of the Adopted Local Plan and Policy LPP81 of the Section 2 Plan states that proposals for external lighting which require planning permission will only be permitted if the lighting is designed as an integral element of the development; low energy lighting is used; the alignment of lamps and provision of shielding minimises spillage and glow, including into the night sky; the lighting intensity is no greater than necessary to provide adequate illumination; and there is no significant loss of privacy or amenity to nearby residential properties and no danger to pedestrians and road users and there is no unacceptable harm to natural ecosystems.

Brain Valley Avenue is currently lit, however the site itself is not. Any new development of this site would likely require street lighting to be safer for future occupants and start to achieve secure by design principles. At this outline stage, these details are not known, and as such would come forward either at the reserved matters stage or through condition (if consent is granted). In addition, a biodiversity lighting plan would also be required to satisfy ecology, thus the two would combine to provide a suitable lighting scheme at an appropriate time.

## Contamination, Air Quality & Noise

Paragraph 183 of the NPPF states that decisions should ensure that;

a) A site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);

b) After remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and

c) Adequate site investigation information, prepared by a competent person, is available to inform these assessments.

Paragraph 184 of the NPPF confirms that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

Policy RLP64 of the Adopted Local Plan states that a development on or near a site where contamination may exist, should provide a thorough investigation, so as to establish the nature and extent of the contamination, and then identify works to mitigate any contamination found where appropriate.

In this case, no contamination report was initially submitted with the application. However, during the course of the application, a phase 1 contamination report was submitted. At the time of writing the Environmental Health Officer had not responded on the content of the contamination report, but did comment more generally prior to its submission that it could be dealt with via condition if not submitted.

In terms of air quality, the Environmental Health Officer was satisfied that the development would have satisfactory air quality and that future residents would not be unduly affected by noise disturbance once built. A number of conditions were recommended to secure this.

Overall, it is considered that from an air quality and noise perspective, that the development is acceptable. From a contamination perspective, any updated comments from the Environmental Health Officers will be circulated in advance of the Committee meeting or an update provided by Officers at the meeting.

## Archaeology

Policy RLP105 of the Adopted Local Plan states that where important archaeological deposits are thought to be at risk from a proposed development the developer will be required to arrange for an archaeological

evaluation to be undertaken prior to the planning decision being made. The evaluation will assess the character, importance and extent of the archaeological deposits and will allow an informed and reasonable decision to be made on the planning application. This is reinforced by Section 2 Plan Policy LPP63.

The site has the possibility of containing archaeological remains. As such, in accordance with the recommendations of the Archaeological Officer, conditions would be attached to secure appropriate investigation and mitigation.

## PLANNING OBLIGATIONS

Paragraph 98 of the NPPF states that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision. The assessments should identify specific needs and quantitative and qualitative deficits or surpluses of open space, sports and recreational facilities in the local area. Information gained from the assessments should be used to determine what open space, sports and recreation provision is required.

Policies CS10 of the Core Strategy and Policy LPP53 of the Section 2 Plan indicates that a financial contribution will be required to ensure that infrastructure services and facilities required to provide for the future needs of the community including, inter alia, open space, sport and recreation provision are delivered.

In this case, the development would comprise up to 90 units. In accordance with the Councils Open Space SPD, it breaks down 'Open Space' provision/contributions into 5 key areas which future residents would likely utilise; Allotments, outdoor sport, informal open space, amenity green space and outdoor equipped playgrounds. In table 3 on page 23 of the SPD, it identifies whether provision should be made on site, or a financial contribution paid to a nearby project.

In this case, the development would be over 50 dwellings, and thus would need to provide informal open space on site, amenity green spaces and outdoor equipped playground(s). Allotments and outdoor sport would then be a financial contribution. As no legal agreement has been worked up for this proposal at this stage, the absence of a S106 agreement means that no contributions have been secured. Therefore, the development would not sufficiently mitigate its likely impacts if approved, and this is a significant conflict with the above policies.

The proposed site plan could act as a parameter plan to secure the areas of open space, which would be sufficient in size to meet the requirements of the SPD. However, issues around the usability of these spaces have been previously set out in the design and layout section above.

## Affordable Housing

Paragraph 63 of the NPPF states that where a need for affordable housing is identified, planning policies should specify the type of affordable housing required, and expect it to be met on-site unless: a) off-site provision or an appropriate financial contribution in lieu can be robustly justified; and b) the agreed approach contributes to the objective of creating mixed and balanced communities.

Policy CS2 of the Adopted Core Strategy and Policy LPP33 of the Section 2 Plan states inter alia that Affordable housing will be directly provided by the developer within housing schemes on the following basis: 1. A target of 40% affordable housing provision on sites in rural areas, excluding the Parishes of Sible Hedingham and Great Notley and the proposed growth location in the Parish of Rivenhall. Where it is impractical to achieve on site provision, off site provision, or a financial contribution in lieu of broadly equivalent value, may be accepted.

In this case, again as no S106 has been secured, the application has not fully committed to providing 40% affordable housing, either as a contribution or on site. 40% of 90 would equate to up to 36 units. As such, the proposal is also unacceptable in this regard as it would significantly conflict with the above policies (in the absence of any reasoned justification e.g. viability).

## 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.

Paragraph 60 of the NPPF sets out the Government's objective of significantly boosting the supply of homes. The main mechanism within the NPPF for achieving this is the requirement that local planning authorities demonstrate a five-year supply of deliverable housing land, assessed against housing need. In this regard, the Council is currently able to demonstrate a Housing Land Supply of 5.34 years against its housing need. As such the Council is presently meeting this objective.

Until the adoption of the Section 2 Plan, the sites which are proposed to be allocated but do not yet have planning permission or a resolution to grant planning permission, have not been included within the 5 Year Housing Land Supply calculation.

As such, although the Council can currently demonstrate a 5 Year Housing Land Supply, this is finely balanced, and currently only marginally exceeds the 5 year threshold.

As the Council can demonstrate the required 5 Year Housing Land Supply, the 'tilted balance' pursuant to Paragraph 11d) of the NPPF is not engaged due to a lack of housing land supply. It is therefore necessary to identify the most important policies for determining the application and to establish whether these are out-of-date. Paragraph 219 of the NPPF states that existing policies should not be considered out-of-date simply because they were adopted prior to the publication of the Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater weight that may be given).

In this case the basket of policies which are considered to be the most important for determining the application are Policies SP1 and SP3 of the Section 1 Plan, Policies RLP2, RLP80, RLP90 and RLP138 of the Adopted Local Plan, Policies CS2, CS5, CS7, CS8 and CS10 of the Core Strategy, and Policies LPP1, LPP44, LPP33, LPP53, LPP55 and LPP71 of the Section 2 Plan.

Policy SP1 of the Section 1 Plan states that when considering development proposals the Local Planning Authority will take a positive approach that reflects the presumption in favour of sustainable development contained within the NPPF, and will seek to approve proposals wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. Policy SP3 of the Section 1 Plan sets out the spatial strategy for North Essex, namely to accommodate development within or adjoining settlements according to their scale, sustainability and existing role both within each individual Districts, and where relevant, across the wider strategic area. Further growth will be planned to ensure existing settlements maintain their distinctive character and role, to avoid coalescence between them and to conserve their setting. As the Section 1 Plan has been found to be sound and recently adopted by the Council, it is considered that both policies are consistent with the NPPF and can be afforded full weight. Neither are out-of-date.

Whilst the primary purpose of Policy RLP2 of the Adopted Local Plan is to restrict development to development boundaries, and thus resist it in the countryside, it is considered that the policy remains broadly consistent with the Framework's approach of protecting the countryside from harmful development, and is not hindering the Council in delivering housing growth within the District. The policy is not out-of-date, and can be given moderate weight. The aims of Policy CS5 of the Core Strategy are much wider as the policy seeks to amongst other things, protect and enhance the landscape character and amenity of the countryside. As it is effectively seeking to preserve the intrinsic character and beauty of the countryside – an objective contained within the NPPF – it is considered that this policy is not out-of-date

and can be given significant weight. Policy LPP1 of the Section 2 Plan reiterates the above about protecting the intrinsic character and beautify of the countryside. Given the status of the Section 2 Plan (which is now at modifications stage following examination) it is considered this policy can be attributed limited weight.

Policy RLP80 of the Adopted Local Plan requires that new development must successfully integrate into the local landscape and that proposals that fail to do so will not be permitted. Policy RLP86 states inter alia that development will not be permitted which would harm the open character, nature conservation importance or recreational importance of the floodplains of the River Brain. Policy CS8 of the Core Strategy is a wide ranging policy concerning the natural environment and biodiversity. Amongst other things the policy requires that consideration is given to landscape impact. It 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 a manner that accords with the Landscape Character Assessment for the area. The underlying objectives of Policies RLP80 and CS8 are to protect the landscape character and amenity of the countryside and require a decision maker to consider the established landscape character and its sensitivity to change and are considered to both be consistent with paragraph 174 of the NPPF and are not considered to be out of date and can be given significant weight. The above important considerations regarding landscape character and features are also taken forward in Policy LPP71 of the Section 2 Plan. Given the status of the Section 2 Plan (which is now at modifications stage following examination) it is considered this policy can be attributed limited weight.

Policy CS7 of the Core Strategy promotes accessibility for all, and in particular states that future development will be provided in accessible locations to reduce the need to travel, an objective contained within Paragraph 105 the NPPF (inter alia) – it is considered that this policy is not out-of-date and can be given significant weight. Policy LPP44 of the Section 2 Plan also reiterates the above with a focus on facilitating sustainable modes of transport through new developments. Given the status of the Section 2 Plan (which is now at modifications stage following examination) it is considered this policy can be attributed limited weight.

Policy RLP90 of the Adopted Local Plan seeks inter alia to ensure that developments recognise and reflect local distinctiveness in terms of scale, density, height and massing. All of these factors go to the heart of good urban design, which is a significant consideration as set out within Section 12 (Achieving Well-designed Places) of the NPPF. Moreover, the 2021 NPPF has introduced a significant emphasis on 'beautiful design' NPPF including references in Paragraphs 8b, 73c, 125, 126, and 128. This change therefore not only seeks to secure good design but also seeks to raise the overall standard of a development in conjunction with a number of other new policy additions such as the requirement for tree lined streets. As such, it is considered that RLP90 is not out-of-date and can be given full significant weight. Policy LPP55 of the Section 2 Plan also reiterates many of the above

points set out in policy RLP90 and the NPPF. Given the status of the Section 2 Plan (which is now at modifications stage following examination) it is considered this policy can be attributed limited weight.

Policy CS2 of the Adopted Core Strategy seeks to secure 40% affordable housing on sites outside of the main towns (Braintree, Witham and Halstead) in order to meet the affordable housing demand within the district. Securing affordable housing on new development is consistent with the NPPF and can be given significant weight. Policy LPP33 of the Section 2 Plan is consistent with Policy CS2 but introduces the 10% mandate for different types of affordable housing ownership (e.g. starter home). Given the status of the Section 2 Plan (which is now at modifications stage following examination) it is considered this policy can be attributed limited weight.

Policy RLP138 of the Adopted Local Plan and Policy CS10 of the Adopted Core Strategy and Policy indicates that a financial contribution will be required to ensure that infrastructure services and facilities required to provide for the future needs of the community including, inter alia, open space, sport and recreation provision are delivered. Offsetting the impacts of development is important for any application and consistent with the NPPF. It is considered these policies can be attributed significant weight. Policy LPP53 of the Section 2 Plan also reiterates the above. Given the status of the Section 2 Plan (which is now at modifications stage following examination) it is considered this policy can be attributed limited weight.

When considering the basket of the most important policies for the determination of this application as a whole, it is considered that the policies are not out-of-date and are broadly consistent with the Framework.

Given that the Council can demonstrate a 5 Year Housing land Supply, and the basket of policies are not otherwise out-of-date, the 'flat' (or untilted) planning balance must still be undertaken which weighs the adverse impacts of the proposed development, including the conflict with the Development Plan, against the public benefits of the proposal.

In undertaking this flat planning balance, such an assessment must take account of the economic, social and environmental impact of the proposed development. As set out in Paragraph 8 of the NPPF, achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and needed to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- an economic objective (to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure);
- a social objective (to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to



- meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being);
- an environmental objective (to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy).

### **Summary of Adverse Impacts**

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

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

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Paragraph 15 of the NPPF emphasises that the planning system should be “genuinely plan led”.

The proposed development would conflict with Policy RLP2 of the Adopted Local Plan and Policy CS5 of the Core Strategy with regard to the Council's spatial strategy as it proposes development outside of defined development boundaries and within the countryside. The development would also conflict with Policy CS7 of the Core Strategy as the development would not be built in an accessible location, thereby increasing the need to travel (not limiting) to higher order settlements. Significant weight is attached to these conflicts.

The development would conflict with Policy CS8 of the Core Strategy and Policy RLP80 of the Adopted Local Plan as it the development would not successfully integrate into the local Brain Valley Landscape (in Officer's opinion a valued landscape) without detrimental harm or enhancement to its locally distinctive landscape character. Significant weight is given to the conflict with these landscape policies.

The development would conflict with Policy RLP90 of the Adopted Local Plan as the quantum of development would be too high to adequately respond to local distinctiveness and provide beautiful design, amenity and parking. Significant weight is given to the conflict with this policy.

The development would conflict with Policies CS2, CS10 of the Adopted Core Strategy and RLP138 of the Adopted Local Plan as the development at this time has not secured any affordable housing provision/contributions, or any contributions to other areas of Open Space as set out in the Councils Open Space SPD (e.g. formal sport), as well as education and NHS contributions. Significant weight is given to the conflict with these policies.

### Conflict with the Section 2 Plan

The proposal would conflict with Policy LPP1 of the Section 2 Plan and it has not been allocated for residential development. This conflict is fundamental, although as the Section 2 Plan is yet to be adopted, this conflict can only be given limited weight at the time of writing.

The scheme would also conflict with Policies LPP33, LPP44, LPP53, LPP55 and LPP71 of the Section 2 Plan. Given the status of the Section 2 Plan (which is now at modifications stage following examination) it is considered these policies can be attributed limited weight.

### Location and Access to Services and Facilities

The totality of considerations in this regard are set out in the 'Services, Facilities and Amenities' section above.

Black Notley is a Third Tier Village and has limited amenities and services which would require future occupiers to travel to higher order settlements to access day-day services and important amenities. While a footway link exists into Braintree (a higher order settlement), this route is long, unattractive and does not feel overly safe owing to narrow footway widths and vehicle speeds. Some public transport options do exist, but most trips to access services and facilities would likely not be by sustainable modes of transport but by the private motor vehicle owing to the frequency of services, distance and the unattractiveness/safety of walking (to the railway station).

Owing to the above, and the quantum of units proposed on this site (up to 90 dwellings), the development would generate a significant number of daily vehicle trips to access day-to-day services and facilities in higher order settlements. This would not help reduce congestion or reduce emissions and wouldn't improve air quality and public health as per Paragraph 105 of the NPPF. Overall, up to 90 dwellings would not be proportionate to the services and facilities available in the village and would be contrary to the overall aim of the Core Strategy and NPPF to reduce/limit the need to travel.

Owing to the above, it is considered that the unsustainability of the location weighs considerably against the development and should be afforded significant weight.

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

The totality of considerations in this regard are set out in the Landscape Character and Design, Appearance and Layout sections above.

The development fails to appreciate the intrinsic value of the countryside and the function it plays in this particular location and would result in a detrimental impact upon the character and amenity of the countryside. This weighs against the proposal and is afforded significant weight.

Similarly, the development would introduce a density of development that is at odds with the prevailing character of Black Notley at Reserved Matters Stage. Furthermore, it has not been demonstrated that this density can be achieved successfully without significant compromises to amenity, design and landscaping (including tree lined streets). This weighs against the proposal and is afforded significant weight.

#### Harm to Trees and Hedgerows

The totality of considerations in this regard are set out in the Ecology & Arboricultural Impacts section above.

In summary, the development would require the loss of a number of category C trees to facilitate access through between the two parcels of land. Taking into account the nature of the loss, it is considered this harm would not be significant and should be afforded only limited weight. The trees could also be replaced with a well-considered landscaping proposal at the site.

#### Conflict with the NPPF

The development would also conflict with the NPPF in terms of its overarching objective to secure sustainable development, but in particular would conflict with Paragraphs 63, 79, 92, 93, 98, 105, 112, 126, 130, 131 and 174. This is contrary to the social and the environmental aspects of sustainable development which aim to create strong and healthy communities by fostering a well-designed and safe built environment and to contribute to protecting and enhancing our natural, built and historic environment and minimising pollution.

It is considered that that significant weight should be given to this conflict and that the proposal does not constitute sustainable development when considered against the policies of the Framework as a whole.

### **Summary of Public Benefits**

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

#### Delivery of Market and Affordance Housing

The development would facilitate the provision of up to 90 new dwellings, comprising 54 market dwellings and 36 affordable dwellings (if a S106 is entered into and signed). This is afforded more than moderate weight, given the scale of the development.

#### Location and Access to Services and Facilities

There is a bus service within walking distance of the development which operates every 30 minutes on weekdays providing links into Braintree. There is also a railway station at Cressing, albeit no safe walking route exists with

limited on-site parking/cycle facilities. Furthermore, a walking route exists into Braintree but it is unattractive due to its length and width in places.

The existence of the bus service can be given moderate weight, but the railway station and walking route should be given less than moderate weight due to their lack of attractiveness and accessibility.

### Economic and Social Benefits

The proposal would undoubtedly deliver economic benefits during the construction period and economic and social benefits following occupation of the development, in supporting the very limited local facilities in addition to the New Homes bonus. However this is no more than any other similar development and is afforded no more than moderate weight.

### Section 106 Obligations

Should it have been entered into the proposals would have secured a number of Section 106, obligations including the aforementioned affordable housing, open space, education and HRA/RAMS contribution.

The Section 106 benefits are afforded limited weight, as the obligations are mitigating the impacts of the development in accordance with planning policy. As these contributions/provisions have not been agreed at the time of writing, this would be a significant harm weighing against the application if not agreed at appeal (as set out in the earlier section).

### Planning Balance

When considering the flat planning balance and having regard to the adverse impacts and benefits outlined above, and having regard to the requirements of the NPPF as a whole, Officers have concluded that the benefits of the proposal are outweighed by the harms, including the harm arising from the conflict with the Development Plan, such that planning permission should be refused in line with the Development Plan.

### 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 (2005), Adopted Core Strategy (2011) and the Draft Section 2 Plan (2017). The proposal would introduce up-to 90 dwellings in the countryside adjacent to an 'other village' with limited services and facilities. While a footway link exists into Braintree, this route is long, unattractive and does not feel overly safe owing to narrow footway widths and vehicle speeds. Moreover, while some public

transport facilities exist, most trips to access services and facilities would likely be by the private motor vehicle owing to the frequency of these services, distance and the unattractiveness/safety of walking (to the railway station).

As such, it is considered that the proposed development for up to 90 dwellings would not be proportionate to the services available in the village and would lead to a significant reliance on the private motor vehicle to access these services elsewhere, contrary to the overall aim of adopted and emerging local planning policy and the NPPF to reduce/limit the need to travel. The development would therefore be contrary to Policy RLP2 of the Adopted Local Plan (2005), Policies CS5 and CS7 of the Adopted Core Strategy (2011), Policies SP1 and SP3 of the Adopted Section 1 Local Plan (2021), Policies LPP1 and LPP44 of the Draft Section 2 Plan (2017), and the NPPF.

- 2 The proposal due to its scale and location, would result in an unacceptable urbanisation of the lower Brain Valley slopes that could not be reasonably mitigated thus having a detrimental impact the landscape character area of the Brain Valley and wider countryside. The development would therefore fail to appreciate the intrinsic value of the countryside and the function it plays in this particular location, nor would it protect or enhance this valued landscape. The development would therefore conflict with Policies CS5 and CS8 of the Core Strategy, Policy RLP80 of the Adopted Local Plan, Policy LPP71 of the Draft Section 2 Plan and the NPPF.
- 3 The proposal for up to 90 dwellings on a developable area of 2.06ha would result in a density of up to 43.6 dwellings per hectare. It has not been demonstrated that this density of development could be adequately achieved without significant compromises to amenity, design and landscaping (including tree lined streets as required by the NPPF). In any case, up to 43.6 dwellings per hectare would be completely at odds with the prevailing character and density of Black Notley. The proposed development would therefore fail to reflect local distinctiveness and would have a detrimental impact on the character and appearance of the area. The development would therefore be contrary to Policies RLP2 and RLP90 of the Adopted Local Plan (2005), Policy CS5 of the Adopted Core Strategy (2011), Policies SP1 and SP3 of the Adopted Section 1 Local Plan (2021), Policies LPP1 and LPP55 of the Draft Section 2 Plan (2017), and the NPPF.
- 4 Adopted policies and Supplementary Planning Documents applicable to the proposed development would trigger the requirement for:

- A financial contribution towards outdoor sport, equipped play and allotments
- Ongoing maintenance for on-site public open space
- On site affordable housing
- A financial contribution for additional early years, primary or secondary school places and local library improvements
- A financial contribution towards off-site visitor management measures for the Blackwater Estuary SPA & Ramsar site and Essex Estuaries SAC
- A financial contribution for the NHS to ensure that the impacts of increased demand for services can be accounted for.

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 securing such planning obligations the proposal is contrary to Policies CS2 and CS10 of the Adopted Core Strategy (2011), Policy RLP138 of the Adopted Local Plan (2005), Policy SP2 of the Adopted Section 1 Local Plan (2021), Policies LPP33 and LPP53 of the Draft Section 2 Local Plan and the Open Space Supplementary Planning Document (2009).

### SUBMITTED PLANS

Location Plan	Plan Ref: 9281-L-01
Framework Plan	Plan Ref: 9281-L-03

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER





**Planning Inspectorate  
Department of the Environment**

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B/1150/JEB/P

Holmes and Hills  
Trinity Street  
HALSTEAD  
Essex  
CO9 1JE

Your reference  
DW

Our reference  
T/APP/Z1510/A/89/137520/P5

Date

5 APR 90



Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9  
APPEAL BY CREST HOMES (ANGLIA) LTD  
APPLICATION NO: P/BTE/0056/89/FL/B

1. I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal. This appeal is against the decision of the Braintree District Council to refuse planning permission for the erection of 17 bungalows and garages and associated works on land at Brain Valley Avenue, Black Notley. I have considered the written representations made by you and by the Council and also those made by interested persons. I have also considered those representations made directly to the Council which have been forwarded to me. I inspected the site on 20 March 1990.
2. From my inspection of the site and its surroundings and my consideration of the representations, in my opinion the main issue in this case is whether the proposed bungalows would have an adverse effect on the character of the surrounding area bearing in mind local planning policy.
3. Brain Valley Avenue runs north-eastwards from Witham Road for a short distance before dividing into two. The south-eastern leg links to Bulford Lane and has typical modern houses on both sides. The north-western leg is a cul-de-sac with bungalows along the south-western side. The appeal site is a strip of land on the opposite side of the road between the houses beyond the junction of the 2 legs and the side of the bungalows at the end of the cul-de-sac. On it your clients want to build a mixture of detached and semi-detached bungalows. Eleven of them would face the road in a conventional manner, but 2 at the north-western end and 4 at the south-eastern end would be at right angles to the road off shared private drives.
4. The site slopes down from the road into the valley of the River Brain which runs past the village from north-west to south-east. It is an attractive area of fields, trees and hedges and there is open land to the north-west and north-east of the appeal site and at the rear of the houses to the south-east. The site has a frontage of over 150 m to Brain Valley Avenue and it seems to me that the bungalows would be a substantial extension of the built-up area of the village on to open land which at the moment is clearly part of the fields in the surrounding countryside. This intrusion would be emphasised by the new buildings near the rear boundary of the site at both ends.
5. In my judgement the design and appearance of the proposed bungalows would not look particularly out of place among the development along Brain Valley Avenue, and the plans show that there would be some landscaping of the development. However, the site can be seen from an area of the valley which includes several public footpaths, roads and the edge of the village of Cressing on the far side. All in all I conclude



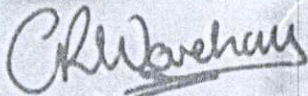
that your clients' proposal would be detrimental to the open character of the countryside around the village and the scenic quality of the valley.

6. The statutory Local Plan for Braintree and Surrounding Villages includes a village envelope for Black Notley within which new development is expected to take place. This includes the houses and bungalows on Brain Valley Avenue but not the appeal site, which in terms of the policies in the Essex Structure Plan and the local plan is treated as being in the countryside. Given my conclusion above I believe that there are no arguments in this case which would warrant making an exception to policies which are in line with long-standing government advice that the countryside should be protected from inappropriate development. I think that such policies are of particular importance where the land concerned is part of a relatively narrow gap of countryside separating 2 villages and the southern outskirts of a nearby town and has been designated as being of Special Landscape Value.

7. I have considered all the other matters raised. There is local concern about the scale of past and future development in the village and the effect of extra traffic on Brain Valley Avenue and its junction with Witham Road. On the latter point I note that the highway authority do not object to your clients' proposal in principle. An objection from the water authority because of possible overloading of the local sewage treatment works has been withdrawn. The layout of the site was seen by some as a way of opening up adjacent land for development, but I do not think that these or any other matters are of sufficient weight as to justify overriding my conclusions on the main issue.

8. For the above reasons, and in exercise of the powers transferred to me, I hereby dismiss this appeal.

I am Gentlemen  
Your obedient Servant



C R WAREHAM MRTPI  
Inspector

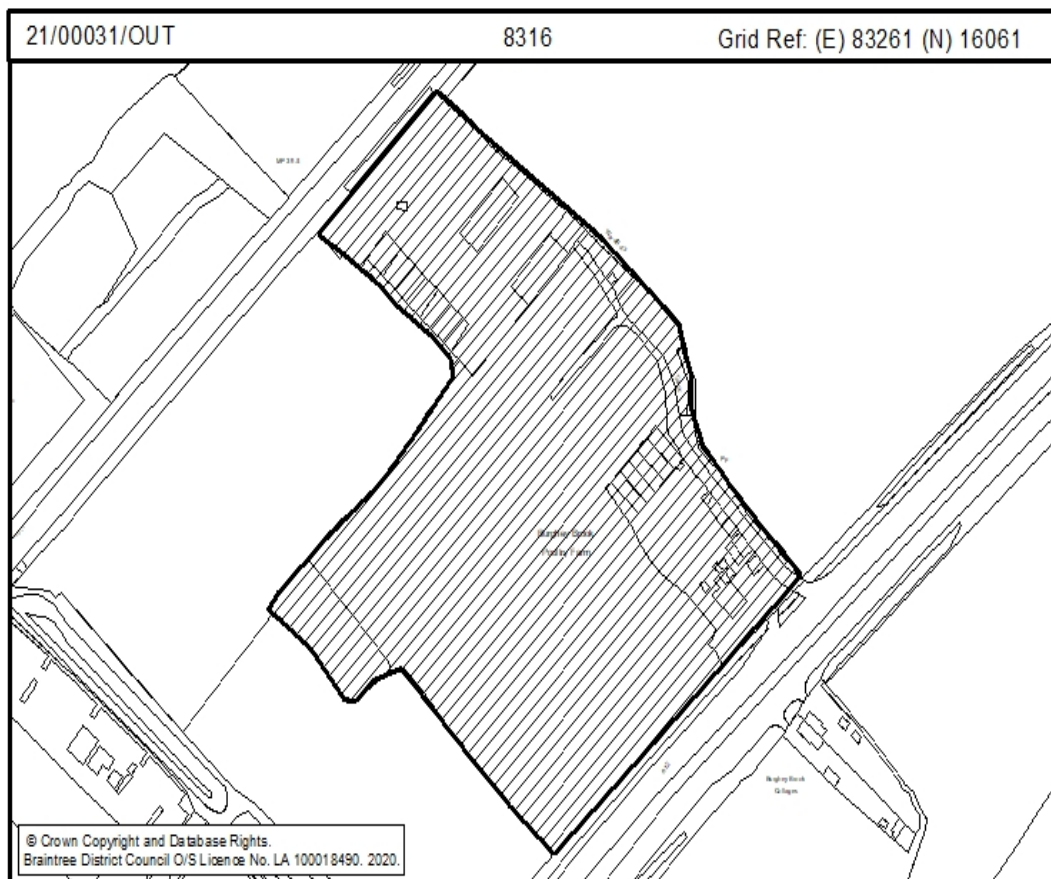


PART A

AGENDA ITEM NUMBER 5b

APPLICATION NO: 21/00031/OUT  
DATE VALID: 13.01.21  
APPLICANT: Aquila Estates Ltd  
6A High Street , Chelmsford, CM1 1BE  
DESCRIPTION: Outline Planning Permission with all matters reserved for the demolition of the existing dwelling and buildings on the site and the erection of B2/B8 Industrial and Distribution units with associated parking, servicing and landscaping.  
LOCATION: Land At, Burghey Brook Farm, London Road, Rivenhall End, Rivenhall, Essex

For more information about this Application please contact:  
Andrew Martin on:- 01376 551414 Ext. 2591  
or by e-mail to: [andrew.martin@braintree.gov.uk](mailto:andrew.martin@braintree.gov.uk)



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QMISILBFINX00>

## SITE HISTORY

20/00001/SCR	Town & Country Planning Act 1990 (as amended), Town & Country Planning (Environmental Impact Assessment) Regulations 2017 - Screening Request (Regulation 6) - Industrial and warehouse units with ancillary offices and associated car parking and parking/loading of HGV's	Screening/ Scoping Opinion Adopted	12.02.20
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## POLICY CONSIDERATIONS

On the 22nd February 2021, Braintree District Council adopted the Shared Strategic Section 1 Local Plan.

On adoption, the policies in the Shared Strategic Section 1 Local Plan superseded Policies CS1, CS4, CS9 and CS11 of the Core Strategy (2011).

The Council's Development Plan therefore consists of the Braintree District Local Plan Review (2005) ("the Adopted Local Plan"), the policies of the Core Strategy (2011) (the Core Strategy) which are not superseded, the Shared Strategic Section 1 Local Plan (2021) ("the Section 1 Plan"), and any Adopted Neighbourhood Plan.

The local authority is now moving forward with the examination of Section 2 of the Draft Local Plan. In accordance with Paragraph 48 of the NPPF, from the day of publication the Council can give weight to the policies of this emerging Draft Section 2 Local Plan ("the Section 2 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 affords some weight to the Section 2 Plan.

#### 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
RLP27	Location of Employment Land
RLP30	Diversity of Industrial and Commercial Premises
RLP31	Design and Layout of Business Parks
RLP36	Industrial and Environmental Standards
RLP53	Generators of Travel Demand
RLP56	Vehicle Parking
RLP62	Development Likely to Give Rise to Pollution or the Risk of Pollution
RLP63	Air Quality
RLP64	Contaminated Land
RLP65	External Lighting
RLP69	Sustainable Urban Drainage
RLP71	Water Supply, Sewerage & Drainage
RLP72	Water Quality
RLP73	Waste Minimisation
RLP74	Provision of Space for Recycling
RLP76	Renewable Energy
RLP77	Energy Efficiency
RLP80	Landscape Features and Habitats
RLP84	Protected Species
RLP90	Layout and Design of Development
RLP105	Archaeological Evaluation

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

CS7	Promoting Accessibility for All
CS8	Natural Environment and Biodiversity
CS10	Provision for Open Space, Sport and Recreation

#### Braintree District Shared Strategic Section 1 Local Plan (2021)

SP1	Presumption in Favour of Sustainable Development
SP3	Spatial Strategy for North Essex
SP4	Meeting Housing Needs
SP5	Employment
SP7	Place Shaping Principles

#### Braintree District Draft Section 2 Local Plan (2017)

LPP1	Development Boundaries
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LPP2	Location of Employment Land
LPP3	Employment Policy Areas
LPP7	Design and Layout of Employment Policy Areas and Business Uses
LPP44	Sustainable Transport
LPP45	Parking Provision
LPP50	Built and Historic Environment
LPP53	Provision of Open Space, Sport and Recreation
LPP55	Layout and Design of Development
LPP63	Archaeological Evaluation, Excavation and Recording
LPP68	Protected Species, Priority Spaces and Priority Habitat
LPP70	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP73	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP74	Climate Change
LPP77	Renewable Energy within New Developments
LPP78	Flooding Risk and Surface Water Drainage
LPP79	Surface Water Management Plan
LPP80	Sustainable Urban Drainage Systems
LPP81	External Lighting
LPP82	Infrastructure Delivery and Impact Mitigation

#### Other Material Considerations

Essex Design Guide – Design and Good Practice  
Essex Parking Standards

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

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

#### DESCRIPTION OF THE SITE AND SITE CONTEXT

The development site comprises predominantly of agricultural land with a single dwelling and a number of associated outbuildings. The site is located to the north-east of Witham, separated from the existing development boundary by a further parcel of land which is subject to a current outline planning application for industrial development, under Application Reference 20/00128/OUT.

The site has an area of 3.6 hectares and is bound by a main railway line to the north-west; an agricultural field to the north-east; the A12 to the south-east; and the Eastways business park to the south-west. The site is located in Flood Zone 1 and has a generally flat topography. There are existing trees and hedgerows within the site which primarily delineate the field boundaries.

The site, along with the adjoining parcel of land subject of planning application 20/00128/OUT, forms part of a draft allocation within the emerging Section 2 Plan for an industrial use, references RIVE363 & RIVE362 respectively.

The site is currently accessed directly off of the A12 with a driveway serving the existing dwelling and two vehicular crossovers providing access to the fields.

## PROPOSAL

This application seeks outline planning permission, with all matters reserved, for the demolition of the existing dwelling and buildings on the site and the construction of industrial and distribution units, falling under Use Classes B2 (general industry) and B8 (storage and distribution), with associated parking, servicing, and landscaping. A flexible permission is therefore sought that would allow an appropriate split of Use Class B2 and B8 operations depending on market interest.

Whilst the matters of access, appearance, landscaping, layout, and scale are reserved matters, the application form specifies the anticipated gross floor area to be up to 16,715sq.m, with 13,385sq.m being for Use Class B8 and 3,330sq.m being for Use Class B2. In addition, a parameter plan, alongside two illustrative site layouts, illustrative elevations, and potential material finishes, all demonstrate ways in which the development could be accommodated and delivered on the site. The application form is nonetheless explicit that the outline planning permission is sought with all matters reserved.

In light of the above, the proposed development is considered in the context of seeking to establish the parameters for how the industrial and distribution units could be suitably accommodated on the site, meaning that references to floor area, height, and elevation design, as highlighted within the supporting documentation and plans, do not prohibit the fact that the various detailed elements of the proposed development would be subject to consideration as part of a reserved matters application, or more than one reserved matters application, should outline planning permission be granted.

Notwithstanding the above, the maximum floor areas, parameter plan, illustrative layouts, and design concepts are all still material to the assessment of the proposed development and were after all submitted to assist in the consideration of the application. These principles have been firmly established in the Court of Appeal through the judgement of *Crystal Property (London) Ltd v Secretary of State for Communities and Local Government and Anor* [2016].

The proposed development has been revised during the course of the application to address the comments of Officers and statutory consultees. For instance, the red line for the site has been extended to demonstrate how a connection to the public highway would be achieved. Moreover, the parameter plan and indicative site layouts have been updated to illustrate

additional soft landscaping and a buffer zone within which no development would take place, in order to allow sufficient land for the completion of the A12 J19 Chelmsford to J25 Marks Tey Widening Scheme, a Nationally Significant Infrastructure Project (NSIP).

As part of the proposed development, the existing accesses to the site off of the A12 would be closed off, whilst a new access would be created that would connect to Eastways via the adjacent site to the south-west.

The application is supported by a suite of documents and plans as follows:

- Planning Statement
- Design and Access Statement
- Air Quality Assessment
- Noise Impact Assessment
- Archaeological Desk Assessment
- Biodiversity Survey and Report
- Flood Risk Assessment
- Transport Assessment
- Land Contamination Report
- Drainage Strategy
- Bat Activity Survey
- Travel Plan
- Tree Survey
- Site Location Plan
- Parameters Plan
- Two Illustrative Site Layouts
- Illustrative Site Section
- Illustrative Elevations
- Illustrative Visualisations
- Landscaping Details
- External Materials Palette

## SUMMARY OF CONSULTATION RESPONSES

### Anglian Water

No objections raised subject to recommended condition.

### Archaeology

A desk based assessment has been submitted with the application which identifies the potential for multi-period archaeological remains. Of significance is the potential for Palaeolithic archaeological remains associated with interglacial lacustrine deposits which have been positively identified within close proximity on the south-side of the A12.

Previous archaeological work in the locality has also revealed a substation Middle Iron Age settlement to the north and Late Iron Age/Roman activity and possible settlement to the south along the line of the Roman Road. The close

proximity to the Roman road and the similar topographical location of the site suggests a high potential for archaeological remains.

The potential for archaeological remains on the site would need to be evaluated through a programme of trial trenching and geographical investigation. Several archaeological related conditions are recommended accordingly.

#### BDC Environmental Health

No objections to the proposed development.

#### BDC Ecology

Initially responded by imposing a holding objection, due to insufficient ecological information having been submitted for the determination of the application. However, following the receipt of additional surveys in relation to bats, the Council's Ecologist confirmed that there are no objections to the application subject to recommended conditions.

#### ECC Highways

The Highway Authority has considered all the information submitted with the planning application. It acknowledges that the network at, and in the vicinity of, Eastways Industrial Estate can at times be over capacity in the PM peak. However, whilst the Highway Authority does not concur with all of the information presented in the Transport Assessment, it is satisfied that the Applicant has demonstrated, in accordance with the NPPF, that the impact of the proposal on the highway network would be unlikely to be severe. Therefore, from a highway and transportation perspective, the proposal is acceptable to the Highway Authority subject to conditions and the payment of a Travel Plan monitoring fee.

#### ECC Lead Local Flood Authority

Initial two responses received imposed a holding objection, however, following clarification from the Applicant, they subsequently raised no objections subject to the imposition of recommended conditions.

#### Environment Agency

No response received.

#### Essex Fire and Rescue

Access is considered to be satisfactory subject to adherence to the following criteria:

- Access routes and hard standings should be capable of sustaining a minimum carrying capacity of 15 tonnes.

- Minimum turning circle between kerbs of 17.8 metres.

More detailed observations on access and facilities for the Fire Service would be considered at the Building Regulations stage.

### Highways England

Initially responded by imposing a holding objection for the following reasons:

- Site layout does not accommodate or illustrate the boundary of the A12 J19 to J25 Marks Tey Widening Scheme, a Nationally Significant Infrastructure Project.
- Applicant should liaise with Highways England over the timing and detailed implementation of the proposed development, to seek to agree a detailed approach that avoids or reduces the conflict between the two development proposals, and that seeks to mitigate any impacts arising.
- Noted that the site makes use of an existing access immediately off of the A12 which may be required for access to a construction compound direct adjacent to the application site.
- Suggested that an informative be added to the decision should planning permission be granted, in order to co-ordinate any access requirements for both schemes.

Following revisions to the proposed layout, and pursuant to positive engagement between the Applicant and Highways England, the holding objection was subsequently removed. Highways England's latest response raises no objection to the revised, proposed development, subject to the imposition of recommended conditions and the attachment of a suggested informative.

### Network Rail

Strongly recommends that the developer contacts Network Rail's Asset Protection and Optimisation team prior to the commencement of works. Also noted that the developer must ensure that their proposal, both during construction and post-completion, does not:

- Encroach onto Network Rail land.
- Affect the safety, operation or integrity of the company's railway and its infrastructure.
- Undermine its support zone.
- Damage the company's infrastructure.
- Place additional load on cuttings.
- Adversely affect any railway land or structure.
- Over-sail or encroach upon the air-space of any Network Rail land.
- Cause to obstruct or interfere with any works or proposed works or Network Rail development both now and in the future.

A number of other comments were made and the Applicant is advised to take them into consideration going forward.



## PARISH / TOWN COUNCIL

### Rivenhall Parish Council

General comments received as follows:

- Assumed that the site has been re-defined as being within the boundary of Witham Town Council, with effect from May 2019.
- The Parish Council would prefer to see a more substantial area of screening along the Burghey Brook Farm Boundary of the proposed development.

### Witham Town Council

No objection to the proposed development subject to the following:

- More screening to the Rivenhall side of the site boundary in order to screen views of the industrial units.
- Provision of sufficient landscaping on the site.
- Buildings should be environmentally friendly, incorporating green measures to mitigate against climate change.
- There should be no light pollution from the site.
- Proposal should comply with Policy SP5 of the Section 1 Plan.

## REPRESENTATIONS

Two letters of representation have been received from a local resident. Their comments are summarised as follows:

- No objection in principle to the application, as it will support much-needed employment.
- The proposed planting along the north-eastern boundary of the site would be wholly inadequate to screen the proposed development.
- When the Eastways Industrial Estate was expanded, through the construction of the Waterside Businesses Park, a high, tree-planted, earth embankment was required along the Rivenhall End boundary. At 2 to 3 metres in height, with fairly dense planting, the embankment screens the existing industrial estate. Something similar should be required for this application.
- Indicative cross sections indicate that the industrial units will be founded part in cut and part on fill to provide a level base. This means that the buildings, towards the A12, will be approximately two metres higher above ground than the stated 12 metres. Each unit should be constructed in a way that lowers the harsh profile of the resulting skyline.
- To reduce the visual impact on Rivenhall End's rural community, there should be no external lighting on the site's Rivenhall End facing boundary and the site's external lighting should be 'dark-sky-friendly'.

- Ridge height of 16.5 metres is extremely high for a site adjacent to the open countryside, it is equivalent to two, two-storey houses on top of one another.
- The “New perimeter landscaping zone” indicated on the site’s Rivenhall End facing boundary would be wholly inadequate to form a substantial screen.

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

## The Development Plan & Principle of Development

Currently the Council's statutory Development Plan consists of the Braintree District Local Plan Review (2005) and the Braintree District Core Strategy (2011), and the Shared Strategic Section 1 Local Plan (2021).

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).

Notwithstanding the above, the site is also allocated as part of a 6.8 hectare extension to the existing Industrial Estate at Eastways Business Park within the emerging Section 2 Plan, under Policy LPP2. Amongst other matters Policy LPP2 establishes that the site would become part of the adjacent Employment Policy Area. The parcel of undeveloped land immediately adjacent to the south-western boundary of the site would form the other part of the draft allocated extension.

Policy LPP3 of the Section 2 Plan sets out the range of uses that will be permitted and retained within Employment Policy Areas, including Use Classes B1, B2, and B8, in addition to the repair of vehicles and vehicle parts, waste management facilities, and services specifically provided for the benefit of business or workers based in the employment area. In this case the proposed development seeks to deliver industrial units that would operate under either Use Class B2 or Use Class B8, depending on market interest and conditions. The proposed development therefore complies with Policy LPP3 of the Section 2 Plan.

Paragraph 48 of the NPPF states that local planning authorities may give weight to relevant policies in emerging plans according to their stage of preparation; the extent to which there are unresolved objections to relevant policies; and the degree of consistency of the relevant policies in the emerging plan to the policies contained within the NPPF. Paragraphs 49 of the NPPF goes on to explain that arguments for prematurity are unlikely to justify a refusal of planning permission, other than in limited circumstances where both:

- a) the development is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and
- b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.

Paragraph 50 of the NPPF then explains that the refusal of planning permission on grounds of prematurity will seldom be justified where a draft plan has yet to be submitted for examination. Where planning permission is

refused on grounds of prematurity, the local planning authority will need to indicate clearly how granting permission for the development concerned would prejudice the outcome of the plan-making process.

During the consultation stage of Section 2 Local Plan a total of 19 representations were received in relation to Policy LPP2. Notably, none of the representations specifically object to proposed extension to the Eastways Industrial Estate. In terms of Policy LPP3, a total 8 representations were received with two objecting to the absence of recreational and sport uses within Employment Policy Areas, whilst the remaining six relate to the following:

- The unsuitable relationship between permitted uses and adjoining areas allocated for residential development in relation to Great Notley.
- Agreement to the identified Employment Policy Areas and the retention of existing uses.
- Amendments suggested to the wording of LPP2.
- Support for the inclusion of site RIVE362.

Historic England also submitted a general comment stating that they were not able to identify the proposed employment areas on the associated policy map and could not therefore comment on the likely impact of the proposed allocations on heritage assets.

Taking all of the above into account, it is concluded that moderate weight can be given to the emerging policy context and the site's draft employment use allocation.

Moreover, whilst the site which adjoins the existing Eastways Business Park has yet to be determined and is currently subject of a pending planning application, (Application Reference 20/00128/OUT), it is not considered that the proposed development would be premature with regards to the requirements of the NPPF. This does not though detract from the fact that the proposed development would be dependent on the timings of the access route through the adjoining site gaining planning permission and, subject to a grant of planning permission, being implemented. Essentially, the two sites would need to align their phasing in order to allow for effective delivery.

Additionally, turning aside from the Development Plan, Paragraph 11 of the NPPF establishes the presumption in favour of sustainable development, with Paragraph 11d) explaining that where there are no relevant development plan policies, or the policies which are most important for the determining the application are of date, planning permission should be granted unless:

- The application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies contained within the NPPF as a whole.

The adopted policy position for employment the delivery of employment uses, under Policies RLP27 and RLP28 of the Adopted Local Plan, is out-of-date given it is based on a now outdated employment land needs assessment for the District. Consequently, the tilted balance under paragraph 11d) applies.

Moreover, Paragraph 81 of the NPPF states that planning policies and decisions should help create the conditions in which business can invest, expand and adapt. Additionally, it asserts that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

To summarise, the principle of the development would be contrary to the Development Plan, albeit it is acknowledged that the employment land provision policies which are amongst the most important for determination of the application are out-of-date. Furthermore, the proposed development would be in accordance with the employment policies contained within the Section 2 Plan, as well as meeting the economic objectives set out within the NPPF.

The proposed development would result in the net loss of one dwelling. This explains why the Council's 5 Year Land Supply is material to the determination of the planning application and is factored into the planning balance which concludes this report.

### 5 Year Land Supply

The Council publishes a 5 year housing land trajectory as of 31st March each year, the most recent position therefore is that of 31st March 2021. Within this trajectory the Council considered that it has a 5.34 year supply of housing, based on a 5% buffer.

At its full Council on the 22nd February 2021, Braintree District Council approved the adoption of the Shared Strategic Section 1 Plan. On its adoption, the Council must meet the housing requirement set out in that Plan. This is a minimum of 14,320 homes between 2013-2033 or an annual average of 716 new homes per year. This replaces the previous consideration of housing need based on the Standard Methodology.

The latest Housing Delivery Test (HDT) results were published in January 2021. The new results (which include an allowance for the impact of the current pandemic) confirm that the Council no longer needs to apply a 20% buffer and can revert to the usual 5% buffer. This applies from the day of the publication of the results.

This supply position does not include sites which are proposed to be allocated within the Section 2 Plan but do not yet have planning permission or a resolution to grant planning permission.

These allocations without permission will be tested at the forthcoming Section 2 Plan Examination. Once the Section 2 Plan is adopted, these sites will become adopted allocations and greater weight can be given to them, if there is clear evidence that there is a realistic prospect that housing will be delivered on the site within five years.

Given all of the evidence before it – including the use of the new housing requirement from the Shared Strategic Section 1 Plan and the use of a 5% buffer, the Council considers that the current 5 year Housing Land Supply for the District is 5.34 years.

As the Council can demonstrate the required five Year Housing Land Supply the ‘tilted balance’ pursuant to Paragraph 11d) of the NPPF is not engaged due to a lack of housing land supply.

## SITE ASSESSMENT

### Design, Layout, Scale, Appearance, and Landscaping

Paragraph 124 of the NPPF sets out that ‘the creation of high quality buildings and places is fundamental to what the planning and development process should achieve’. It then goes on to cite good design as a ‘key aspect of sustainable development’.

Paragraph 127 of the NPPF details that planning policies and decisions should ensure that developments function well and add to the overall quality of the area. To achieve this developments must be visually attractive as a result of good architecture, layout, and effective landscaping. Moreover, developments must establish a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit.

The above principles have more recently been elaborated upon within the National Design Guide (NDG) with a shift in emphasis towards the promotion of beauty. Paragraph 1 of the NDG explains that well-designed places influence the quality of our experiences as occupants or users but also as passers-by and visitors. Paragraph 4 of the NDG establishes that the long-standing, fundamental principles of good design are that it is; fit for purpose; durable; and brings delight.

Policy SP6 of the Section 1 Plan, Policies RLP3, RLP10, and RLP90 of the Adopted Local Plan, and Policies LPP37, LPP50 and LPP55 of the Section 2 Plan all reflect the NPPF and NDG by seeking the highest possible standards of design and layout in all new development, including the need for the overall design of buildings, layouts and landscaping to reflect or enhance the area’s local distinctiveness. Additionally, Policy RLP31 of the Adopted Plan and

Policy LPP7 of the Section 2 Plan both specifically address the need for such requirements to be instilled into new employment developments, including within Employment Policy Areas.

Outline planning permission is sought with all matters reserved for the demolition of the dwelling and existing buildings on the site and its redevelopment to provide industrial units to operate under Use Classes B2 and B8. The matters of access, layout, appearance, and landscaping are therefore reserved and are not subject to detailed consideration under this application. However, in the interest of completeness, a high-level consideration is given to the indicative design and layout material submitted in support of the application, as they provide some general parameters in an attempt to illustrate how the development could be satisfactorily achieved on the site.

In terms of the submission, the upper limit on internal floor space proposed within the application form is 16,715sq.m, with 3,330sq.m for Use Class B2 and 13,385 for Use Class B8. The resulting quantum of floor space is actually anticipated to be less than the figure originally provided, given that since the application was submitted the overall developable area of the site has been reduced on the parameters plan, to accommodate a wider landscape buffer along the north-eastern boundary and to allow sufficient land for the A12 widening scheme. In any event, a condition is recommended specifying the upper limit on floor space based upon the submitted information, although the precise amount and arrangement of development would be considered and established at the reserved matters stage, following an appraisal of the subsequent detailed layout.

That said, the illustrative layouts submitted are not untypical for an industrial use of the nature proposed, with large sheds set out within a mostly hard landscape setting to accommodate staff and visitor parking, as well as facilities for Heavy Goods Vehicles (HGVs), such as loading bays and turning circles. Two potential layouts have been tabled with one showing three units, all fairly similar in size, and the other showing two units, one of which would have a very significant footprint. During the course of the application, the amount of space to be made available for soft landscaping, along both the north-western and south-eastern boundaries, has been increased, so as to have opportunities for planting within parking areas.

However, a wider landscape buffer would inevitably be required along the north-eastern boundary of the site in order to provide sufficient space for meaningful planting, including high forest trees, which would adequately soften the visual impact of the large industrial units. Essentially, the extent and width of the landscape buffer to the north-eastern boundary should be informed by a more detailed landscaping masterplan at the reserved matters stage. There are of course already a number of existing trees towards the north-eastern boundary of the site that would be retained, however, these are largely low-level with only a small handful of larger trees. The existing trees would not therefore be sufficient to provide a robust landscape setting for the development when viewed from the north. Nonetheless, given that layout and

landscaping would be reserved matters, it is considered that these detailed considerations could be positively resolved through an application for reserved matters, as there is no obligation to approve the tabled parameters plan.

It is though acknowledged that a good amount of soft landscaping is illustrated adjacent to the site's south-eastern boundary, adjacent to the A12, and whilst part of this area would be required for the completion of the A12 widening scheme, a condition is recommended that this area be landscaped in accordance with an approved detailed landscaping scheme within the first-available planting season following the completion of the A12 widening works within the red line boundary.

Turning to the illustrative plans demonstrating appearance and scale, these are again fairly typical for the nature of the development proposed. The submitted parameter plan sets out a maximum internal height of 12 metres and a maximum ridge height of 16.5 metres for the building zone adjacent to the A12, whereas for the smaller building zone, towards the northern corner of the site, the maximum internal height would be 11 metres and the maximum ridge height would be 15.5 metres. The illustrative elevations show that this would amount to approximately three storeys. It is not uncommon for industrial units to be of a notable height, particularly where storage and distribution uses are proposed. Again though it is noteworthy that the matters of scale and appearance would be for consideration as part of a reserved matters application. Equally, ground levels would be considered at the reserved matters stage. Therefore, whilst the elevational material submitted does not necessarily meet Officers design expectations, these details would not be approved under this outline planning application. Subsequently, notwithstanding the illustrative material, it is considered that the matters of scale and appearance could be positively resolved following further discussions at the reserved matters stage.

To summarise, the proposed development for industrial units on the site, falling under Use Classes B2 and B8, would be acceptable in principle and there would be sufficient opportunity at the reserved matters stage to secure a high-quality scheme with regards to layout, landscaping, scale, and appearance.

### Impact on Neighbour Amenity

Policy RLP90 of the Adopted Local Plan, Policy SP7 of the Section 1 Plan, and Policies LPP37 and LPP55 of the Section 2 Plan, all emphasise the need to protect the amenity of nearby properties, by preventing any loss of privacy, increase in overshadowing, loss of light, or overbearing impact. Likewise, the NPPF seeks to secure a good standard of amenity for all existing and future occupants of land and buildings.

The nearest residential properties would be sufficiently distanced from the site so as to prevent any harm to their amenity. In particular, the nearest dwellings are to the north-west of the site, on the other side of the raised



railway line. Environmental Health have been consulted on the application and, having reviewed the submitted noise assessment, are content that the increase in activity generated by the proposed industrial uses would not result in any unacceptable harm to the residential proposed within the surrounding area. Noise considerations are discussed further under the respective heading below.

Furthermore, it is not anticipated that there would be any adverse impacts upon the amenity of neighbouring commercial and industrial premises.

### Highway Considerations

Paragraph 104 of the NPPF is explicit that development proposals should identify and pursue opportunities to promote walking, cycling and modes of public transport. Paragraph 105 of the NPPF goes on to cite how focussing development on sustainable locations, by limiting the need to travel and offering a genuine choice of transport modes, can help to reduce congestion and emissions, and improve air quality and public health.

Paragraph 110 of the NPPF explains that, when assessing specific applications for development, it is important to consider whether safe and suitable access to the site can be achieved for all users. Paragraph 111 of the NPPF states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact upon highway safety, or the residual cumulative impacts on the road network would be severe.

Similarly, amongst other matters, Policy RLP10 of the Adopted Local Plan, in addition to Policies LPP37 and Policy LPP55 of the Section 2 Plan, require new developments to be provided with a safe and suitable access, without detriment to the local road network, in order to maintain highway safety for all highway users. Policy LPP44 of the Section 2 Plan requires that sustainable modes of transport should be facilitated through new developments to promote accessibility and integration into the wider community and existing networks.

Policy RLP27 of the Adopted Local Plan sets out that new development for business, commercial and industrial uses shall be located to minimise the length and number trips by motor vehicles. It concludes that development for employment uses will not be permitted where it would be likely to add unacceptably to traffic congestion.

Detailed access is a reserved matter, but the Local Planning Authority still needs to be satisfied that a suitable access can be achieved in principle. The existing dwelling on the site is accessed directly off of the A12 and there are two other vehicular crossovers to the south of the dwelling which lead directly into the agricultural fields. These access points would be closed under the proposed development with a condition recommended to secure this. A new access would then be provided as a continuation of Eastways. This access

route would traverse through the adjacent site that is currently subject to planning application reference 20/00128/OUT.

When the application was originally submitted the red line did not extend to the adopted public highway, however, the Applicant did subsequently extend the red line in order to address the request of Officers. Given the route of the access, the timing of the developments implementation would be closely related to the delivery of the adjacent site, subject to the relevant grants of planning permission. For instance, the reserved matters for both sites would need to be in alignment. A condition is recommended that requires the completion of the access to the site prior to the commencement of the remainder of the development. It is not though considered that there would be any fundamental reason why a suitable access could not be achieved at the reserved matters stage. This is reflected within the consultation response from Essex County Council Highways (ECC Highways) being the Highway Authority. Highways England have also been consulted on the application and have raised no concerns with respect of access, other than the fact that they have also recommended a condition that the existing accesses off of the A12 be closed.

During the course of the application there have also been revisions to the indicative layouts and parameter plan for the purpose of accommodating the A12 widening scheme which is a NSIP. Specifically, a portion of the site along the south-eastern boundary has been identified as a non-development zone, as this land would be required for the delivery of the A12 project. Highways England had initially raised a holding objection, due to the conflict between the proposed development and the aforementioned project, but following the submission of the revised material the holding objection was removed subject to the imposition of recommended conditions in relation to the closure of the existing access off of the A12; the provision of all access through the Eastways Industrial Estate; no development within the land required for the A12 widening scheme; and the approval and implementation of a Travel Plan in consultation with ECC Highways.

A Transport Assessment has also been submitted with the application and concludes that whilst the proposed development will lead to a small increase in traffic within the local highway and transport network, the increase will not have a detrimental impact for the purposes of the highway safety or capacity. In particular, depending upon the resulting split of the proposed B2 and B8 uses, the additional traffic likely to be generated would range between 43 and 50 movements during the AM peak, whilst the additional traffic anticipated in the PM peak would range between 32 and 43 movements. The assessment also indicates that the additional traffic that would be generated can be accommodated by the existing Eastways junction without having a severe impact on its operation. Likewise, it acknowledges that the A12 widening scheme will significantly improve the operation of the Eastways junction. The assessment equally concludes that the proposed development would not have a significant impact on the operation of the A12 or its slip roads. A Travel Plan has also been submitted for consideration as part of the planning application.

ECC Highways have responded to the application by acknowledging that the network at, and within the vicinity of, the Eastways Industrial Estate can at times be over capacity in the PM peak. Nonetheless, whilst ECC Highways does not concur with all of the information presented within the Transport Assessment, it remains satisfied that the Applicant has demonstrated that the impact of the proposed development on the highway network would be unlikely to be severe, in accordance with the requirements of the NPPF. Therefore, ECC Highways conclude their consultation response by stating that the proposed development is acceptable to the Highway Authority, subject to a condition for a Construction Management Plan, as well as a planning obligation securing the implementation of the submitted Travel Plan for a minimum 5 year period, alongside a monitoring fee.

In addition to the above, the site is generally considered to be sustainably located, with the site being accessible by a range of sustainable transport modes including walking, cycling, and public transport. For example, Witham Train station, as well as bus stops providing regular services to and from larger centres, such as Colchester and Chelmsford, are within an acceptable, albeit at the upper limited, walking distance from the site at 2km. There are also two cycle routes within the locality of the site, the NCN Route 16 and there is also the Blackwater Rail Trail. Moreover, to enhance the sustainability credentials of the development, the Applicant has agreed to a condition for electric vehicle charging points at a rate of 15% of the total car parking spaces. The exact number and arrangement of parking spaces would be determined at the reserved matters stage in accordance with the Council's adopted Vehicle Parking Standards.

### Ecology & Trees

Paragraph 174 of the NPPF is explicit that planning decisions should contribute to and enhance the local environment by minimising impacts on, and providing net gains for, biodiversity, whilst also recognising more generally the benefits of trees. Paragraph 131 of the NPPF also outlines the importance of trees in contributing towards local character and their role in mitigating against and adapting to climate change. This applies to the planting of new trees and the retention of existing trees.

Policy CS8 of the Core Strategy establishes that all development proposals will, amongst other matters, ensure the protection and enhancement of the natural environment, habitats and biodiversity, and geodiversity of the District. Additionally, Policy RLP81 of the Adopted Local Plan sets out that the Council will seek to protect established trees of local amenity value, whilst Policy RLP84 of the Adopted Local Plan states that planning permission will be refused for developments that would have an adverse impact on protected species. Furthermore, where a proposed development may have an impact on protected species, Policy RLP84 of the Adopted Local Plan goes on to explain that the developer will be required to undertake and submit an ecological survey, to demonstrate that an adequate mitigation plan in place to ensure there is no harm to protected species and no net loss of priority

species. These objectives are reflected under Policies LPP68 and LPP69 of the Section 2 Plan.

With regards to ecology, the application is supported by a Preliminary Ecological Appraisal, prepared by Essex Ecology Services Limited and dated November 2020, relating to the likely impacts of the development on Protected and Priority Habitats and Species, as well as the identification of proportionate mitigation measures. Initially a holding objection was imposed due to insufficient information having been made available to allow for the determination of the application, however, following the receipt of a further bat activity survey and a bat survey activity report, the Council's Ecologist has since confirmed that sufficient information has now been submitted with the application for determination. They have also raised no objections to the application, subject to the imposition of conditions securing a construction environmental management plan for biodiversity; a wildlife sensitive lighting design scheme; and a biodiversity enhancement strategy which would deliver net gains for biodiversity.

In terms of the relationship between the proposed development and existing trees, a Tree Survey plan has been submitted to indicate where existing trees are present on the site, with the majority augmenting the sites boundaries, albeit there are a small number of trees away from the boundary within the vicinity of the existing dwelling and buildings. An addendum to the Tree Survey provides details of the existing trees, including their conditions and categorisations, alongside comments and recommendations. Five of the existing trees fall under Category U and are recommended for removal. The submitted illustrative landscaping plan and parameters plan indicate that approximately a further nine trees would need to be removed to accommodate the proposed development. Some of these trees would inevitably need to be removed to facilitate vehicular access, as existing trees line the majority of the site's south-western boundary. Although, other trees are indicated for removal on the basis that they would encroach into the illustrative developable areas of the site, including buildings, given the detailed layout and landscaping are reserved matters it is not appropriate to commit to the loss of specific trees under this application. Evidently, the desire under local and national planning policy would be to retain existing trees wherever possible, with any loss requiring a clear justification. Consequently, the precise impact of the proposed development on existing trees would be considered as part of a reserved matters planning application, which would need to be supported by a comprehensive Arboricultural Impact Assessment.

#### Noise, Contamination, and Air Quality

Policy RLP36 of the Adopted Local Plan states that planning permission will not be granted for new developments, extensions and changes of use, which amongst other matters would have an unacceptable impact on the surrounding area as a result of noise, smells, dust, and contamination. This same objective is reflected in Policy RLP62 of the Adopted Local Plan. Policy RLP63 of the Adopted Local Plan focusses on the requirement for air quality objectives to be met, explaining that planning permission will be refused

where air quality objectives are not met. In terms of contamination, Policy RLP64 of the Adopted Local Plan requires that an applicant proposing development on, or near, land where contamination may exist should carry out a thorough investigation, so as to establish the nature and extent of any contamination. The above objectives are reflected in Policy LPP75 of the Section 2 Plan and within the NPPF.

In terms of noise, Environmental Health have reviewed the submitted Environmental Noise Assessment, completed by EAS Limited and dated November 2020, and are satisfied that the proposed development would not have any adverse impact on any adjacent noise sensitive users. They elaborated that the dominant noise source affecting nearby residential properties is traffic using the A12. Against this baseline condition, the noise generated by the proposed B2 and B8 use classes would be insignificant, with Environmental Health concluding that they are confident that the proposed uses could operate on the site without causing disturbance or loss residential amenity to any neighbouring homes.

With regards to contamination, the application is supported by a Phase 1 Contaminated Land Assessment, completed by EAS Limited and dated November 2020, which comprehensively demonstrates that contaminated land is not an issue with respect to the proposed development, given the lack of any significant historical contaminative uses of the site. Environmental Health have confirmed that a Phase 2 Contaminated Land Assessment would not be required in this instance.

Lastly, the application is supported by an Air Quality Assessment, completed by EAS Limited and dated November 2020, which concludes that the National Air Quality Objectives (AQO) are being met within the immediate environs of the site. Indeed, the assessment found that the NO<sub>2</sub> concentrations were notably below the AQOs, albeit the extent to which the concentrations were below the standard were in part due to the reduction in traffic movements associated with the COVID-19 lockdown. Nonetheless, a review of the site and its immediate locality also confirmed that the activities within the existing business park are unlikely to result in an exceedance of the AQOs. Additionally, it is unlikely that any current or future residents of the allocated residential development to the north-west of the site, or the dwellings to south of the site at Burghey Brook Cottages, would be subject to poor air quality as a result of the proposed development. The Assessment concludes with a number of recommendations in relation to incorporating EV charging; promoting anti-idling policies; the provision of cycle parking; and the delivery of low emission technologies and renewables. Most of these matters would be for consideration at the reserved matters stage, although the Applicant has, as aforementioned, already committed to a good standard of EV charging provision.

#### Flood Risk and Sustainable Drainage

The application site is located with Flood Zone 1 where the risk of flooding is low.

Notwithstanding the above, Paragraph 168 of the NPPF states that major developments should incorporate sustainable drainage systems (SUDS) unless there is clear evidence that this would be inappropriate. It goes on to cite that when considering the SUDS used, regard should be given to the advice received from the lead local flood authority (LLFA).

Policy RLP69 of the Adopted Local Plan, Policy CS8 of the Core Strategy, and Policies LPP78, LPP79 and LPP80 of the Section 2 Plan reflect the above objective of the NPPF and require new major developments to incorporate SUDS as appropriate to the nature of the site.

A Flood Risk Assessment & Outline Drainage Strategy, produced by EAS Limited and dated November 2020, has been submitted in support of the planning application. An additional Drainage Strategy was also submitted during the course of the application in response to comments received from Essex County Council, as the LLFA. Initially, the LLFA imposed a holding objection, however, following the receipt of the additional drainage strategy, and further clarification by the Applicant's appointed consultant on the matter, this holding objection was removed and no further objection was raised to granting planning permission, subject to recommended conditions which have been attached.

Anglian Water also responded to the application raising no objection to the proposed development subject to a recommended condition, related to a surface water management strategy, which essentially duplicates one of the conditions already recommended by the LLFA.

### Archaeology

The Historic Environment Advisor at Essex County Council has responded to the application stating that the proposed development will affect a site of archaeological interest. Based upon the Desk Based Assessment submitted with the application, completed by RPS and dated November 2020, it is explained that there is potential for multi-period archaeological remains. Of significance is the potential for Paleolithic archaeological remains associated with interglacial lacustrine deposits which have been positively identified within close proximity to the site, on the south side of the A12, and which may lie below the superficial head deposits located in the south-eastern corner of the site.

In addition, previous archaeological work within the local area has revealed a substantial Middle Iron Age settlement to the north, as well as Late Iron Age/Roman activity and possible settlement to the south, along the line of the Roman Road. The site's close proximity and similar topographical location to the Roman road suggest there is high potential for archaeological remains.

To mitigate against potential impacts and to allow for further investigation, the Historic Environment Advisor has suggested pre-commencement conditions

for archaeological trial trenching, in accordance with the provisions of the NPPF.

## PLANNING OBLIGATIONS

### Open Space

Policy CS10 of the Core Strategy, Policy SP5 of the Section 1 Plan, and Policies LPP53 and LPP82 of the Section 2 Plan, all require new developments to provide, or contribute towards the cost of, improvements to community facilities and infrastructure appropriate to the type and scale of development proposed. The Council has adopted an Open Space Supplementary Planning Document (SPD) which sets out the process and mechanisms for the delivery and improvement of open space in the District.

The Open Space SPD provides a formula for calculating the level of provision required for Use Class B1, B2, and B8 developments, subject to a minimum threshold of 1,000sq.m of employment floor space. The Applicant has agreed to the payment of a financial contribution towards casual or informal open space and outdoor sports which is to be based on the final floor area and the application of the Open Space SPD formula. There will be no requirement to contribute towards outdoor equipped playgrounds or allotments. The financial contribution would also be index linked.

### Travel Plan

The application is supported by a Travel Plan that has been considered by the Highway Authority, Essex County Council, who require that the submitted workplace Travel Plan be implemented for a minimum period of 5 years with an associated £6,132 monitoring fee, plus the relevant sustainable travel indexation.

## PLANNING BALANCE & CONCLUSION

The presumption in favour of sustainable development sits at the heart of the NPPF. The Framework is clear in its instruction at Paragraph 11d, that for decision-taking this means where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (which in this case is considered to be applicable given that Policy RLP27 of the Adopted Local Plan, which relates to employment land provision, is based on a now outdated employment land needs assessment for the District) granting permission unless:

- (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Such an assessment must take account of the economic, social and environmental impact of the proposed development and these matters must be considered in the overall planning balance.

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).

## **Summary of Adverse Impacts**

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

### Conflict with the Development Plan

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Paragraph 15 of the NPPF emphasises that the planning system should be “genuinely plan led”.

The proposed development would conflict with Policy RLP2 of the Adopted Local Plan and Policy CS5 of the Core Strategy with regard to the Council's spatial strategy as it proposes development outside of defined development boundaries and within the countryside.

In the context of the site's draft employment use allocation within the emerging Section 2 Plan, as set out below, this conflict is afforded limited weight.



### Loss of a Dwelling

The proposed development would result in the net loss of one dwelling, resulting in a very marginal decrease in the Council's housing supply. Nonetheless, the location of the existing dwelling is not desirable given its situation immediately adjacent to the A12, from which it gains direct access. The loss of a single dwelling is afforded limited weight.

### **Summary of Public Benefits**

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

#### Conformity with the Section 2 Plan

The application site benefits from a draft allocation within the emerging Section 2 Plan, as an extension to the Eastways Business Park, which is an existing Employment Policy Area that is to be carried forward in the emerging policy context. The proposed development would also therefore be in compliance with Policy LPP3 of the Section 2 Plan, given the uses proposed are in alignment with the Employment Policy Area requirements. Conformity with the Section 2 Plan is afforded moderate weight.

#### Economic and Social Benefits

The proposed development would provide a significant economic and social benefit through the redevelopment of the application site to create new jobs within the District and providing a stimulus in expenditure within the local economy, through both the construction and occupation phases of the development.

#### Environmental Benefits

The sustainable location of the site would allow for the promotion of active and sustainable modes of transport. An additional environmental benefit would materialise from the Applicant's commitment to deliver 15% of the car parking spaces with EV charging infrastructure.

#### Planning Balance

When considering the planning balance and having regard to the identified benefits and harms, and having regard to the requirements of the NPPF as a whole, Officers have concluded that the benefits of the proposal would significantly and demonstrably outweigh the harms, when assessed against the policies in the Framework taken as a whole. Consequently it is recommended that outline planning permission is granted for the proposed development.

## RECOMMENDATION

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

- Workplace Travel Plan – Financial contribution of £6,132 (index linked) towards a 5-year period monitoring fee of a Workplace Travel Plan.
- Public Open Space – Financial contribution (index linked) towards the provision of new, or improvements to existing areas, of amenity greenspace and / or outdoor sports identified in the Council's Open Spaces Action Plan in the town of Witham. The final contribution figure will be in accordance with the prescribed formula and determined at the reserved matters stage taking into account the split of uses and final approved floor area.

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

## RECOMMENDATION

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

## APPROVED PLANS

Parameter Drawing	Plan Ref: 20017-TP-018	
Location Plan	Plan Ref: 20017-TP-001	Version: D

### 1 Details of the:-

- (a) scale;
- (b) appearance;
- (c) layout;
- (d) access; and
- (e) landscaping

(hereinafter referred to as "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any

development takes place and the development shall be carried out as approved.

Application(s) for the approval of the reserved matters shall be made to the Local Planning Authority not later than 3 years from the date of this permission.

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

**Reason**

The particulars submitted are insufficient for consideration of the details mentioned and also pursuant to Section 92 of the Town and Country Planning Act 1990.

- 2 The development hereby permitted shall be carried out in accordance with the approved plans listed above, except as follows:

The parameter plan, drawing reference 20017-TP-018, is only approved insofar as it relates to the non-developable area of the site adjacent to the A12 which is to be kept free of any development associated with the development hereby approved, until such a time as it is no longer required for the completion of the A12 J19 to J25 Marks Tey Widening Scheme works within the red line boundary of the site. The safeguarded land shall thereafter be landscaped within the first available planting season in accordance with an approved detailed soft landscaping scheme pursuant to the reserved matter of landscaping under Condition 1.

**Reason**

To ensure that the proposed development does not prejudice the delivery of the Nationally Significant Infrastructure Project and in the interest of visual amenity.

- 3 The submission of reserved matters applications pursuant to this outline planning permission shall together provide for no more than 16,715sq.m of cumulative Use Class B2 and Use Class B8 employment floor space.

**Reason**

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

- 4 The existing accesses to the site gained off of the A12 shall be closed off, including the access to the existing dwelling when it is no longer required to serve the dwelling, and all access to the proposed development shall be taken from the Eastways Business Park. Moreover, the access to the site from the Eastways Business Park shall be completed, in accordance with the details to be approved by the Local Planning Authority and the Highway Authority, prior to the above ground development of the development hereby approved.

Reason

To ensure that a safe and suitable access to the site is achieved and in the interest of highway safety for traffic using the strategic road network.

- 5 No development or preliminary groundworks of any kind shall take place until a programme of archaeological and geoarchaeological evaluation has been secured and undertaken in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. In addition, a mitigation strategy detailing the excavation/preservation strategy shall be submitted to and approved in writing following the completion this work.

No development or preliminary groundworks of any kind shall take place on those area containing archaeological or geoarchaeological deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, which has been signed off by the Local Planning Authority through its historic environment advisors.

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

Reason

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

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

Reason

To avoid the excessive raising or lowering of any building hereby permitted and the alteration of ground levels within the site which would have an unacceptable landscape impact.

- 7 No works except demolition shall takes place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:
  - Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS

Manual C753.

- Limiting discharge rates to 6.71 l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change subject to agreement with the relevant third party/ All relevant permissions to discharge from the site into any outfall should be demonstrated.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
  - A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation. It should be noted that all outline applications are subject to the most up to date design criteria held by the LLFA.

Reason

- To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
  - To ensure the effective operation of SuDS features over the lifetime of the development.
  - To provide mitigation of any environmental harm which may be caused to the local water environment.
  - Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.
- 8 No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.

Reason

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

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

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

- 9 Prior to occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

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

**Reason**

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

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

**Reason**

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

- 11 Prior to the commencement of development hereby approved, a construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority, in line with the submitted Preliminary Ecological Appraisal (Environmental Assessment Services Ltd, November 2020) and Bat Activity Surveys (Aspen Ecology Ltd, June 2021).

The CEMP (Biodiversity) shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".

- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

#### Reason

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

- 12 Prior to the above ground development of the development hereby approved, a Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the Local Planning Authority.

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

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) persons responsible for implementing the enhancement measures;
- e) details of initial aftercare and long-term maintenance (where relevant).

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

#### Reason

To enhance Protected and Priority Species/habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

- 13 Prior to the installation of any external lighting at the site, a lighting design scheme to protect amenity, the night-time landscape and biodiversity shall be submitted to and approved in writing by the Local Planning Authority.

The scheme shall identify those features on, or immediately adjoining the

site, that are particularly sensitive for bats including those areas where lighting could cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas of the development that are to be lit will not disturb or prevent bats using their territory. All external lighting shall be installed in accordance with the specifications and locations set out in the approved scheme and retained thereafter in accordance with the scheme.

Under no circumstances should any other external lighting be installed without prior consent of the Local Planning Authority.

**Reason**

To allow the LPA to discharge its duties under the UK Habitats Regulations 2017, the Wildlife & Countryside Act 1981 as amended and s.40 of the NERC Act 2006 (Priority habitats and species).

- 14 Prior to the commencement of the development hereby approved, a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for:

- The parking of vehicles of site operatives and visitors;
- The loading and unloading of plant and materials;
- The storage of plant and materials used in the construction of the development;
- The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- Wheel washing facilities;
- Measures to control the emission of dust and dirt during construction;
- A scheme for recycling/disposing of waste resulting from demolition and construction works;
- Delivery, demolition and construction working hours.

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

**Reason**

To ensure that sufficient arrangements are in place for the parking of construction vehicles and to ensure that loose materials and spoil are not introduced onto the highway in the interest of highway safety and in the interest of local amenity.

- 15 Any reserved matters application for the detailed layout pursuant to Condition 1 of this planning permission shall be accompanied by a parking strategy layout which demonstrates that at least 15% of the total car parking spaces will be provided with electric vehicle charging points. The electric vehicle charging points shall be installed in full accordance with the approved details prior to the occupation of each building to which they relate. The electric vehicle charging points shall thereafter be



permanently retained as such.

Reason

In the interests of facilitating and promoting sustainable development.

#### SUBMITTED PLANS

Site Layout	Plan Ref: 2017-TP-016	
Site Plan	Plan Ref: 2017-TP-017	Version: A
Materials Details	Plan Ref: 20017-TP-007 REV A	
Site Selection Plan	Plan Ref: 20017-TP-012	
Floor Plan	Plan Ref: 20017-TP-013	
Elevations	Plan Ref: 20017-TP-014	
3D Visual Plan	Plan Ref: 20017-TP-015	
Existing Site Plan	Plan Ref: 20017-TP-002	Version: C

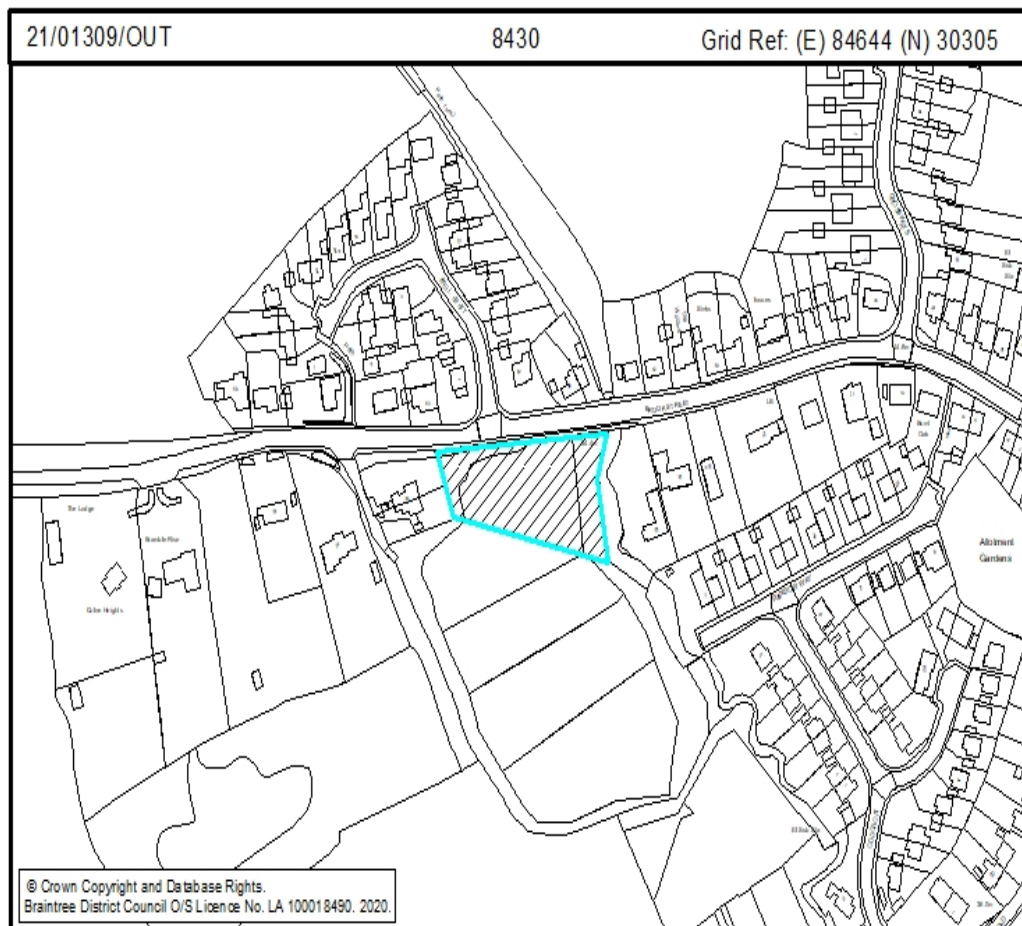
CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

PART A

AGENDA ITEM NUMBER 5c

APPLICATION NO: 21/01309/OUT  
DATE VALID: 07.05.21  
APPLICANT: Mr G Courtauld  
C/O Strutt & Parker  
AGENT: Strutt And Parker  
Mr Andrew Clarke, Covall Hall, , Rainsford Road,  
Chelmsford, CM1 2QF, United Kingdom  
DESCRIPTION: Outline planning application with all matters reserved for  
erection of 3 No. dwellings.  
LOCATION: Land South Of, Brook Street, Colne Engaine, Essex, CO6  
2JB

For more information about this Application please contact:  
Fiona Hunter on:- 01376 551414 Ext. 2521  
or by e-mail to: [fiona.hunter@braintree.gov.uk](mailto:fiona.hunter@braintree.gov.uk)



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QRX5TDBFKUU00>

### SITE HISTORY

19/00019/REF	Outline Application with all matters reserved for up to 7 No. Dwellings	Appeal Dismissed	14.04.20
18/00690/OUT	Outline Application with all matters reserved for up to 7 No. Dwellings	Refused	29.08.18

### POLICY CONSIDERATIONS

On the 22nd February 2021, Braintree District Council adopted the Shared Strategic Section 1 Local Plan.

On adoption, the policies in the Shared Strategic Section 1 Local Plan superseded Policies CS1, CS4, CS9 and CS11 of the Core Strategy (2011).

The Council's Development Plan therefore consists of the Braintree District Local Plan Review (2005) ("the Adopted Local Plan"), the policies of the Core Strategy (2011) (the Core Strategy) which are not superseded, the Shared Strategic Section 1 Local Plan (2021) ("the Section 1 Plan"), and any Adopted Neighbourhood Plan.

The local authority is now moving forward with the examination of Section 2 of the Draft Local Plan. In accordance with Paragraph 48 of the NPPF, from the day of publication the Council can give weight to the policies of this emerging Draft Section 2 Local Plan ("the Section 2 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 affords some weight to the Section 2 Plan.

### 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
RLP56	Vehicle Parking
RLP69	Sustainable Urban Drainage
RLP80	Landscape Features and Habitats
RLP81	Trees, Woodland Grasslands and Hedgerows
RLP84	Protected Species
RLP90	Layout and Design of Development

### Braintree District Local Development Framework Core Strategy 2011

CS5	The Countryside
CS7	Promoting Accessibility for All
CS8	Natural Environment and Biodiversity

### Braintree District Shared Strategic Section 1 Local Plan (2021)

SP1	Presumption in Favour of Sustainable Development
SP2	Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
SP7	Place Shaping Principles

### Braintree District Draft Section 2 Local Plan (2017)

LPP1	Development Boundaries
LPP37	Housing Type and Density
LPP44	Sustainable Transport
LPP45	Parking Provision
LPP50	Built and Historic Environment
LPP51	An Inclusive Environment
LPP55	Layout and Design of Development
LPP63	Archaeological Evaluation, Excavation and Recording
LPP69	Tree Protection
LPP71	Landscape Character and Features
LPP81	External Lighting

### Neighbourhood Plan

None

### Other Material Considerations

Site Allocations and Development Management Plan  
Essex Design Guide  
Essex Parking Standards

## INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is being reported to Planning Committee in accordance with Part A of the Council's new Scheme of Delegation as the applicant is related to a Member of Braintree District Council.

## DESCRIPTION OF THE SITE AND SITE CONTEXT

The application site is located to the southern side of Brook Street in Colne Engaine. The site comprises some 0.26ha of agricultural land. The site has been left as grassland as it is not actively farmed at the current time.

To the north the site is bounded by Brook Street. To the south the site is bounded by fields, and to the west is existing residential development. PROW 73\_35 runs within the site, along the eastern boundary.

Whilst the site is currently located within the countryside, the site is located within the Village Envelope in the emerging Section 2 Plan.

## PROPOSAL

The application seeks outline planning permission for 3 dwellings. Access, layout, appearance, scale and landscaping are reserved matters for future consideration.

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 detailed proposal is put forward.

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

- Biodiversity Survey and Report
- Planning Statement
- Tree Survey
- Landscape and Visual Impact Assessment
- Indicative Site Layout

## SUMMARY OF CONSULTATION RESPONSES

### ECC Highways

Having reviewed the information submitted with the planning application, the Highway Authority has assessed the proposal as acceptable subject to conditions regarding the construction of an appropriate access, and the provision of Residential Travel Information Packs.

ECC Highways also provided comments concerning the Public Right of Way within the site, and have raised no objection on these grounds but have provided informatives.

#### ECC Fire and Rescue

No objections.

#### ECC Archaeology

No objection, subject to conditions regarding archaeological evaluation.

#### BDC Ecology

No objection subject to securing:

- a) A financial contribution towards off-site visitor management measures for the Blackwater Estuary SPA & Ramsar site and Essex Estuaries SAC;
- b) Biodiversity mitigation and enhancement measures.

#### BDC Waste Services

No comments.

#### PARISH / TOWN COUNCIL

##### Colne Engaine Parish Council

No planning grounds to object to the application, however would prefer to see smaller houses.

#### REPRESENTATIONS

14 representations from 8 addresses were received making the following comments:

- Loss of countryside feeling of Colne Engaine.
- There are already a number of new builds without adequate infrastructure, and no need for further housing.
- Lack of parking and impacts of on-street parking for Brook Street.
- Creation of further impermeable surfaces and impact on flooding as the water currently soaks into the field.
- Impacts on wildlife and noise pollution.
- Lack of privacy due to elevation of the proposal in relation to neighbouring gardens.
- A previous application for a wider site was dismissed at appeal.
- The adverse impacts substantially outweigh any perceived benefits, a development of this size could offer.

## 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), the Braintree District Core Strategy (2011), and the Shared Strategic Section 1 Local Plan (2021).

The application site is located outside of a designated town boundary and as such is located on land identified 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 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 would be located within the proposed amended Development Boundary for Colne Engaine within the emerging Section 2 Plan. Policy LPP1 of the Section 2 Plan states that within development boundaries, development will be permitted where it satisfies amenity, design, environmental and highway criteria and therefore development is acceptable in principle.

However as the application site is currently located outside of a designated village envelope/town development boundary, the proposed development is contrary to the provisions of the Adopted Development Plan. Notwithstanding this, Paragraph 50 of the NPPF states that "refusal of planning permission on grounds of prematurity will seldom be justified where a draft plan has yet to be submitted for examination; or – in the case of a neighbourhood plan – before the end of the local planning authority publicity period on the draft plan. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how granting permission for the development concerned would prejudice the outcome of the plan-making process".

### 5 Year Housing Land Supply

The Council publishes a 5 year housing land trajectory as of 31st March each year, the most recent position therefore is that of 31st March 2021. Within this trajectory the Council considered that it has a 5.34 year supply of housing, based on a 5% buffer.

At its full Council on the 22nd February 2021, Braintree District Council approved the adoption of the Shared Strategic Section 1 Local Plan. On its adoption, the Council must meet the housing requirement set out in that Plan. This is a minimum of 14,320 homes between 2013-2033 or an annual average



of 716 new homes per year. This replaces the previous consideration of housing need based on the Standard Methodology.

The latest Housing Delivery Test (HDT) results were published in January 2021. The new results (which include an allowance for the impact of the current pandemic) confirm that the Council no longer needs to apply a 20% buffer and can revert to the usual 5% buffer. This applies from the day of the publication of the results.

This supply position does not include sites which are proposed to be allocated within the Section 2 Plan but do not yet have planning permission or a resolution to grant planning permission.

These allocations without permission will be tested at the forthcoming Section 2 Plan Examination. Once the Section 2 Plan is adopted, these sites will become adopted allocations and greater weight can be given to them, if there is clear evidence that there is a realistic prospect that housing will be delivered on the site within five years.

Given all of the evidence before it – including the use of the new housing requirement from the Shared Strategic Section 1 Local Plan and the use of a 5% buffer, the Council considers that the current 5 year Housing Land Supply for the District is 5.34 years.

As the Council can demonstrate the required five Year Housing Land Supply the ‘tilted balance’ pursuant to Paragraph 11d) of the NPPF is not engaged due to a lack of housing land supply.

### Planning History

The application site has been subject to a previous application as part of a wider site. Most notably, application reference 18/00690/OUT sought permission for 7 dwellings on the wider site extending to the south, located partially within the countryside in both the Adopted Local Plan and the Section 2 Plan. The application was subsequently dismissed on appeal due to the proposal harming the character and identity of the rural setting, the inclusion of the sewer easement within private amenity space, and a reliance on the private car. A copy of the appeal decision is attached as an appendix to this report for information.

The proposals differ from the previously refused application by way of a reduction in the number of dwellings and the location of the site now being fully within the Village Envelope as proposed within the Section 2 Plan.

### Accessibility to Facilities and Services

The strategy set out in the emerging 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 Core Strategy states that future development will be provided in accessible locations to reduce the need to travel.

The village of Colne Engaine is classified as an ‘Other’ village in the Settlement Hierarchy set out in the Adopted Core Strategy, and as a ‘Third Tier’ village in the Section 2 Plan.

The classification is defined as “the smallest villages in the District and lack most of the facilities require 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”.

In this case, the application site is set along the south of Brook Street, and would be set between existing residential properties to the east and west, to the west of the centre of Colne Engaine. Within the village of Colne Engaine there is a primary school, a village shop, a public house and a village hall. There is a bus service which connects the village to Earls Colne and Colchester. The nearest large village is Earls Colne which is approximately 1 mile away from the site. It is considered likely that there would be a reliance on the private car to travel between the site and the nearest Key Service area, but that some day to day facilities do exist in the village of Colne Engaine which would be accessible to the occupiers of the site.

#### 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.

RLP10 of the Adopted Local Plan requires inter alia that the density and massing of residential development will be related to the location of the site in relation to the characteristics of the site and the layout and density of surrounding development. LPP37 of the Section 2 Plan further stipulates that development should create sustainable, inclusive and mixed communities through providing a mix of house types and size at an appropriate density for the area, which reflects local need. This includes criteria ensuring that the density and massing of residential developments should relate to the character of the site and its immediate surroundings, as well as the wider

locality, and on-site amenity space and an appropriate standard of residential accommodation should be provided in accordance with the adopted guidance.

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

Policy SP7 of the Section 1 Plan sets out place shaping principles, including responding positively to local character and context to preserve and enhance of existing places and their environs.

Policy LPP55 of the Section 2 Plan also seeks to secure the highest possible standards of design and layout in all new development and the protection and enhancement of the historic environment.

This is an outline application where access, appearance, scale, layout and landscaping are reserved matters. The application includes a number of indicative plans that illustrate the key aspects of the design and layout, such as access and boundary treatment. The indicative plans illustrate that three two-storey homes using traditional forms could be accommodated on this site without appearing out of character with the appearance of the street scene. They could be appropriately sited with sufficient set back from the frontage, appropriate gaps would be maintained between dwellings, so as to not appear cramped and sufficient space would be maintained for private amenity to meet the needs to future occupiers.

The plans illustrate that the three dwellings can be accommodated in a linear form on the site, consistent with the pattern of development in the locality and not encroaching in depth. The indicative site layout also illustrates that the proposals can be accommodated without encroachment onto the public right of way or the sewer easement to the eastern side of the site. Taking into account the existing land topography and linear pattern of development on Brook Street, it is considered that the development could be accommodated on the plot subject to detailed design.

A Landscape and Visual Impact Assessment (LVIA) has also been submitted as part of the application, which demonstrates the proposal in the context of the wider area. The indicative plans illustrate boundary treatment by way of hedges and post and rail fencing, and the LVIA states that the proposed boundary treatments and elevation of the application site would limit views experienced from the street frontage and the Public Right of Ways. In relation to the previously dismissed appeal for a wider site, the smaller development site limits the potential impact of the proposal on the wider countryside setting and as such it is considered that three dwellings could be appropriately accommodated on the site.

In terms of the design as illustrated on the site layout and elevations, limited assessment can be made due to the indicative nature of the plans. However the proposed detailing and design of the dwellings in principle would not be objectionable as they would seek to represent the mixed character and settlement pattern of the wider street scene.

#### Impact on Neighbour Amenities

Paragraph 127 of the NPPF states that planning policies and decisions should ensure that developments create places with a high standard of amenity for existing and future users. Policy RLP90 of the Adopted Local Plan also states that development should not have an unacceptable impact upon neighbouring amenity. This sentiment is reiterated in Policy LPP55 of the Section 2 Plan.

The siting and size of the dwellings is only indicative at this stage, however the indicative masterplan shows that a layout could come forward without unacceptable loss of amenity to neighbouring residential properties, satisfying the abovementioned policies.

#### Highway Issues

Paragraph 109 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residential residual cumulative impacts on the road network would be severe.

Access is a matter reserved for later approval, however the Local Planning Authority needs to be satisfied that safe vehicle and pedestrian access can be achieved from the site. The proposed access to the application site would be from Brook Street, as this is the only highway boundary to the site. ECC Highways were consulted on the application and raised no objection to the proposal subject to a number of conditions which could be applied to any grant of consent. As such, whilst further details of the access would be required at reserved matters stage, it is considered that the development would be able to achieve safe access to the site.

#### Ecology

Policy RLP80 of the Adopted 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, and that development that would not successfully integrate into the local landscape will not be permitted.

Policy RLP84 of the Adopted 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. This is echoed by Policy LPP68 of the Section 2 Plan.

A Preliminary Ecological Appraisal (Skilled Ecology, December 2020) has been submitted with the application which contains sufficient details in order to determine the application.

The Council's Ecologist is satisfied with the information submitted and recommends a number of conditions securing ecological mitigation measures and a biodiversity enhancement layout.

### Archaeology

Policy RLP105 of the Adopted Local Plan states that where important archaeological deposits are thought to be at risk from a proposed development the developer will be required to arrange for an archaeological evaluation to be undertaken prior to the planning decision being made. The evaluation will assess the character, importance and extent of the archaeological deposits and will allow an informed and reasonable decision to be made on the planning application.

Essex County Council recommends that a condition is placed on any grant of consent which requires a programme of archaeological evaluation, given that there is the potential for roman and medieval archaeology to be disturbed or destroyed by the proposed development. Such a condition could reasonably be placed on any grant of consent.

### Habitat Regulations Assessment (HRA / RAMS)

In terms of the wider ecological context, the application site sits within the identified 'Zone of Influence' where new development of this type is likely to have a direct effect on areas of the Essex Coastline which are protected by International, European and National wildlife designations through increased visitor pressure on these sites. It is therefore necessary, in accordance with Natural England's standard guidance on this matter for the Council to secure mitigation measures to prevent the development causing a likely significant adverse effect upon the integrity of these sites if planning permission is granted.

The mitigation measure would consist of the securing of a financial contribution of £127.30 per new dwelling erected towards offsite visitor management measures at the above protected sites. This financial contribution would be secured by way of either:

1. An up-front cash payment made under S111 of the 1972 Local Government Act at the time the planning application is submitted; or

2. The completion of a Unilateral Undertaking to secure the required financial contribution with the legal process for this being commenced at the point the planning application is submitted.

The applicant has made a payment of £476.74 as appropriate and as such has met the requirements in terms of mitigation measures identified.

## 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.

Paragraph 59 of the NPPF sets out the Government's objective of significantly boosting the supply of homes. The main mechanism within the NPPF for achieving this is the requirement that local planning authorities demonstrate a five-year supply of deliverable housing land, assessed against housing need. In this regard, the Council is currently able to demonstrate a Housing Land Supply of 5.34 years against its housing need. As such the Council is presently meeting this objective.

Until the adoption of the Section 2 Plan, the sites which are proposed to be allocated but do not yet have planning permission or a resolution to grant planning permission, have not been included within the 5 Year Housing Land Supply calculation.

As such, although the Council can currently demonstrate a 5 Year Housing Land Supply, this is finely balanced, and currently only marginally exceeds the 5 year threshold.

As the Council can demonstrate the required 5 Year Housing Land Supply, the 'tilted balance' pursuant to Paragraph 11d) of the NPPF is not engaged due to a lack of housing land supply. It is therefore necessary to identify the most important policies for determining the application and to establish whether these are out-of-date. Paragraph 213 of the NPPF states that existing policies should not be considered out-of-date simply because they were adopted prior to the publication of the Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater weight that may be given).

In this case the basket of policies which are considered to be the most important for determining the application are Policies SP1 and SP3 of the

Section 1 Plan, Policies RLP2, RLP3, RLP56, RLP80 and RLP90 of the Adopted Local Plan and Policy CS5, CS7 and CS8 of the Core Strategy.

Policy SP1 of the Section 1 Plan states that when considering development proposals the Local Planning Authority will take a positive approach that reflects the presumption in favour of sustainable development contained within the NPPF, and will seek to approve proposals wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. Policy SP3 of the Section 1 Plan sets out the spatial strategy for North Essex, namely to accommodate development within or adjoining settlements according to their scale, sustainability and existing role both within each individual Districts, and where relevant, across the wider strategic area. Further growth will be planned to ensure existing settlements maintain their distinctive character and role, to avoid coalescence between them and to conserve their setting. As the Section 1 Plan has been found to be sound and recently adopted by the Council, it is considered that both policies are consistent with the NPPF and can be afforded full weight. Neither are out-of-date.

Whilst the primary purpose of Policy RLP2 of the Adopted Local Plan is to restrict development to development boundaries, and thus resist it in the countryside, it is considered that the policy remains broadly consistent with the Framework's approach of protecting the countryside from harmful development, and is not hindering the Council in delivering housing growth within the District. The policy is not out-of-date, and can be given moderate weight. The aims of Policy CS5 of the Core Strategy are much wider as the policy seeks to amongst other things, protect and enhance the landscape character and amenity of the countryside. As it is effectively seeking to preserve the intrinsic character and beauty of the countryside – an objective contained within the NPPF – it is considered that this policy is not out-of-date and can be given significant weight. Policy LPP1 of the Section 2 Plan reiterates the above about protecting the intrinsic character and beautify of the countryside. Given the status of the Section 2 Plan (which is now at modifications stage following examination) it is considered this policy can be attributed limited weight.

Policy RLP3 of the Adopted Local Plan seeks to permit residential development within village envelopes and town development boundaries, where it satisfies amenity, design, environmental and highway criteria and where it can take place without material detriment to the existing character of the settlement. As with Policy RLP2, it is considered that the policy remains broadly consistent with the Framework as it seeks to secure sustainable development. The policy is not out-of-date, and can be given more than moderate weight.

Policy RLP56 and RLP90 relate to the detail of the proposed development, particularly in terms of design and layout; vehicle parking and neighbour impact. These policies accord with the NPPF's aim of creating high quality design and layout and ensuring that adequate provision for vehicle access and parking is made. They are not out-of-date and can be given full weight.

Policy CS7 of the Core Strategy promotes accessibility for all, and in particular states that future development will be provided in accessible locations to reduce the need to travel, an objective contained within the NPPF – it is considered that this policy is not out-of-date and can be given significant weight.

Policy RLP80 of the Adopted Local Plan requires that new development must successfully integrate into the local landscape and that proposals that fail to do so will not be permitted. Policy CS8 of the Core Strategy is a wide ranging policy concerning the natural environment and biodiversity. Amongst other things the policy requires that consideration is given to landscape impact. It 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 a manner that accords with the Landscape Character Assessment for the area. The underlying objectives of Policies RLP80 and CS8 is to protect the landscape character and amenity of the countryside and require a decision maker to consider the established landscape character and its sensitivity to change and are considered to both be consistent with paragraph 174 of the NPPF and are not considered to be out of date and can be given significant weight.

When considering the basket of the most important policies for the determination of this application as a whole, it is considered that the policies are not out-of-date and are broadly consistent with the Framework.

Given that the Council can demonstrate a 5 Year Housing land Supply, and the basket of policies are not otherwise out-of-date, the 'flat' (or untilted) planning balance must still be undertaken which weighs the adverse impacts of the proposed development, including the conflict with the Development Plan, against the public benefits of the proposal.

In undertaking this flat planning balance, such an assessment must take account of the economic, social and environmental impact of the proposed development. As set out in Paragraph 8 of the NPPF, achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and needed to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- an economic objective (to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure);
- a social objective (to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open



- spaces that reflect current and future needs and support communities' health, social and cultural well-being); and
- an environmental objective (to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy).

## **Summary of Adverse Impacts**

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

### Conflict with the Development Plan

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Paragraph 15 of the NPPF emphasises that the planning system should be “genuinely plan led”.

The proposed development would conflict with Policy RLP2 of the Adopted Local Plan and Policy CS5 of the Core Strategy with regard to the Council's spatial strategy as it proposes development outside of defined development boundaries and within the countryside. However, Paragraph 50 of the NPPF states that “refusal of planning permission on grounds of prematurity will seldom be justified where a draft plan has yet to be submitted for examination; or – in the case of a neighbourhood plan – before the end of the local planning authority publicity period on the draft plan. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how granting permission for the development concerned would prejudice the outcome of the plan-making process”. The application site is located within the amended village envelope for Colne Engaine within the emerging Section 2 Plan, and therefore limited weight can be afforded to the conflict with the Council's current spatial strategy given the advanced position of the Section 2 Plan.

## **Summary of Public Benefits**

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

### Delivery of Market Housing

The application would represent a net gain of three additional dwellings located adjacent to an existing development boundary and within an emerging amended development boundary. The proposal would have economic and social benefits, and the provision of 3 new dwellings which would contribute to the Council's housing land supply. Given the small scale of the proposal, only limited weight is attached to this benefit.

### Economic and Social Benefits

The erection of a dwelling would constitute a short-term economic gain from the construction of the dwellings required to accommodate the proposed works. Furthermore, the proposal would introduce additional occupants with access to local facilities, thus bringing economic and social benefits. However, with three dwellings proposed these benefits would be limited, and thus only limited weight can be afforded to this benefit.

### **Planning Balance**

When considering the flat planning balance and having regard to the adverse impacts and benefits outlined above, and having regard to the requirements of the NPPF as a whole, Officers have concluded that the benefits of the proposal outweigh the adverse impacts. Consequently it is recommended that planning permission is granted for the proposed development.

### 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: 20.0024.001 rev.A
Parameter Drawing	Plan Ref: 20.0024.002 rev.D

#### 1 Details of the:-

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

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

Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.

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

#### Reason

The particulars submitted are insufficient for consideration of the details

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

- 2 The development hereby permitted shall be carried out in accordance with the approved plans listed above, except as follows:

The parameter plan, drawing reference 20-0024-002 rev.D, is only approved insofar as it relates to the non-developable area of the site along the eastern boundary, which is to be kept free of any development to allow for maintenance of the sewer with associated easement and Public Right of Way (PRoW). The safeguarded land shall be permanently maintained and landscaped within the first available planting season in accordance with an approved detailed soft landscaping scheme pursuant to the reserved matter of landscaping under Condition 1.

**Reason**

To ensure that the proposed development does not prejudice the maintenance of the sewer easement and PRoW, and in the interest of visual amenity.

- 3 The submission of reserved matter applications pursuant to this outline planning permission shall together provide for no more than 3 dwellings, access, parking, landscaping and associated infrastructure and demonstrate compliance with the approved plans listed above.

**Reason**

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

- 4 The landscaping scheme required by Condition 1 of this permission shall provide for the retention of an existing boundary tree/hedging (except as required to provide the proposed access) and shall incorporate a detailed specification of hard and soft landscaping works. This shall include plant/tree types and sizes, plant numbers and distances, soil specification, seeding and turfing treatment, colour and type of material for all hard surface areas and method of laying, refuse storage, signs and lighting.

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

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

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

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

a similar size and species.

Reason

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

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

Reason

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

- 6 No above ground works development shall commence until details of all gates/fences/walls or other means of enclosure shall be submitted to and approved in writing by the local planning authority. The details shall include position, design, height and materials of the screen walls/fences. The gates/fences/walls as approved shall be provided prior to the occupation of any dwelling hereby approved and shall be permanently retained as such.

Reason

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

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

Reason

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

- 8 Car parking provision across the development shall be provided in accordance with the minimum standards set out in the Essex Parking Standards Design and Good Practice 2009 which requires the following parking provision for Use Class C3 Dwellinghouses:

- a minimum of 1 car parking space per 1 bedroom dwelling;
- a minimum of 2 car parking spaces per 2 or more bedroom dwelling;
- a minimum of 0.25 visitor car parking spaces per dwelling (unallocated and rounded up to the nearest whole number) and
- standards exclude garages if less than 7 metres x 3 metres internal dimension.

Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.

The proposed development shall not be occupied until such time as the vehicle parking has been provided. The vehicle parking area and associated turning area shall be retained in this form at all times and not used for any other purpose.

Reason

To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided.

- 9 Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport. These packs will include information about local services and transport alternatives for future residence of the site.

Reason

In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10 of the Highway Authority's Development Management Policies February 2011.

- 10 No above ground development shall commence until details of the location and design of refuse bin and recycling materials storage areas (for internal and external separation) and collection points have been submitted to and approved in writing by the local planning authority. The development shall only be implemented in accordance with the approved details and thereafter so retained.

Reason

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

- 11
  - a) No development or preliminary groundworks can commence until a programme of archaeological evaluation has been secured and undertaken in accordance with a written scheme of investigation which has been submitted by the applicant, and approved by the planning authority.
  - b) No development or preliminary groundworks can commence on those areas containing archaeological deposits until the satisfactory completion of fieldwork, as detailed in a mitigation strategy, and which has been signed off by the local planning authority through its historic environment advisors.
  - c) The applicant will submit to the local planning authority a post-excavation assessment (to be submitted within six months of the

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

**Reason**

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

- 12 All mitigation measures and/or works shall be carried out in accordance with the details contained in the Update Preliminary Ecological Appraisal Para 5.2 (Skilled Ecology, December 2020) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

**Reason**

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

- 13 A Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the Update Preliminary Ecological Appraisal Para 5.2, (Skilled Ecology, December 2020), shall be submitted to and approved in writing by the local planning authority.

The enhancement measures shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

**Reason**

To enhance Protected and Priority Species and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

- 14 Prior to occupation of the development, a vehicular access shall be constructed onto Brook Street with, at its centre line a clear to ground visibility splay with dimensions of 2.4 m by 43 m in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be 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 in accordance with policies DM1, DM9 and DM10 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- 15 Prior to the installation of any external lighting at the site, a lighting design scheme to protect amenity, the night-time landscape and biodiversity shall be submitted to and approved by the local planning authority.

The scheme shall identify those features on, or immediately adjoining the site, that are particularly sensitive for bats including those areas where lighting could cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas of the development that are to be lit will not disturb or prevent bats using their territory. All external lighting shall be installed in accordance with the specifications and locations set out in the approved scheme and retained thereafter in accordance with the scheme.

Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

Reason

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

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER



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## Appeal Decision

Hearing held on 17 December 2019

Site visit made on 17 December 2019

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 9<sup>th</sup> April 2020

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Appeal Ref: APP/Z1510/W/19/3223378

Land at Brook Street, Colne Engaine, Essex CO9 2JB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant outline planning permission.
  - The appeal is made by Mr and Mrs G and D Courtauld, Granville Developments against the decision of Braintree District Council.
  - The application Ref: 18/00690/OUT, dated 3 April 2018, was refused by notice dated 29 August 2018.
  - The development proposed is outline application for up to 7 No. dwellings (with all matters reserved).
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The spelling of the **appellants'** surname in the banner heading above is a correction to that shown on the application form.
3. The appeal proposal relates to an outline planning application for up to seven dwellings, with all matters reserved. Three illustrative layout plans - of which two were submitted with the application and one with the appeal - are presented as options to illustrate what could be accommodated on the site. The illustrative layouts have been taken into account insofar as they are relevant to my consideration of the principle of the development on the appeal site.
4. Although the emerging Braintree Local Plan (LP) is at an advanced stage, it is yet to be adopted and its policies may be subject to further change, which limits the weight to be attached to it. The saved policies of the Braintree District Local Plan Review (2005) (LPR) and the Braintree District Core Strategy (2011) (CS) therefore constitute the development plan for the purposes of the appeal. I will determine the appeal on this basis.

### Main Issues

5. The main issues are:
  - The effect of the proposed development on the character and appearance of the area
  - Living conditions of future occupiers, with particular regard to privacy and access to a sewer easement



- **Whether the proposed development's location is suitable and accessible,** with particular reference to reliance on the private car, and
- The effect of the proposal on the Blackwater Estuary Special Protection Area (SPA) and Ramsar site.

## Reasons

### *Character and appearance*

6. The site is a field, bounded on its western and eastern boundaries by public rights of way. It is located off a dip in Brook Street, which descends in a westerly direction from the centre of the village. The topography of the site rises up in a broadly south-westerly direction from Brook Street.
7. There is a mixed pattern of development in the village, with modern development in depth around Oddcroft and Shellcroft adding variety to the more traditional linear development. Nevertheless, Brook Street and Station **Road delineate a 'wishbone' shaped area of land which leads from the heart of the village towards the wider countryside.** From what I saw during my site visit and the aerial view, there is an area of residential development within the wishbone which has a distinct boundary along the western edge of Oddcroft and Rainbow Way, up to Brook Street. Within this context, the appeal site is part of an area of fields to the west of this boundary, which contribute to the **'green frame' around the village.** As such, the site contributes significantly to the rural character and identity of the setting of Colne Engaine.
8. The village envelope is under review, shown in the Publication Draft (2017) of the emerging LP as potentially to be expanded to include the northern part of the appeal site. Nevertheless, given that the LP is yet to be finalised and adopted, this is not certain, and the site is outside the village envelope as defined in the adopted LPR. Moreover, the depth and area of the appeal site substantially exceeds the boundary of the potential revised village envelope in the Publication Draft of the LP. Taking the above together, I consider the appeal site to be outside the village envelope.
9. The Council states that 'the site could lend itself to a sensitive linear frontage infill development without detriment to the local character and pattern'. Nevertheless, all three illustrative layout options indicate housing development extending further into the site onto its higher, southern part. Having regard to this, I consider that development of this **'top end'** of the site is likely to be necessary to accommodate the upper end of the range of seven dwellings. This would result in residential development encroaching prominently on the higher part of the verdant and spacious field. This would lead to the proposal, in totality, having an incongruous, urbanising effect on the countryside setting of the village.
10. From what I saw during my site visit, it is likely that the above effect would be visible from the following viewpoints: travelling down Brook Street in a westerly direction from the village heart; looking up the access into the development from Brook Street at the front of the site; from the public right of way (PROW) along the eastern boundary of the site; from the eastern side of dwellings at Nos 39 and 41 Brook Street; and from the residential area around the junction of Oddcroft and Rainbow Way.

11. I acknowledge that the rolling landscape, vegetation and other developments in the area - which are noted in the Landscape and Visual Impact Appraisal provided by the appellant - would soften and screen some views of the proposed development. Furthermore, it is feasible that views of the proposed development from the countryside adjacent to the southern and south-western part of the site perimeter could be screened by a **new landscape 'buffer'**, which would supplement existing vegetation alongside the western PROW.
12. However, judging by the illustrative layout options, landscape maintenance access to the buffer is likely to run through private garden space. As such, the prospect of the landscape buffer establishing and enduring, without being seen as an unwelcome liability and thus inviting pressure from future residents for its enclosure and reduction, would be undermined. Even if legal management arrangements secured the endurance of the southern landscape buffer, the latter is unlikely to significantly diminish the adverse impact of the proposal from the other viewpoints described above.
13. A future reserved matters application may provide a different layout and design than the illustrative drawings. Furthermore, as indicated by the illustrative house elevations, there is scope through materials selection and detailing for rustic vernacular house styling, to counterbalance the suburban character of some of the more modern housing in the village. However, such considerations do not outweigh the harmful effect of the factors identified above.
14. In conclusion, the proposal would harm the character and identity of the rural setting of the village. As such, it would conflict with Saved Policy RLP90 of the LPR, and Policies CS5 and CS9 of the CS, which together seek to ensure that development complements local character.
15. Saved Policy RLP3 of the LPR is not engaged in this case as it applies to development within town development boundaries and village envelopes. Together, Saved Policy RLP56 of the LPR and Policy CS7 of the CS cover parking provision and accessibility, and therefore are not engaged in respect of character and appearance.

*Living conditions of future occupiers*

16. The Council is concerned that the proposal could not be accommodated without overlooking between some new dwellings and some private amenity areas of other new properties. However, the illustrative layouts indicate that there is a reasonable prospect of accommodating separation gaps in the region of 10 to 15m between direct main elevations and rear and side garden boundaries. Furthermore, gaps typically in the region of 20 to 25m between habitable windows of different properties are illustrated. The above factors, together, lead me to find that the proposal would not be harmful in relation to privacy of future occupiers. The above absence of harm is a neutral matter which does not weigh in favour of the proposal.
17. As indicated on the illustrative layout plans, it is likely that a sewer easement would run through a significant proportion of private garden space on the eastern part of the site. The appellant suggests that future legal management arrangements and detailed design would be capable of addressing concerns about maintenance of the sewer easement. However, there is not substantive evidence before me that the likely relationship between easement and private garden space could be accommodated without placing an onerous management

responsibility on future occupiers, and jeopardising their enjoyment of garden space.

18. I therefore conclude that, in respect of the sewer easement, the proposal would **harm future residents' enjoyment of their garden space**. As such, it would conflict with Saved Policy RLP90 of the LPR, which seeks to ensure that development safeguards the living conditions of residents.

*Whether suitable location*

19. The village has a shop, church, primary school, village hall, pre-school and pub. Some use of the bus service stops in the village is possible. However, travel outside the village would be necessary for future occupiers to access services and facilities, including employment, leisure and healthcare. Furthermore, the limited frequency and operating hours of the bus service, combined with the lack of complete, lit pavement access from Brook Street to the centre of village and Earls Colne, is likely to constrain access to facilities by means other than the private car.
20. The above combination of factors leads me to find that the proposed development would lead to reliance on the private car by future occupiers of the proposed development. As such, it would conflict with Policy CS7 of the CS, which seeks to locate development where it will reduce the need to travel, in the interests of accessibility and environmental sustainability.

*SPA and Ramsar site*

21. The site falls within the zone of influence (ZOI) for the European designated Blackwater Estuary SPA and Ramsar site. The definition of strategic mitigation measures for residential development within the ZOI is yet to be finalised through an emerging Supplementary Planning Document, pursuant to the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). Whilst no mitigative obligation in respect of the Blackwater Estuary is presented, within the above context the Council has stated that it no longer wishes to defend the second reason for refusal of the appeal scheme, which covered the following: lack of formal undertaking to secure an appropriate financial contribution to the provision of mitigation, in respect of the RAMS.
22. Given the above, and as I am dismissing the appeal on other grounds, I have not undertaken an Appropriate Assessment of the proposal. Accordingly, it is not necessary for me to address this matter in further detail.

*Other Matters*

23. I note residents' concerns about highway safety and flood risk. As I am dismissing the appeal on other grounds, it is not necessary for me to consider these matters further.

*Planning Balance and Conclusion*

24. The evidence before me indicates the Council cannot demonstrate a five year supply of deliverable housing sites. The adequacy of supply is a matter of dispute between the main parties, centring on deliverability factors including **sites'** lead-in times, build-out rates and market demand. Having regard to the above, I consider that, for the purposes of making my decision, there is a supply shortfall of between around a third of a year and a year.

25. As such, policies which are most important for determining the application are to be considered out of date. The tilted balance, as set out within paragraph 11 of the National Planning Policy Framework (the Framework), would normally apply. The tilted balance would be disengaged if I were to find that there would be unmitigated harm to the SPA and Ramsar site. However, having not undertaken an Appropriate Assessment of the proposal for the purposes of making my decision, I have applied the tilted balance.
26. The proposal would make a modest contribution to local housing supply, in the form of up to seven dwellings. The above would bring associated socio-economic benefit during and after construction, including potential additional custom for local services and facilities in the village and Earls Colne, which would help to support their future provision. Nonetheless, I have identified significant harm in relation to the character and appearance of the area, living conditions of future occupants and suitability of location.
27. I appreciate that the Framework sets out a presumption in favour of sustainable development but even where the tilted balance is engaged, the benefits of additional housing do not necessarily outweigh all other concerns. Moreover, case law has found that even where policies can be considered out of date, this does not mean that they carry no weight. The balancing exercise remains a matter of planning judgement.
28. As such, given the totality of harm identified above, I conclude that the adverse impacts of the proposed development would significantly and demonstrably outweigh the relatively modest scale of benefit, when assessed against the policies in the Framework taken as a whole. The proposals would fail to comply with the relevant policies of the development plan and national guidance, and therefore the appeal should be dismissed.

*William Cooper*

INSPECTOR

## APPEARANCES

### FOR THE APPELLANTS:

Kirsten Bowden	Landscape Architect
Lyndon Gill	Barton Willmore
Edward Gittins	Edward Gittins & Associates
Sophie Gittins	Granville Developments
Malcolm Inkster	Trinity Planning
Andrew Winter	Barton Willmore

### FOR THE LOCAL PLANNING AUTHORITY:

Alex Evans	Braintree District Council
Mathew Wilde	Braintree District Council

### INTERESTED PARTIES:

Mike Burrage	Local resident
Nicola Cameron	Local resident
Boris White	Strutt and Parker

## DOCUMENTS SUBMITTED AT THE HEARING

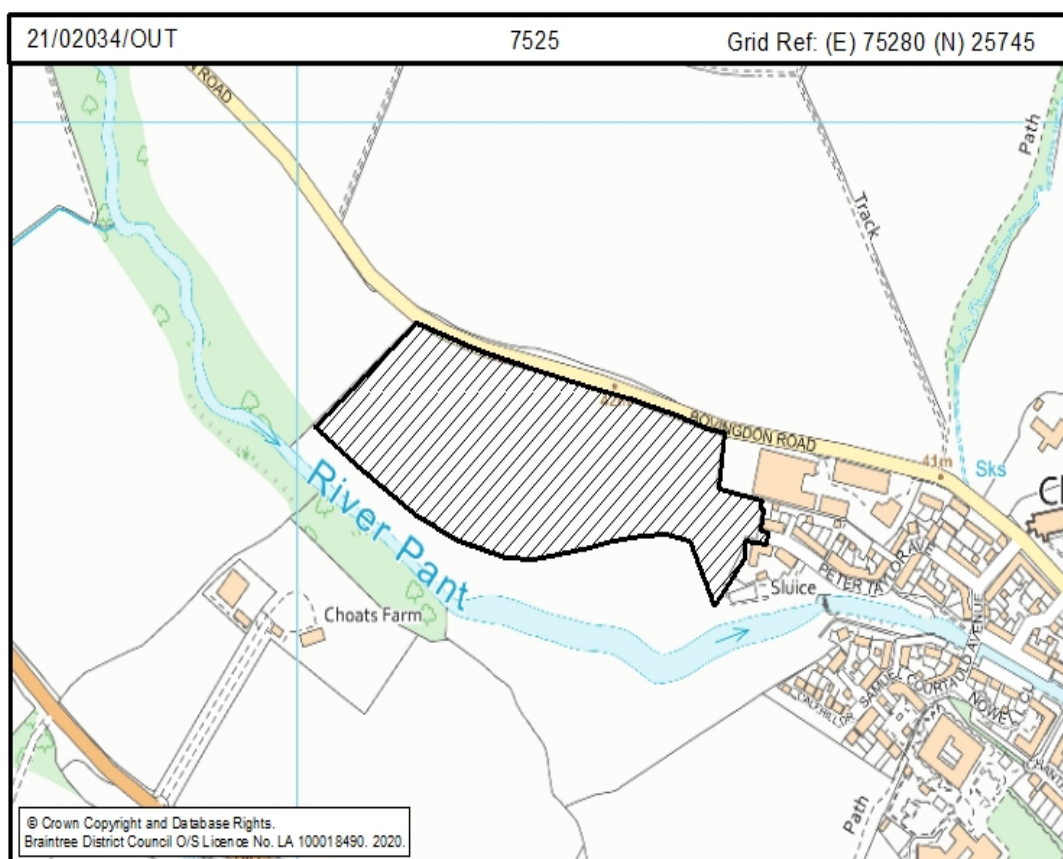
1. Planning Appeal Decision Ref: APP/Z1510/W/19/3228506, Land west of Kelvedon Station.
2. Photographs of brook at No 25 Brook Street.
3. Notification of interested parties by Braintree District Council.
4. Essex County Council's Parking Standards, Design and Good Practice (2009).

PART A

AGENDA ITEM NUMBER 5d

APPLICATION NO: 21/02034/OUT      DATE: 01.07.21  
 VALID:  
 APPLICANT: Eastlight Community Housing & George Tanner (Shalford) Ltd.  
 Mr Andrew Allocca, C/o Agent  
 AGENT: Phase 2 Planning  
 Mr Matthew Wood, 270 Avenue West, Skyline 120, Great Notley, Braintree, CM77 7AA, UK  
 DESCRIPTION: Outline planning permission with all matters reserved apart from access for up to 70 dwellings and associated development  
 LOCATION: Land South Of, Bovingdon Road, Braintree, Essex

For more information about this Application please contact:  
 Melanie Corbishley on:- 01376 551414 Ext. 2527  
 or by e-mail to: [melanie.corbishley@braintree.gov.uk](mailto:melanie.corbishley@braintree.gov.uk)



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QV9J44BFM7J00>

### SITE HISTORY

92/01383/MIN	Erection of waste compactor/transfer station	No Objections Raised	21.01.93
93/00651/MIN	Proposed waste compactor/transfer station building	Deemed Permitted	11.08.93
19/01475/OUT	Outline application with some matters reserved for new residential development comprising of up to 86 dwellings alongside associated works with all matters reserved apart from access.	Withdrawn	06.01.20

### POLICY CONSIDERATIONS

On the 22nd February 2021, Braintree District Council adopted the Shared Strategic Section 1 Local Plan.

On adoption, the policies in the Shared Strategic Section 1 Local Plan superseded Policies CS1, CS4, CS9 and CS11 of the Core Strategy (2011).

The Council's Development Plan therefore consists of the Braintree District Local Plan Review (2005) ("the Adopted Local Plan"), the policies of the Core Strategy (2011) (the Core Strategy") which are not superseded, the Shared Strategic Section 1 Local Plan (2021) ("the Section 1 Plan"), and any Adopted Neighbourhood Plan.

The local authority is now moving forward with the examination of Section 2 of the Draft Local Plan. In accordance with Paragraph 48 of the NPPF, from the day of publication the Council can give weight to the policies of this emerging Draft Section 2 Local Plan ("the Section 2 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 affords some weight to the Section 2 Plan.

#### National Planning Guidance

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

#### Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP9	Design and Layout of Housing and Mixed Use Areas
RLP10	Residential Density
RLP49	Pedestrian Networks
RLP50	Cycleways
RLP53	Generators of Travel Demand
RLP54	Transport Assessments
RLP55	Travel Plans
RLP56	Vehicle Parking
RLP62	Development Likely to Give Rise to Pollution or the Risk of Pollution
RLP64	Contaminated Land
RLP69	Sustainable Urban Drainage
RLP71	Water Supply, Sewerage & Drainage
RLP72	Water Quality
RLP80	Landscape Features and Habitats
RLP84	Protected Species
RLP90	Layout and Design of Development
RLP95	Preservation and Enhancement of Conservation Areas
RLP106	Archaeological Excavation and Monitoring
RLP138	Provision of Open Space in New Housing Developments
RLP163	Infrastructure and Community Facilities

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

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

#### Braintree District Shared Strategic Section 1 Local Plan (2021)

SP1	Presumption in Favour of Sustainable Development
SP2	Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
SP3	Spatial Strategy for North Essex



SP4	Meeting Housing Needs
SP6	Infrastructure & Connectivity
SP7	Place Shaping Principles

#### Braintree District Draft Section 2 Local Plan (2017)

LPP1	Development Boundaries
LPP17	Housing Provision and Delivery
LPP33	Affordable Housing
LPP50	Built and Historic Environment
LPP53	Provision of Open Space, Sport and Recreation
LPP60	Heritage Assets and their Settings
LPP63	Archaeological Evaluation, Excavation and Recording
LPP67	Natural Environment and Green Infrastructure
LPP68	Protected Species, Priority Spaces and Priority Habitat
LPP69	Tree Protection
LPP70	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP71	Landscape Character and Features
LPP74	Climate Change

#### Neighbourhood Plan

None

#### Other Material Considerations

Essex Design Guide (2005)  
 Essex Parking Standards – Design and Good Practice SPD (2009)  
 Affordable Housing SPD (2006)  
 Open Space SPD (2009)  
 Braintree District Settlement Fringes -Evaluation of Landscape Capacity Analysis for Braintree and environs (2007)

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

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

#### DESCRIPTION OF THE SITE AND SITE CONTEXT

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

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

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

## PROPOSAL

This application seeks Outline Planning Permission, with all matters reserved except access, for the development of up to 70 dwellings and associated development.

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

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

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

- Design and Access Statement
- Statement of Community Involvement
- Heritage Statement
- Flood Risk Assessment
- Transport Assessment
- Ecological Survey
- Biodiversity Checklist
- Landscape and Visual Impact Assessment
- Tree Survey
- Planning Statement (Appendix 1-8)
- Urban Design Framework Plan
- Indicative Layout Plan
- Proposed Highway Access Plan
- Landscape Details
- Geo-Environmental Risk Assessment
- Accommodation Schedule

The density of the development would be approximately 17.1 dwellings per hectare over an area of 4.09ha. An illustrative site layout plan also indicates open space, landscaping and SuDS features.

## SUMMARY OF CONSULTATION RESPONSES

### Historic Buildings Consultant

The development of the site would not fundamentally alter the ability to appreciate the listed church, Bocking Hall and the Conservation Area, within their agrarian landscape setting and I would not object to the development of the site in principle. However, the cumulative harm of further development within their shared settings is of concern, as its agrarian character is acutely sensitive to change. I find that there would be a level of less than substantial harm to the significance of Bocking Hall and the Conservation Area, in addition to the Church of Saint Mary, through the development's adverse urbanising effect on the character of their surviving rural setting. It is assumed that this level of less than substantial harm may range from low to medium, but again the sparsity of detail submitted with the outline application is not sufficient to reach a definitive conclusion as to the level of harm.

Therefore, paragraph 202 of the NPPF (revised 2021) is relevant in this case. This states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including where appropriate, securing its optimum viable use.

### Environment Agency

#### *Land Contamination*

The previous use of the proposed development site as a sludge lagoon for former dye works and former inert landfill presents a risk of contamination that could be mobilised during construction to pollute controlled waters. Controlled waters are sensitive in this location because the proposed development site is located upon a secondary aquifer A and close to the River Pant.

The application's GCC Geo-Environmental Generic QRA, April 2018 demonstrates that it will be possible to manage the risk posed to controlled waters by this development. Further detailed information will however be required before built development is undertaken.

We acknowledge the investigation work completed as part of the licence surrender and the ground investigations undertaken in 2018. The GCC report is correct in noting that contaminants associated with the sludge lagoons were not considered in the licence surrender. Whilst, the groundwater sample from BH101 is encouraging, we advise additional boreholes are installed on the down hydraulic gradient boundary of the landfill to establish groundwater quality. Chemical analysis should include all potential contaminants. The investigation findings will determine the need for further works which may include (not exclusively) a controlled water risk assessment and the need for pre, during and post construction monitoring. We agree SuDS infiltration

drainage would not be appropriate at the site given the potential for contamination in the made ground.

We believe that it would place an unreasonable burden on the developer to ask for more detailed information prior to the granting of planning permission but respect that this is a decision for the local planning authority.

We consider that planning permission could be granted to the proposed development as submitted if the following planning conditions are included as set out in our response letter. Without these conditions, the proposed development on this site poses an unacceptable risk to the environment and we would object to the application.

### *Flood Risk*

Our maps show the site lies within fluvial Flood Zone 3a defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding. The proposal is for up to 70 dwellings and associated development with all matters reserved apart from access, which is classified as a 'more vulnerable' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance. Therefore, to comply with national policy the application is required to pass the Sequential and Exception Tests and be supported by a site specific Flood Risk Assessment (FRA)

### ECC Education

Financial contribution of £108,788 is sought for Early Years and Childcare, £362,628 towards Primary Education, £70,490 towards secondary transport and £5,446 towards local library enhancements.

### NHS

Financial contribution of £26,450 towards increasing the capacity at the Church Lane Surgery.

### BDC Environmental Health

No objection, subject to conditions related to contaminated land, construction hours, dust and must control management, piling foundations and residential amenity.

### BDC Waste Services

The access road must be built to accommodate the waste and recycling collection vehicles, and must be adopted highway, or built to a standard equivalent to adopted highway. If private driveway, Braintree District Council require written indemnity to state that it will not incur cost for damages caused to the driveway/access road, as a result of using it to carry out waste and recycling collections. The turning head at the bottom left of image

21\_02009\_OUT-SITE\_PLAN-1870608.pdf, will need to be a type 3 size turning head, in order to accommodate the turning circle needed, for the waste and recycling collection vehicles to turn. The bin store should be large enough to house the recommended number of bins with a minimum clearance of 15 cm around all sides of each bin, so that each one can be accessed by the residents and by the collection crews. The pathway from the collection point to the rear of the vehicle needs to be flat, free from steps, kerbs or shingle and have a solid, smooth surface. The bin store must not be further than 15 metres from where the waste collection vehicle has to stop. For the flat blocks the managing agents will need to provide bins for the refuse and recycling within the designated bin stores. The amount of capacity required is equivalent to 45 litres per person per week for refuse, and another 45 litres per person per week for recycling.

### BDC Landscape Services

Raises concerns with the conclusions within the submitted LVIA and predicted effects on viewpoints. The document needs to reflect the true impact of developing the valley floor.

### BDC Ecology

No objection subject to securing:

- a) A proportionate financial contribution towards visitor management measures for the Blackwater Estuary SPA/Ramsar Site, Dengie SPA/Ramsar Site and Essex Estuaries SAC.
- b) Ecological mitigation and enhancement measures

### ECC Highways

From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to conditions regarding the submission of a construction traffic management plan and a residential travel plan.

A further condition is requested requiring the following works to be completed prior to the occupation of the development:

- a. The site access as shown in principle on the submitted. Access shall include but not be limited to a clear to ground visibility splay with dimensions of 4.5m x 180m in both directions.
- b. Residential Travel Information Packs in accordance with Essex County Council guidance.
- c. The upgrade of the two bus stops to best serve the development. All details to be agreed by the Local Planning Authority prior to commencement of the development.
- d. The provision of a minimum 3.5m wide cycle/pedestrian facility at the north-east of the site (as shown in principle on the submitted drawing 200.03) to join the existing highway at Peter Taylor Avenue. All details to

be agreed by the Local Planning Authority prior to the commencement of the development.

- e. The provision of a minimum 2m wide pedestrian facility at the south-east of the site (as shown in principle on the submitted drawing 200.03) to join with the existing footpath at the Peter Taylor Avenue play area. All details to be agreed by the Local Planning Authority prior to the commencement of the development.

### Essex Police

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

### Anglian Water

#### *Assets Affected*

There are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development boundary that may affect the layout of the site. Anglian Water would ask that the following text be included within your Notice should permission be granted.

Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost under Section 185 of the Water Industry Act 1991, or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.

#### *Wastewater Treatment*

The foul drainage from this development is in the catchment of Bocking Water Recycling Centre which currently does not have capacity to treat the flows the development site. Anglian Water are obligated to accept the foul flows from the development with the benefit of planning consent and would therefore take the necessary steps to ensure that there is sufficient treatment capacity should the Planning Authority grant planning permission.

### *Used Water Network*

This response has been based on the following submitted documents: Drainage Strategy Plan. The sewerage system at present has available capacity for these flows. If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991. We will then advise them of the most suitable point of connection.

### *Surface Water Disposal*

The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer.

From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments on the suitability of the surface water management. The Local Planning Authority should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board

### ECC Suds

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we wish to issue a holding objection to the granting of planning permission based on the following:

- Verify the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753.
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event. If the storage features does not empty within 24 hours then demonstrate that features are able to accommodate a 1 in 10 year storm events within 24 hours of a 1 in 30 year event plus climate change.
- Provide final modelling and calculations for all areas of the drainage system. Attenuation storage and pipe network should be modelled with critical 1yr, 30r and 100 plus 40percent climate change allowance. Attenuation storage should not flood in any event. The network should not predict surcharge in 1yr events, and should not predict flooding in 30year events. During 100 year plus 40pc cc event if any marginal flooding is predicted then it should be directed away from the building using appropriate site grading.
- Demonstrate the appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.

- Provide a drainage plan which details exceedance and conveyance routes, FFL and ground levels.
- Provide an updated written report summarising the final strategy and highlighting any minor changes to the approved strategy.

### BDC Housing Research and Development

In accordance with Policy CS2 of the Adopted Core Strategy, the outline proposal for up to 70 residential dwellings requires 30% to be provided as affordable housing which would equate to 21 affordable dwellings to be secured by s106 agreement. However, the applicant Eastlight Community Housing, is aiming, subject to securing funding from Homes England, to provide all 70 units as affordable housing. We are fully supportive of this approach as it has the potential for considerable additionality.

Details concerning the mix of affordable dwellings is usually subject of reserved matter but as an indicative unit mix and illustrative site plan is provided, I confirm the mix indicated is considered appropriate to address housing need.

Additional requirements concerning affordable housing that should be considered are as follows:

- Accessibility requirement for bungalow type homes to meet Building Regulations Part M (3b)
- Accessibility requirement for all affordable homes accessed at ground level to meet Building Regulations Part M (2)
- Affordable homes should be compatible with Nationally Described Space Standards

We are supportive of this application as it provides opportunity for a significant number of new affordable homes which will greatly contribute in addressing housing need in the district.

### Natural England

It has been identified that this development falls within the 'Zone of Influence' (Zol) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS); see our recent advice to your authority on this issue (our ref: 244199, dated 16th August 2018) for further information.

In the context of your duty as competent authority under the provisions of the Habitats Regulations, it is anticipated that, without mitigation, new residential development in this area and of this scale is likely to have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when considered 'in combination' with other plans and projects. The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Braintree District Council, working together to mitigate the effects arising from new residential development. Once adopted, the RAMS will comprise a



package of strategic measures to address such effects, which will be costed and funded through developer contributions.

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

### National Grid

Cadent and National Grid therefore have no objection to these proposed activities.

### Essex Fire and Rescue

#### *Access*

Access for Fire Service purposes has been considered in accordance with the Essex Act 1987 - Section 13 and is acceptable provided that the arrangements are in accordance with the details contained in the Approved Document to Building Regulations B5.

More detailed observations on access and facilities for the Fire Service will be considered at Building Regulation consultation stage.

#### *Water Supplies*

The architect or applicant is reminded that additional water supplies for firefighting may be necessary for this development. The architect or applicant is urged to contact the Water Technical Officer at Service Headquarters, telephone 01376-576344.

#### *Sprinkler Systems*

"There is clear evidence that the installation of Automatic Water Suppression Systems (AWSS) can be effective in the rapid suppression of fires. Essex County Fire & Rescue Service (ECFRS) therefore uses every occasion to urge building owners and developers to consider the installation of AWSS. ECFRS are ideally placed to promote a better understanding of how fire protection measures can reduce the risk to life, business continuity and limit the impact of fire on the environment and to the local economy.

Even where not required under Building Regulations guidance, ECFRS would strongly recommend a risk based approach to the inclusion of AWSS, which can substantially reduce the risk to life and of property loss. We also encourage developers to use them to allow design freedoms, where it can be

demonstrated that there is an equivalent level of safety and that the functional requirements of the Regulations are met.”

#### Health and Safety Executive

Do Not Advise Against, consequently, HSE does not advise, on safety grounds, against the granting of planning permission in this case.

#### PARISH / TOWN COUNCIL

N/A

#### REPRESENTATIONS

Four representations were received making the following comments:

- The Council will have to be satisfied with the complex requirements of the contaminated land.
- The land remains unallocated, and approving development here would be another retrograde step for a visibly weak planning authority.
- Concerns that this development would open the doors for spilling development out into the countryside beyond the village.
- Design appears to be acceptable
- Satisfied with housing mix proposed and that it would be linked to nearby residential development.
- Large development already permitted nearby
- Infrastructure is limited
- Proposal will result in more traffic along Bovingdon Road
- Could be damage from construction vehicles to nearby weak bridge
- What pedestrian access arrangements will there be?
- Proposed flats would be overwhelming to nearby properties, including loss of privacy.
- Concerns about flood risk from the site, unable to insure houses in Peter Taylor Avenue for flood protection.
- Concern about impact on existing wildlife.

#### REPORT

#### BACKGROUND

##### Previous Application

Members will recall a planning application (Application Reference 19/01475/OUT) for ‘Outline application with some matters reserved for new residential development comprising of up to 86 dwellings alongside associated works with all matters reserved apart from access’. This application was due to be considered by the Planning Committee on 7th January 2020, however the application was withdrawn by the applicant the

day before the Planning Committee meeting. The application was recommended for refusal with 5 reasons for refusal.

### Call for Sites

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

These were discussed at the following Local Plan meetings:

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

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

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

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

### 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 60 of the NPPF highlights the importance of ensuring that there is a sufficient amount and variety of land that can come forward where it is needed, that specific housing requirements are met, and that land with permission is developed without unnecessary delay. Paragraph 4 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 Adopted Local Plan Review (2005), the Braintree District Core Strategy (2011), and the Shared Strategic Section 1 Local Plan (2021).

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 emerging Section 2 Plan. The proposed development is therefore contrary to the Section 2 Plan, in particular Policy LPP1 of the Section 2 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 emerging Section 2 Plan.

### 5 Year Housing Land Supply

The Council publishes a 5 year housing land trajectory as of 31st March each year, the most recent position therefore is that of 31st March 2021. Within this trajectory the Council considered that it has a 5.34 year supply of housing, based on a 5% buffer.

At its full Council on the 22nd February 2021, Braintree District Council approved the adoption of the Shared Strategic Section 1 Local Plan. On its adoption, the Council must meet the housing requirement set out in that Plan. This is a minimum of 14,320 homes between 2013-2033 or an annual average of 716 new homes per year. This replaces the previous consideration of housing need based on the Standard Methodology.

The latest Housing Delivery Test (HDT) results were published in January 2021. The new results (which include an allowance for the impact of the current pandemic) confirm that the Council no longer needs to apply a 20% buffer and can revert to the usual 5% buffer. This applies from the day of the publication of the results.

This supply position does not include sites which are proposed to be allocated within the Section 2 Plan but do not yet have planning permission or a resolution to grant planning permission.

These allocations without permission will be tested at the forthcoming Section 2 Plan Examination. Once the Section 2 Plan is adopted, these sites will become adopted allocations and greater weight can be given to them, if there is clear evidence that there is a realistic prospect that housing will be delivered on the site within five years.

Given all of the evidence before it – including the use of the new housing requirement from the Shared Strategic Section 1 Local Plan and the use of a 5% buffer, the Council considers that the current 5 year Housing Land Supply for the District is 5.34 years.

As the Council can demonstrate the required five Year Housing Land Supply the 'tilted balance' pursuant to Paragraph 11d) of the NPPF is not engaged due to a lack of housing land supply.

## SITE ASSESSMENT

### Location and Access to Services and Facilities

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

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

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

Policy RLP53 of the Adopted Local Plan states that major new development proposals that are likely to generate significant levels of travel demand will only be permitted where:

- Direct public transport services exist, or there is potential for the development to be well served by public transport.
- The layout of the development has been designed to ensure that access to existing or potential public transport lies within easy walking distance of the entire site.

Paragraph 124 of the NPPF states that decisions should ensure that developments that generate significant traffic movements are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised.

The strategy set out in the emerging Section 2 Plan is to concentrate growth in the most sustainable locations - that is, by adopting a spatial strategy that promotes development in the most sustainable locations, where there are opportunities for walking, cycling and public transport links to nearby shops, services and employment opportunities. This means for the new Local Plan: "That the broad spatial strategy for the District should concentrate development in Braintree, planned new garden communities, Witham and the A12 corridor, and Halstead".

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

Overall it is considered that the site is located in a sustainable location on the edge of Bocking. Given the location of the site, it is considered that the site is

not isolated and would not conflict with the requirements of Policy CS7 and this weighs in favour the proposal in the overall planning balance.

### Design, Appearance and Layout

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

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

In addition to this, Policy RLP90 of the Adopted Local Plan requires designs to recognise and reflect local distinctiveness in terms of scale, density, height and massing of buildings, and be sensitive to the need to conserve local features of architectural and historic importance, and also to ensure development affecting the public realm shall be of a high standard of design and materials, and use appropriate landscaping. Policy LPP55 of the Section 2 Plan also seeks to secure the highest possible standards of design and layout in all new development and the protection and enhancement of the historic environment.

This is an outline application where design, layout and landscaping are reserved matters. The application includes a number of indicative plans that illustrate 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 70no. dwellings would be 17.1 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.

Whilst the layout proposes a level of car parking that complies with the Adopted Parking Standards, the capacity proposed has been achieved through the use of parking courts that are not incorporated in to the layout successfully such they do not present '*high quality in design and have a sense of place and feel secure, to encourage ownership*' as required by the SPD.

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

Officers are satisfied that the area of the application site located within Flood Zone 1 could accommodate the 62 dwellings proposed. However eight flats (63-70) are proposed in Flood Zone 3. These flats would have to be re-located given they would not be acceptable in Flood Zone 3, and therefore the application has not sufficiently demonstrated that the site can accommodate 70 dwellings within the 'safe' part of the application site.

Overall it is considered that the proposal fails to demonstrate that the site can accommodate up to 70 dwellings. Furthermore, and based on the illustrative plans, it would fail to create a strong sense of place that relates well to existing development in Bocking, contrary to Policy SP7 of the Section 1 Plan, Policy RLP90 of the Adopted Local Plan, Policy LPP55 of the Section 2 Plan and the NPPF.

### Landscape Impact

Paragraph 174 of the Framework is aimed at protecting the environment, landscape character and biodiversity of the countryside. Policy CS8 of the Core Strategy states that development must have regard to the character of the landscape and its sensitivity to change and where development is permitted it will need to enhance the locally distinctive character of the landscape in accordance with the landscape character assessment. Policy RLP80 of the Adopted Local Plan states that development that would not be successfully integrated into the local landscape will not be permitted. These policies are relevant when considering the landscape impact of this proposal.

The Section 2 Plan includes policies which are relevant to this site. Policy LPP1 of the Section 2 Plan seeks to control development outside of development boundaries to uses appropriate to the countryside to protect the intrinsic character and beauty of the countryside. Policy LPP72 of the Section 2 Plan seeks to protect defined areas between settlements and requires proposals to demonstrate that the development is located on an area which has the least detrimental impact on the character of the countryside and does not reduce the visually sensitive buffer between settlements or groups of houses.

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

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

The current setting provides a soft transition between the countryside, the river and the edge of Bocking. This proposal will extend the built form outside



the town envelope and diminish the distinctiveness and character of the village and the surrounding countryside by no longer posing as a part of the transitional space between west Braintree expansion and Bocking village.

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

*‘The current visual quality of the village setting has been compromised slightly when entering from the west due to the more modern housing, which differ from the historic core of the village. In this case, the proposed dwellings would have a slight adverse effect on the local landscape character and on views from houses in the immediate vicinity, but this is previously used ground and once the proposed vegetation has matured and the houses have weathered and settled into the local landscape, the impacts should be softened. It is therefore asserted that modest sized and well-spaced dwellings would not detract from the setting if designed sensitively and in keeping with the vernacular. In addition to this, there is scope to strengthen the landscape character with new mixed native planting’.*

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

The proposed highway access drawing ref. 1209/HWY/004 Rev. A and latterly comments submitted by Essex Highways namely - *The site access as shown in principle on the submitted. Access shall include but not be limited to a clear to ground visibility splay with dimensions of 4.5m x 180m in both directions* - have significant implications for the boundary vegetation along Bovingdon Road - which in its current form helps to screen the site, contributes to the character of Bovingdon Road (whilst also supporting the assessments submitted in the LVIA from Kirsten Bowden) - in that approximately 60% of the frontage will need to be removed, reduced or in others ways damaged to facilitate the highway requirements. In practice this will mean that the majority of the 5m hedge to the east of the access will need to be removed (and replanted as per their proposal) along with individual trees T1, T2 and T3 and maybe others to the west of the access. Verification probably needs to be established on site with marker pegs and subsequent confirmation from a Highways officer to obtain an accurate picture of the change to this setting and the extent of the losses to this boundary. Although it is also accepted that there will be gradual transition/improvement over time as the replacement hedge/planting becomes established Yrs 1 - 15 as defined in the LVIA.

In the context of the above comments there are concerns that the arguments and assessments made in the applicant’s LVIA (Rev. F) are not taking account of the functional requirement necessary to facilitate the proposed development the site. In particular, the site context photos (Nos. 5, 12, 13 and 14) views from PROW 68-25 (photo 28 the site looking across from the lowest point on the path, photo 29 looks up the path but does encompass the view of the site to the south within the valley setting, photo 30 looks out from the site towards the public footpath on rising ground through a screen of vegetation that will have to be removed/reduced). The concern here is that the

experience along this footpath will be of a largely unscreened development extending significantly along the valley floor. The nature and character of the new development will of necessity not be able to reflect the more clustered, organic feel of the existing settlement; the overall impact of the experience along this route particularly in winter would be more significant than the current assessment gives credit for since the site will be very visible for the length of the walk along this hillside and diminish the sense/ambience of open countryside it currently provides.

It is also considered that the LVIA would provide a more accurate representation of the impact of the development if the montages were annotated to show the extent of the new rooflines, particularly vistas in winter from the various viewpoints. The current photos of the site identifying the extents flatter the prospect since the impression and visual mass of the development is absent from the views which currently only show an open field-scape. It is also understood that the existing capping of the contaminated land within the site will need an additional burden of soil up to 1m in height. The additional requirements from the Environmental Health Officer may influence the finished heights of the development which must also be considered within the LVIA.

In light of the points made above, the Landscape Officer considers it is difficult to agree with the conclusions made in the LVIA and the predicted effects on viewpoints; the document needs to reflect the true impact of developing the site within the valley floor.

The proposal would introduce built form onto an area of open countryside adjacent to the boundary of Braintree. The application would elongate development along Bovingdon Road, into the open countryside where it is currently devoid of buildings. Officers consider that the proposal would result in an unnatural extension of Braintree and Bocking into the open countryside.

Given the conflicting conclusions on the visual impact the proposal would have on this area of land that has a low to medium capacity to accommodate development, officers consider that the proposal would conflict with Policies RLP2 and RLP80 of the Adopted Local Plan, Policies CS5 and CS8 of the Adopted Core Strategy, Policies LPP1 and LPP72 of the Section 2 Plan and the NPPF.

### Heritage Impact

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

Paragraph 199 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more

important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 201 states that where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

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

Policies RLP90 and RLP100 of the Adopted Local Plan and Policies LPP56 and LPP60 of the Section 2 Plan seek to conserve local features of architectural, historic and landscape importance and the setting of listed buildings.

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

The submitted Heritage Statement has concluded that the proposed development would affect the setting, and potentially significance, of three designated heritage assets, which are the Grade I Listed Church of St Mary, the Grade II\* Listed Bocking Hall and the Bocking Church Street Conservation Area.

The church tower forms a prominent way marker and reference point, visible from within the rural landscape. The open and undeveloped nature of the site contributes to the strong agrarian character the setting of the heritage assets, including the church. The submitted Heritage Statement concludes that the proposed development would result in a low level of less than substantial harm to the significance of the Church of St Mary.

However, the submitted Heritage Statement finds that there would be no adverse impact on the significance or setting of the Conservation Area and Bocking Hall. The scheme would inevitably impact on views, including kinetic views experienced whilst approaching the heritage assets, moving from within the site, and from Footpath 68\_25, along with wider views from the south. The agrarian character of the Conservation Area's setting and that of Bocking Hall (historically on the periphery of the developed area of Bocking), would be diluted as a result of the development. So, with regard to the Conservation Area and Bocking Hall, The Council's Historic Buildings Consultant disagrees with the findings of the Heritage Statement, although the adverse impact on their setting and significance would not be substantial.

The revised indicative layout is intended to retain a greater degree of open space, particularly within the northern part of the Site along Bovingdon Road. Yet the layout is a divergence from the established development pattern in Bocking. The built heights and densities have been described with single-storey buildings to the west and two-storey buildings within the central part of the site. One single three-storey building is proposed for the eastern end of the site, adjacent to the existing taller development on Peter Taylor Avenue. These measures may help reduce the visual impact of the scheme to some degree. However, the site level will be raised by one metre, which perhaps has the potential to increase the visual prominence of the development within the landscape.

The visual impact assessment accompanying the application focusses on the existing views within the site and identifies change due to the development, as well as indicating some potential landscaping elements. However, a detailed assessment of views within the site as proposed, with the one, two and three storey buildings taken into account has not been undertaken. Excluding the open space on the north side of the site which has clear benefits, the justification for the widely spaced nature of the development layout is as yet uncertain. It is not clear if the mitigation of harm to views resulting from the proposed layout would be more important than the referencing of a more established development layout comparable to the Conservation Area. The assessment of views, which takes into account individual buildings, thoroughfares, the overall layout, and building heights would be an important element in understanding this aspect. It is considered that an outline application is therefore not sufficient to understand the full benefits or detriments of the proposal.

The development of the site would not fundamentally alter the ability to appreciate the listed church, Bocking Hall and the Conservation Area, within their agrarian landscape setting. However, the cumulative harm of further

development within their shared settings is of concern, as its agrarian character is acutely sensitive to change.

The Council's Historic Buildings Consultant finds that there would be a level of less than substantial harm to the significance of Bocking Hall and the Conservation Area, in addition to the Church of Saint Mary, through the development's adverse urbanising effect on the character of their surviving rural setting. It is assumed that this level of less than substantial harm may range from low to medium, but again the sparsity of detail submitted with the outline application is not sufficient to reach a definitive conclusion as to the level of harm.

Therefore, Paragraph 202 of the NPPF (revised 2021) is relevant in this case. This states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including where appropriate, securing its optimum viable use.

The application is in outline with details of layout, scale and landscape reserved for consideration at a later date and therefore the exact views that would be harmed by the development are not known at this time. Notwithstanding this it is considered that the development of this site for residential purposes would result in conflict with Policies RLP95 and RLP100 of the Adopted Local Plan, Policies LPP56 and LPP66 of the Section 2 Plan and the NPPF.

If built, the proposals would result in less than substantial harm to the significance of the Bocking Conservation Area and the setting of a number of listed buildings, thus Section 202 of the NPPF is relevant. Officers consider that the public benefits arising from the development would not outweigh the less than substantial harm identified to the heritage assets.

The planning balance is concluded at the end of this report.

### Contamination

Paragraphs 183 and 184 from the NPPF relates to land contamination. It states that planning decision should ensure that:

(a) A site is suitable for its proposed use taking into account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);

(b) After remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and

(c) Adequate site investigation information, prepared by a competent person, is available to inform these assessments.

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

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

- a) Expose the occupiers of the development and neighbouring land uses, including in the case of housing, the users of gardens, to unacceptable risk;
- b) Threaten the structural integrity of any building built, or to be built, on or adjoining the site;
- c) Lead to the contamination of any watercourse, waterbody or aquifer;
- d) Cause the contamination of adjoining land or allow such contamination to continue;
- e) Have an adverse effect upon natural habitats and ecosystems.

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

Policy LPP73 of the Section 2 Plan reflects similar restrictions.

Following the withdrawal of the previous application, the applicant held a meeting with the Council's Environmental Health Team. The Council's Senior Environmental Health Officer has assessed all of the documentation submitted.

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

As the applicant is aware, the onus regarding whether land is contaminated, or not, lies with the developer to show, to the Local Authorities satisfaction,

that the necessary investigation had been carried out regarding possible contaminated land issues and that the necessary remedial works are and will be carried out once contaminants have been identified.

With regard to the Applicants Report, 'Planning Statement' Ref. C19008 June 2021 by Phase 2 Planning and Development Ltd' it is understood that this document confirms the earlier agreed remediation work as discussed in 2018 and as such Environmental Health will accept the agreed processes and work as set out in paragraph 6.54 1), 2) and 3) as well as with the comments in 'Controlled Water Risks 2') (concerning alkyl phenyl ethoxylates monitoring).

With this in mind, Environmental Health have therefore accepted the report's recommendations and proposed works relating to Contaminated Land issues and have requested a number of conditions be attached to any grant of consent.

The conditions cover the submission of a gas membrane measures assessment, submission of a remediation certificate for the whole site, submission of a remediation scheme for any previously unidentifiable contamination, submission of a dust and mud control management scheme, hours of work and submission of piling details.

### Drainage and Flooding

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

Paragraph 159 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided. Development should instead be directed away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.

Policy CS8 of the Core Strategy states that the Council will minimise exposure of people and property to the risks of flooding by following the national guidance. In particular the sequential test will be applied to avoid new development being located in the areas of flood risk; and SUDS will be used wherever possible to reduce flood risk, promote groundwater recharge, enhance biodiversity and provide amenity benefit, unless, following an adequate assessment, soil conditions and/or engineering feasibility dictate otherwise. Policy LPP78 of the Section 2 Plan reflects the spirit of this.

The eastern corner of the site lies in Flood Zone 3a where the indicative layout shows that flats 63 to 70 would be located in Flood Zone 3a. As set out in the comments from the Environment Agency, residential development is considered to be 'more vulnerable' development as defined by the Flood Risk Vulnerability Classification table in the Planning Practice Guidance. Therefore, to comply with national policy the application is required to pass the

Sequential and Exception Tests and be supported by a site specific Flood Risk Assessment (FRA).

As outlined above, Officers are not satisfied that the site can accommodate 70 dwellings successfully in the part of the site that lies within Flood Zone 1 and therefore the sequential test must be applied to the portion of the site where flats 63 to 70 are to be located.

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

Therefore given that a portion of the development is located within Flood Zone 3a which is unacceptable and that this development cannot be accommodated within the portion of the site that lies within Flood Zone 1, as set out above earlier in this report, the proposal conflicts with the NPPF, Policy CS8 of the Adopted Core Strategy and Policy LPP78 of the Section 2 Plan.

In respect of surface water drainage, the application is supported by a Surface Water Drainage Strategy. Essex County Council's SuDS team is not satisfied that adequate surface water drainage can be achieved and raise a holding objection. Additional information has been submitted by the applicant and is currently being considered by Essex County Council's SuDS Team. An update will be provided in advance or at the Committee meeting.

### Ecology

Policy RLP84 of the Adopted 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. 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.

These sentiments are reiterated in Policies LPP68 and LPP70 of the Section 2 Plan.

An Ecological Survey: Protected Species and Habitats (J P Ecology, April 2021) has been submitted with the application which contains sufficient details in order to determine the application.

The Council's Ecologist is satisfied with the information submitted and recommends a number of conditions securing a wildlife sensitive lighting scheme, a construction environmental management plan, landscape and



ecological management plan and biodiversity enhancement strategy which could be applied to any grant of consent.

#### Impact on Neighbour Amenities

The NPPF requires a good standard of amenity for all existing and future occupiers of land and buildings. Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Section 2 Plan states that development shall not cause undue or unacceptable impacts on the amenities of nearby residential properties.

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

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

#### Highway Issues

Paragraph 111 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

With the National Planning Policy Framework in mind, particularly Paragraph 111, the Highway Authority has reviewed the planning application and supporting Transport Assessment against its own Development Management Policies to ensure the proposal site can be accessed safely, any additional trips would not be detrimental to highway safety and capacity and to ensure as far as possible the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.

Having reviewed the Transport Assessment, the Highway Authority is content with its conclusions. Conditions regarding the submission of a construction management plan and the submission of a residential travel plan are requested. Furthermore conditions are requested with regards the provision of the access and appropriate visibility splays, provision of residential travel information packs, the upgrade of two bus stops, provision of a 3.5m wide cycle/pedestrian facility to link to Peter Taylor Avenue and the provision of a 2m wide pedestrian facility to link to the Peter Taylor Avenue play area.

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

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

disturbance impacts on European designated sites are compliant with the Habitats Regulations.

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

The site lies within the Zone of Influence (ZOI) for the Blackwater Estuary SPA/Ramsar site. Given the scale of the development, the developer would be required to pay a financial contribution towards offsite visitor management measures for the Blackwater Estuary SPA & Ramsar site, (£127.30 per dwelling) for delivery prior to occupation. These matters would be secured via a Section 106 legal agreement.

### **PLANNING OBLIGATIONS**

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

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

In accordance with Policy CS2 of the Core Strategy, the outline proposal for up to 70 residential dwellings requires 30% to be provided as affordable housing which would equate to 21 affordable dwellings to be secured by s106 agreement. However, the applicant Eastlight Community Housing, is aiming, subject to securing funding from Homes England, to provide all 70 units as affordable housing.

**Education** – Financial contribution of £108,788 is sought for Early Years and Childcare, £362,628 towards Primary Education, £70,490 towards secondary transport and £5,446 towards local library enhancements.

**NHS** – Financial contribution of £26,450 towards increasing the capacity at the Church Lane Surgery.

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

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

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

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

**RAMS** – A financial contribution of up to £8,911 towards off-site visitor management measures for the Blackwater Estuary SPA & Ramsar site.

Subject to the above matters being incorporated into a legal agreement to ensure their provision, the development would be made acceptable in these respects. No such agreement is in place at the present time and therefore the development therefore fails to satisfactorily mitigate the impacts of the development on local infrastructure and is contrary to Policies CS2, CS10 and CS11 of the Core Strategy, Policy RLP138 of the Adopted Local Plan and Policy LLP82 of the Section 2 Plan.

## 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.

Paragraph 59 of the NPPF sets out the Government's objective of significantly boosting the supply of homes. The main mechanism within the NPPF for achieving this is the requirement that local planning authorities demonstrate a five-year supply of deliverable housing land, assessed against housing need. In this regard, the Council is currently able to demonstrate a Housing Land Supply of 5.34 years against its housing need. As such the Council is presently meeting this objective.

Until the adoption of the Section 2 Plan, the sites which are proposed to be allocated but do not yet have planning permission or a resolution to grant planning permission, have not been included within the 5 Year Housing Land Supply calculation.

As such, although the Council can currently demonstrate a 5 Year Housing Land Supply, this is finely balanced, and currently only marginally exceeds the 5 year threshold.

As the Council can demonstrate the required 5 Year Housing Land Supply, the 'tilted balance' pursuant to Paragraph 11d) of the NPPF is not engaged due to a lack of housing land supply. It is therefore necessary to identify the most important policies for determining the application and to establish whether these are out-of-date. Paragraph 213 of the NPPF states that existing policies should not be considered out-of-date simply because they were adopted prior to the publication of the Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater weight that may be given).

In this case the basket of policies which are considered to be the most important for determining the application are Policies SP1, SP3 and SP7 of the Section 1 Plan, Policies RLP2, RLP80, RLP95 and RLP100 of the Adopted Local Plan and Policies CS5 and CS8 of the Core Strategy.

Policy SP1 of the Section 1 Plan states that when considering development proposals the Local Planning Authority will take a positive approach that reflects the presumption in favour of sustainable development contained within the NPPF, and will seek to approve proposals wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. Policy SP3 of the Section 1 Plan sets out the spatial strategy for North Essex, namely to accommodate development within or adjoining settlements according to their scale, sustainability and existing role both within each individual Districts, and where relevant, across the wider strategic area. Further growth will be planned to ensure existing settlements maintain their distinctive character and role, to avoid coalescence between them and to conserve their setting. SP7 of the Section 1 Plan relates to place shaping principle and state that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and environs and protect and enhance assets of historical or natural value. As the Section 1 Plan has been found to be sound and recently adopted by the Council, it is considered that both policies are consistent with the NPPF and can be afforded full weight. Neither are out-of-date.

Whilst the primary purpose of Policy RLP2 of the Adopted Local Plan is to restrict development to development boundaries, and thus resist it in the countryside, it is considered that the policy remains broadly consistent with the Framework's approach of protecting the countryside from harmful development, and is not hindering the Council in delivering housing growth within the District. The policy is not out-of-date, and can be given moderate weight. The aims of Policy CS5 of the Core Strategy are much wider as the policy seeks to amongst other things, protect and enhance the landscape character and amenity of the countryside. As it is effectively seeking to preserve the intrinsic character and beauty of the countryside – an objective

contained within the NPPF – it is considered that this policy is not out-of-date and can be given significant weight.

Policy RLP95 seeks to preserve, and encourage the enhancement of, the character and appearance of designated Conservation Areas and their settings. Policy RLP100 inter alia seeks to preserve and enhance the settings of listed buildings by appropriate control over the development, design and use of adjoining land. In respect of conserving and enhancing the historic environment, the NPPF states at Paragraph 193 that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be), irrespective of whether this amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraphs 195 and 196 then set out the criteria for circumstances where a proposal would lead to substantial harm/total loss and less than substantial harm respectively. Policies RLP95 and RLP100 both pre-date the NPPF and both lack the balancing exercise contained in the Framework which requires that the identified harm in the less than substantial category should be weighed against the public benefits of the proposal. Both policies are considered to be partially consistent with the NPPF, and therefore not out-of-date and accordingly can only be afforded reduced weight. However, as set out above, the Council also have a statutory duty when assessing planning applications that affect Listed Buildings and Conservation Areas and although the Development Plan policies carry reduced weight it is clear that significant weight must be attributed to fulfilling these statutory duties.

Policy RLP80 of the Adopted Local Plan requires that new development must successfully integrate into the local landscape and that proposals that fail to do so will not be permitted. Policy CS8 of the Core Strategy is a wide ranging policy concerning the natural environment and biodiversity. Amongst other things the policy requires that consideration is given to landscape impact. It 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 a manner that accords with the Landscape Character Assessment for the area. The underlying objectives of Policies RLP80 and CS8 are to protect the landscape character and amenity of the countryside and require a decision maker to consider the established landscape character and its sensitivity to change and are considered to both be consistent with paragraph 174(b) of the NPPF and are not considered to be out of date and can be given significant weight.

When considering the basket of the most important policies for the determination of this application as a whole, it is considered that the policies are not out-of-date and are broadly consistent with the Framework.

Given that the Council can demonstrate a 5 Year Housing land Supply, and the basket of policies are not otherwise out-of-date, the 'flat' (or untilted) planning balance must still be undertaken which weighs the adverse impacts

of the proposed development, including the conflict with the Development Plan, against the public benefits of the proposal.

In undertaking this flat planning balance, such an assessment must take account of the economic, social and environmental impact of the proposed development. As set out in Paragraph 8 of the NPPF, achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and needed to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

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

### **Summary of Adverse Impacts**

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

#### Conflict with the Development Plan

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Paragraph 15 of the NPPF emphasises that the planning system should be “genuinely plan led”.

The proposed development would conflict with Policy RLP2 of the Adopted Local Plan and Policy CS5 of the Core Strategy with regard to the Council's spatial strategy as it proposes development outside of defined development boundaries and within the countryside. Significant weight is given to this conflict.

### Heritage Harm

The proposed development would conflict with Policy SP7 of the Section 1 Plan, and Policies RLP95 and RLP100 of the Adopted Local Plan as it would lead to less than substantial harm to nearby heritage assets. This harm is not outweighed by public benefits. Significant weight is afforded to this conflict.

### Conflict with the Section 2 Plan

The proposed development would conflict with Policy LPP1 of the Section 2 Plan as it proposes development outside the defined development boundaries and within the countryside. Furthermore the proposal would conflict with Policy LPP71 of the Section 2 Plan as the proposal would result in the intrusion of development into the countryside and would result in a detrimental impact upon the character and amenity of the countryside. The proposals would conflict with Policies LPP56 and LPP60 of the Section 2 Plan as it would lead to less than substantial harm to nearby heritage assets. The proposals would conflict with LPP78, LPP79 and LPP80 as insufficient surface water drainage has been submitted. However, until the Section 2 Plan is adopted, only limited weight can be attributed to the conflict with these policies.

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

The proposal proposed conflicts with Policy RLP80 of the Adopted Local Plan and Policy CS8 of the Core Strategy as the proposal would result in the intrusion of development into the countryside. The proposed development would result in a detrimental impact upon the character and amenity of the countryside. Significant weight is given to the conflict with these policies.

### Design and Layout

The proposal fails to demonstrate that 70 no. units can be accommodated on the site and would result in a development which is urban in character, unrelated to its context and generally failing to secure a high standard of design or good level of amenity for future occupiers contrary to Policy RLP90 of the Adopted Local Plan. This conflict is afforded significant weight.

### Flood Risk

The development proposes residential accommodation within Flood Zone 3 and fails to pass the sequential test in this respect. This is afforded significant weight.

### Surface Water Drainage

The proposal fails to provide sufficient surface water drainage information and this weighs against the proposal and is afforded significant weight.

## **Summary of Public Benefits**

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

### Delivery of Market and Affordable Housing

The development would facilitate the provision of up to 70no.new dwellings, comprising 59no. market houses and 21no. affordable houses. This is afforded significant weight.

The planning statement indicates that the site would offer 35 affordable units (50%) and that this would be secured by s106. A submitted Housing Need Assessment states that the applicant is aiming to offer all of the units as affordable units (100%). The application is recommended for refusal and therefore the heads of terms have not been agreed. Officers are therefore of the view that no weight can be attributed to these two alternative offers.

Notwithstanding the above, it is also considered that harms and conflicts identified above and within the report, would reduce the weight to be attributed to the provision of the additional affordable housing proposed to be provided on the site by the applicant.

### Economic and Social Benefits

The proposal would undoubtedly deliver economic benefits during the construction period and economic and social benefits following occupation of the development, in supporting local facilities. However this is no more than any development and therefore this is afforded no more than moderate weight.

### Section 106 Obligations

Should it have been entered into the proposals would have secured a number of Section 106, obligations including the aforementioned affordable housing, healthcare contribution, open space, education, library enhancements and HRA/RAMS contribution.

The Section 106 benefits are afforded limited weight, as the obligations are mitigating the impacts of the development in accordance with planning policy.

### Planning Balance

When considering the flat planning balance and having regard to the adverse impacts and benefits outlined above, and having regard to the requirements of the NPPF as a whole, Officers have concluded that the benefits of the proposal are outweighed by the harms, including the harm arising from the conflict with the Development Plan, such that planning permission should be refused in line with the Development Plan.



## RECOMMENDATION

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

- 1        The application site is located to the west of the Bocking Conservation Area and is considered to be within the setting of a number of designated and non-designated heritage assets. The Local Planning Authority has a duty under Section 66(1) of the Listed Buildings & Conservation Areas Act 1990 to have special regard to the desirability of preserving the setting or any features of special architectural or historical interest which the Listed buildings possess. The Local Planning Authority also has a duty under Section 72(1) of the same Act to pay special attention to the desirability of preserving or enhancing the character or appearance of any buildings or other land in a Conservation Area. Policies RLP90, RLP95 and RLP100 of the Adopted Local Plan, Policy SP7 of the Section 1 Local Plan, and the National Planning Policy Framework support these statutory duties and regimes.  
  
The proposed location, scale and density of development would alter the western approach into the Conservation Area and alter the settings of nearby listed buildings, resulting in harm to the significance of designated and non-designated heritage assets, with the harm being categorised as being less than substantial, with reference to NPPF Paragraph 202.  
  
Having regard to the guidance in Paragraphs 199 - 203 of the National Planning Policy Framework, the Local Planning Authority has considered the public benefits associated with the development but concludes that these would not outweigh the harm caused to the significance of designated heritage assets and non-designated heritage assets would conflict with the statutory duties, national guidance and Local Plan policies outlined above.
- 2        The application site lies outside the Town Boundary of Braintree and has a low to medium capacity to accommodate development as set out in the Braintree District Settlement Fringes Evaluation of Landscape Analysis Study of Braintree and environs 2015. The proposal would introduce a sizeable new development to an area of open countryside and would result in an unnatural extension to the neighbouring settlement of Bocking. The location of the site and topography of the land are such that any development on this site would have a harmful impact upon the rural character and appearance of the area. The proposal would have a major visual impact on the rural character of the area through the loss of trees and hedges to enable the proposed vehicle access and the required visibility splays in either direction to be constructed.

It is therefore considered that the proposal fails to take account of the function the site serves in landscape terms and would significantly harm the intrinsic character and beauty of the countryside resulting in landscape and visual effects from a number of publicly accessible viewpoints and failing to perform the environmental role of sustainability, contrary to the principles and guidance set out in the NPPF, Policies RLP2 and RLP80 of the Adopted Local Plan, Policies CS5 and CS8 of the Adopted Core Strategy, Policy LPP71 of the Draft Section 2 Local Plan, and the guidelines set out within the Braintree District Settlement Fringes Evaluation of Landscape Analysis Study of Braintree and environs (2015).

- 3 The site is not capable of satisfactorily accommodating up to 70 dwellings and would result in a development which is urban in character, unrelated to its context and generally failing to secure a high standard of design or good level of amenity for future occupiers contrary to the NPPF, Policy SP7 of the Adopted Section 1 Local Plan, Policy RLP90 of the Adopted Local Plan, and Policy LPP55 of the Draft Section 2 Local Plan.
- 4 Part of the site does not pass the sequential test and given that the application site's status as being partly located within Flood Zone 3, alternative sites within the District, with a lower probability of flooding, could accommodate the proposed residential development. The proposal therefore is contrary to the provisions of Paragraphs 159 to 164 of the NPPF and Policy RLP66 of the Adopted Local Plan.
- 5 The proposed development would trigger the requirement for:
  - The delivery of 30% affordable housing on site; (however the applicant is proposing 50%);
  - A financial contribution towards early years and childcare, primary education, secondary school education and local library enhancements;
  - Financial contribution towards increasing capacity at Church Lane Surgery;
  - The provision, maintenance and delivery of public open space, outdoor sports and allotments; and
  - Financial contribution towards off-site management measures for the Blackwater Estuary SPA and Ramsar site.

These requirements would need to be secured through a S106 Agreement. At the time of issuing this decision a S106 Agreement had not been prepared or completed. As such the proposal is contrary to Policies CS2 and CS10 of the Adopted Core Strategy, Policies SP2 and SP6 of the Adopted Section 1 Local Plan, and the Open Space Supplementary Planning Document (SPD).

## SUBMITTED PLANS

Location Plan	Plan Ref: 001.00	
Drainage Details	Plan Ref: 1209/DRA/001	Version: D
Other	Plan Ref: 1209/GEN/001	Version: A
Highway Plan	Plan Ref: 1209/HWY/004	Version: A
Section	Plan Ref: 1209/SEC/001	Version: A
Section	Plan Ref: 1209/SEC/002	Version: A
Section	Plan Ref: 1209/SEC/003	Version: A
Site Layout	Plan Ref: 200.03	
Parking Strategy	Plan Ref: 201.03	
Site Plan	Plan Ref: 202.03	
Street elevation	Plan Ref: 203.02	
House Types	Plan Ref: 204.02	
Parameter Drawing	Plan Ref: 205.02	
Height Parameters Plan	Plan Ref: 206.02	
Landscape Specification	Plan Ref: 001	

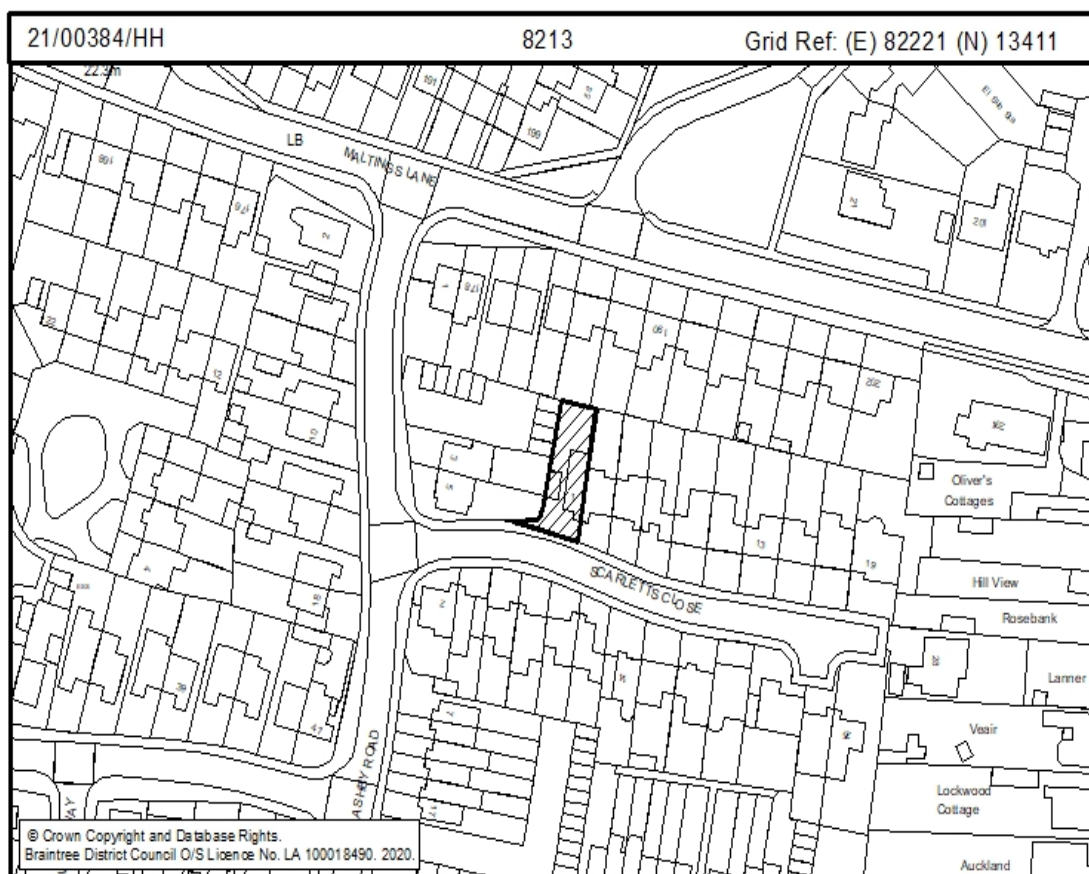
CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

## PART B

## AGENDA ITEM NUMBER 5e

APPLICATION NO: 21/00384/HH DATE: 12.02.21  
VALID:  
APPLICANT: Mr And Mrs Barton  
1 Scarletts Close, Witham, Essex, CM8 1QW  
AGENT: Mr Ian Matthews  
6 Millers Close, Bocking, Braintree, CM7 5LN  
DESCRIPTION: Demolition of Existing single garage at side and conservatory at rear. Erection of single storey extension to the front and rear. Erection of two storey side extension.  
LOCATION: 1 Scarletts Close, Witham, Essex, CM8 1QW

For more information about this Application please contact:  
Fiona Hunter on:- 01376 551414 Ext. 2521  
or by e-mail to: [fiona.hunter@braintree.gov.uk](mailto:fiona.hunter@braintree.gov.uk)



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QNZX4MBF0EC00>

## SITE HISTORY

None.

## POLICY CONSIDERATIONS

On the 22nd February 2021, Braintree District Council adopted the Shared Strategic Section 1 Local Plan.

On adoption, the policies in the Shared Strategic Section 1 Local Plan superseded Policies CS1, CS4, CS9 and CS11 of the Core Strategy (2011).

The Council's Development Plan therefore consists of the Braintree District Local Plan Review (2005) ("the Adopted Local Plan"), the policies of the Core Strategy (2011) (the Core Strategy) which are not superseded, the Shared Strategic Section 1 Local Plan (2021) ("the Section 1 Plan"), and any Adopted Neighbourhood Plan.

The local authority is now moving forward with the examination of Section 2 of the Draft Local Plan. In accordance with Paragraph 48 of the NPPF, from the day of publication the Council can give weight to the policies of this emerging Draft Section 2 Local Plan ("the Section 2 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 affords some weight to the Section 2 Plan.

## National Planning Guidance

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

### Braintree District Local Plan Review 2005

RLP3	Development within Town Development Boundaries and Village Envelopes
RLP17	Extensions and Alterations to Dwellings in Towns and Villages
RLP56	Vehicle Parking
RLP90	Layout and Design of Development

### Braintree District Local Development Framework Core Strategy 2011

### Braintree District Shared Strategic Section 1 Local Plan (2021)

SP1	Presumption in Favour of Sustainable Development
SP7	Place Shaping Principles

### Braintree District Draft Section 2 Local Plan (2017)

LPP1	Development Boundaries
LPP38	Residential Alterations, Extensions and Outbuildings
LPP45	Parking Provision
LPP50	Built and Historic Environment
LPP55	Layout and Design of Development

### Neighbourhood Plan

N/A

### Other Material Considerations

Essex Design Guide

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

Essex Parking Standards

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

This application is being reported to Planning Committee in accordance with Part A of the Council's new Scheme of Delegation as the applicant is an employee of Braintree District Council.

### DESCRIPTION OF THE SITE AND SITE CONTEXT

The application site comprises a semi-detached dwelling situated on the northern side of Scarletts Close, within the Witham Town Development boundary. The property has an existing detached garage situated along the boundary with the amenity area for No.3 Ashby Road to the west, and an existing single storey rear conservatory.

The surrounding area is characterised by semi-detached two-storey dwellinghouses dating from the 1960/70s, many of which show evidence of various alterations and extensions. The site is not located within a Conservation Area and is not subject to any statutory listing.

### PROPOSAL

This application seeks planning permission for a two-storey side extension, single-storey rear extension and a single-storey porch extension to the front elevation. The side extension would incorporate a garage at ground floor, and would measure 6.65 metres in depth and 4.0 metres in width, adjoining the front porch extension. This front extension would see the increase in width of the existing porch to extend 4.9 metres in width across the front of the existing dwelling and a portion of the proposed extension.

The rear extension would measure 3.0 metres in depth along the boundary with the neighbouring property at No.3 Scarletts Close and would span the width of the original dwellinghouse. The single-storey ground floor elements would feature lean-to style roofs, with a small gable to the front porch, and the proposed two-storey side extension would feature a pitched roof, set down from the ridgeline of the host dwelling. The existing garage would be demolished to make way for the new extension.

The proposals would be finished with facing brickwork and render, with tiles to match the existing dwelling.

Revisions were sought throughout the lifetime of the application to reduce the bulk and height of the proposed side extension, and set the front elevation further back from the front elevation of the property. Further revisions were sought to ensure adequate parking to the front of the dwelling.

### SUMMARY OF CONSULTATION RESPONSES

None.

### PARISH / TOWN COUNCIL

#### Witham Town Council

No objection.

### REPRESENTATIONS

No neighbour representations have been received in connection with this application.

## REPORT

### Principle of Development

The application site is located within the Town Development boundary of Witham where the principle of extensions to dwellings is acceptable as established by Policy RLP17 of the Adopted Local Plan and Policies LPP1 and LPP38 of the Section 2 Plan, subject to design, amenity and highway criteria.

### Design and Appearance

Paragraph 126 of the National Planning Policy Framework (NPPF) sets out that 'the creation of high quality buildings and places is fundamental to what the planning and development process should achieve'. It then goes on to cite good design as a 'key aspect of sustainable development'.

Paragraph 130 of the NPPF is explicit in that planning decisions should ensure high quality design within new development.

Policies RLP17 and RLP90 of the Adopted Local Plan and Policies LPP38, LPP50 and LPP55 of the Section 2 Plan reflect the NPPF, by seeking the highest possible standards of design and layout in all new development.

The proposed extensions would create further living accommodation at ground floor along with an integral garage, and a further bedroom at first floor level. The side extension would be of a similar design to the host dwelling but the roofline would be set lower than that of the main property, making it subservient in form and scale. The original submission sought a full height two-storey side extension, but the design was amended in line with Officer advice in order to appear more subservient in form and in keeping with the surrounding street scene.

The front porch extension would relocate the front door of the property and would extend along the front elevation at the same depth as the existing porch. This element is well proportioned, with evenly spaced fenestration and would use materials to match the host dwelling. At the rear, the single-storey extension is of a modest subservient scale, appropriate to the form of the dwellinghouse and with a mono-pitched roof.

The proposals are to be constructed of materials to match the host dwelling and the development is considered to be acceptable in terms of its design and appearance in relation to the character of the host dwelling and the wider street scene. The proposal is therefore compliant with the abovementioned policies.



### Impact on Neighbour Amenity

Policy RLP17 of the Adopted Local Plan and Policy LPP38 of the Section 2 Plan both require that extensions should result in no harm to the amenity of neighbouring residential properties, including no loss of privacy, no increase in overshadowing, or loss of light.

The proposed single-storey rear extension would be built along the boundary with the neighbouring property at No.3 Scarletts Close which is the adjoining semi-detached property. The extension would replace an existing conservatory of the same depth. Given the modest depth, with the use of a mono-pitched roof form and the existence of the existing conservatory, there would be no harm resulting to this neighbouring dwelling through loss of light or outlook. Furthermore there would be no loss of privacy or increased visual intrusion.

The proposal would also result in further built form along the boundary of the neighbouring properties at No.3 and No.5 Ashby Road situated to the west. The two-storey flank wall of the side extension would adjoin the rear gardens of these properties. However due to the design of the proposal and separation distance from the rear elevation of these dwellings, it is not considered that there would be any adverse impact on neighbouring amenity. All windows in this side extension would face south over the road or north over the existing garden for the host dwelling. There are no windows proposed in the west flank elevation and as such there would be no increased overlooking or loss of privacy experienced.

There would be no loss of light, outlook or visual intrusion experienced and therefore the proposals are compliant with the abovementioned policies.

### Highway Considerations

Policy RLP56 of the Adopted Local Plan and Policy LPP45 of the Section 2 Plan states that developments should comply with the parking standards set out in Essex County Council's Vehicle Parking Standards document. Accordingly, the requirement for dwellings with 2 or more bedrooms is a minimum of 2 parking spaces.

The host property currently has parking to the front of the dwelling, and within the existing garage. Following a site visit and amended plans, Officers are satisfied that existing parking arrangement to the property would be retained. The proposal is therefore considered acceptable with regards to parking and highway considerations.

### CONCLUSION

The design and appearance of the proposal would be in keeping with the character and appearance of the existing property and would not have a detrimental impact upon neighbouring residential amenity. The proposal is

also considered acceptable with regards to parking and highway considerations. The application is therefore recommended for approval.

### RECOMMENDATION

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

### APPROVED PLANS

Proposed Elevations	Plan Ref: 20:111 S5
Proposed Floor Plan	Plan Ref: 20:111(S2) Rev July 2021
Proposed Elevations	Plan Ref: 20:111(S3) Rev July 2021
Proposed Sections	Plan Ref: 20:111(S4) Rev July 2021
Location Plan	Plan Ref: 20:111(S2) Rev July 2021

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

#### Reason

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

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

#### Reason

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

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

#### Reason

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

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER