

PLANNING COMMITTEE AGENDA

Tuesday 7th March 2023 at 7.15pm

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

THIS MEETING IS OPEN TO THE PUBLIC

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

To access the meeting please use the link below:

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

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

Membership:-

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

Substitutes: Councillors T Cunningham, A Hensman, D Hume, Mrs A Kilmartin, P Thorogood, Vacancy

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 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.

D GASCOYNE
Chief Executive

INFORMATION FOR MEMBERS - DECLARATIONS OF INTERESTS

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

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

Public Question Time – Registration to Speak on an Agenda Item:

The Agenda allows for a period of up to 30 minutes for Public Question Time. Members of the public may ask questions or make statements to the Committee on matters listed on the Agenda for this meeting.

All questions or statements should be concise and should be able to be heard within the 3 minutes allotted to each speaker.

Anyone wishing to ask a question or make a statement is requested to register their interest by completing the Public Question Time registration [online form](#) 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.

When registering for Public Question Time please indicate whether you wish to attend the Planning Committee meeting 'in person' or to participate remotely. People who choose to join the meeting remotely will be provided with the relevant link and joining instructions for the meeting.

Please note that completion of the online form does not guarantee you a place to speak during Public Question Time. You will receive email notification from the Governance Service confirming whether your request is successful.

Confirmed registered speakers will be invited to speak immediately prior to the relevant application/item. All registered speakers will have 3 minutes each to ask their question or to make a statement. The order in which registered speakers will be invited to speak is: members of the public, Parish Councillors/County Councillors/District Councillors/Applicant/Agent.

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

In the event that a registered speaker is unable to connect to the meeting, or if there are any technical issues, their question/statement will be read by a Council Officer.

Further information on Public Question Time is available on the [Council's website](#)

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

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

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

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

Documents: Agendas, Reports and Minutes can be accessed via www.braintree.gov.uk

Data Processing: For further information on how the Council processes data, please see the Council's Privacy Policy:
https://www.braintree.gov.uk/info/200136/access_to_information/376/privacy_policy

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

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

PUBLIC SESSION

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1	Apologies for Absence	
2	Declarations of Interest To declare the existence and nature of any Disclosable Pecuniary Interest, Other Pecuniary Interest, or Non-Pecuniary Interest relating to Items on the Agenda having regard to the Code of Conduct for Members and having taken appropriate advice where necessary before the meeting.	
3	Minutes of the Previous Meeting To approve as a correct record the Minutes of the meeting of the Planning Committee held on 14th February 2023 (copy to follow).	
4	Public Question Time (See paragraph above)	
5	Planning Applications To consider the following planning applications	
5a	App. No. 20 01493 OUT – Land at Mount Hill, HALSTEAD	6-86
5b	App. No. 22 01808 REM – Land off Church Street, Bocking BRAINTREE	87-154
5c	App. No. 22 01848 FUL – Land adjacent to 1 Church Road, STAMBOURNE	155-176
5d	App. No. 22 03313 FUL – Land West of Bury Lane, HATFIELD PEVEREL	177-201
5e	App. No. 22 03315 FUL – Land South East of The Street, HATFIELD PEVEREL	202-228
5f	App. No. 22 03461 FUL – Land North East of Hatfield Road, HATFIELD PEVEREL	229-250
5g	App. No. 22 03462 FUL – Land East of Terling Hall Road, HATFIELD PEVEREL	251-272
5h	App. No. 22 03463 FUL – Land South of Howbridge Hall Road, WITHAM	273-294

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

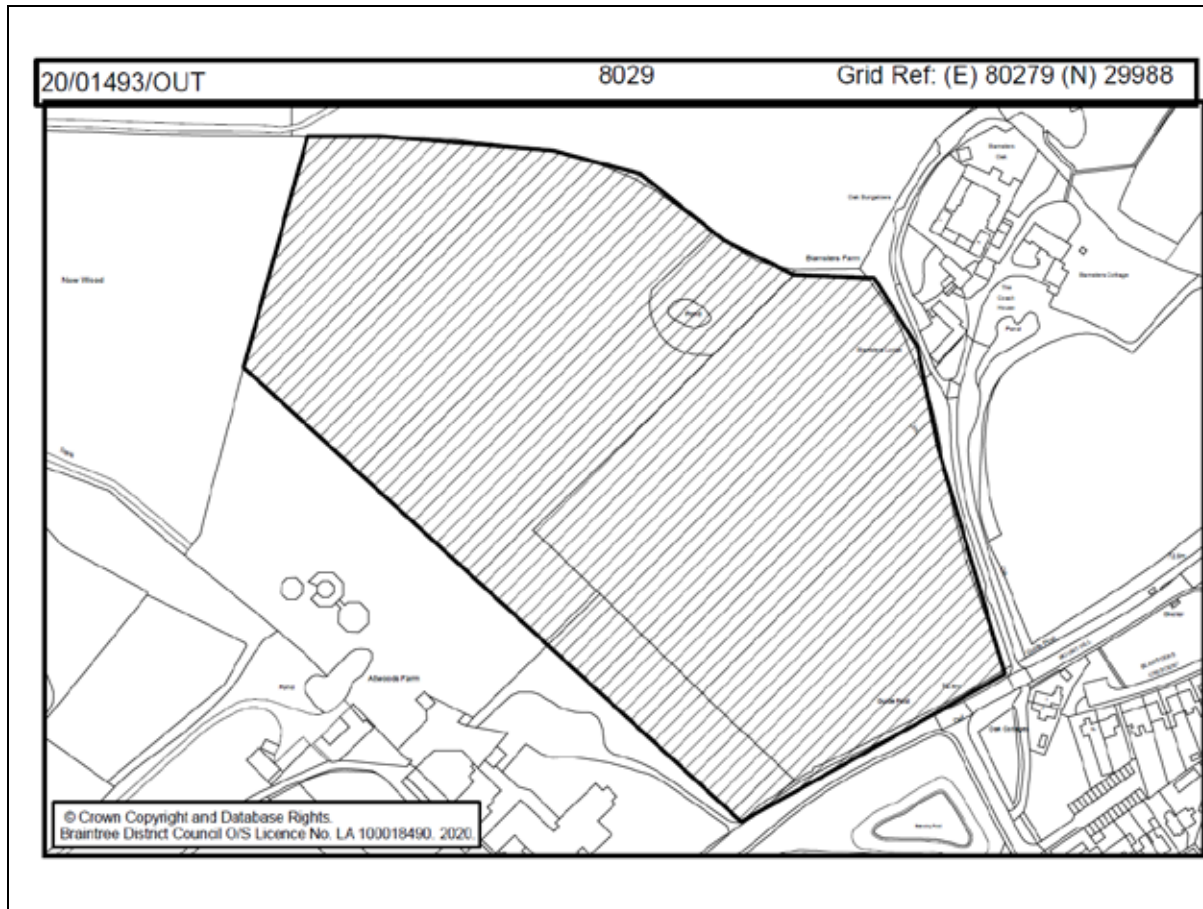
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8 Urgent Business - Private Session

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.

Report to: Planning Committee		
Planning Committee Date: 7th March 2023		
For: Decision		
Key Decision: No		Decision Planner Ref No: N/A
Application No:	20/01493/OUT	
Description:	Outline application with all matters reserved except access for up to 55 dwellings with new landscaping, open space, access and associated infrastructure.	
Location:	Land At Mount Hill, Halstead, Essex	
Applicant:	Orchestra (Mount Hill) Ltd, C/o Savills	
Agent:	Mr James Firth, Savills, Chelmsford	
Date Valid:	17th September 2020	
Recommendation:	It is RECOMMENDED that the following decision be made: § Application GRANTED subject to the completion of a Section 106 Agreement to cover the Heads of Terms outlined within the Recommendation section of this Committee Report, and subject to the Condition(s) & Reason(s) and Informative(s) outlined within Appendix 1 of this Committee Report.	
Options:	The Planning Committee can: a) Agree the Recommendation b) Vary the Recommendation c) Overturn the Recommendation d) Defer consideration of the Application for a specified reason(s)	
Appendices:	Appendix 1:	Reason(s) for Refusal Submitted Plan(s) / Document(s)
	Appendix 2:	Policy Considerations
	Appendix 3:	Site History
	Appendix 4:	Appeal Decision – Land Off Mount Hill
Case Officer:	Kathryn Oelman For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2524, or by e-mail: kathryn.oelman@braintree.gov.uk	

Application Site Location:



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

	<p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
Background Papers:	<p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> § Application Form § All Plans and Supporting Documentation § All Consultation Responses and Representations <p>The application submission can be viewed online via the Council's Public Access website: www.braintree.gov.uk/pa by entering the Application Number: 20/01493/OUT.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> § National Planning Policy Framework (NPPF) § Braintree District Local Plan 2013 - 2033 § Neighbourhood Plan (if applicable) § Supplementary Planning Documents (SPD's) (if applicable) <p>The National Planning Policy Framework can be viewed on the GOV.UK website: www.gov.uk/.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: www.braintree.gov.uk.</p>

1. EXECUTIVE SUMMARY

- 1.1 The site is located south-west of Halstead. It comprises two agricultural fields totalling approximately 5.5 hectares in area located north of the A131 (Mount Hill). To the east lies Grade II listed, Blamsters. To the north lies countryside. To the west lies Halstead Hall Care Home.
- 1.2 The application seeks outline planning permission for up to 55 dwellings with all matters reserved except access. As the site lies outside the development boundary of Halstead, the proposal is contrary in principle to Policy LPP1 of the Adopted Local Plan and thus is in conflict with the Development Plan as a whole.
- 1.3 Paragraph 11(d) of the National Planning Policy Framework (NPPF) states that, in cases where the policies which are most important for determining the application are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.
- 1.4 In this case, harm would be caused to the setting of Blamsters, which at a low level of '*less than substantial*' harm, albeit towards the mid-level of low. It not considered that this level of harm provides a clear reason for refusing the development proposed.
- 1.5 Having considered the impact of the proposed development upon the significance of Blamsters, and having attributed great weight to the asset's conservation, it is considered that the public benefits of granting development would outweigh this harm.
- 1.6 When considering the proposal in the wider (tilted) planning balance, it is considered that the provision of up to 55 dwellings, 30% of which would be affordable, and the associated economic and social benefits associated with this, would attract moderate weight. In Officers opinion, moderate harm would arise by virtue of harm to the setting of the listed building, loss of trees and loss of visual amenity in the site's frontage. However, these harms may be mitigated further through good design and provision of compensatory planting on the site at the Reserved Matter stages. Limited benefits would also arise from provision of a of open space area, including children's play area, which would be accessible to the wider community.
- 1.7 Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 directs that that permission should not be granted for this development unless material considerations indicate otherwise. In this case, the tilted balance is determinative, providing a powerful material consideration which indicates the decision be taken otherwise than in accordance with the Development Plan. The proposal is therefore recommended for approval, subject to completion of a Section 106 Agreement.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

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

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

- 5.1 The site is located south-west of Halstead. It comprises two agricultural fields totalling approximately 5.5 hectares in area located north of the A131 (Mount Hill). The southern field parcel, fronting on to Mount Hill, is largely flat and lies adjacent Blamster's Farm to the east and Halstead Hall Care Home to the west. The northern field parcel borders fields to all sides, plateauing and then sloping steeply down to a belt of woodland lying outside site to the north/north-west. Blamster's Farm is a Grade II listed traditional farmhouse now occupied by a business offering residential care and supported living services for those with learning disabilities or mental health needs.
- 5.2 The site lies outside the designated development boundary of Halstead and is therefore in countryside. There are a number of permissive footpaths on the site which provide connections from Mount Hill to the public right of way in the north-east (PROW 88_15). The formal PROW is however located outside the site; it runs adjacent the boundary of the site's northern field before veering east to connect to the outskirts of the town on Windmill Road. The site lies within the Habitats Regulation Assessment Zone of Influence as identified in the Essex Coast RAMS Supplementary Planning Document (2020).
- 5.3 The site contains a variety of mature trees along its boundaries (Categories U, C and B). There are also significant areas of young (Category U) trees and shrubs within the southern field closest to Mount Hill. Within the southern field there are also three stand-alone mature trees: a Category A Oak Tree, a Category B Lime, and Category B Horse Chestnut tree.
- 5.4 Much of the land within the vicinity has been subject to consent for development in recent years. Opposite lies the new Oak Road housing estate being delivered by Bloor Homes and David Wilson Homes (Applications Reference 17/01952/REM & 17/01665/REM). 70 dwellings on land north of Oak Road and adjacent Tidings Hill (Application Reference

18/01876/OUT), and 200 dwellings at Land at Bournebridge Hill (19/00493/OUT), have also been permitted.

- 5.5 Travelling into town, permission was granted on land between Blamsters and Mount Hill for 16 supported living and 9 open market dwellings (Application Reference 16/01646/OUT). The permission lapsed but was subject to allocation HATR 309 under Policy LPP24 of the Adopted Local Plan as 'specialist housing'. There is a current planning application pending consideration in relation to this site (Application Reference 22/00329/FUL). Adjacent to this land, closer to the town centre, 71 dwellings were allowed at appeal on 'Land Off Mount Hill' (Applications Reference 18/00774/OUT & 20/02238/REM).
- 5.6 At Halstead Hall Care Home to the west, a 25-bed dementia unit and 20 dwellings have been permitted (Application Reference 21/02449/FUL). On land between this and the site a further 34 dwellings have been applied for, yet to be determined (Application Reference 22/03366/OUT).

6. PROPOSAL

- 6.1 The application seeks outline consent to erect up to 55 dwellings on the site. The proposal would also include the provision of 30% affordable dwellings, landscaping, access, open space, and associated infrastructure.
- 6.2 The application submission in 2020 was originally for 130 dwellings, however, negotiations reduced this number first to 73 and then to 55 in response to continued concerns that the developable area of the site protruded beyond the established building lines of the town to the north and was visually harmful to the landscape's openness and harmful to the setting of the listed building as a consequence. In response to these concerns, the developer has now confined the developable area only to the southern field with the northern field retained as open space.
- 6.3 All matters are reserved except for access. The access to the development is shown on Mount Hill (see Drawing Number 25807_03_020-02 Rev F). This drawing shows a straight forwards priority junction, rather a signalised junction (this had been proposed when the application was for 130 dwellings but proved no longer necessary when the number revised down). A new footway and pedestrian crossover to the junction with Oak Road are also shown on this plan connecting to the existing footpath along the southern side of Mount Hill into town.
- 6.4 The application is accompanied by the following plans and documentation:
- § Application Form
 - § Site Location Plan
 - § Existing Site Plan J0038468-013
 - § Topographical Survey Drawing 25781SE-01 TO 04
 - § Land Use & Heights Parameters Plan J0038468-006 Rev G
 - § Illustrative Layout Drawing J0038468-016 Rev F

- § Parking Plan J0038468-018
- § Separation Distances Plan J0038468-019
- § Design and Access Statement
- § Design Criteria Statement
- § Tree Survey, Arboricultural Impact Assessment & Plan (January 2023)
- § Heritage Statement
- § Heritage Supplementary Report (May 2020)
- § Preliminary Ecological Appraisal
- § Ecological Review (May 2020)
- § Ecological Update Report (May 2022)
- § Flood Risk Assessment (Rev D)
- § Revised Drainage Strategy Plan 25807_01_070_01 Rev C
- § Revised Drainage Strategy Rev C (Nov 2020)
- § Water & Utilities Pre-Planning Assessment Report
- § Noise Impact Assessment
- § Noise Assessment Addendum (May 2020)
- § Air Quality Assessment
- § Air Quality Assessment Addendum (May 2020)
- § Land Contamination Assessment
- § Transport Assessment
- § J1 Site Access Junction Report Addendum (July 2020)
- § Road Safety Audit & Designers Response (July 2020)
- § Proposed Access Drawing 25807_03_020-02 Rev F
- § Fire Tender Vehicle Tracking Drawing 25807_03_020-03
- § Refuse Vehicle Tracking Drawing 25807_03_020-04
- § Landscape & Visual Impact Assessment (LVIA) Report
- § LVIA Supplementary Report (April 2020)

6.5 The Land Use & Heights Parameters Plan J0038468-006 Rev G is the only plan which directly relates to 55 dwellings. Aside from the Access Plan (25807_03_020-02 Rev F), this is the only document proposed to be binding upon a Reserved Matters submission if permission were granted. Other plans and documentation refer to the 73-dwelling submission; however, they are considered by Officers to provide a satisfactory level of detail as to provide assurance that the same principles are applicable to 55 dwellings.

6.6 The application has been screened under the Town & Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) and the Local Planning Authority (LPA) has concluded in that the proposal would not have a significant impact of more than local importance upon the environment and therefore did not need to be accompanied by an Environmental Statement.

7. SUMMARY OF CONSULTATION RESPONSES

7.1 Anglian Water

- 7.1.1 No objections subject to conditions. Anglian Water comment they have no assets on the site and that the Halstead Water Recycling Centre has capacity for foul water generated by the development.

7.2 Essex Fire & Rescue

- 7.2.1 No objections, comment that additional fire hydrant provision would be necessary, and they can secure this in liaison with the local Water Authority.

7.3 Essex Police (Designing Out Crime Officer)

- 7.3.1 No objection. Recommend that issues of lighting, boundary treatments and landscaping are considered as early on in the design process as possible.

7.4 Natural England

- 7.4.1 No objection; comment that the application is unlikely to have significant impacts upon the environment subject to appropriate mitigation; in this case, a contribution to the Essex Coast Recreational Disturbance and Avoidance Mitigation Strategy (RAMS) via Section 106 Agreement.
[Officer Note: specific Habitat Regulations Assessment is no longer required as the application now falls under the 100 dwelling threshold.]

7.5 NHS England

- 7.5.1 Do not object to the application, acknowledging that the proposed development is likely to generate new residents which will place additional demand upon existing primary care services in the vicinity. The Elizabeth Courtauld Surgery, located close to the application site, is already constrained and operating above capacity. As a consequence, the CCG accepts there is a need to review the strategic approach to provision in the area in order to create capacity within the health catchment. The CCG has requested a sum of monies according to the standard population growth/floorspace multipliers to be secured under Section 106 Agreement.

7.6 BDC Ecology

- 7.6.1 Do not object. They are now satisfied that adequate assurance has been provided that the district licence would be granted to mitigate impacts upon Great Crested Newts, and that there is sufficient survey data to inform the particular mitigation measures proposed for reptiles.

7.7 BDC Environmental Health

- 7.7.1 Do not object, recommend conditions in relation to noise mitigation, land contamination and air quality.

7.8 BDC Housing Enabling

- 7.8.1 No objections. Confirm the requirement is for 30% affordable with 10% of these being affordable home ownership, for which the preference is a shared ownership model. Request all affordable homes to comply with Nationally Described Space Standards, all those accessed from ground level to be Building Regulations Part M Cat (2) compliant and for two bungalows to be provided which are Building Regulations Part M3 (2b) compliant.

7.9 BDC Landscape

- 7.9.1 Having reviewed the revised Parameter Plan (J0038468_006 Rev G), Tree Survey & Arboricultural Impact Assessment (GHA Trees, Jan 23, Ref: GHA/DS/162230:23) and Tree Removal/Retention Plan (AIA Rev C, Jan 23), the Landscape Services Manager makes comment in the following areas:
- 7.9.2 “1) The space available around T8 and T9 is limited to the Root Protection Areas (RPAs) and I understand this may change but these trees have a potential useful life of up to 40 years and there should be an allowance for them to continue to flourish. Similarly the RPAs for the oak -T25 on the north eastern boundary and the lime -T32 on the road frontage are close to the boundary for the residential development.
- 7.9.3 2) The scale and proximity of G7 (mixed thuja and cypress lapsed hedge) which dominates the boundary and occupies the landscape buffer – allowance for a roadside along the edge of the development would seem a reasonable option in providing distance and a better circulation space. The shade and moisture requirements of these trees will limit scope for other planting nearby and the amenity of the neighbouring gardens. Ideally this buffer between the proposal site and the Care Home needs to be wider to allow for these considerations and item 3 below.
- 7.9.4 3) Need to accommodate the RPA for the lime T11 on the southwest boundary and maintain the amenity provided by T8 and T9 in the developable space between these trees. These are all Category B trees and have a useful life providing amenity and a sense of place within the new development.
- 7.9.5 4) Support the opportunity to create a linear landscape fringe along the northern edge which currently features a mixture of self-set trees but this needs sufficient space to provide a long term feature within a setting at the edge of the development.”

- 7.10 BDC Waste
- 7.10.1 No objections.
- 7.11 ECC Archaeology
- 7.11.1 No objections, subject to conditions securing Written Scheme of Investigation, Fieldwork and Post Excavation Assessment.
- 7.12 ECC Education
- 7.12.1 No objections, subject to contributions being secured towards early years and childcare and libraries provision.
- 7.13 ECC Highway Authority
- 7.13.1 No objection subject to conditions.
- 7.14 ECC Historic Buildings Consultant
- 7.14.1 The Historic Buildings Consultant confirms they have reviewed the revised plans and the supplementary report on Heritage, and their comments are summarised below:
- 7.14.2 “The reduction in intensity of the development is a positive amendment, as the undeveloped northern area would retain a beneficial element within the immediate setting of the Listed building. The level of impact of the scheme on the significance of the Grade II Listed Blamsters Farm has been reduced in comparison to earlier proposals. Previous schemes would have absorbed the historic farmstead into a compact and intensive suburban development. The new proposed extent for development would result in the partial absorption of the historic farmstead. The ability to appreciate the Listed building within its historic setting would be reduced, though the setting would not be so extensively altered. Yet while the negative impact has been reduced, there is still a level of less than substantial harm, albeit lower than the previous schemes.
- 17.14.3 The residential development of 55 dwellings will inevitably have a detrimental impact on the ability to understand, experience and appreciate Blamsters Farm, particularly when the cumulative impact of other nearby residential developments is taken into account. The revised scheme for 55 dwellings will result in a low level of *‘less than substantial’* harm, but towards the mid-level of low.”
- 7.15 ECC Independent Living
- 7.15.1 No response to date (consultation period expired).

7.16 ECC Minerals & Waste

- 7.16.1 No objections. They note that, at 5.5ha, the site is technically above the threshold to trigger a consultation. However, by the time that the 100m standoff distances required for mineral workings are applied, the site area would be reduced to 2.7ha and therefore fall below the threshold; as such, they comment that a Minerals Resource Assessment would not be justified in this instance given the minimal area of site which could realistically be worked.

7.17 ECC SuDS

- 7.17.1 No objections.

8. PARISH / TOWN COUNCIL

8.1 Greenstead Green & Halstead Rural Parish Council

- 8.1.1 The Parish Council confirmed on 6th October 2020, 1st June 2021, 6th June 2022 and 22nd of November 2022 that they had no objection to the application; making no further comments.

8.2 Halstead Town Council

- 8.2.1 The Town Council objected to the application on 14th October 2020 and made the following comments:

- 8.2.2 *“Cllr Atkinson proposed objection to this application on the following grounds:*

- § *It lies within the boundary of Greenstead Green and Halstead Rural, which would mean there would be no council tax income for Halstead, but the development would be dependent on the Halstead infrastructure of schools, doctors’ surgery and transport, which is already inadequate for the size of the town.*
- § *The applicant refers to the boundary of Halstead at the Oak Road development. All of Oak Road is within the Halstead boundary.*
- § *The area is not suitable for a development of this size and the density is too great.*
- § *It is susceptible to flooding at the junction with Blamsters, and any connection for surface water onto the A131 would exacerbate this problem.*
- § *This junction is also an accident blackspot.*
- § *There is already queuing of traffic at peak times when entering Halstead. Introducing a roundabout or traffic lights would increase congestion.*
- § *Some bus stops indicated on plans do not exist and it would not be safe to locate them in these positions.*
- § *The parking planned would be inadequate.*

- § *This area is not designated for development in the Local Development framework core strategy of 2011. The growth potential of Halstead is limited by its isolated location and high quality landscape setting. The services and infrastructure are of a lower quality than in Witham and Braintree.*
 - § *There would be a loss of fauna and flora on a greenfield site.*
 - § *This development represents a loss of valuable countryside as visitors enter the town.*
 - § *It would have no identity of its own, being tagged onto Halstead, but not close enough to be part of its parish of Greenstead Green and Halstead Rural.*
 - § *Error on p.32. The highway is A131 not A133 (transport assessment). The objection was seconded by Cllr Gronland and unanimously agreed”*
- 8.2.3 In response to a second re-consultation the Town Council objected on 16th June 2021, making the following comments:
- 8.2.4 “Cllr Fincken proposed that HTC should repeat its previous objections from October 2020, but more forcefully.
- § *It lies within the boundary of Greenstead Green and Halstead Rural, which would mean there would be no council tax income for Halstead, but the development would be dependent on the Halstead infrastructure of schools, doctors’ surgery and transport, which is already inadequate for the size of the town.*
 - § *The applicant refers to the boundary of Halstead at the Oak Road development. All of Oak Road is within the Halstead boundary.*
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 - § *There would be a loss of fauna and flora on a greenfield site.*
 - § *There would be a loss of trees.*
 - § *This development represents a loss of valuable countryside as visitors enter the town.*

- § *It would have no identity of its own, being tagged onto Halstead, but not close enough to be part of its parish of Greenstead Green and Halstead Rural.*
 - § *Error on p.32. The highway is A131 not A133 (transport assessment).*
 - § ***The NHS proposal of £27,600 is inadequate as the surgery is oversubscribed. This and the rest of the infrastructure is already overloaded.***
 - § *The flooding cannot be looked at in isolation due to the elevation of this site being higher than the land West of Mount Hill that is being investigated by ECC Suds as this site will flow into it making a bad situation worse.*
 - § *HTC understands that BDC has reached its 5-year housing supply. The objection was seconded by Cllr Gronland and unanimously agreed”.*
- 8.2.5 In response to a third re-consultation the Town Council objected on 14th June 2022, making the following comments:
- 8.2.6 “Cllr Hume proposed that Council should vehemently object to this application, for the same reasons as given in June 21, and for additional reasons:
- § *It lies within the boundary of Greenstead Green and Halstead Rural, which would mean there would be no council tax income for Halstead, but the development would be dependent on the Halstead infrastructure of schools, doctors’ surgery and transport, which is already inadequate for the size of the town;*
 - § *The applicant refers to the boundary of Halstead at the Oak Road development. All of Oak Road is within the Halstead boundary;*
 - § *The area is not suitable for a development of this size and the density is too great;*
 - § *It is susceptible to flooding at the junction with Blamsters, and any connection for surface water onto the A131 would exacerbate this problem;*
 - § *This junction is also an accident blackspot;*
 - § *There is already queuing of traffic at peak times when entering Halstead. Introducing a roundabout or traffic lights would increase congestion;*
 - § *Some bus stops indicated on plans do not exist and it would not be safe to locate them in these positions;*
 - § *The parking planned would be inadequate;*
 - § *This area is not designated for development in the Local Development framework core strategy of 2011. The growth potential of Halstead is limited by its isolated location and high quality landscape setting. The services and infrastructure are of a lower quality than in Witham and Braintree;*
 - § *There would be a loss of fauna and flora on a greenfield site;*
 - § *There would be a loss of trees;*
 - § *This development represents a loss of valuable countryside as visitors enter the town;*

- § *It would have no identity of its own, being tagged onto Halstead, but not close enough to be part of its parish of Greenstead Green and Halstead Rural In addition:*
 - § *The area lies within the zone of influence for Natural England;*
 - § *There is a real fear that roads could be further extended into the countryside in future to create a larger development;*
 - § *There is no preschool provision within the area;*
 - § *Walking to school is described in the plans, but it is not safe for anyone to walk along the road;*
 - § *Library facilities have been deemed insufficient;*
 - § *Historic Buildings have said that they cannot support the application;*
 - § *This can still be regarded as overdevelopment in a rural location, even if the number of houses to be built has been reduced.*
- Cllr Caulfield seconded the motion, which was unanimously agreed.”*

8.2.7 In response to a fourth re-consultation no comments have been received from the Town Council.

- § *At the time of writing the report, no comments have been received. If comments are subsequently received they will be reported verbally to committee.*

9. REPRESENTATIONS

9.1 The Council received 20no. letters of objection and 3no. letters of comment or support from members of the public in relation to the application. A summary of the main issues raised are listed below:

- § Scheme is cramped overdevelopment with lack of green space;
- § Scheme does not contain retail unit to accompany the housing;
- § Housing provided not truly ‘affordable’ for the average local resident;
- § Loss of intrinsic value of the site as open countryside, used socially by walkers in the local community;
- § Blot on the landscape;
- § Loss of rural character to street scene on edge of Halstead;
- § Tree removal;
- § Impact on listed building, Blamsters;
- § Loss of wildlife habitat;
- § Lack of wildlife surveys;
- § Exacerbation of flooding caused by loss of greenfield land;
- § Opportunities to prevent further flooding of Mount Hill;
- § Need to prevent existing issues with ditch along the site frontage becoming blocked and causing flooding in future, including need for this to be connected to the surface water drainage system and maintained in perpetuity;
- § Location remote from services and lack of footpaths;
- § Exacerbation of existing congestion in Halstead, some of this caused by lack of bypass;
- § Mount Hill congested, subject to speeding and unsafe for users;

- § Proliferation of accesses along Mount Hill causing highway safety risk;
- § Traffic lights suggested causing tail backs;
- § Creation/exacerbation of existing accident blackspots on Mount Hill;
- § Additional traffic contributing generally to risks for pedestrians, additional noise and pollution;
- § Pressure on existing infrastructure including schools, doctors, pharmacy etc.;
- § Lack of school places at closest schools;
- § Halstead has taken enough homes, evidenced by failing infrastructure;
- § Future coalescence with nearby settlements;
- § Lack of public consultation.

9.2 Matters raised which are not material to a planning decision included objections on the basis that the development was not in the 'correct' Parish and should provide its Council Tax to Halstead as well as concerns regarding loss of a private view.

10. PRINCIPLE OF DEVELOPMENT

10.1 National Planning Policy Framework (NPPF)

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

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

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

10.1.4 The NPPF underlines the Government's objective of significantly boosting the supply of homes. In this regard, Paragraph 60 of the NPPF highlights the importance of ensuring that there is a sufficient amount and variety of land that can come forward where it is needed, that specific housing requirements are met, and that land with permission is developed without

unnecessary delay. Paragraph 74 of the NPPF outlines that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against (in the case of Braintree District) our 'local housing need' plus the relevant buffer.

- 10.1.5 In this regard, when considering the overall planning balance as to whether a development proposal constitutes sustainable development or not, an important material consideration is whether the Council can robustly demonstrate a 5 Year Housing Land Supply. This will affect whether Paragraph 11 of the NPPF is engaged and consequently the weight that can be attributed to the Development Plan (see below).

10.2 5 Year Housing Land Supply

- 10.2.1 The Council has an up-to-date Local Plan which has an approved minimum housing target of 716 new homes per year in the District between 2013 and 2033.
- 10.2.2 To this annual supply the Council must add the backlog which it has not delivered at that level since the start of the Plan period. This figure is recalculated each year and as of April 2022 stands at 1,169 across the 5 Year Housing Land Supply.
- 10.2.3 The Council must also apply a buffer to the housing land supply based on the results of the Housing Delivery Test. In the latest results published on the 14th January 2022, the Council had delivered 125% of the homes required. This means that the Council is required to apply the lowest level of buffer at 5%.
- 10.2.4 Taking the above into account, the Council's latest 5 Year Housing Land Supply position for 2022-2027 shows a supply of 4.86 years. This position is marginal and with a number of strategic sites starting to deliver homes alongside other permissions, that situation is likely to change.
- 10.2.5 Nevertheless, as the Council cannot demonstrate the required 5 Year Housing Land Supply, the 'tilted balance' pursuant to Paragraph 11d) of the NPPF is engaged. It also means that the most important Development Plan policies relevant to the provision of housing are out-of-date. However, this does not mean that Development Plan policies should be completely disregarded. It is for the decision-maker to determine the weight to be attributed to the conflict with those policies.

11. SITE ASSESSMENT

11.1 Location and Access to Services and Facilities

- 11.1.1 Halstead is classified as a 'Town' in the Adopted Local Plan. The overarching spatial strategy implies that, in principle, the town is capable of accommodating a significant amount of development, representing one of

the most sustainable locations in the District for new growth on account of the availability of local employment, services, facilities and transport links.

- 11.1.2 The approach is consistent with the objectives of Paragraph 105 of the NPPF which states that: *“The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health”*.
- 11.1.3 Policy SP3 of the Adopted Local Plan establishes that development will be accommodated within or adjoining settlements according to their scale, sustainability and existing role. It seeks to ensure that future growth is planned to ensure the settlements distinctive character and role is maintained, whilst avoiding coalescence and conservation of their setting. Policy LPP1 of the Adopted Local Plan is clear that *“development outside development boundaries will be confined to uses appropriate to the countryside”*. Policy SP1 of the Adopted Local Plan requires the Local Planning Authority to take a positive approach to proposals that reflect the presumption in favour of sustainable development contained within the National Planning Policy Framework (NPPF).
- 11.1.4 Sustainability is not simply a function of a development’s location, but this can contribute towards the appropriateness of the principle of development and assessment of its likely adverse impacts. In this case the site is well connected to the existing settlement and a good range of opportunities for sustainable transport are available. For example, the nearest bus stop is located on the opposite side of the road adjacent Blamsters Crescent, providing regular services to Colchester and Braintree. The closest shop and post office lie 0.4miles within the existing housing estate to the south-east.
- 11.1.5 In order to access facilities in the town centre of Halstead, approximately 1km from the site, a paved and lit route is available along the A131. The nearest schools; Holy Trinity Primary School and The Ramsey Academy are located 1km and 2km walk respectively from the site. Officers are mindful that Members have resolved to approve housing at more distant locations in the locality in the past and that the Planning Inspectorate has historically taken the view that development proposals in the area are in a sustainable location. The location of the site weighs in favour of the proposal.
- 11.2 Highway Considerations
- 11..2.1 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.”* Paragraph 112 states that within this context, development should *“give priority first to pedestrian and cycle*

movements, both within the scheme and with neighbouring areas...” and “...create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles.”

- 11.2.2 In this case, notwithstanding matters of concern raised by the local community, the Highway Authority is satisfied that the access and junction arrangements proposed are acceptable. With this in mind, it is not recommended the proposal be refused on highway safety grounds.

11.3 Heritage

- 11.3.1 Policy SP7 of the Adopted Local Plan requires that new development protect and enhance assets of historical value. Policy LPP47 of the Adopted Local Plan requires that, to protect and enhance the historic environment, all development respects and responds to local context. Policy LPP57 of the Adopted Local Plan states that the Council will seek to preserve and enhance the settings of heritage assets by appropriate control over the development, design and use of adjoining land.
- 11.3.2 Paragraph 199 of the NPPF advises that, when considering the impact of a proposed development upon the significance of a designated heritage asset, great weight should be given to the assets conservation (and the more important the asset, the greater the weight should be), irrespective of the level of harm to its significance. Paragraph 202 of the NPPF states that, where a 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.
- 11.3.3 The Council has a duty under Section 66 (1) of the Planning (Listed Buildings & Conservation Areas) Act 1990, when considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses.
- 11.3.4 In this case, the site lies adjacent and within the setting of Blamsters, a Grade II listed building. Blamsters was a late medieval hall house and farmstead. The Heritage Statement submitted acknowledges that historically the site would have been part of the landholding associated with the farmhouse.
- 11.3.5 In the 20th Century the building became used for a care home and a number of new build elements were added which have the function of limiting visibility of the building from surrounding land, albeit the roofslope and chimney of the house still remain visible.
- 11.3.6 The Applicant considers there is no harm caused to the setting of the listed building on the basis that the site is now visually and functionally distinct from it. In order to minimise any potential harm to the significance however, measures are proposed which include retaining a ‘buffer’ of open space on

the eastern boundary, lower density development to the edge of this, confinement of development to the southern field parcel only and additional boundary planting to *'retain the visual enclosure of the site'*.

- 11.3.7 Having regard for the mitigation, the Council's Historic Building Consultant does not share the Applicant's view that there is no harm caused at all. They observe that there remains a direct historic link between Blamsters and the application site. They argue that the site's agrarian setting and landscape connection to Blamsters speaks to the relationship that the farmhouse had with the historic agricultural economy at the time. It therefore follows that this connection makes a beneficial contribution to the appreciation of the heritage asset's significance. They regard this harm to be at a low level of *'less than substantial'* harm, albeit towards the mid-level of low.
- 11.3.8 This case shares some parallels with a previous proposal for 71 dwellings on Land Off Mount Hill which was also historically associated with Blamsters. In that instance, the Planning Inspector acknowledged that the surrounding landscape could be of relevance to the significance of the listed building (Appendix 4 – Paragraphs 57-61).
- 11.3.9 In the case of Land Off Mount Hill, the Planning Inspector noted the cumulative effects of development in the locality. He reasoned that the harm lay at the lower end of the scale in the *'less than substantial'* category, and in finding the Council not to have a five-year supply of deliverable housing sites, he concluded that the wider planning balance was satisfied (Appendix 4 - Paragraph 85).
- 11.3.10 The proposal is different in number of dwellings and proximity to Blamsters. Officers reiterate that great weight should be given to the assets conservation when weighing the harm that remains in the heritage balance against the public benefits (Paragraph 202 of the NPPF), and when weighing it in the wider planning balance (under Paragraph 11(d) of the NPPF).
- 11.4 Design, Appearance and Impact upon the Character and Appearance of the Area
- 11.4.1 Paragraph 130 of the NPPF requires among other things that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting. Paragraph 131 of the NPPF requires that all planning decisions ensure that new streets are tree-lined. Paragraph 134 advises that development which is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, for example the National Design Guide.
- 11.4.2 Policy SP7 of the Adopted Local Plan requires that new development responds positively to local character and context to preserve and enhance the quality of existing places and their environs. This Policy expects that

Development Frameworks, Masterplans, Design Codes, and other design guidance documents are prepared where needed to support this objective.

- 11.4.3 Policy LPP52 of the Adopted Local Plan establishes that the Council will seek a high standard of layout and design in all developments and that there shall be no unacceptable impact upon the amenity of nearby properties. Policy LPP43 of the Adopted Local Plan requires parking to be in accordance with the Essex County Council Vehicle Parking Standards adopted SPD.
- 11.4.4 Officers are content with the number of dwellings now proposed on the site, but feel the Parameters Plan is necessary to guide its design at Reserved Matters stage. Whilst the density of the development is low (26 dwellings per hectare) when developments adjacent are considered, the site's shape and particular constraints, such as the need for buffers to the countryside and the listed building, limit the location of roads and housing preventing higher densities from being achieved.
- 11.4.5 Indicative Layouts provided for the 73 dwelling scheme demonstrated how a mix of 50% 1 and 2 bedroom properties could be achieved. In order to demonstrate compliance with Policy LP35 of the Adopted Local Plan, a condition requiring the mix is consistent with the Strategic Housing Market Assessment is recommended in a format which reflects recent appeal decisions.
- 11.4.6 The development has generally been much improved by the reduction in number of dwellings and by their confinement to the southern field parcel only. In Officers opinion, the plans for 73 dwellings are sufficient to demonstrate that the access and reduced quantum of dwellings can be achieved on the site. However, there is still further work to be done at Reserved Matters stages to make the layout acceptable in design terms. It is not therefore simply a case of carrying forwards the previous scheme minus the 18 dwellings which were removed in the northern field, particularly where landscaping is concerned. In particular, the north-western portion of the site will require revision and an informative is added to this effect.

11.5 Landscape Character

- 11.5.1 Policy LPP67 of the Adopted Local Plan requires that new development should be informed by, and be sympathetic to, the character of the landscape as identified in the District Council's Landscape Character Assessments. It states that development which would not successfully integrate into the landscape will not be permitted.
- 11.5.2 Paragraph 130 of the NPPF requires decisions to ensure that developments are sympathetic to landscape setting, whilst Paragraph 174 explains the planning system should recognise the intrinsic character and beauty of the countryside.

- 11.5.3 The site has been subject to Landscape and Visual Impact Assessment (LVIA) by Landscape Consultants Enplan on behalf of the Applicant. The site is mostly located within the Gosfield Wooded Farmland (F1) Local Landscape Character Area (LCA), forming parcel 6e as defined within the Settlement Fringes Evaluation of Landscape Analysis Study of Halstead (2015). The Council's Landscape Consultant considers that overall the value of the landscape comprising the site and its immediate setting is classified '*medium/high*'.
- 11.5.4 The Council commissioned an independent assessment of the LVIA submitted by the applicant undertaken by Nigel Cowlin Associates (NCA). This considered the 73-dwelling scheme. In the report (Paragraph 3.7), NCA acknowledge that the northernmost field parcel remains open, remote and tranquil, affording scenic views to the countryside beyond. The report also highlighted the presence of several mature trees in the southernmost field which are associated with it being managed as parkland during a period when it belonged to Attwoods Manor.
- 11.5.5 NCA identify a number of omissions within the LVIA, but made their own assessment of landscape value in the absence of these. A good range of attractive attributes, of moderate influence, having been noted, NCA concluded that the site should be regarded to comprise landscape of higher value than 'ordinarily attractive countryside' (Paragraph 4.6).
- 11.5.6 Having undertaken their own Zone of Theoretical Visibility modelling of the site from the surrounding countryside, NCA concluded that the landscape effects in relation to wider landscape character would be 'Minor'. The site would be seen in some distant views from the other side of the valley, but would be accommodated into the existing woodland and development on the edge of Halstead so as not to be unduly prominent.
- 11.5.7 In relation to local landscape character, NCA judged the impacts to be 'Major', which is greater than the 'Moderate' impacts identified by Enplan. NCA also particularly identify a 'Major' effect from PROW88_15 to the north-east of the site, of which the magnitude of change would reduce to 'Moderate' over time with the maturation of planting proposed within the open space. NCA also judged the visual effects of development to be slightly greater than Enplan for the frontage of the site as perceived from Mount Hill.
- 11.5.8 NCA noted in their assessment that the greater the set back of development from the PROW, the greater the benefit in protecting outlying countryside view from that direction (Paragraph 7.2). Overall, however, NCA concluded that the level of harm was: "*not sufficient to have an overwhelming individual influence on the planning decision, but it is appropriate to consider this harm as part of the overall planning balance.*" They go on to comment that: "*Perhaps this could be summarised as it being appropriate to give moderate weight to the identified landscape and visual harm*" (Paragraph 9.1).

- 11.5.9 In Officers observation, the content of NCA's report and its conclusions serve to highlight the importance of establishing acceptable parameters around the extent of the developable area, and the location and extent of open space provision, in order to ensure the proposal is sympathetic to the local landscape as required by Policy LPP67 of the Adopted Local Plan, as well as Paragraph 174 of the NPPF.
- 11.5.10 Any alterations in the extent or scale of development within the site in order to provide the quantum of development proposed may influence the levels of harm arising and give rise to greater impacts than would otherwise be the case or than have been evaluated by NCA to date. It would therefore be desirable to establish these parameters at outline stage in order to ensure compliance with these policies if permission were granted.
- 11.5.11 As the development has now been confined only to the southern field it is felt the visual effects as observed from the PROW in the north-east will now be reduced. Particularly if additional planting is provided in the open space or boundary features introduced between the two field parcels. As much of this land will be 'informal' open space rather than 'formal' parkland, it is considered it can be managed with a 'light touch' to enhance biodiversity without placing unreasonable costs upon future residents of the development.
- 11.5.12 However, the visual impact upon the site frontage will remain and development of the northern field, particularly the loss of trees, will give rise to some level of landscape harm which should be weighed in the wider planning balance in the context of Paragraph 11 of the NPPF.
- 11.6 Arboricultural Impacts
- 11.6.1 Policy LPP65 of the Adopted Local Plan acknowledges that the quality of trees is a material consideration and that, where trees are to be retained, suitable distances should be provided to ensure their continued wellbeing. Paragraph 131 of the NPPF states that trees make an important contribution to the character and quality of urban environments and that existing trees are retained wherever possible. Paragraph 174(b) of the NPPF requires decisions to recognise the wider benefits of trees and woodland.
- 11.6.2 The site contains a number of trees and hedgerows, largely to the perimeters, but also in groups within the southern field which have formed in a dense thicket of scrub. The applicant has submitted a Tree Survey and Arboricultural Impact Assessment accompanied by a separate plan (January 2022). The Report suggests that it will be possible to retain all the Category A and B trees in the long term and has been revised to take account of the 55-dwelling proposal.
- 11.6.3 The Land Use and Heights Parameter Plan, which the developer would be bound to under a condition, confirms retention of the large Category B1 Horse Chestnut (T8), Category B1 Lime (T9) and Category A1 Oak (T21)

accommodated within open space areas in the layout and that no development would occur within their Root Protection Areas.

- 11.6.4 Along the frontage, a group of 10 Field Maple trees (Classified C2 – G35) would need to be removed to provide the access and associated visibility splay. However, with the exception of an Ash tree which needs to be felled for safety reasons (Category U – T31), other trees (including a number of Category B Lime trees) would be retained.
- 11.6.5 There is no way of avoiding the loss of the young trees which now form a woodland scrub in the southern field. These trees comprise part of G17 and are largely Oak, Hawthorn, Ash and Willow classified C2 on account of their immaturity. In compensation for their loss, the Parameters plan indicates the western and eastern boundaries of the site would be enhanced. Inside the southern field, a Category C Beech Tree (T10) regrowing from an old stump in the open space is also indicated to be felled for safety reasons.
- 11.6.6 A condition is proposed which would require details of tree retention, and a scheme for additional planting and compensatory planting to relocate / replace removed trees, to be submitted concurrently with the Reserved Matters. This would ensure order to ensure that NPPF Paragraph 131 principles are followed, i.e. that streets are tree lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards) and that existing trees are retained wherever possible.
- 11.6.7 The indicative layout plan for 70 dwellings showed that, in Officer's opinion, the scheme is capable of providing new planting in the open space area, delivering tree lined streets and enhancements to the boundaries of the site. Now the number of dwellings have been reduced and the development confined to the southern field it has been possible to retain more trees/hedgerow on the interior boundary between the two fields and in the open space area.
- 11.6.8 The Landscape Services Manager raises no concerns in relation to the accuracy of the Arboricultural Reports, Tree Protection Plan or the extent of tree loss in general proposed on the site. The revised Parameters Plans do not prevent any of the areas identified in their response as important considerations at Reserved Matters stages from being addressed. Taking into account the above factors, Officers consider the proposal would not be in conflict with Policy LPP67 of the Adopted Local Plan or Paragraph 131 of the NPPF provided that conditions are applied as recommended.

11.7 Ecology & Biodiversity

- 11.7.1 Policy LPP66 of the Adopted Local Plan states that, if significant harm 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.

- 11.7.2 Policy LPP64 of the Adopted Local Plan requires that where there is a reasonable likelihood of protected or priority species being present on or immediately adjacent to the development site, the developer undertakes an ecological survey to demonstrate that an adequate mitigation plan is in place to ensure no harm or loss to such species.
- 11.7.3 Paragraph 174(d) of the NPPF requires that proposals minimise their impacts on, and providing net gains for, biodiversity. Paragraph 180 requires that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or as a last resort compensated for, then planning permission should be refused.
- 11.7.4 The Applicant has submitted an Ecological Review Report to accompany the application followed by updated information on Reptiles and Great Crested Newts (GCN). Initially the Council's Ecological Consultant raised concerns that the GCN Impact Assessment and Conservation Payment Certificate had not been countersigned by Natural England, as should be the case under the District Level Licensing scheme in order to confirm the applicant's eligibility and intention to enter into a Licence for the site. This was then provided and the Ecological Consultant withdrew their objections.
- 11.7.5 In relation to Reptiles, recent surveys found no reptiles present, suggesting that the site only provides a habitat for low numbers or transitory individuals of Grass Snake and/or Common Lizard. Notwithstanding this possibility, the applicant still proposes to establish a Reptile Receptor Area within the landscaped area into which any individuals found within the fenced reptile exclusion area can be translocated under the supervision of an Ecological Clerk of Works and then maintained for conservation purposes under a management plan in the long term.
- 11.7.6 In relation to Biodiversity Net Gain, the Applicant has provided calculations based on the indicative 77 dwelling layout provided. The calculations show that it may be possible for a scheme submitted at Reserved Matters stages to deliver a biodiversity net gain which exceeds current policy compliant thresholds, or/and which may be able to meet any increased thresholds imposed in the future. Whilst Officers recognise the potential of the site to deliver biodiversity benefits which exceed the current levels, it is by no means assured this would occur. As such, Officers have made their assessment on the basis that this factor remains 'neutral' when undertaking the planning balance for this application.
- 11.8 Habitat Regulations Assessment (HRA / RAMS)
- 11.8.1 In terms of the wider ecological context, the application site sits within the Zone of Influence of one or more of the following:
- § Blackwater Estuary Special Protection Area and Ramsar site;
 - § Dengie Special Protection Area and Ramsar site;
 - § Essex Estuaries Special Area of Conservation.

- 11.8.2 It is therefore necessary for the Council to complete an Appropriate Assessment under the Habitat Regulations to establish whether mitigation measures can be secured to prevent the development causing a likely significant adverse effect upon the integrity of these sites.
- 11.8.3 An Appropriate Assessment (Habitat Regulation Assessment Record) has been completed in accordance with Natural England's standard guidance. Subject to the proposed mitigation measures set out in the Council's Habitat Regulations Assessment being secured these mitigation measures would rule out the proposed development causing an adverse effect on the integrity of the above European Designated Sites.
- 11.8.4 The proposed mitigation measures would consist of the securing of a financial contribution of £127.30 per dwelling erected towards offsite visitor management measures at the above protected sites.
- 11.8.5 This financial contribution could be secured by way of a Section 106 Agreement if permission were granted for the development proposed.
- 11.9 Impact on Neighbouring Residential Amenities
- 11.9.1 Policy LPP52 of the Adopted Local Plan highlights considerations of privacy, overshadowing, loss of light and overbearing impact as being key in the assessment of impacts upon nearby properties.
- 11.9.2 Paragraph 130 of the NPPF seeks to ensure good standards of amenity for existing and future users whilst Paragraph 185 seeks to ensure that new development is appropriate for its location taking into account the likely effects on living conditions including noise and light pollution.
- 11.9.3 In this case, the site is located approximately 100m from Halstead Hall Care Home and 50m from the buildings at Blamsters. Also taking account of the location of the open space areas proposed along the eastern boundary of the site, these distances are well in excess of the separation required to safeguard the amenity of residents to these properties. As such, Officers have no concerns regarding the potential impacts of the development proposed upon the amenity of neighbouring properties.
- 11.9.4 The layout would need to take account of the evergreen hedge to the care home, if it is retained at its current height, at Reserved Matters stages in order to ensure high design and amenity standards for future occupiers are maintained. However, it is possible to locate the access road in this area and this may minimise much of the impact it would cause.
- 11.10 Noise
- 11.10.1 Policy LPP70 of the Adopted Local Plan states that new development should prevent unacceptable risks from emissions and all other forms of pollution, including noise. Policy SP7 of the Adopted Local Plan requires

that the amenity of existing and future residents is protected in regard to noise and vibration arising as a consequence of development.

- 11.10.2 Paragraph 185 of the NPPF recommends that planning decisions mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life (acknowledging advice contained within the Explanatory Note to the Noise Policy Statement for England (Department for Environment, Food & Rural Affairs, 2010)).
- 11.10.3 The Applicant submitted a Noise Assessment Report with the application and subsequently also added an Addendum to this in November 2020. The results of noise survey identify potential for adverse traffic noise from the A131 to affect the amenity of occupants in the new dwellings sited along this frontage and confirm that noise mitigation measures will be required to minimise these impacts within the properties and their gardens.
- 11.10.4 The Council's Environmental Health Officer raises concern that the mitigation measures required could be extensive, giving rise to the need for alternative ventilation to avoid windows being opened and convoluted configurations in layout. They consider the noise will inevitably lead to some reduction in the amenity enjoyed by inhabitants of the affected dwellings. However, the Environmental Health Officer does not object and does not suggest that the adverse impacts would be 'significant' upon the health or quality of life of the inhabitants if permission were granted.
- 11.10.5 Policy emphasises that the role of the LPA is to minimise the of impacts of noise. The Environmental Health Officer has recommend a condition which would ensure that the noise levels in habitable rooms of dwellings proposed a Reserved Matters stage will be fully assessed in order that an appropriate level of mitigation can be employed, ensuring the approach generally avoids reliance upon alternative means of ventilation and does not result in an external sound attenuation barrier having to be erected along the frontage of the site. Provided this condition is applied, Officers consider the aforementioned policy criteria pertaining to noise are satisfied.

11.11 Air Quality

- 11.11.1 Policy LPP70 of the Adopted Local Plan states that new development should ensure no deterioration to air quality, stating that development should not be permitted where impacts are unacceptable, either individually or cumulatively.
- 11.11.2 Paragraph 185 of the NPPF requires that noise levels are mitigated and reduced to a minimum. Paragraph 186 of the NPPF requires that *"opportunities to improve air quality or mitigate impacts should be identified"*, and that *"decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan."*

11.11.3 The applicant has submitted an Air Quality Assessment and the Environmental Health Officer is generally satisfied with its methodology and conclusions. Officers are aware of the monitoring which is ongoing at the Head Street/Colchester Road junction in Halstead and the potential for this to be exacerbated by any additional traffic generated by the proposal. This will give rise to some temporary impacts, but these are not judged to be 'significant' and in the long term it is argued that background air quality is set to improve given the effects of Government policy to achieve a move towards low emission vehicles. It is however necessary to minimise these impacts through a Sustainable Travel Plan secured via a condition on any consent if granted. The Environmental Health Officer raises no objections provided this condition is applied.

11.12 Flood Risk & Drainage

11.12.1 Policy LPP76 of the Adopted Local Plan requires all new development of ten dwellings or more to incorporate SuDS to provide optimum water runoff rates and volumes taking into account relevant local or national standards and the impact of the Water Framework Directive on flood risk issues, unless it can be clearly demonstrated this is impracticable.

11.12.2 The site is located exclusively in Flood Zone 1, therefore at low risk of flooding. The Applicant's Flood Risk Assessment (Revision D) proposes that drainage on the site to be managed by a SuDS network which includes an attenuation pond (1.3m depth and 1:3 fall with 0.3m freeboard) located in the north-east corner of the main open space. Surface water will then be pumped using a surface water pumping station at a discharge rate of 5l/s into the existing ditch network to the south-eastern corner of the site.

11.12.3 The system is capable of being maintained and managed in accordance with a Plan/Statement agreed via conditions in order to ensure the continued longevity of this infrastructure. The Lead Local Flood Authority raises no objections to the proposed drainage approach and therefore the proposal is compliant with the aforementioned policies concerning this issue.

11.12.4 Whilst there has been some local concern regarding the ditch in front of the site regularly flooding, it is noted that the whole drainage profile of the site would be overhauled if development went ahead, whereby it could be ensured that rainfall falling onto the new dwellings and their associated surroundings was properly directed into the new drainage network and then released into the existing drainage system at greenfield run off rates.

11.12.5 In specific response to the comments from Halstead Council, the applicant submitted a Technical Note in October 2020 which confirmed that the ditch in question had been identified to require maintenance, and this was performed in early 2020. If consent were granted, regular maintenance of this ditch would become the responsibility of a management company and therefore there is no reason to conclude this would present an issue if development were permitted on the site in the future.

11.13 Land Contamination

- 11.13.1 Policy LPP70 of the Adopted Local Plan states development will be permitted where there is no unacceptable risk due to contamination. Paragraph 183 of the NPPF requires that planning decisions ensure that the site is suitable for its proposed use taking account of any risks arising from contamination.
- 11.13.2 The Applicant has submitted a Phase 1 Desk Study Report which identifies further Phase 2 investigations are likely to need to be carried out as part of a condition of any consent. The Council's Environmental Health Officer raises no objections on this basis provided suitable conditions are applied. The proposal is therefore considered to be compliant with Policy LPP70 of the Adopted Local Plan and Paragraph 183 of the NPPF, in that it would be suitable for the proposed use taking account of the above factors.

11.14 Archaeology

- 11.14.1 The application is supported by an Archaeological Desk Based Assessment. This confirms that the site has archaeological potential with notable proximity to Blamsters; a building dating from the medieval period. As such, provided conditions were imposed which would secure a programme of archaeological evaluation, subsequent investigation and recording, the Council's Archaeological Advisor raises no objections to the proposal. The proposal is therefore considered to be compliant with Policy LPP59 of the Adopted Local Plan.

12. PLANNING OBLIGATIONS

- 12.1 Policy SP6 of the Adopted Local Plan states that all development must be supported by the infrastructure, services and facilities that are identified as being necessary to serve the development. It also requires developers to facilitate the delivery of a wide range of social infrastructure including sufficient school places, healthcare infrastructure, green open space, places for active play and food growing.
- 12.2 Policy LPP78 directs that permission is only granted where it can be demonstrated there is sufficient appropriate infrastructure capacity to support the development and that such capacity can be delivered by the proposal. Where a development proposal requires additional infrastructure capacity, to be deemed acceptable, mitigation measures must be agreed with the Council which can include financial contributions towards new or expanded facilities.
- 12.3 Policy LPP63 of the Adopted Local Plan establishes that the Council will expect all development proposals, where appropriate, to contribute towards the delivery of new Green Infrastructure, defined (amongst other things) to include open spaces, parks and allotments. Policy LPP50 states that, where a deficit of one type of open space or sports provision has been

identified by the Council, planning conditions or obligations may be used to secure this.

- 12.4 Policy SP7 of the Adopted Local Plan states that all new development must meet high standards of urban and architectural design and this includes a range of place shaping principles, including creating well-connected places that prioritise the need of pedestrians, cyclists and public transport services above use of the private car. Policy LPP42 of the Adopted Local Plan establishes that the Council will require that sustainable modes of transport should be facilitated through new developments to promote accessibility and integration into the wider community and existing networks.
- 12.5 The plans submitted do show adequate provision of on-site formal and informal open space as well as provision for children's play. This is in conformity with the requirements of the Council's Open Space SPD, which also suggests it will be necessary to secure contributions to allotments and outdoor sport provision.
- 12.6 As part of the proposal, in compliance with Policy SP2 of the Adopted Local Plan, a financial contribution per dwelling is required to contribute towards off-site visitor management measures at the Blackwater Estuary Special Protection Area (SPA) and Ramsar, the Dengie SPA & Ramsar and Essex Estuaries Special Area of Conservation (SAC). This is in line with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS).
- 12.7 The Applicant has agreed to 30% affordable provision (16 dwellings for 55 in total) in accordance with Policy LPP31 of the Adopted Local Plan and the recommendations of the Housing Enabling Officer, who has requested the terms of any agreement secures housing compatible with Nationally Described Space Standards, on a 70:30 mix of affordable rent to shared ownership basis, with two units built as wheelchair user bungalows.
- 12.8 In relation to education provision, Essex County Council has requested funding for early years and childcare (calculated at £17,268 per additional place required) and a sum towards the improvement, enhancement or extension of existing facilities at Halstead Library (or other library serving Halstead) calculated at £77.80 per unit.
- 12.9 In addition, NHS England have requested_a sum of monies according to the standard population growth/floorspace multipliers to be secured to increase capacity at the Elizabeth Couthauld Surgery, located close to the application site, or other facilities identified in the outcome of their review of the strategic approach to healthcare provision in the area in order to create capacity within the health catchment.
- 12.10 Consistent with other developments consents in the area, it has also been agreed that a payment of £82,500 be secured towards the provision of improved cycle infrastructure, or cycling schemes, within the vicinity of the

town of Halstead, together with a contribution towards the building or improvement of community buildings calculated at £499.62 per dwelling.

- 12.11 At the time of writing this report, Solicitors are working actively on behalf of the applicant and the LPA to draft a Section 106 Agreement on the basis of the above terms.

13. PLANNING BALANCE AND CONCLUSION

- 13.1.1 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 (this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in Paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years), 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.
- 13.1.2 As the Council cannot currently demonstrate a 5 Year Housing Land Supply, the 'titled balance' pursuant to Paragraph 11d) of the NPPF is engaged. As a consequence, the most important Development Plan policies relevant to the provision of housing are currently out-of-date due to a lack of 5 Year Housing Land Supply. However this does not mean that Development Plan policies should be completely disregarded. It is for the decision-maker to determine the weight to be attributed to the conflict with those policies.
- 13.1.3 In this regard it is considered that Policy LPP1 of the Adopted Local Plan, which seeks to restrict development outside defined development boundaries to uses appropriate to the countryside, can only be afforded moderate weight. Similarly, it is considered that Policy SP3, which sets out the spatial strategy for North Essex, can only be afforded less than significant, but more than moderate weight.
- 13.1.4 In this case, it is not considered that pursuant to Paragraph 11d) (i) that the application of policies in the Framework provide a clear reason for refusing the proposed development.
- 13.1.5 As such, pursuant to Paragraph 11d) (ii) it is necessary to consider whether the adverse impacts of granting permission would significantly and

demonstrably outweigh the benefits of the proposed development, 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.

13.1.6 As set out in Paragraph 8 of the NPPF, achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and needed to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

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

13.2 Summary of Adverse Impacts

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

Conflict with the Development Plan

13.2.2 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*".

13.2.3 The proposed development would conflict with Policy LPP1 of the Adopted Local Plan as it proposes development outside of defined development boundaries and within the countryside. However, while the proposal is contrary to Policy LPP1 of the Adopted Local Plan, as the Council is currently unable to demonstrate a 5 Year Housing Land Supply, only moderate weight can be afforded to this conflict.

Heritage

- 13.2.4 The Council's Historic Building's Consultant advises that the harm caused to the setting of Blamsters which would be at a low level of '*less than substantial*' harm, albeit towards the mid-level of low. Great weight is attributed to the conservation of this asset and, having weighed this harm against the public benefits (as per Paragraph 202 of the NPPF), Officers consider the harm of granting permission would be outweighed by the public benefits of development. When the impacts are weighed in the wider planning balance, they consider this harm attracts limited weight.

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

- 13.2.5 Officers are of the view that the maximum number of 55 units proposed by this outline application can be realised on the site, but that it is important to tie the developer to the Parameter Plan in order to ensure the preservation of the countryside character of the northern field parcel, help ensure buffers to the listed building and countryside are provided and that the scale of development is appropriate for the site.
- 13.2.6 Noting the positive features that the landscape possesses in this location, and the visual impact of the development to the verdant characteristics of the southern field in combination with the opening up of the site frontage to expose the urbanising elements of development on the site, Officers consider this harm would attract moderate weight.

Harm to Trees and Hedgerows

- 13.2.7 A number of trees and scrub areas would need to be removed in order to provide space for the access road and quantum of development proposed on the site. These trees are not technically identified to be of a high quality on account of their youth. Cumulatively however they contribute to the verdant and attractive character of the site, particularly along the frontage to Mount Hill. Whilst in the long term, compensatory planting may be provided in localised areas of the site, which may replace these trees in terms of their numbers, as noted above there will be a degree of harm arising to the character of the area which cannot be avoided as a consequence of their loss.

13.3 Summary of Public Benefits

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

Delivery of Market & Affordable Housing

- 13.3.2 The development proposes 55 dwellings of which 30% would be affordable housing. The provision of this housing would deliver associated economic and social benefits, some of these would only exist during the construction

phases, whereas others would be sustained, such as the increased patronage of existing services and facilities in the Town.

- 13.3.4 Officers acknowledge that, in spite of large numbers of housing having been consented in recent months, the LPA is presently unable to demonstrate a five-year supply of housing sites to meet the current need. Within this context, Officers consider the proposed housing and its associated benefits would attract moderate weight.

Open Space Provision

- 13.3.5 As indicated on the Parameters Plan, the proposed development would provide a generous amount of public open space on the site, including the provision of a locally equipped area of play. This will offer some benefits to the wider community which go beyond those necessary to meet the needs of local residents. These benefits have been attributed limited weight.

Conclusion

- 13.3.6 Taking into account the above, while the proposal complies with some Development Plan policies which weigh in favour of the proposal, it is considered that the proposal is contrary to the Development Plan as a whole. 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, as indicated above, an important material consideration in this case is that as the Council cannot currently demonstrate a 5 Year Housing Land Supply, the 'titled balance' pursuant to Paragraph 11d) of the NPPF is engaged. As a consequence, the most important Development Plan policies relevant to the provision of housing are currently out-of-date due to a lack of 5 Year Housing Land Supply. In this regard, Policy LPP1 of the Adopted Local Plan, which seeks to restrict development outside defined development boundaries to uses appropriate to the countryside, can only be afforded moderate weight. The Planning Balance is concluded below.

13.4 Planning Balance

- 13.4.1 When considering the proposal in the wider (tilted) planning balance, it is considered that the provision of 55 dwellings, 30% of which would be affordable, and the associated economic and social benefits associated with this, would attract moderate weight. Limited benefits could also arise from provision of an open space area, including children's play area, which would be accessible to the wider community. In Officers opinion, limited harm would arise by virtue of harm to the setting of the listed building, and moderate harm from loss of trees and loss of visual amenity in the site's frontage. However, these harms may be mitigated further through good design and provision of compensatory planting on the site at the Reserved Matter stages.

- 13.4.2 Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 directs that that permission should not be granted for this development unless material considerations indicate otherwise. In this case, the tilted balance is determinative, providing a powerful material consideration which indicates the decision be taken otherwise than in accordance with the Development Plan. The proposal is therefore recommended for approval, subject to completion of a Section 106 Agreement.

14. RECOMMENDATION

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

- § **Affordable Housing** - 30% dwellings on-site to be Affordable Housing, with 70% of these provided for affordable rent and 30% for shared ownership. The Affordable Housing shall include one 2-bed 4-person wheelchair user bungalow and one 3-bed 5-person wheelchair user bungalow. All Affordable dwellings to meet or exceed the Nationally Described Space Standards, any ground floor accessed dwellings complying with Building Regulations 2015 Part M(4) Category 2 and wheelchair user bungalows compliant with Building Regulations Part M(4)(3)(2)(b). Allotments: financial contribution calculated in accordance with the Open Spaces SPD to be spent on either extending, or carrying out improvements to, allotment site(s) within the town of Halstead.
- § **Community Building** - Financial contribution towards the provision of either a new building/facility, or improvements to existing community buildings within a 2 kilometre radius of Townsford Mill calculated at £499.62 per dwelling.
- § **Education** - Financial contributions towards the provision of additional Early Years and Childcare places with the contribution to be calculated when the number of qualifying dwellings are known and at a cost of £17,268 per additional place required, in accordance with Essex CC Developer Guide to Infrastructure Contributions (2020) and index linked to Q1 2020.
- § **Health** - Financial contribution of to be calculated at £498.85 per dwelling (index linked) towards the provision of capacity improvements at the Elizabeth Courtauld Surgery, Halstead.
- § **Highways & Transport:**
Highway Works under s.38 & 278 of the Highway Act 1980 Obligation upon the developer to enter into a Highway Works Agreement with the Highway Authority for the following:
 - Prior to first occupation, provision of a footway (minimum 2m wide) along the site frontage to the east as shown in principle on drawing 25807_03_020_02 Rev F together with a drop kerb

pedestrian crossing point to link with the existing provision on the opposite side of Mount Hill in accordance with details previously submitted to and previously agreed with the Local Highway Authority.

- Cycleways - Financial contribution of £82,500 towards the provision of improved cycle infrastructure, or cycling schemes, within the vicinity of the town of Halstead.

§ **Libraries** - Financial contribution of £77.80 per dwelling (index linked) to be spent on improvements at Halstead Library, or other library serving the town of Halstead.

§ **Public Open Space** - (on-site) a minimum area of 2.55ha of Public Open Space, in accordance with Parameters Plans to include area of locally equipped area of play provided with equipment to a minimum value calculated in accordance with the current updated figures in the Open Spaces SPD. All Public Open Space and Amenity Space, including internal estate roads, pathways and any lighting falling outside highway authority land, to be managed by a Management Company. Details for the setting out and management of the Open Space and Amenity Areas to be agreed by the Council.

§ **Outdoor Sports**: financial contribution calculated in accordance with the current updated figures from the Open Spaces SPD and the number and size of dwellings approved through the Reserved Matters to be spent on new or improved Outdoor Sports Facilities identified in the Council's Open Spaces Action Plan and located within 2km radius of Townsford Mill.

§ **HRA/RAMS** - Financial contribution of £137.71 (index linked) to contribute towards off-site visitor management measures at the Blackwater Estuary Special Protection Area (SPA) and Ramsar, the Dengie SPA & Ramsar and Essex Estuaries Special Area of Conservation (SAC).

§ **Monitoring Fees** - for the District & County Councils.

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

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

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

APPENDIX 1:

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

Approved Plan(s) & Document(s)

Plan Description	Plan Ref	Plan Version
Access Details	25807_03_020_02	F
Parameter Drawing	J0038468_006	G

Condition(s) & Reason(s)

Condition 1

The development hereby permitted shall only be implemented in accordance with the approved plans/documents listed above.

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

Condition 2

Details of the:

- (a) Appearance;
- (b) Landscaping;
- (c) Layout; and
- (d) Scale,

(herein referred to as the "Reserved Matters") shall be submitted to and approved in writing by the Local Planning Authority before any development commences 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 (as amended).

Condition 3

The submission of reserved matters applications pursuant to this outline planning permission shall together provide for no more than 55 dwellings with new landscaping, open space, access and associated infrastructure. Any details submitted under the reserved matters application/s shall be in strict accordance with Parameter Plan J0038468-006 Rev G as approved.

Reason: For the avoidance of doubt and in the interests of good design; to ensure interests of acknowledged importance are protected in line with the parameters proposed and agreed at outline stage.

Condition 4

The landscaping scheme required by Condition 2(b) of this permission shall incorporate a detailed specification of hard and soft landscaping works for the site. This shall include the following:

- A Scheme for Compensatory Planting which provides for an appropriate number of relocated or replacement trees, to compensate for those removed as a consequence of the development.
- Details of plant/trees to be planted (location, type, size, number, and planting distances).
- Details of walls, fences and other boundary treatments (location, type, height, material).
- Written specifications including cultivation and other operations associated with plant and grass establishment.
- Details of hard surface areas (colour, material, method of laying).
- A programme for implementation for all the elements listed above.

All areas of hardstanding shall be constructed using porous materials laid on a permeable base, unless details have been submitted to and approved in writing by the Local Planning Authority.

All landscaping elements, including planting, seeding, turfing and hard surface areas shall be implemented in accordance with the implementation programme agreed.

Any trees or plants which die, are removed, or become seriously damaged, or diseased within a period of five years from the completion of the development shall be replaced in the next planting season in accordance with the approved landscaping scheme.

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 (as amended). To enhance the appearance of the development, in the interests of amenity and privacy, and to ensure that NPPF Paragraph 131 principles are followed, i.e. that streets are tree lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards) and that existing trees are retained wherever possible.

Condition 5

Concurrent with the submission of reserved matters for layout under Condition 2(c) of this decision, details of the following shall be submitted:

- i) A Confirmation Report from an Approved Inspector or Local Authority Building Control Service that all houses and ground floor flats proposed as affordable dwellings and shown on the submitted Affordable Housing Scheme as such (or any revisions of this Scheme subsequently submitted for approval as part of the application) have been designed to comply with Building Regulations 2015 Part M(4) Category 2.
- ii) A Confirmation Report from an Approved Inspector of Local Authority Building

Control Service that at least two bungalows proposed as affordable dwellings and shown on the Affordable Housing Scheme as such (or any revisions of this Scheme subsequently submitted for approval as part of the application) have been designed to comply with Building Regulations Part M(4) Category 3A.

- iii) Sufficient detail confirming that the affordable dwellings as shown on the submitted Affordable Housing Scheme (or any revisions of this Scheme subsequently submitted for approval as part of the application) meet or exceed the Technical Housing Standards - Nationally Described Space Standards (2015) criteria.

The affordable dwellings shall only be built in accordance with the approved details and, in the case of plots indicated in the Affordable Housing Scheme to be constructed in accordance with Building Regulations 2015 Part M(4) Category 2 or Building Regulations Part M(4)(3)(2)(b), prior to their occupation, written confirmation from an Approved Inspector or Local Authority Building Control Service shall be submitted to and approved in writing with the Local Planning Authority to certify that they have been built to the agreed standard.

Reason: In the interests of amenity; to ensure the affordable dwellings are built an acceptable standard to perform their optimum function. Details are required at Reserved Matters stages in order that the degree of compliance with the above specified criteria can be evaluated and assessed.

Condition 6

Concurrent with the submission of reserved matters for layout under Condition 2(c) of this decision, a Lighting Scheme designed to promote personal safety, protect amenity and the night-time landscape and biodiversity shall be submitted. The Lighting Scheme shall detail the following:

- Details of phasing, location and design of all public lighting to be installed within the site during periods of construction and occupation;
- Details of ownership of lighting once the development is occupied and, where relevant, details of its associated maintenance to ensure the lighting is provided in perpetuity thereof in the interests of personal safety;
- Assessment of the impacts of the lighting scheme upon biodiversity which identifies 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;
- Provision of appropriate lighting contour plans, isolux drawings and technical specifications to demonstrate which areas of the development are lit and to limit any relative impacts upon the territories of bats.

The approved lighting scheme shall be implemented prior to first occupation of the development, or if phased: each relevant phase, and shall thereafter be retained and maintained as such in accordance with the approved details. With the exception of land lying within private curtilages, under no circumstances shall any other external lighting be installed on the site without prior consent from the Local Planning Authority.

Reason: To ensure optimum levels of personal safety and prevention of crime are provided whilst also balancing constraints such as ownership, impacts upon landscape, biodiversity and amenity in recognition of the local and national policy objectives and having regard for best practise advice, such as Secured By Design (2019) and the LPA's legal obligations 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). The details are required at reserved matters stage to allow the affects of these requirements upon the layout to be properly evaluated and assessed.

Condition 7

Concurrent with the submission of reserved matters for layout under Condition 2(c) of this decision, details of the location of refuse bins, recycling materials, storage areas and collection points shall be submitted together with design of their related screening or enclosure where relevant. The development shall be implemented in accordance with the approved details prior to the first occupation of each respective unit of the development and thereafter retained.

Reason: In the interests of amenity; to ensure that the development layout provides suitable facilities, to prevent the unsightly storage of refuse containers and that these requirements are accounted for in a layout presented at reserved matters stages.

Condition 8

Concurrent with the submission of reserved matters for layout under Condition 2(c) of this decision, details of the location and design of all garages/car parking spaces and cycle storage facilities shall be submitted. The garages/car parking spaces and cycle storage facilities shall be provided prior to occupation of the dwelling to which they relate and shall thereafter be retained and kept available for use for their specified purpose. The garages/car parking spaces and cycle storage facilities shall be used solely for the benefit of the occupants of the dwelling of which it forms part, and their visitors, and for no other purpose and permanently retained as such thereafter.

Reason: To ensure adequate parking, garage space and cycle storage facilities are provided within the site in accordance with the Essex Vehicle Parking Standards Supplementary Planning Document (2009).

Condition 9

Concurrent with the submission of reserved matters for landscaping or layout under Condition (b) or (c) of this decision, a Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the Local Planning Authority.

The content of the LEMP shall include the following:

- a) Description and evaluation of all features to be managed.
- b) Ecological trends and constraints on site that might influence management;
- c) Aims and objectives of management;
- d) Appropriate management options for achieving aims and objectives;

- e) Prescriptions for management actions;
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- g) Details of the body or organisation responsible for implementation of the plan;
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Reason: To allow the Local Planning Authority 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).

Condition 10

Concurrent with the submission of reserved matters for landscaping or layout under Condition (b) or (c) of this decision, 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).

Condition 11

Concurrent with the reserved matters for appearance or layout under Condition (a) or (c) of this decision, a Noise Assessment and Mitigation Strategy shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that all dwellings proposed as part of the development will not exceed the following noise levels in habitable rooms as per the British Standard 8233:

- 35dB(A) during daytime hours (07.00-23.00)
- 30dB(A) during night-time hours (23.00-07.00)

The Mitigation Strategy shall seek to minimise the reliance on alternative means of

ventilation. Thereafter, all development shall be carried out in accordance with the details of the approved Noise Assessment and Mitigation Strategy.

Reason: In the interests of residential amenity; to ensure the effects of road noise upon those living in properties facing Mount Hill are minimised through careful consideration of internal layout and how the mitigation measures employed will affect the external design of the dwellings and the character of the locality.

Condition 12

A construction environmental management plan (CEMP: Biodiversity) shall be submitted to, and approved in writing by, the Local Planning Authority prior to commencement of development, in line with the Ecological Impact Assessment (CSA environmental, April 2021), Response Note: Ecology (CSA Environmental 2021) and Update Ecology Response (CSA Environmental, April 2022).

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.

Reason: To conserve Protected and Priority species and allow the Local Planning Authority 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) for the duration of the development hereby approved. Agreement is required prior to commencement as the risks arise from the point of commencement; it is not therefore possible to delay this agreement until a later point in time if the above interests are to be effectively protected.

Condition 13

No development shall take place (including any demolition, ground works or site clearance) until the Local Planning Authority has been provided with either:

- a) A licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorising the specified activity/development to go ahead; or

- b) A Great Crested Newt District Level Licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorising the specified activity/development to go ahead; or
- c) A statement in writing from Natural England to the effect that it does not consider that the specified activity/development will require a licence.

Reason: To conserve Protected species and allow the Local Planning Authority 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) for the duration of the development hereby approved. Agreement is required prior to commencement as the risks arise from the point of commencement; it is not therefore possible to delay this agreement until a later point in time if the above interests are to be effectively protected.

Condition 14

No development shall take place (including any demolition, ground works or site clearance) until a Badger Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall contain precautionary mitigation measures and/or works to reduce potential impacts upon Badgers during the construction phase. The measures/works shall only be carried out in strict accordance with the approved details and shall be retained in that manner thereafter.

Reason: To conserve Protected species and allow the Local Planning Authority 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) for the duration of the construction process. Agreement is required prior to commencement as the risks arise from the point of commencement; it is not therefore possible to delay this agreement until a later point in time if the above interests are to be effectively protected.

Condition 15

Prior to the commencement of development, a comprehensive Phase 2 (Intrusive) Land Contamination Survey shall be undertaken in accordance with the recommendations of the M-EC Phase 1 Geo-Environmental Desk Study Report dated August 2020 (Ref 25807-04-04-DS-01) to assess the nature and extent of any contamination on the site. Prior to commencement of development, a copy of this survey's findings, together with a Remediation Scheme to bring the site to a suitable condition in that it represents an acceptable risk (if required), shall be submitted to and agreed in writing with the Local Planning Authority. If a Remediation Scheme is required, development shall only be implemented in accordance with it unless otherwise agreed within any revised Remediation Scheme agreed under the provisions of conditions on this consent.

Formulation and implementation of the remediation scheme shall be undertaken by competent persons and in accordance with 'Model Procedures for the Management of Land Contamination, CLR 11'. Further advice is available in the 'Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers'. Such agreed measures shall be implemented and completed prior to the commencement of development hereby

approved.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors. Agreement is required prior to commencement as the risks arise from the point of commencement; it is not therefore possible to delay this agreement until a later point in time if the above interests are to be effectively protected.

Condition 16

No development shall be commenced until an Arboricultural Method Statement (AMS) has been submitted to, and approved in writing by, the Local Planning Authority. The AMS will include a Detailed Tree Protection Plan (DTPP) in broad accordance with the Tree Survey and Arboricultural Impact Assessment & Plan showing trees to be retained and removed (GHA Trees Arboricultural Consultancy, January 2023).

The AMS shall include details of all trees to be retained and to be removed, the precise location and design of protective barriers and ground protection, service routing and specifications, areas designated for structural landscaping to be protected and suitable space for access, operation of site machinery, site storage and other construction related facilities.

The AMS and DTPP shall include details of the appointment of a suitably qualified Project Arboricultural Consultant who will be responsible for monitoring the implementation of the approved DTPP, along with details of how they propose to monitor the site (frequency of visits; key works which will need to be monitored, etc.) and how they will record their monitoring and supervision of the site. The development shall be carried out in accordance with the approved details.

The approved means of protection shall be installed prior to the commencement of any building, engineering works or other activities on the site and shall remain in place until after the completion of the development to the complete satisfaction of the Local Planning Authority.

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

Reason: In the interests of amenity; to ensure the protection and retention of existing/remaining trees, shrubs and hedges. These details are required prior to the commencement of the development as they relate to measures that need to be put in place prior to development commencing.

Condition 17

No development shall commence, including any groundworks, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The Statement shall be implemented as approved. The Statement shall provide for:

- Traffic management plan to ensure safe access to/from the site including details of any temporary haul routes and the means by which these will be closed off following the completion of the construction of the development;
- The parking of vehicles of site operatives and visitors;
- The loading and unloading of plant and materials;
- The storage of plant and materials used in constructing the development;
- The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- Wheel washing facilities;
- A Dust and Particulate Matter Management Scheme which includes details of measures to control the emission of dust and dirt during construction;
- A scheme for recycling/disposing of waste resulting from demolition and construction works;
- A scheme to control noise and vibration during the construction phase;
- Provision of a dedicated telephone number(s) for members of the public to raise concerns/complaints, and a strategy for pre-warning residents of noisy activities/sensitive working hours.

Reason: In the interests of residential amenity; to ensure the construction phases of the development operate without causing unacceptable harm to the amenity of nearby occupants and to protect highway efficiency of movement and safety in accordance with Policy DM1 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011. Agreement is required as the impacts arise from the point of commencement; it is not therefore possible to delay this agreement until a later point in time if the above interests are to be effectively protected.

Condition 18

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.

Condition 19

No development or preliminary groundworks of any kind shall take place until the applicant has secured and undertaken a Programme of Archaeological Evaluation in accordance with a Written Scheme of Investigation which has been submitted to, and approved in writing by, the Local Planning Authority.

Reason: To enable full investigation and recording of this site of archaeological importance. Failure to agree a method for investigation of the site prior to

groundworks occurring may risk the loss or damage of archaeological assets.

Condition 20

No development or preliminary groundworks can commence on those areas containing archaeological deposits until the satisfactory completion of fieldwork, as detailed in a Archaeological Mitigation Strategy which has been previously submitted to and approved by the Local Planning Authority.

Reason: To enable full investigation and recording of assets of archaeological importance. Failure to agree a method for investigation of the site prior to groundworks occurring may risk the loss or damage of archaeological assets.

Condition 21

No works except demolition shall take 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 1:1 Greenfield runoff rates for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change.
- 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 rate plus 40% allowance for climate change event.
- Demonstrate that all storage features can half empty within 24 hours for the 1:30 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, ensure the effective operation of SuDS features over the lifetime of the development and 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.

Condition 22

Construction of buildings shall not precede beyond slab level until samples of the materials to be used on the external surfaces of the buildings have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved samples unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of visual amenity, to ensure that the development does not prejudice the character and appearance of the locality.

Condition 23

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

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

Condition 24

A Post Excavation Assessment shall be submitted to, and approved by, the Local Planning Authority within six months of the completion of the fieldwork (unless otherwise agreed in advance with the Local Planning Authority); such term shall include details of the completion of post excavation analysis, preparation of a full site archive and report and an undertaking for deposition of a post excavation report at the local museum. The report shall be deposited as agreed within the stated timeframes in the Post Excavation Assessment.

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

Condition 25

The developer shall give on-month's advanced notice in writing to the Local Planning Authority of the impending completion of the remediation works. Within four weeks of completing the remediation works, a Validation Report undertaken by a competent person or persons, which is in accordance with the 'Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants

and Developers', and the agreed remediation measures shall be submitted to the Local Planning Authority for approval. There shall be no residential occupation of the site until the Local Planning Authority has approved the Validation Report in writing. Furthermore, prior to occupation of any property hereby permitted, the developer shall submit to the Local Planning Authority a signed and dated certificate to confirm that the remediation works have been completed in strict accordance with the documents and plans comprising the most Remediation Scheme/s agreed in writing with the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors. Agreement is required prior to commencement as the risks arise from the point of commencement; it is not therefore possible to delay this agreement until a later point in time if the above interests are to be effectively protected.

Condition 26

No occupation of the development shall take place until the site access and associated works as shown in principle on planning application drawing number 25807-03-020-02 Rev F have been provided/completed.

Prior to occupation of any dwelling, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 120 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction is first used by vehicular traffic and retained free of any obstruction at all times.

Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking, in accordance with policy DM1, DM9 and DM10 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

Condition 27

Prior to first occupation of the development hereby approved, details of the design and content of the Residential Travel Information Packs for sustainable transport shall have been submitted to and agreed in writing with the Local Planning Authority. The Residential Travel Information Packs shall conform to the mitigation measures specified in Section 6 of the M-EC Air Quality Assessment dated November 2020 (reference 25807-04-AQA-01). The provision of Residential Travel Information Packs shall be distributed as agreed to the owner/s of each dwelling at the point of their first occupation.

Reason: To protect highway efficiency of movement and safety, to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking (in accordance with policy DM1, DM9 and DM10 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011) and to minimise airborne

emissions given the locality is known to suffer from Air Quality issues and is the subject of ongoing monitoring after the identification of raised NO₂ levels in the area.

Condition 28

Prior to occupation, a SuDS 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 approved in writing by, the Local Planning Authority.

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

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

Condition 29

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

Monday to Friday 0800 hours - 1800 hours

Saturday 0800 hours - 1300 hours

Bank Holidays & Sundays - No work.

Reason: In the interests of residential amenity; to ensure that the construction work associated with the development does not unacceptably harm the living conditions of occupants of adjacent properties on Mount Hill.

Condition 30

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. The agreed noise and vibration levels shall be adhered to throughout the construction process.

Reason: In the interests of residential amenity; to ensure that noise and vibration caused by piling methods is controlled in order that it does not unacceptably affect the amenity of occupants of dwellings on the site or/and in the surrounding area.

Condition 31

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

Reason: In the interests of residential amenity; to prevent unacceptable harm to the amenity of residents within the development or/and the surrounding area.

Condition 32

At any time during development, should contamination be found that was not previously identified or not considered in the Remediation Scheme agreed in writing with the Local Planning Authority, that contamination shall be made safe and reported immediately to the Local Planning Authority. The site shall be re-assessed in accordance with the above and a separate revised Remediation Scheme shall be submitted to and agreed in writing with the Local Planning Authority. Such agreed measures shall be implemented and completed prior to the first occupation of any part of the development.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors. Agreement is required prior to commencement as the risks arise from the point of commencement; it is not therefore possible to delay this agreement until a later point in time if the above interests are to be effectively protected.

Condition 33

The applicant or any successor in title must maintain yearly Logs of SuDS Maintenance which should be carried out in accordance with any approved Maintenance Plan under condition 27 of this decision. The Logs of SuDS Maintenance 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.

Condition 34

Notwithstanding the submitted details, the development hereby permitted shall provide for a mix of Market Housing that shall be in accordance with the District's Strategic Housing Market Assessment (2015 or its successor).

Reason: To ensure a suitable mix of market housing is achieved across the site to help meet housing need for market housing as identified in the Council's Strategic Housing Market Assessment and in accordance with Policy LPP35 of the Adopted Local Plan.

Informative(s)

Informative 1

Please note that in accordance with Government Legislation a formal application must be made to the Local Planning Authority when submitting details in connection with the approval of details reserved by a condition. Furthermore a fee of £34 for householder applications and £116 for all other types of application, will be required for each written request. Application forms can be downloaded from the Council's web site www.braintree.gov.uk

Informative 2

With regard to the new street(s) included in the development, in the interests of all concerned it is important that the street(s) should be named and numbered at the earliest opportunity. In this respect, prior to or upon commencement of the development, you may wish to suggest names for consideration and it would be appreciated if you would forward your suggestions to the Director of Planning, Causeway House, Bocking End, Braintree CM7 9HB. Tel: Braintree 552525.

Informative 3

Please note, the applicant has entered into an Agreement under Section 106 of the Town & Country Planning Act 1990 in relation to this development. You are advised to ensure that the legal obligations contained within it are complied with alongside the discharge of any conditions connected to matters to which it relates.

Informative 4

Essex County Council as the Lead Local Flood Authority provide the following information and advice:

- Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to suds@essex.gov.uk.
- Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
- Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the standing advice note which accompanied our consultation response to this application.
- It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.

Informative 5

Prior to any works taking place in the highway the developer should enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works. All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible). All highway related details should be agreed with the Highway Authority

Informative 6

The applicant's attention is also drawn to the letter from Anglian Water dated September 2020, which contains relevant information and advice.

Informative 7

The LPA notifies the developer that the northwest corner of the developable area identified on the Parameters Plan will need to be carefully planned to ensure new dwellings have adequately protected back gardens and good frontages. Where

possible dwellings should address open space areas. A lower density of housing may be explored in this area of the site, or flatted development, in order to accommodate both the existing trees and the continuous landscape buffer in a manner which respects good amenity, urban design and townscape principles. It is recommended that the developer engage with the LPA prior to an application being submitted to assist in realising an acceptable solution for this area of the site.

Positive and Proactive Statement

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

APPENDIX 2:

POLICY CONSIDERATIONS

National Planning Guidance

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

Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP2	Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
SP3	Spatial Strategy for North Essex
SP6	Infrastructure & Connectivity
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP31	Affordable Housing
LPP35	Housing Mix, Density and Accessibility
LPP42	Sustainable Transport
LPP43	Parking Provision
LPP46	Broadband
LPP47	Built and Historic Environment
LPP48	An Inclusive Environment
LPP49	Health and Wellbeing Impact Assessment
LPP50	Provision of Open Space, Sport and Recreation
LPP52	Layout and Design of Development
LPP57	Heritage Assets and their Settings
LPP59	Archaeological Evaluation, Excavation and Recording
LPP63	Natural Environment and Green Infrastructure
LPP64	Protected Sites
LPP65	Tree Protection
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP70	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP71	Climate Change
LPP72	Resource Efficiency, Energy Generation and Energy Efficiency
LPP74	Flooding Risk and Surface Water Drainage
LPP75	Surface Water Management Plan
LPP76	Sustainable Urban Drainage Systems
LPP77	External Lighting
LPP78	Infrastructure Delivery and Impact Mitigation

APPENDIX 3:

SITE HISTORY

N/A



Appeal Decision

Inquiry Held on 4 – 7 June and 11 June 2019

Site visit made on 11 June 2019

by Kenneth Stone BSC Hons DipTP MRTPI

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

Decision date: 11 July 2019

Appeal Ref: APP/Z1510/W/18/3214136

Land off Mount Hill, Halstead, Essex

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Tesni Properties Ltd and Messrs S.H.Cooke, J.S.Cooke and A.N.Cooke against Braintree District Council.
 - The application Ref 18/00774/OUT, is dated 27 April 2018.
 - The development proposed is the erection of 71 dwellings with associated garages, garden curtilages, a Sustainable Urban Drainage system (SUDS), public open space, hard and soft landscaping.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of 71 dwellings with associated garages, garden curtilages, a Sustainable Urban Drainage system (SUDS), public open space, hard and soft landscaping at Land off Mount Hill, Halstead, Essex in accordance with the terms of the application, Ref 18/00774/OUT, dated 27 April 2018, subject to the conditions contained in the schedule at the end of this decision.

Application for costs

2. At the Inquiry an application for costs was made by Tesni Properties Ltd and Messrs S. H. Cooke, J. S. Cooke and A. N. Cooke against Essex County Council. This application is the subject of a separate Decision.

Procedural matters

3. The appeal is made following the Council's failure to give notice within the prescribed period of a decision on an application for outline planning permission. Approval is sought for the matters of access, layout and scale with landscaping and appearance being reserved matters for which approval is not sought at this time.
4. After the appeal was lodged the Council considered the application at its Planning Committee which resolved that had the Committee been able to determine the application it would have refused it for six reasons. The putative reasons for refusal identified harm to the character and appearance of the area and surrounding landscape, harm to Blamsters (a grade II listed building) and Halstead Conservation Area by virtue of development in their setting, poor design with the development having an urbanising effect in the rural entrance

to Halstead, poor living conditions for existing and future occupiers, no method to secure necessary infrastructure and insufficient information in respect of a sustainable drainage system.

5. Upon submission of the Council's heritage evidence harm was also identified to the Holy Trinity Church, a Grade II* listed building, by virtue of development within its setting.
6. The Council and appellant reached agreement that the issue related to the Sustainable Urban Drainage could be addressed by condition and was therefore not a matter that would be contested at the appeal.
7. In respect of securing contributions towards necessary infrastructure and the provision of affordable homes it was agreed that these matters could be addressed through securing a planning obligation. An executed agreement under section 106 of the Town and Country Planning Act 1990 as amended was submitted at the end of the Inquiry and I deal with its provisions further below.
8. Essex County Council had requested a financial contribution towards education provision resultant from the additional pressure that would arise from the development as part of the necessary infrastructure. However, just preceding the opening of the Inquiry, the County Council withdrew its evidence and request for the contribution and this matter was no longer contested at the Inquiry.
9. The Council contend that they can demonstrate a five year supply of housing land but this is a matter contested by the appellant.

Main Issues

10. On the basis of the above the main Issues in this appeal are:

- Whether the Council are able to demonstrate a five year supply of housing land.
- The effect of the proposed development on the character and appearance of the area, including having regard to the Council's spatial strategy;
- Whether the proposed development would preserve the Grade II listed Blamsters Farmhouse, Grade II* listed Holy Trinity Church or their setting or the Halstead Conservation Area; and
- Whether the layout of the proposed development provides reasonable living conditions for future occupiers and the effect of the proposed development on the living conditions of occupiers of surrounding properties.

Reasons

Planning Policy

11. The development plan for the area, for the purposes of this appeal, comprises the Braintree District Local Plan Review, adopted 2005 (1996-2001) (Saved policies) (the Local Plan Review) and the Braintree District Core Strategy (2011-2026) adopted 2011 (Core Strategy).

12. The parties are reasonably in agreement on the policies that are engaged in the determination of the appeal, albeit they vary with regard to the weight to be applied to the policies and any conflict with them should it arise.
13. Policy RLP2 in the Local Plan Review and Policy CS5 from the Core Strategy, amongst other matters, work together to set out the separation of land in the district that is either within a settlement or within the countryside and the nature of development that would be appropriate within the countryside. RLP2 advises new development will be confined to areas within Town Development Boundaries and Village Envelopes and that outside these areas countryside policies will apply. CS5 is entitled the Countryside and indicates that development outside town development boundaries, village envelopes and industrial development limits will be strictly controlled to uses appropriate to the countryside. Without the settlement boundaries as defined through policy RLP2 there is no policy identification of the demarcation between countryside and the settlements and therefore which policies apply where. They are therefore relevant and amongst the most important policies for determining the appeal.
14. Policy CS5 goes on to detail that the policy is set to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside and has therefore a wide remit.
15. The appellant acknowledges that the appeal site is located outside the settlement boundary identified in the plan and is therefore located, in policy terms, in the countryside. The proposal does not provide for uses appropriate to the countryside and as such the scheme therefore conflicts with these policies.
16. Policy CS5 is also a matter related to the assessment of the effect on the character and appearance of the area as it seeks to protect landscape character along with policy RLP80 which advises that development that would not successfully integrate into the local landscape will not be permitted. Furthermore, policy CS8 of the Core Strategy which requires development to have regard to the character of the landscape and its sensitivity to change having regard to the Landscape Character Assessment is relevant. Whilst these policies individually may not include an internal balancing mechanism, that is not of itself necessary, they are policies which together recognise the intrinsic character and beauty of the countryside and are generally consistent with the Framework, taken in the round. Again, they are amongst the policies most relevant for determining this appeal as they engage directly with landscape issues.
17. Policies related to or that include heritage matters are identified as RLP100 and CS9. They are consistent with the national policy position and statutory requirement to protect such assets and are generally consistent with the Framework. Policy RLP100 is however poorly worded and given its plain reading would only apply to development affecting listed buildings directly and changes of use. Albeit that in the second bullet point reference to appropriate control over the development, design and use of adjoining land does not fit easily into the main part of the policy. It is therefore ambiguous as to whether the policy is directly applicable however given this matter is also addressed in policy CS9, in part, which is also a relevant policy in the development plan any finding of

harm would be relevant to that policy and therefore the development plan as a whole.

18. Policy RLP90 is a catch all design policy and is consistent with the Framework's advice to achieve well designed places and to seek to ensure development creates places with a high standard of amenity for existing and future users.
19. The weight to be attached to these policies, and any conflict with them, is a matter I turn to below in my planning balance.
20. The North Essex Authorities (Braintree District Council, Colchester Borough Council and Tendring District Council) are working together to produce a new local plan to address cross boundary issues. A publication Draft Local Plan sections 1 and 2 has been submitted to the Secretary of State for examination. The examination of section 1, strategic policies, has commenced but been suspended pending further work requested by the examining Inspector. The appellant suggests that the emerging local plan can only carry very limited weight¹ whilst the Council suggest some weight can be afforded to it². In accordance with paragraph 48 of the Framework given the stage of production and the significant unresolved issues I attach only limited weight to the emerging local plan.

Housing Land Supply

21. Paragraph 73 of the National Planning Policy Framework (the Framework) advises 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 their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old. Footnote 37 advises that where local housing need is used as the basis for assessing whether a five year supply of specific deliverable sites exists, it should be calculated using the standard method set out in national planning guidance.
22. The parties agree that the correct approach in this appeal is for the use of local housing need based on the standard methodology as the strategic policies are more than 5 years old.
23. Paragraph 73 also advises that the supply of specific deliverable sites should in addition include a buffer. The housing delivery test result published in February 2019 for Braintree identified under delivery but not at a level requiring the higher buffer level, a buffer requirement of 5% is therefore appropriate. This is a matter of agreement between the parties. Indeed the parties are in agreement that five years' worth of requirement for the borough with the buffer applied is 4,598, or, as the Council describe it, a five year supply target; producing an annualised figure of 920.
24. The appellant introduces an alternative housing requirement by reference to the emerging local plan. However, whilst it may be that this could be a material consideration, given the weight they attach to the emerging local plan and the weight I attach to it as I have explained at paragraph 19 above, I give this position limited weight. I have therefore assessed the five-year land supply position on the basis of local housing need calculated using the standard

¹ Proof of Evidence of Richard Gee paragraph 4.27.

² Proof of Evidence of Melanie Corblishley paragraph 4.11.

method, as advocated in the Framework in the circumstances prevailing in the district.

25. By the Conclusion of the Inquiry the position of the parties in respect of supply was such that the Council contended that it could identify 4,868 dwellings or 5.29 years supply with the appellant contending some 4,321 dwellings could be identified as deliverable equating to some 4.7 years supply. The identification and calculation of supply is not an exact science and is subject to the application of judgement in respect of matters related to build out rates, lead in times, lapse rates, the inclusion of a windfall allowance, slippage etc.
26. Taking the supply side of the Council's case which identifies 4,868 dwellings to be provided, the appellant does not contest some 2,055 which it describes as a strict interpretation of supply as defined by clause a) of the definition of deliverable in the Framework. The issue therefore focuses around those sites that would fall within the clause b) deliverable dwellings in the definition. Those being where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle or is identified on a brownfield register. These should only be considered deliverable where there is clear evidence that the housing completions will begin on the site within five years. Not accounting for windfall and lapse rates the Council's position identifies 2,605 units whereas the appellant's revised position identified 2,133; a difference of some 472 units. In all at the start of the Inquiry there were some 15 disputed sites, this narrowed a little during the Inquiry such that there were 12 disputed sites by the close. The positions on a number of those sites narrowed such that the dispute was of an order that would only have a marginal effect on the overall supply position.
27. Included in the clause b) group of deliverable sites where a number of sites that did not have planning permission at the base date but which were subsequently granted permission a short time thereafter and before the Inquiry commenced. Whether or not these should be included or not the appellant has taken account of them in its assessment and therefore I have had regard to them.
28. Of the remaining disputed sites they fell into those within the A12 corridor and those beyond. Of those outside the A12 corridor the Braintree Growth location accounted for a difference of some 100 units between the parties however with no planning permission, section 106 agreement, and the potential for further decisions and discharge of conditions the Council's optimism is somewhat misplaced given past performance. The 80 units difference between the parties from land rear of Halstead is also somewhat optimistic given the lack of an identified house builder. Whilst I accept that as a property agent the site controller will wish to move the site on quickly there is no firm evidence of an identified builder or programme for the submission of reserved matters. I do not totally discount all of the delivery from these sites but question the confidence with which the Council asserts its position and therefore the level of units that would be delivered within the period.
29. In terms of the A12 corridor in combination these sites account for a difference of 244 units between the parties. I accept that many of the sites are green field sites, have affordable housing (including some at a 40% higher rate) and that there may be advantages of competition that would drive sales. But that has to be considered in the context of potential saturation and the identification of

some high rates of delivery to be required to be sustained across the period. Again this leads me to conclude that the Council are being somewhat optimistic in its assumptions on delivery.

30. In this case the difference between the parties with the Council identifying some 270 dwellings in excess of the five-year requirement and the appellant identifying, with its benevolent approach, some 277 units beneath that requirement these create a band where strict confidence in the top or bottom figures would be misplaced. Minor alterations in either direction could have implications for the overall conclusion as to whether or not the five-year target was met. I have identified that I have a degree of scepticism around a number of sites where the Council's position needs to be fully realised in order to achieve the five year requirement. However, in the context of the advice at paragraph 59 to support the Government's objective of significantly boosting the supply of homes and that the requirement at paragraph 73 is a minimum I am not satisfied that the Council has demonstrated a supply of specific deliverable sites, with the required clear evidence, sufficient to provide a minimum of five years' worth of housing against the local housing need. Although I also accept that in the circumstances where there is a shortfall, that the shortfall would be limited.
31. This conclusion has implications for the decision-making process which I return to in my planning balance below.

Character and appearance

32. The appeal site extends to an area of some 3.9 hectares of undeveloped land on the edge of the village of Halstead, a sustainable location for growth in the Core Strategy. The site consists of an undulating agricultural field, along with a parcel of scrub to the west, and is enclosed on all sides by established hedgerows and hedgerow trees. There is a break in the hedge row along the boundary with the A131 Mount Hill where a field access gate is located. These are matters agreed in the statement of common ground and which accurately describe the site.
33. The SOCG description however refers to the Mount Hill boundary as the southern boundary. From the site location plan and other references, the site, which crudely is rectangular in shape, falls from a high point in the south towards the town centre in a northerly direction. Its long sides are formed by Mount Hill to the east and Blamsters to the south west, and Acorn Avenue and Windmill Road to the west. To avoid confusion and maintain consistency I shall use these broad orientations in my decision.
34. Policies RLP2 and CS5 confirm the extent of the settlement boundary and indicate that outside of these boundaries countryside policies apply. CS5 also seeks to restrict development to uses appropriate to the countryside in order to protect and enhance the landscape character of the countryside amongst other matters. The site is located outside the settlement in the countryside for policy purposes.
35. Policy CS8 requires 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 requires

new development should not be detrimental to the distinctive landscape features and habitats of the area.

36. The site is located within the Natural England National Character Area 86 – South Suffolk and North Essex Claylands which is identified as a clay plateau dissected by small scale river valley topography. It is an agricultural landscape which is predominantly arable with a wooded appearance. There is a dispersed settlement pattern and it contains well-preserved medieval towns, large villages and isolated farmsteads.
37. The local landscape character assessment is contained in the Landscape Character Assessment for Braintree, Brentwood, Chelmsford, Maldon and Uttlesford (2006). Within the Braintree LCA the site is located within the Gosfield Wooded Farmland Character Area, F1. The key characteristics of which include a strong pattern of large and small woods, arable fields are generally medium to large bounded by thick hedgerows with mature hedgerow trees, open character and many small farmsteads and occasional villages. The overall sense of tranquillity and strong pattern of woodland blocks and thick hedge rows are identified as sensitivity characteristics.
38. Two further landscape capacity assessments have been undertaken; firstly in 2007 Chris Blandford Associates undertook the Braintree District Settlement Fringes Landscape Capacity Analysis which was updated in 2015 by a finer grained analysis by The Landscape Partnership as part of the evidence base for the local plan, the Braintree District Settlement Fringes Evaluation of Landscape Capacity Analysis. The site falls within area H6 and H6g respectively in these reports. These sought to assess the capacity of sites at locations around specified settlements in the district and included Halstead. The H6 area identified the locations as having a high sensitivity to change. The 2015 analysis was at a finer grain and subdivided the larger areas from the previous analysis and identified the site in a location which would not be an area of such sensitivity to change and therefore had a greater capacity to accommodate change.
39. The proposed development would result in change as an existing undeveloped agricultural field with scrub would be developed and new housing built. The development of 71 units would in effect develop the whole of the site albeit there would be some open space, play facilities and amenity space. The layout is fixed and the extent of these areas is therefore identifiable. The site boundaries' strong hedgerows and hedgerow trees would, for the most part be retained around the periphery of the site and an important landscape feature would therefore be retained. Similarly, although there would be some remodelling the general topography of the site would retain its undulating form and general northward slope down to the town. Some of the existing stream valley could be retained in the landscaped open area and balancing pond.
40. The site is located directly opposite housing on Mount Hill to the east, there is relatively modern housing at Greenbanks, which abuts the northern boundary and much of the eastern boundary is contained by housing in Acorn Avenue and Windmill Road. To the south west the site is contained by the complex of buildings associated with Blamsters, a former farmstead. In this regard the site is surrounded on three sides by built development. It is argued by the Council that the site is part of a finger of countryside extending into the town and this is an important characteristic. However, the Council has recently

resolved to grant planning permission for development at Blamsters which would in effect dislocate the site from any connection with the countryside beyond. Whilst it was suggested that the proposed S106 included details of an open area to protect the setting of Blamsters, a Grade II listed building it would also function to create a linkage between the site and the countryside beyond. From the information presented to me I was not convinced this would be the case. The area of open land to be retained was limited and it would be seen and accessed through development fronting close to Mount Hill, it would do little to maintain a sense of countryside linkage for those passing using the A131 and Mount Hill as it would be to the rear of the new development.

41. On this basis, and whilst I accept planning permission has not yet been granted, the Council has accepted that development at this location is acceptable and more than that has resolved to approve a development subject to a S106 agreement. I was presented with nothing to suggest that this development would not be forth-coming or that the Council was reviewing its position.
42. Overall I viewed the site as well contained within thick hedgerows with hedgerow trees, the general topography would be retained and some retention of the stream feature could be retained in the landscape scheme these are representative of the Landscape character area. These are to be retained and supplemented. The site was mostly contained by the expanding settlement and further development would further surround the field and cut it off from the countryside beyond. The development of the field would not result in significant harm to the important landscape characteristics of the site or the wider area which would be maintained.
43. In terms of visual effects the site is well screened by the thick hedgerow and this would be maintained and enhanced. There are some glimpsed views through and across the site from gaps in the hedges but these are minor discreet views that would be closed off by landscaping to reinforce the landscape boundary. The views from public locations are primarily by pedestrians or motorists on Mount Hill or the occupants of properties surrounding the site. The sensitivity of the receptors there would be limited and heavily influenced by the existing environment and built development in the immediate surroundings.
44. Longer views from the higher ground across the town looking back towards the site do include views of the site. But it is seen in the context of the expansion of the town and the strong tree cover which is a representative feature of the area. The addition of a developed site which would include tree planting and strong boundaries would be reasonably assimilated into that wider view over time and would not significantly detract from it. I deal separately with the effect of these matters on the setting of the heritage assets below but they do not change my view on the wider effects on the landscape and visual effects.
45. The Framework at paragraph 170a indicates that planning decisions should contribute to enhancing the natural and local environment by amongst other matters protecting and enhancing valued landscapes. There is no definition of valued landscapes in the Framework and the parties have undertaken an assessment of the value of the site in accordance with box 5.1 in Guidelines for Landscape and Visual Impact Assessment 3rd edition. Reference was also made to Mr Justice Ousley's comments in *Stroud District Council v Secretary of State*

2015 where he commented that valued meant something more than popular such that a landscape was only valued if it had physical attributes which took it out of the ordinary or above mere countryside.

46. The site is reasonably typical of the landscape character area and retains field boundaries and includes an agricultural field with some overgrown semi natural vegetation. It is in my view in moderate condition. The scenic quality is reduced by the limitations to visibility by the thick hedgerow and well contained nature of the site. It is reasonably divorced from the wider countryside and heavily influenced by the settlement edge which surrounds it. There are some heritage assets visible which raise the profile of the area but in general it is of moderate scenic quality. The site is not rare or does not represent a rare landscape character for the area. It is reasonably representative of the topography of the area and adds a green element to an urban location. The site is not designated for any special landscape designations and there is limited conservation interest of the site itself. The proximity to other heritage assets and the effect on setting is discussed below. There are no public rights or access to the site. The site has no cultural associations but the site could be perceived as extending the countryside into the town.
47. On the basis of the foregoing I conclude that the site is not a valued landscape and that it does not benefit from having physical attributes that take it out of the ordinary and above mere countryside. The close association with the urban fabric of the town and the dislocation from the countryside, including through the potential development at Blamsters, means the site is not part of a valued landscape.
48. For the reasons given above I conclude that the proposed development would not result in material harm to the character and appearance of the area and that the proposal would not conflict with policies CS8 or RLP80. I have previously concluded that the site is in the open countryside and there would therefore be a breach of Policy RLP2 and CS5 and I address this in my planning balance below.

Heritage Assets

49. S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBA) requires that special regard shall be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest that it possesses. S72(1) of the LBA requires special attention to be paid to the desirability of preserving or enhancing the character and appearance of the conservation area.
50. The Framework advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. It further advises 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 that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification.
51. There are three designated heritage assets that are the cause of concern for the local planning authority albeit that only two of these, Blamsters, a Grade II listed farm house, and The Halstead Conservation Area were identified in the relevant putative reason for refusal. The third, the Grade II* listed Holy Trinity Church, cannot be discounted simply because it was not originally referenced.

It has now been drawn to my attention and the parties have had the opportunity to consider the effects on all these assets.

52. The issues raised do not seek to identify or suggest that the proposals would harm the fabric of the listed buildings or the physical attributes of the conservation area. Indeed the appeal site is physically separated from all of the assets. It is in the context of the fact that the development would be within the setting of the assets and therefore the question is rather how the setting contributes to the significance of the asset and whether the development would result in change that would affect the contribution the setting makes to the significance of the asset.
53. In this regard the Glossary to the Framework defines the setting of a heritage asset as the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral. The Framework's definition of significance also confirms that significance derives not only from a heritage asset's physical presence, but also from its setting.
54. I will deal with each asset in turn.

Holy Trinity Church

55. Holy Trinity Church is a Grade II* listed building, thus its importance to the nation as one of such a limited number of such buildings is therefore of great value. The building derives its significance as an example of early English gothic style. I agree with Inspector Fleming it is a tall imposing building with attractive Victorian detailing. Its architectural and aesthetic values are high and make a strong contribution to its overall significance. The design of the church is attributed to Sir George Gilbert Scott one of the leading nineteenth century architects and a master of Gothic Revival style. The association adds further to the historic value. Communal value is derived from its nature and purpose.
56. Views of the Church spire are available from within the site. They are also available from the top of Mount Hill and as one travels down the road. These are however, more glimpsed views through the gaps in the hedges. Longer views of the spire are also available from the opposite side of the valley looking back towards the Church with the appeal site in the back ground. It is evident therefore that the site would be within that area in which the asset could be experienced and therefore is within its setting. However, whilst the site is an open agricultural field, which references the rural hinterland and past development of the urban area, views of the church would be seen across roof tops in the context of its existing urban location. Although there is strong tree cover in the area and the Church Spire is a highly visible feature the architectural detailing, materials and finer design are not readily discernible in those longer views, even from within the appeal site. They are best appreciated in reasonably close proximity to the building and where intervening buildings do not disrupt views. The development of the site would introduce housing into the backdrop views from across the valley and the foreground of views from Mount Hill; however this would be little different from existing views. The Church Spire would be viewed in an urban environment across roof tops softened by trees. That view would prevail with the development of the appeal site. There is no direct link between the field and the Church, no

association and the proposed development would thereby have a neutral effect on the significance of the heritage asset by virtue of development within its setting.

Blamsters

57. Blamsters is a Grade II listed farmhouse with 15th century origins. It derives its significance from its age, the timber framed structure and historic typology of a hall with a good surviving cross wing. The listing draws special attention to the evidential value of the joinery within the building that allows for an appreciation of its construction and form. As a farmhouse the associated surrounding landscape and any associations are of relevance to understand the significance of the building and its contribution to the surrounding area. It is clear that the appeal site was owned and farmed as part of Blamsters Farm, this is seen in the 1838 tithe apportionment.
58. Blamsters is not readily visible it is set within a wooded landscape and agricultural fields. It is not positioned to dominate the landscape or have significant views of it or be seen across it. There are some views of the farmhouse from Mount Hill, through gaps in the hedge but these are limited. There are views from within the site but in summer months with trees in leaf these are extremely reduced. Even in winter months the photographs demonstrate that such views are heavily filtered.
59. The appreciation and understanding of the significance of the aesthetic and architectural value are best undertaken from within the Blamsters site itself. There are limited views from the appeal site and from where the main timber frame and main window feature could be viewed.
60. As a farmstead an agrarian landscape and isolation from the town could add to the historic understanding of the building. The gradual reduction in isolation with the expansion of the town and the piecemeal removal of more and more of the agrarian landscape that separated the farm from the town undermines the historic setting and pattern in the landscape. However, this is a landscape which has been evolving and is already significantly altered. The proposed development of this field with its historic association would result in a further undermining of that connection and as such would be a negative contribution to the setting of the building.
61. Overall for Blamsters I consider that the development of the site would have little effect on views of the detail of the farmstead and would therefore be neutral and not affect the significance of the farmstead in that regard. However, the development of the field and undermining of the agrarian landscape would be a negative contribution and would result in some limited harm to understanding the significance of the farmstead. This harm would be less than substantial and in my view its very limited nature would be at the lower end of that range.

Halstead Conservation Area

62. The Conservation Area derives its significance from the street pattern, and the age and quality of buildings. It includes the 19th century expansion of the town and together with the High Street and from St Andrews Church down to Holy Trinity contains the historic core of the town.

63. Views of the appeal site from within the Conservation Area are very limited if available. There would be no direct inter-visibility that would undermine or harm the significance of the Conservation Area. From the site itself the church spire of Holy Trinity and the tower of St Andrew are visible and mark either end of the Conservation Area however little of the detail or street pattern is visible or available and little understanding of the development of the town is available from this location. The effect of the development of this field on the significance of the Conservation Area would be neutral and there would be no harm to the character and appearance of the Conservation Area.

Heritage conclusions

64. The development of the appeal site would have a neutral effect on the significance of the Grade II* listed Holy Trinity Church and on the Halstead Conservation Area. There would therefore be no harm to these heritage assets. There would be limited less than substantial harm to Blamsters by virtue of development in the setting undermining the historic agrarian landscape with which it was associated.
65. Given that I have found harm to a heritage asset this needs to be considered in the context of the Framework advice and weighed against the public benefits of the proposal. I turn to this as the first stage of my planning balance below as it has potential consequences on the overall planning balance and my approach to decision making.

Living conditions

66. Policy RLP90 of the Local Plan review and Policy CS9 of the Core Strategy require a high standard of design and seek to ensure there is no undue or unacceptable impact on the amenity of nearby residents. This is consistent with the Framework which requires a high standard of amenity for existing and future users.
67. The appeal site is reasonably separated in amenity terms from Blamsters and bounds Mount Hill to the east. To the west properties in Acorn Avenue and Windmill Road are reasonably separated from the site; there are no significant issues with regard to privacy, outlook or overbearing issues. To the North the site abuts a small cul-de-sac Greenbanks and the site layout shows plots 61 to 64 have their rear facades facing towards these properties. No 1 Greenbanks is an end of terrace property set at right angles to the rear of plots 63 and 64. It has a blank side elevation save for a door and there are no significant windows to habitable accommodation. The only area overlooked would be the rear garden space which is already overlooked by the remainder of the terrace of which it forms a part. Plots 61 and 62 back onto a purpose built block of garages and No.4 Green banks is somewhat offset to these plots. There is an existing group of trees along this boundary some of which could be retained in the landscaping scheme or which could be replaced. I do not agree with the Council that the retention or inclusion of a landscape tree screen along this boundary would unreasonably impinge on the living conditions of the future occupants of these plots given the garden lengths, orientation and level changes. I am therefore satisfied that there would be no material harm to the privacy of the occupiers of properties in Greenbanks.
68. As to the internal layout of the site which is a matter for which consent is sought the Council raised concerns regarding the relationship of properties

giving rise to undue overlooking, giving the example of plots 9 and 37. The concern primarily relates to the relationship between properties fronting the upper road running parallel to Mount Hill and the lower road running parallel to the upper road but at a lower level. The layout provides for separation distances which are close to or above those identified in the Essex Design Guide. There are variations in levels across the site such that the properties on the upper road are higher than those below and therefore potentially allow for greater views into the gardens. However, the Design Guide is guidance and the separation distances are not inconsistent with it. There are distances in excess of 25m between properties and in a sub urban layout of this nature this is not an unusual or rare occurrence. This is not something which demonstrates a poor layout or design and the layout is not excessively dense or overly cramped. In my view the separation distances are acceptable and the scheme would not result in poor living conditions for future occupiers.

69. Overall the proposed development would provide reasonable living conditions for future occupiers and would not materially harm the living conditions of occupiers of surrounding properties. Consequently, the proposed development would be a high standard of design and would not conflict with policies RLP90 or CS9.

Other matters

70. Mr Pleasance was concerned with regard to subsidence and run off. The area adjacent to No.5 Greenbanks would include a Public Open Space, Pond and large detached house with a large garden. There is sufficient space and opportunity to address matters related to landslip and runoff in the drainage strategy and further design details of the scheme given this layout. No substantive evidence has been presented to demonstrate that the scheme would suffer from or not be able to address matters related to subsidence on or adjacent or water runoff from the site.

Planning Obligation

71. A planning obligation in the form of an agreement under section 106 of the Town and Country Planning Act 1990 was submitted at the end of the Inquiry. The agreement includes provisions to secure 30% of the dwellings on the site as affordable dwellings, various contributions including for health care, outdoor sports and allotments as well as provision to secure open space and amenity areas.
72. The Council confirmed that none of the contribution requirements were for schemes that had previously had five or more other contributions secured. In general the matters addressed were based on formulae adopted by the Council and were consistent with policy and addressed the additional pressure that would result from the additional population from the development.
73. The appellant was concerned with regard to the health care contribution in that there was little clarity or visibility on what purposes the money would be put to. The health authority calculation and amount was not necessarily disputed but the clarity of purpose. In this regard the Council relied upon the NHS consultation response which identified that the money would be put to the internal reconfiguration of the Elizabeth Courtald Surgery and this is secured in the agreement. The NHS consultation response sets out the effect of the additional population that would arise and the lack of available surgery

accommodation in the vicinity of the site. It calculates a required contribution based on a cost ratio and indicates this would be put to Internal reconfiguration. But there is no certainty of what that scheme may be, when it may come forward or how much it may cost. There is no certainty whether the contribution would meet all or part of the works and where any other necessary funding if required may come from. On this basis the lack of a credible plan of works where the funding would be directly targeted undermines any justification for the contribution. For this reason I do not take this contribution into account.

74. I am satisfied that the other requirements and contributions are required to meet the additional demands that arise from the development or to support the proposed development and meet the relevant tests.

Benefits of the scheme

75. The benefits of the scheme were outlined by the appellant and include a build spend of approximately £7m producing the equivalent of 100 FTE over the two-year period. Moreover, on completion, occupation would result in the availability of annual expenditure in the region of £1.6m from future residents. These economic benefits are substantial and I attribute them significant weight.
76. The development would result in the provision of market and affordable housing which I give substantial weight. The provision of affordable homes where need is well in excess of planned increases at the time of the Core Strategy is an important factor as is my finding that the Council cannot demonstrate a five-year housing supply which adds to the general housing benefit.
77. The environmental benefits that arise from the scheme related to hedgerow, tree planting and the SUDs scheme are primarily compensatory or required as a result of the development and are therefore only neutral or limited weight.

Planning balance

78. Sec 38(6) of the Planning and Compulsory Purchase Act 2004 requires the determination of a planning application and appeal to be in accordance with the development plan unless material considerations indicate otherwise.
79. The Framework is a significant material consideration and at paragraph 11(d) advises that where the policies which are most important for determining the application are out of date planning permission should be granted unless 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. This has become known as the tilted balance.
80. In this case I have found that the Council cannot demonstrate a five year supply of deliverable housing sites and therefore under footnote 7 such policies are out of date. In this regard these include policy RLP2, CS5 in part which define the settlement boundary and the demarcation of the countryside and which act to restrict or constrain development. These policies are predicated on out of date housing requirements based on historic information and even if there was a 5 year supply of deliverable housing sites, would be out of date.
81. However 11(d)i advises that planning permission should be granted unless the application of policies in this Framework that protect areas or assets of

particular importance provide clear reason for refusing the development proposed. This in effect has the potential to disengage the tilted balance or preclude it from being engaged.

82. In this case I have found that there is harm to one of three designated heritage assets that were identified as potentially being affected. In this regard I concluded that the harm to Blamsters would be less than substantial and that within that range there would be limited harm. However, the Framework, and court cases, have confirmed that any harm to a heritage asset has to be given great weight and importance.
83. Paragraph 196 of the Framework advises that where a development proposal will lead to less than substantial harm to the significance of a heritage asset this harm should be weighed against the public benefits of the proposal. This is to be undertaken as a straight balance. Giving great weight and importance to the limited less than substantial harm to Blamsters I consider that this harm is outweighed by the substantial benefits of additional housing and affordable housing and the significant economic benefits associated with the scheme.
84. Given that I have concluded that the harm to the heritage asset does not provide a clear reason for refusing the development I conclude that the tilted balance is properly engaged.
85. Undertaking the tilted balance the adverse impacts of the scheme include the limited less than substantial harm to the listed Blamsters. I have found that there would be no material harm to the landscape or negative visual effects and that the scheme would be well designed and not materially harm the living conditions of adjoining neighbours and provide reasonable living conditions for future residents. These matters therefore do not add to the adverse impacts of the scheme. Against that the benefits of the scheme are identified above, added to this I take account of the fact that Halstead is a Main Town in the Core Strategy recognised as having a good level of services and sustainable transport links to employment, retail and leisure matters where no such issues have been taken against the scheme by the Council.
86. Taking these factors into account the adverse impacts of the development would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
87. I have found that the scheme does not conflict with development plan policies in respect of landscape, living conditions of occupants of surrounding properties or those proposed for future residents. Whilst there is conflict with the settlement boundary policies and in particular RLP2 and that part of CS5 these are out of date. I recognise the shortfall is limited and there is potential for this to be addressed in the near future, but that this would likely be through permissions which breached the settlement boundaries. I also note that the emerging development plan is not close to being adopted whereby the situation may be resolved by a new development plan. I therefore afford this conflict limited weight. Overall, I am satisfied that material considerations indicate otherwise than a determination of the appeal in accordance with the development plan is appropriate.

Overall conclusion and conditions

88. A list of potential conditions was discussed at the Inquiry. I have had regard to the advice in the Planning Practice Guidance and have amended, amalgamated or deleted where necessary to ensure clarity and to avoid duplication.
89. Standard conditions are required on the approval of reserved matters amended to address the terms of the application and reflect those matters which are reserved for future consideration. An approved plans condition is required in respect of those matters that are detailed in the proposal and to provide clarity.
90. A condition to address contamination given the results of the preliminary investigation is required. In respect of access details for which consent was sought additional details are required to ensure highway and pedestrian safety and a number of conditions are directed towards this end. A Construction Traffic Management Plan is also required for these reasons and in the interests of the living conditions of surrounding residents. A condition requiring provision of a residential Travel Pack is required to inform future residents of alternative travel options and to ensure the development takes best advantage of sustainable travel modes.
91. Conditions are required to ensure the provision, agreement and securing of a surface water drainage scheme and to prevent off site flooding as such details have not been provided, including its future maintenance.
92. A condition is required to assess and safeguard any archaeological interests that may exist on site.
93. A condition to secure a lighting strategy is required to protect bats and ensure the development is appropriately lit. Other ecological conditions are required to protect badgers and other small animals, ensure the development is undertaken in accordance with the ecological information submitted with the application and ensure that the ecological enhancements are secured, including a landscape and ecological management plan.
94. Conditions are required to protect the living conditions of surrounding residents through the restriction of on-site activities and hours of working, and details of noise measures to be undertaken following assessment and details of piling.
95. A condition is required to ensure details of the play equipment and layout of the play area are provided to ensure adequate facilities are forthcoming.
96. A number of landscaping conditions were put forward by the Council however landscaping is a reserved matter and these issues can be addressed in the consideration of the reserved matters or through the imposition of conditions on the reserved matters approval as they would relate to that matter.
97. For the reasons given above I conclude that the appeal should be allowed and planning permission granted.

Kenneth Stone

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Ashley Bowes	Of Counsel Instructed by Ian Hunt, Head of Law & Governance Braintree District Council
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He called:

Gill Wynne-Williams BA (Hons) Dip La, CMLI	Wynne-Williams Associates Ltd.
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Maria Kitts BA (Hons) MA PGCert	Essex County Council - Senior Built Heritage Consultant.
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Kathryn Carpenter BA (Hons) DipEP	Braintree District Council - Senior Planning Officer Planning Policy.
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Melanie Corbishley BA (Hons) MA	Braintree District Council - Senior Planner.
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FOR THE APPELLANT:

Mr John Barrett	Of Counsel instructed by Richard Gee of Roman Summer Associated Ltd.
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He called:

Richard Purser BA(Hons), BP, MRTPI	DPP Planning.
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Carl Taylor BA (Hons) Dip La/CMLI	TPM Landscape.
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Graeme Ives BA, DipUD MRTPI	Heritage Planning.
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Richard Gee	Roman Summer Associates Ltd.
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INTERESTED PERSONS:

Mr D Pleasance - Local Resident and Chairman of the Greenbanks (Halstead) Management Company

DOCUMENTS SUBMITTED AT THE INQUIRY

APP1	Opening Statement on behalf of the appellant.
APP2	Updated site sections plan drawing 25 A submitted by appellant.
APP3	Updated Scott Schedule of housing land supply summary position including Mr Pursers comments submitted by appellant.
APP4	Latest draft section 106 agreement submitted by appellant.
APP5	Closing submissions on behalf of the appellant
APP6	Finalised executed and dated sec 106 agreement submitted by appellant.
LPA1	Opening statement on behalf of the Council.
LPA2	Table of completions on windfall sites 2015/16 submitted by Council.
LPA3	Revised Scott Schedule identifying summary areas of dispute submitted by Council.
LPA4	'Planning Matters' Litchfield publication 29 October 2018 submitted by Council.
LPA5	Updated Scott Schedule with LPA and DPP summary positions detailed submitted by Council.
LPA6	Location Plan for Crowbridge Farm site submitted by Council following request by appellant.
LPA7	Proposed site visit route for accompanied site visit and viewing points for unaccompanied visit submitted by Council.
LPA8	Written rebuttal of costs claim by appellant on behalf of Essex County Council
LPA9	Closing submissions (including legal cases and appeal decision referenced in closing) on behalf of the Council.
TP1	Submissions made by Mr Pleasance

Schedule of conditions for Appeal APP/Z1510/W/18/3214136

- 1) Application for approval of the reserved matters shall be made to the local planning authority not later than 2 years from the date of this permission. The development must commence within one year of the final approval of the reserved matters or, in the case of approval at different dates, the final approval of the last such matter to be approved.
- 2) Details of the appearance and landscaping (hereinafter called "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.
- 3) The development hereby approved shall be carried out in accordance with the following drawings and documents unless otherwise required by this permission:

Drawing Numbers

- 001 A – Site Location Plan
 - 10 rev F – Site Layout
 - 20 rev A – Site Sections
- 4) Prior to the commencement of development a comprehensive survey (Phase Two) shall be undertaken to assess the nature and extent of any contamination on the site, a copy of the survey findings together with a remediation scheme (if necessary) to bring the site to a suitable condition in that it represents an acceptable risk shall be submitted to and agreed in writing with the Local Planning Authority prior to the commencement of development. Formulation and implementation of the remediation scheme shall be undertaken by competent persons and in accordance with 'Model Procedures for the Management of Land Contamination, CLR 11'. Such agreed measures shall be implemented and completed prior to the commencement of development hereby approved.

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

The developer shall give one-month's advanced notice in writing to the Local Planning Authority of the impending completion of the remediation works. Within four weeks of completion of the remediation works a validation report undertaken by competent person or persons and in accordance with the 'Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers' and the agreed remediation measures shall be submitted to the Local Planning Authority for approval. There shall be no residential occupation of the site until the Local Planning Authority has approved the validation report in writing. Furthermore, prior to occupation of any property hereby permitted, the developer shall submit to the Local

Planning Authority a signed and dated certificate to confirm that the remediation works have been completed in strict accordance with the documents and plans comprising the remediation scheme agreed in writing with the Local Planning Authority.

- 5) Notwithstanding the details on the approved plans prior to commencement of the development the planning application drawings shall be revised and submitted to and approved in writing by the Local Planning Authority to show the following:
- a. A minimum 2 metre wide footway at the site access to the north (Including the provision of dropped kerbs as required), to join with the existing footway provision.
 - b. A minimum 2 metre wide footway at the site access to the south (Including the provision of dropped kerbs as required) to a point suitable for pedestrians to cross to the existing footway provision opposite. All details to be agreed with the Highway Authority.
 - c. Upgrade of the two bus stops which would best serve the proposal site to include flags, poles and timetable frames.

The development shall be carried out in accordance with the approved drawings and prior to the first occupation of the development.

- 6) Prior to the commencement of any works, a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority and shall contain:
- (a) A photographic condition survey of the roads, footways and verges leading to the site,
 - (b) Details of construction access and associated traffic management to the site,
 - (c) Arrangements for the loading, unloading and turning of delivery, construction and service vehicles clear of the highway,
 - (d) Arrangements for the parking of contractor's vehicles,
 - (e) Arrangements for wheel cleaning,
 - (f) Arrangement for the storage of materials,
 - (g) Arrangements for the control of dust, mud and emission from construction,
 - (h) Arrangements for the storage and removal of excavation material,
 - (i) Noise mitigation measures during construction and demolition, and
 - (k) Hours of construction.

For the duration of the development, works shall be carried out in accordance with the approved Construction Traffic Management Plan

- 7) No property shall be occupied until a Residential Travel Information Pack has been provided to the first occupants of that dwelling.
- 8) No occupation of the development shall take place until the site access as shown in principle on the planning application drawing 10 rev F – Site Layout has been provided. Access shall contain no obstruction above 600mm within the visibility splays which shall include but not be limited

to a clear to ground visibility splay with dimensions of 2.4 metres by 90 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.

- 9) No occupation of the development shall take place until the following have been provided or completed:
- a. Upgrade to current Essex County Council specification the two bus stops which would best serve the proposal site to include flags, poles and timetable frames (details shall be agreed with the Local Planning Authority prior to commencement of the development)
 - b. The agreed details for a minimum 2 metre wide footway at the site access to the north (including the provision of dropped kerbs as required), to join with the existing footway provision.
 - c. The agreed details for a minimum 2 metre wide footway at the site access to the south (including the provision of dropped kerbs as required) to a point suitable for pedestrians to cross to the existing footway provision opposite. All details to be agreed with the Highway Authority.
- 10) No works shall take 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.
 - Limiting discharge rates to 2.7 l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change.
 - 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.
 - 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 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.

- 11) No works shall take place until a scheme to minimise the risk of off-site 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 and maintained during construction.

- 12) No works shall take place until 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.

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.

- 13) No development or preliminary groundworks shall commence until a programme of archaeological evaluation has been secured and undertaken in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.

No development or preliminary groundworks shall 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.

The applicant or any successor in title shall 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 include a complete post-excavation analysis, a full site archive and report ready for deposition at the local museum, and submission of a publication report.

- 14) Prior to development a lighting design strategy (pre and post construction) for bats shall be submitted to and approved in writing by the LPA. The Strategy shall;

- i. Identify areas/features on the site that are sensitive for all bat species on site, and that are likely to cause disturbance in or around the breeding sites, and resting places or along important territory routes used to access key areas of their territory, for example foraging; and
- ii. Show how and where the external lighting will be installed so that it can be clearly demonstrated that areas lit will not disturb or prevent bats using their territory or having access to their breeding sites or resting places

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. No additional external lighting shall be installed without prior written consent from the LPA.

- 15) An updated badger survey must be completed prior to development commencing and should be undertaken 6 weeks before any works commence on site. The results of the survey must be submitted to and approved in writing by the Local Planning Authority prior to any works

commencing on site. Any mitigation measures identified will be implemented in accordance with a timetable submitted to and approved in writing by the Local Planning Authority.

- 16) No development, including vegetation clearance and ground works, shall take place until a method statement for measures to protect badgers and other small mammals from becoming trapped or harmed on site in open excavations and/or pipe and culverts during construction has been submitted to and approved in writing by the Local Planning Authority. The measures may include:

- a) Creation of sloping escape ramps, which may be achieved by edge profiling of trenches /excavations or by using planks placed into them at the end of each working day; and
- b) Open pipework greater than 150mm outside diameter being blanked off at the end of each working day.

The development shall be carried out in accordance with the agreed method statement.

- 17) The development shall be carried out in accordance with the Extended Phase 1 Habitat Survey prepared by Atmos Consulting dated April 2018.
- 18) No development shall take place until a method statement for the protection of Great Crested Newts and a Method Statement for the protection of Reptiles has been submitted to and approved in writing by the Local Planning Authority. The content of the method statements should include provision for protective measures before, and during development the details of which are to be implemented as agreed in the statements.
- 19) No development shall take place until details of the proposed ecological enhancement of the site are submitted to and approved in writing by the LPA. It should include new habitat creation, particularly the proposed SUDs scheme which should be enhanced for biodiversity and scrub and marshy grassland creation/retention and wildflower planting/seeding. It must detail the proposed habitat improvement/retention on the site particularly of the trees and hedgerows for wildlife corridors (including treatment of gaps in hedging to allow continuous foraging commuting routes for bats and badgers and provision of dark areas). Specification of the design, type and location of bird nesting and bat roosting boxes which where appropriate should be integrated into the building design and should include integrated swift bricks/boxes. Hedgehog friendly fencing installation should also be implemented to allow movement between foraging habitats. The details should be implemented in accordance with a timetable to be agreed as part of the details of the ecological enhancements.
- 20) A landscape and ecological management plan (LEMP) shall be submitted to and approved in writing by, the local planning authority prior to the commencement of development. The content of the LEMP shall include the following:
- a) Description and evaluation of features to be managed
 - b) Ecological trends and constraints on site that might influence management

- c) Aims and objectives of management
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a 5 year period)
- g) Details of the body or organization responsible for implementation of the plan
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The approved plan will be implemented in accordance with the approved details.

- 21) No site clearance, demolition or construction work shall take place on the site, including starting of machinery and delivery of materials, outside the following hours:
 - Monday to Friday - 08:00-18:00 hours
 - Saturday - 08:00-13:00 hours
 - Sunday - No work
 - Bank Holidays - No work
- 22) 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.
- 23) Prior to the commencement of development the applicant or any successor in title must submit a noise assessment report which shall be agreed in writing by the Local Planning Authority, to assess the impact of noise levels from Mount Hill Garage and the A131 on the proposed development. This should include any mitigation found to be required.

Should mitigation be required, this shall be implemented prior to the first occupation of the affected dwellings.
- 24) Prior to the above ground works, details of the play space equipment and layout shall be submitted to and approved in writing by the Local Planning Authority. The play space shall be constructed in accordance with the approved details which shall also include a programme for implementation.

END



Costs Decision

Inquiry Held on 4 - 7 June and 11 June 2019

Site visit made on 11 June 2019

by Kenneth Stone BSC Hons DipTP MRTPI

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

Decision date: 11 July 2019

Costs application in relation to Appeal Ref: APP/Z1510/W/18/3214136 Land off Mount Hill, Halstead, Essex.

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Tesni Properties Ltd and Messrs S. H. Cooke, J. S. Cooke and A. N. Cooke for a partial award of costs against Essex County Council.
 - The inquiry was in connection with an appeal against the failure of the Braintree District Council to issue a notice of their decision within the prescribed period on an application for outline planning permission for the erection of 71 dwellings with associated garages, garden curtilages, a Sustainable Urban Drainage system (SUDs), public open space, hard and soft landscaping.
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

The submissions for Tesni Properties Ltd and Messrs S. H. Cooke, J. S. Cooke and A. N. Cooke.

2. The appellant made an application for a partial award of costs in respect of Essex County Council's request for a financial contribution towards education provision resultant from the additional pressure on such infrastructure arising from the development.
3. The appellants' claim was made in the first instance in writing and the detail is a matter of record the gist of the case being that the need for a financial contribution was unnecessary and therefore the request was unreasonable. The appellant contends that the generated need for primary school places could be accommodated at the existing 4 primary schools in the primary school planning area. It is the appellants' position that the County Council must have known the position and had they applied their own criteria against their own evidence it was apparent that there was no basis for their case.
4. At the inquiry the appellant responded to the County Council's written response with additional oral comments. The appellant contended that the County Council had not engaged with the evidence. They were given ample opportunity by the Local Planning Authority to reconsider its position. Mr Nicholson has used the County Council's own evidence and its own data, the County Council should have known that the evidence, with a proper application of its own policies, did not demonstrate a need for additional school places and

there was adequate spare capacity such that there was no requirement for a legitimate request for a financial contribution.

The response by Essex County Council (ECC)

5. The County Council provided a written response to the appellants' written claim but did not appear at the Inquiry. The detail of its response is therefore again a matter of record and I do not set it out in detail here. The gist of its response contends that the physical capacity of schools identified takes no account of schools having to organise into suitable age groups / class sizes and that detailed consideration of pupils living in the area, other planning permission contributions and time horizons all lead into the appropriate balance of the decision, including the consideration of bulge classes. ECC only had the information provided with the application on which to base its comments. The appellant and their education expert did not engage with ECC during the consideration of the planning application and no pre-application advice was sought from ECC. Having reviewed all the evidence, including Mr Nicholson's Rebuttal Statement and Education Position Statement, the County Council concluded that it had become clear at that time that the balance of the evidence in front of the Inspector lay in favour of the appellant and that time should not be taken up at the hearings with this matter.

Reasons

6. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
7. Statutory consultees play an important role in the planning system: local authorities often give significant weight to the technical advice of the key statutory consultees. In this case the local planning authority confirmed that it has no expertise in terms of school places and relies on the advice from the County Council. The County Council was engaged in the appeal process and provided two proofs of evidence addressed towards this particular matter to support its advice. In doing so this makes the statutory consultee a party to the appeal.
8. Whilst it maybe the case that the applicant and County Council did not engage in meaningful discussions during the processing of the application the opportunity arose for constructive engagement during the appeal not least with the requirement for dialogue around a statement of common ground to be provided in advance of the production of proofs of evidence.
9. The basis of the calculations and considerations around whether or not there is surplus capacity for school places is based on evidence and matters that are in the public domain and to which the County Council would have access to as education authority. The information in terms of school rolls, the monies coming forward through other section 106 agreements and planning obligations and the assessment of the capacity of individual schools or school groupings, however they are accumulated, are matters that would have been known to the County Council. The exchange of proofs of evidence, including a rebuttal proof, and the dialogue on seeking to agree an education statement of common ground all gave the opportunity to review the position and information on which the parties were relying. To conclude the day before the opening of the Inquiry that the balance of the evidence was such that it lay in favour of the

appellant at such a time in the proceedings is unreasonable. There is no substantive additional or new evidence that would have led to such a change in position. Rather a proper and systemic understanding of the evidence which was available led to that inevitable conclusion. There were a number of opportunities along the way where such a conclusion could reasonably have been reached. Overall the continued prosecution of its case and sticking to its position until the late withdrawal of evidence, at the last minute, is unreasonable behaviour.

10. The appellant has had to employ the services of an expert witness to address education provision matters. This has resulted in the provision of a proof of evidence, consideration of the County Council's case and the provision of a further rebuttal proof. Given the County Council's withdrawal of its evidence and request for a financial contribution this resulted in unnecessary and wasted expense. I also understand that given the late timing of the County Council's position the appellants' expert witness attended the first day of the Inquiry to hear and understand the Local Planning Authority's opening to ensure there were no further matters that were required to be addressed. Again, this resulted in the appellant incurring wasted and unnecessary expense.
11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a partial award of costs is justified.

Costs Order

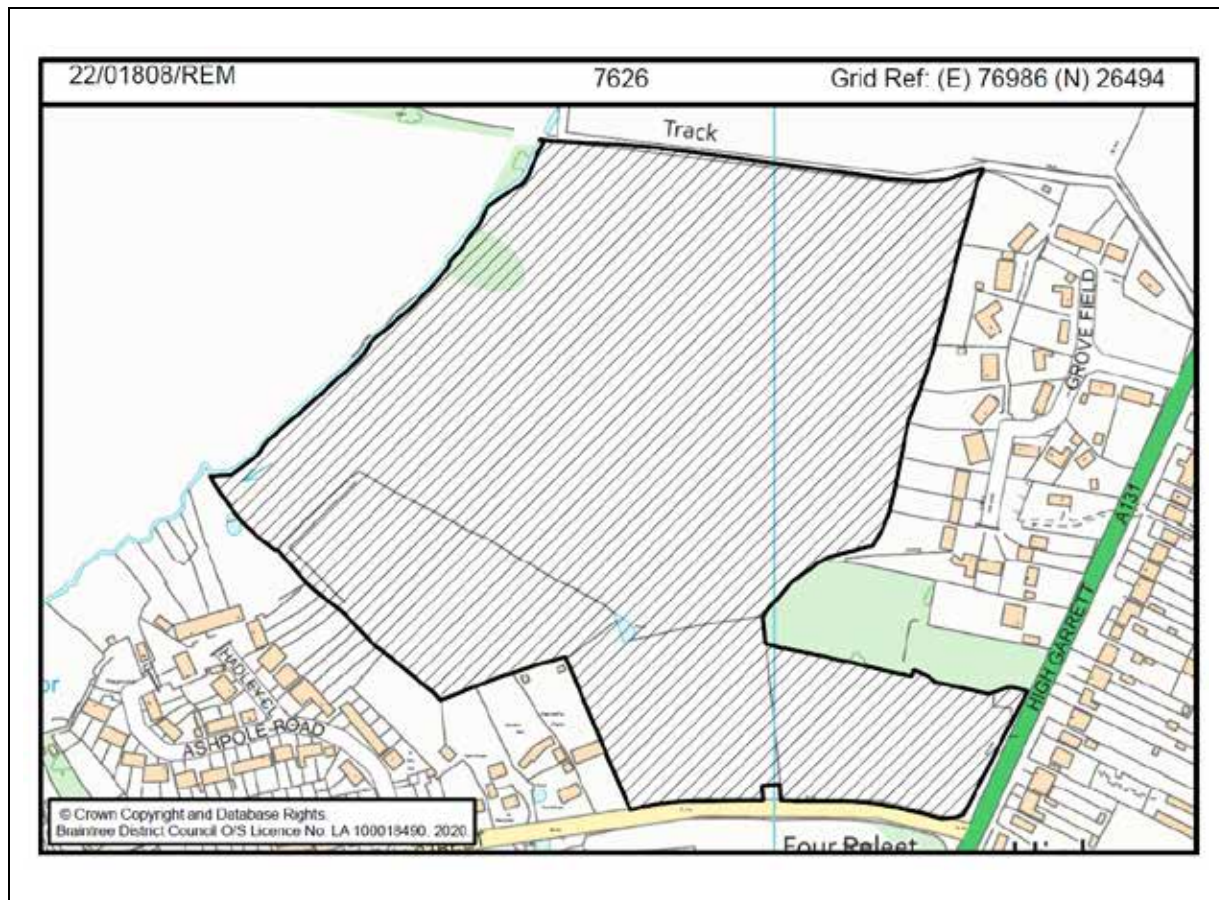
12. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Essex County Council shall pay to Tesni Properties Ltd and Messrs S. H. Cooke, J. S. Cooke and A. N. Cooke, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in respect of matters related to the provision of an education contribution as discussed above; such costs to be assessed in the Senior Courts Costs Office if not agreed.
13. The applicant is now invited to submit to Essex County Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Kenneth Stone

INSPECTOR

Report to: Planning Committee		
Planning Committee Date: 7th March 2023		
For: Decision		
Key Decision: No		Decision Planner Ref No: N/A
Application No:	22/01808/REM	
Description:	Application for the approval of Reserved Matters (Appearance, Landscaping, Layout and Scale) pursuant to outline planning permission 17/01304/OUT (approved at Appeal APP/Z1510/W/17/3187374 on 17th August 2020): for 253 residential dwellings (including up to 30% affordable housing), planting, landscaping, informal public open space, children's play area and sustainable drainage system (SuDS) and the approval of Condition 18 (hard and Soft Landscaping)	
Location:	Land Off Church Street, Bocking, Braintree,	
Applicant:	Redrow Homes (Eastern) Ltd, Mr Chris Gatland, C/O Agent	
Agent:	Planning Potential Ltd	
Date Valid:	12th July 2022	
Recommendation:	<p>It is RECOMMENDED that the following decision be made:</p> <p>§ Application GRANTED subject to the completion of a Section 106 Agreement to cover the Heads of Terms outlined within the Recommendation section of this Committee Report, and subject to the Condition(s) & Reason(s) and Informative(s) outlined within Appendix 1 of this Committee Report.</p>	
Options:	<p>The Planning Committee can:</p> <ul style="list-style-type: none"> a) Agree the Recommendation b) Vary the Recommendation c) Overturn the Recommendation d) Defer consideration of the Application for a specified reason(s) 	
Appendices:	Appendix 1:	Approved Plan(s) & Document(s) Condition(s) & Reason(s) and Informative(s)
	Appendix 2:	Policy Considerations
	Appendix 3:	Site History
Case Officer:	<p>Alison Rugg</p> <p>For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2522, or by e-mail: alison.rugg@braintree.gov.uk</p>	

Application Site Location:



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

	<p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
Background Papers:	<p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> § Application Form § All Plans and Supporting Documentation § All Consultation Responses and Representations <p>The application submission can be viewed online via the Council's Public Access website: www.braintree.gov.uk/pa by entering the Application Number: 22/01808/REM.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> § National Planning Policy Framework (NPPF) § Braintree District Local Plan 2013 - 2033 § Neighbourhood Plan (if applicable) § Supplementary Planning Documents (SPD's) (if applicable) <p>The National Planning Policy Framework can be viewed on the GOV.UK website: www.gov.uk/.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: www.braintree.gov.uk.</p>

1. EXECUTIVE SUMMARY

- 1.1 Outline planning permission was granted at appeal under Application Reference 17/01304/OUT for a scheme of up to 265 dwellings on land off Church Street, Bocking. In allowing the appeal, the Planning Inspector appended planning conditions, including a condition requiring the submission of an application for the approval of Reserved Matters. This application seeks approval of Reserved Matters for the development, namely for scale, layout, appearance, and landscaping. Access was approved by the Planning Inspector at the time of the appeal decision.
- 1.2 The development proposes 253 dwellings, providing 30% as affordable housing, in accordance with the S106 attached to the Outline consent. The affordable housing is pepper potted around the site, providing a suitable mix of units which have been designed to be tenure blind. The mix of market dwellings on the site strongly favours larger 3 and 4 bed dwellings, which fails to meet the mix set out within the Strategic Housing Market Assessment. However, the market mix was not secured at the outline stage by the Planning Inspector and is therefore not a matter that can now be considered at the Reserved Matters stage.
- 1.3 The layout of the development follows the fundamental principles set out within the approved Site Wide Design Guidance for the site, with the creation of a strong frontage to Church Street to the south, a large area of Open Space to the west, and a Community Orchard to the south east. The primary street travels from south to north in a loop, branching off to provide secondary streets and cul-de-sac areas. Landscape buffers and ecological corridors are provided around the boundaries of the site to separate the proposed dwellings from the existing residential boundaries, but to also provide wildlife corridors throughout the site.
- 1.4 All of the dwellings meet with the Nationally Described Space Standards for internal accommodation and externally are provided with amenity space in accordance with the Essex Design Guide. Dwellings would be provided with sufficient parking and garden space to meet the adopted standards. The overall, layout, scale and detailed design would result in a high quality development that would positively respond to the character and appearance of the locality.
- 1.5 The development would consist of mainly detached (54%) and semi-detached (34%) dwellings, with a very small proportion of terraces, maisonettes and two affordable bungalows. The site is predominantly 2 storeys in height with 20 dwellings (8%) of 2.5 storeys.
- 1.6 Significant areas of open space and landscaping are incorporated into the layout, including publicly accessible open spaces in excess of policy requirements, sustainable urban drainage features (SUDs) and tree-lined streets. Across the site, the landscaping scheme follows the principles of landscaped edges, street planting, parklands, and the Community Orchard. For the proposed planting within the public open space, much discussion

has been undertaken with the Applicant to secure appropriate species for the site, and to ensure that the chosen trees and other planting is appropriate. The proposed soft and hard landscaping is of high quality and is well considered. In addition to focussing on the existing features of ecological importance, the overall landscaping scheme will include a significant number of new tree, shrub, and hedge planting. The proposed landscaping seeks to enhance and increase biodiversity on the site and surroundings and is therefore supported in principle. In terms of ecology, the proposal meets the expectations of planning policies and Officers therefore raise no issues in this regard. Direct access to the Public Right of Way to the northern corner and south west of the site would be retained.

- 1.7 The development would result in an adverse impact to existing trees and groups of trees on site. In order to facilitate the development, 9 Category C trees/ groups (low quality/value) are proposed to be removed or cut back. The principle of the removal of hedgerow and trees to facilitate the access to the site was approved at the outline planning application stage, namely Tree T22 and Tree Group G12. In terms of tree/ groups removal, no Category A or B trees are proposed to be removed. Officers consider that the impact of the proposal is limited for a scheme of this size, with the removal of Category C trees/groups only. The Applicant proposes a net gain in tree planting against those lost, and the site contains expansive areas of interconnected green infrastructure and buffer zones. As with all such major residential developments there is a degree of landscape harm, and this was assessed at the outline stage by the Planning Inspector. Whilst this goes against the development, Officers consider that the provision of new trees, to be provided at a variety of maturity levels, on site will be significantly more (516) than the number lost (9 trees/groups) in any regard.
- 1.8 The application site is predominately located within Flood Zone 1 (low risk); however, an area associated with the watercourse to the northwest boundary of the site is located within Flood Zone 2 and 3 (medium to high risk). The application proposes SUD's basins within the Open Space area of the site. Flood risk and drainage were considered at the outline planning application stage and a detailed set of related conditions were attached to the outline consents, namely Conditions 24 (Surface Water Drainage Scheme) and 25 (Maintenance of SUDS). The details of both conditions have been submitted to the LPA for assessment by way of a discharge of conditions application. For the purposes of this Reserved Matters application, Essex County Council as the Lead Local Flood Authority raise no objections to the proposal.
- 1.9 Impact on existing residential amenity has been carefully considered in terms of the relationship from proposed to existing dwellings, particularly in view of the different levels on the site and the surrounding rear gardens. The current Reserved Matters layout generally adheres to the previously approved boundary landscape buffers to preserve existing residential amenity. Separation distances are in accordance with the Essex Design Guide. It is not considered that the proposed development would result in

any unacceptable degree of loss of amenity to existing residents in planning terms, particularly in relation to loss of privacy, sunlight and daylight. It is inevitable that there will be a loss of outlook for all dwellings surrounding the site due to the current open countryside nature of the site, however, the proposed mitigation and generous landscape buffers/ corridors seek to keep loss of outlook to a minimum. In terms of noise and disturbance during construction, the Outline consent proposed a number of conditions to mitigate such impacts.

- 1.10 In respect of vehicle parking, all the dwellings are provided with parking provision in accordance with the Adopted Parking Standards. Unallocated parking spaces are well distributed throughout the site. The details demonstrate provision for electric vehicle charging within the scheme for all dwellings. A Unilateral Undertaking has been requested to ensure that waste vehicles can service the private streets.
- 1.11 There are no objections from the relevant statutory consultees and Officers consider that the proposed appearance, landscaping, layout, and scale of the development is acceptable in planning terms, subject to the recommended conditions. Accordingly, it is therefore recommended that reserved matters are approved, pending the issuing of the Unilateral Undertaking.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

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

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

- 5.1 The site measures 15.7 ha and is situated on the northern edge of Bocking, adjacent to High Garrett. The parcel of land comprises a rough rectangular shape. The site is irregular in shape and falls north and westward towards an unnamed watercourse along the north-western boundary. The Site falls from 74.5mAOD, (located in the southeast corner) to 54.7mAOD (located in the southwest corner). The fall of 19.8m over a distance of 540m gives an average gradient of 1:27. Vehicular access to the site is gained via a single access point off Church Street.
- 5.2 Bocking is a village, a parish and a sub-district in Braintree and takes a linear format with Church Street being the principal route through the village. Bocking has a wide range of amenities and services, accessible from the site on foot, including the Co-Operative Food Store, a primary school, a Church and social club. Turning to the wider context, Braintree is located approximately 3km to the south of Bocking. The town is accessible by bus from High Garrett to the east of the site.
- 5.3 The site is divided into four land parcels with three smaller paddock areas to the south and one large field to the north. The large parcel comprises an arable field, with the smaller fields comprising semi-improved grassland, the majority of which were horse grazed, bound by hedgerows, a stream, broad-leaved woodland and scrub, with ditches along the central boundaries of the site. The sites western boundary is largely bounded by established trees. The remaining boundaries do have established trees present but are not continuous. The land slopes down from east to west and the gradient steepens towards the watercourse, located to the west.
- 5.4 With regards to surrounding land use, the east of the site is bordered by existing residential properties, located off Grove Field and Grove Orchard. The south of the site is bound by Church Street and the rear gardens of residential properties located off Church Street, Ashpole Road and Hadley Close. The west and north of the site is bound by open countryside. An area of woodland lies to the north of the south-eastern land parcel which

sits outside the red line boundary, this woodland is protected with a Tree Preservation Order. Braintree Hockey Club is located to the southeast of the site, on the opposite side of Church Street.

- 5.5 A Public Right Of Way (PROW 68_96) runs along the western boundary of the site which connects High Garrett to the north and Church Street, Bocking to the south. This western boundary has also been identified by the local community as an ecological corridor. A private farm track runs along the northern site boundary, east to west, and meets up with High Garrett (road). This track is gated off at High Garrett (road).
- 5.6 The site does not currently benefit from any specific policy designations and the site is not located within a Conservation Area. However, Bocking Conservation Area is located roughly 0.5km to the south-west of the site. There are no listed buildings located on the site, although Harriet's Farmhouse (Grade II Listed) is located approximately 100m from the site's western boundary with the principal elevation facing Church Street. Bocking Windmill, Grade I Listed and Scheduled Ancient Monument, lies to the south-west of the site.
- 5.7 The majority of the site is located within Flood Zone 1; however, an area along the western boundary is located within Flood Zone 2 and 3. An underground foul sewer with a 6m easement runs across the arable field in the north and westernmost paddock to the south, in a broadly north-east to south-west direction. A high voltage overhead electricity cable runs above ground across the southern portion of the site, which is proposed to be relocated.

6. PROPOSAL

- 6.1 Outline Planning permission was granted on 17th August 2020 by way of appeal (Appeal Reference: APP/Z1510/W/17/3187374) for the following:

Outline Planning permission for up to 265 residential dwellings (including up to 30% affordable housing), planting, landscaping, informal public open space, children's play area and sustainable drainage system (SuDS), with all matters reserved with the exception of access, at Land off Church Street, Bocking, Braintree in accordance with the terms of the application (ref: 17/01304/OUT), dated 14th July 2017.

- 6.2 All matters except access were reserved, meaning that the detailed appearance, landscaping, layout, and scale of the proposed development must be considered at the Reserved Matters stage, with the access being fixed at the outline stage.
- 6.3 The current Reserved Matters application seeks approval for appearance, landscaping, layout, and scale, along with the approval of Condition 18 (Hard and Soft Landscaping) for the entire site. The site would consist of:

- 253 dwellings in the form of bungalows, maisonettes, detached, semi-detached and terraced properties, ranging in size from 1 bed to 4 bed dwellings;
 - Associated parking, landscaping and open space;
 - Wildlife corridors, buffers and a Community Orchard;
 - Sustainable Urban Drainage Scheme components.
- 6.4 The Applicant has also submitted, by way of separate Discharge of Conditions applications, details of the following:
- Details of Drainage and Drainage Maintenance (required by Condition 24 and 25 of the Outline consent);
 - Details of noise and piling (required by Condition 2 and 19 of the Outline consent);
 - Details of Tree Protection (required by Condition 13 of the Outline consent);
 - Details of Finished Floor Levels (required by Condition 8 of the Outline consent);
 - Details of Contamination (required by Condition 9 of the Outline consent);
 - Details of Protection of Retained Habitats (required by Condition 14 of the Outline consent);
 - Biodiversity Management Plan (required by Condition 17 of the Outline consent).
- 6.5 The application is supported by a suite of documents which include:
- Design and Access Statement
 - Site Wide Compliance Statement
 - Sustainability Statement
 - Planning Statement
 - Statement of Community Involvement
 - Landscape and Ecological Management Plan
 - Affordable Housing Statement
 - Flood Risk and Drainage Report and Appendices
 - Acoustic Report
 - Arboricultural Impact and Method Statement

The design ethos for this site is taken from the approved Site Wide Design Guide which was approved pursuant to Condition 6 (Application Reference: 22/00804/DAC) of the appeal decision. The application is accompanied by a detailed set of plans, which cover site layout, car parking, gardens, enclosures, levels, landscaping, public open space, drainage, highways, and affordable housing, as well as house type floor plans and elevations for each dwelling and key street elevations and primary road frontages.

7. SUMMARY OF CONSULTATION RESPONSES

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

7.2 Anglian Water

Foul Water

7.2.1 Anglian Water require details on the connection points into the network, whether they are pumping or gravitating and those that are pumping the rate of discharge. Section 5 states there will be multiple discharge points some will gravitate some will pump, we would wish to be reconsulted on any forth coming drainage documents relating to this site.

Surface Water

7.2.2 Surface Water does not relate to Anglian Water owned assets, therefore we have no comment to make on this section of the Reserved Matters application.

7.3 Essex Fire and Rescue

7.3.1 The following comments were made:

7.3.2 *Access:* Access for Fire Service purposes has been considered in accordance with the Essex Act 1987 - Section 13. Access is considered satisfactory subject to the following: Access routes and hard standings should be capable of sustaining a minimum carrying capacity of 18 tonnes; minimum turning circle between kerbs 17.8 metres; there should be adequate turning facilities for fire appliances described in Paragraph 13.4 and diagram 13.1, approved document B 2019 volume 1.

7.3.3 *Water Supplies:* The architect or Applicant is reminded that additional water supplies for firefighting may be necessary for this development.

7.3.4 *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.

7.4 Essex Police

- 7.4.1 There is an apparent lack of natural surveillance over the NEAP area. We also share those concerns shown within the Design and Access Statement - Boundaries - Item 12 in relation to the publicly accessible space between the old and new gardens, where not restricted by shrubs these potentially provide concealment to commit crime and ASB. To comment further, we would require the finer detail such as the proposed lighting, and physical security measures. We would welcome the opportunity to consult on this development to assist the developer demonstrate their compliance with this policy by achieving a Secured by Design Homes award. An SBD award is only achieved by compliance with the requirements of the relevant Design Guide ensuring that risk commensurate security is built into each property and the development as a whole.

7.5 Health and Safety Executive

- 7.5.1 No response received.

7.6 Natural England

- 7.6.1 No objection, subject to the mitigation details within the Appropriate Assessment being secured.

7.7 NHS

- 7.7.1 No response received.

7.8 North East Essex Badger Group

- 7.8.1 No response received.

7.9 Ramblers Association

- 7.9.1 No response received.

7.10 Sport England

- 7.10.1 Response received. The application does not fall within the statutory or non- statutory remit.

7.11 BDC Environmental Health

- 7.11.1 No comment confirmed. It is noted that there are many Conditions detailed in the Planning Appeal Decision that relate to Environmental issues. Conditions 9, 10, 11, 20, 21 and 22, in particular. Environmental Health will be commenting on the conditions.

7.12 BDC Housing Research and Development

- 7.12.1 No objection following revisions to the housing mix. This application seeks detailed approval for a scheme that comprises 253 residential dwellings, including 76 affordable homes as shown in the table below. I confirm we are comfortable in supporting the mix.

Type	Number	Affordable Rent	Shared Ownership
1 bed 2 person maisonettes	12	8	4
2 bed 3 person FOG	1	0	1
2 bed 4 person houses	39	27	12
3 bed 5 person houses	16	10	6
3 bed 5 person bungalows - M4 3 (2b)	2	2	0
4 bed 6 person houses	2	2	0
4 bed 7 person houses	4	4	0
	76	53	23

- 7.12.2 In regard to tenure, we note the intermediate tenure element of the affordable housing mix illustrated in the Planning Statement is identified on the Affordable Distribution Plan as specifically being homes for shared ownership, which we agree. This application provides clear opportunity for a significant number of new affordable homes to be delivered which will add to the existing social housing stock and assist the Council in addressing housing need.

7.13 BDC Landscape Services

- 7.13.1 No objection. Detailed discussions have been undertaken with Landscape Officers throughout the process. A number of revisions were requested in November 2022, which have been undertaken in the latest iteration of the landscaping scheme.

7.14 BDC Waste Services

- 7.14.1 The shared private driveways will need to be either built to an adopted standard and maintained as such, and Braintree District Council (BDC) given written indemnity to state that BDC will not be responsible for any damage caused as a result of its collection vehicles driving over to access waste and recycling. This is because many of the drag distances appear to exceed well over the standard 20 metres we use as our benchmark, which is 5 metres over the 15 metre British Standard.

7.15 ECC Archaeology

- 7.15.1 A programme of archaeological evaluation has been completed across the site, no further fieldwork was required and a report has been received and approved. There will be no further archaeological recommendations on the application.

7.16 ECC Ecology

- 7.16.1 We have reviewed submitted documents for this application, including the soft landscaping information, the Biodiversity Management Plan - 9682.BMP.vf5 (Ecology Solutions Ltd, February 2023), The Ecological Briefing Note (Ecology Solutions Ltd, January 2023), Briefing Note – Biodiversity Net Gain (Ecology Solutions Ltd, January 2023), the Biodiversity Metric 3.1 – Calculation Tool (December 2022) and the HRA blocking on-site footpaths (December 2022). Furthermore, we have re-assessed the submitted documents provided at outline stage (17/01304/OUT), including the Ecological Appraisal and Protected Species Report which was submitted (FPCR Ltd, July 2017).
- 7.16.2 It is highlighted that Place Services previously had concerns that the Biodiversity Management Plan was not informed by an up-to-date site walkover, given that the ecological assessments carried out at the outline stage were considered out of date in line with CIEEM Guidance. However, we are pleased to see that the Ecological Briefing Note (Ecology Solutions Ltd, January 2023) outlines that walkover surveys have been completed by suitably qualified persons in 2021 and 2022, so we are satisfied that the Biodiversity Management Plan is informed by up-to-date site assessments.
- 7.16.3 In regard to the additional information to support the provision of a Habitats Regulation Assessment, it is indicated that this further information was requested from the Applicant following the provision of Natural England's Consultation Response (Ref. 400562, July 2022). This highlighted that a Habitats Regulations Assessment had not been completed by the competent authority as part of the outline decision, even if a financial contribution towards the Essex Coast Recreational Disturbance and Avoidance Mitigation Strategy (RAMS) was secured via Schedule 2 of the S.106 agreement. As a result, this document was considered necessary to support the reserved matters decision, so a Habitats Regulation Assessment – Appropriate Assessment has now been prepared by the Council. This includes the provision of on-site mitigation to avoid adverse effects upon site integrity from the development alone to the Blackwater Estuary Special Protection Area (SPA) & Ramsar site and Essex Estuaries Special Area of Conservation (SAC). Natural England have now confirmed that they are satisfied with the mitigation contained within the Habitats Regulation Assessment – Appropriate Assessment in their further consultation response (Ref. 419685, February 2023). Consequently, we are satisfied that the LPA have demonstrated compliance with the Conservation of Habitats and Species Regulations 2017 (as amended) for this application and indicate that the finalised on-site measures could be secured as a further condition of any consent (prior to occupation) by the LPA.
- 7.16.4 It is indicated that we still support the overall design of the landscape masterplan for this development and have no additional recommendations for the planting schedules of the scheme, following the submission of

updated information. In addition, we are also pleased to see that the Applicant has submitted a Biodiversity Metric 3.1 – Calculation Tool (October 2023), which demonstrates that a positive net gain of 50.73 Habitat units (15.93%) and of 25.45 Hedgerow units (33.72%) will likely be obtained. However, we note that a trading issue is present (i.e. habitat with medium distinctiveness lost has not been replaced with other habitat with the same distinctiveness), which goes against Rule 3 of the Biodiversity Metric 3.1 User Guide. This has been acknowledged within the Briefing Note – Biodiversity Net Gain (Ecology Solutions Ltd, January 2023) and indicates that this was owing to net loss of arable field margins, which should ideally be replaced with a habitat of similar or higher distinctiveness. Nevertheless, we agree that it is not possible to retain a similar habitat for this development and that a functional net gain will likely be achieved via the provision of the Other – Neutral Grassland a part of the proposals. As a result, we are satisfied that measurable biodiversity net gains can be delivered, in line with Paragraph 174d and 180d of the NPPF 2021.

- 7.16.5 The initial planting specifications and aftercare measures of the soft landscaping should be secured via a Landscape Ecological Management Plan to be secured as a condition of any consent prior to occupation, which should be prepared with consideration of the aims and objectives of the Biodiversity Metrics. Furthermore, it is indicated that we support the range of bespoke enhancement measures outlined within the Biodiversity Management Plan - 9682.BMP.vf5 (Ecology Solutions Ltd, February 2023). Therefore, we consider that sufficient information is available to meet the requirement of Condition 17 of the outline consent.
- 7.16.6 We also reiterate that a wildlife friendly lighting scheme should be provided for this application prior to occupation, in line with Condition 16 of the outline consent. This should follow guidance from The Institute of Lighting Professionals and Bat Conservation Trust. Therefore, it is highlighted that a professional ecologist should be consulted to advise the lighting strategy for this scheme. In addition, the following measures should be indicated to avoid impacts to foraging and commuting bats:
- Light levels should be as low as possible as required to fulfil the lighting need.
 - Environmentally Sensitive Zones should be established within the development, where lighting could potentially impact important foraging and commuting routes for bats.
 - An isolux plan should be provided to demonstrate that lighting is directed away from Environmentally Sensitive Zones. This should preferably demonstrate that the boundary features and Environmentally Sensitive Zones are not exposed to lighting levels of approximately 1 lux. This is necessary to ensure that light sensitive bat species, will not be affected by the development.
 - Warm White lights (<3000k) should be used near to Environmentally Sensitive Zones. This is necessary as lighting which emit an ultraviolet component or that have a blue spectral content have a high attraction

- effect on insects. This may lead in a reduction in prey availability for some light sensitive bat species.
 - Light columns should be as short as possible as light at a low level reduces the ecological impact.
 - The use of cowls, hoods, reflector skirts or shields should be considered to prevent horizontal spill.
- 7.16.7 This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.
- 7.16.8 Submission for approval and implementation of a Landscape and Ecological Management Plan and delivery of onsite measures in line with the approved Habitats Regulations Assessment should be a condition of any planning consent.
- 7.17 ECC Education
- 7.17.1 No response received.
- 7.18 ECC Highways
- 7.18.1 No objection.
- 7.19 ECC Historic Buildings Consultant
- 7.19.1 The Outline Application (Application Reference 17/01304/OUT) was approved at Appeal (APP/Z1510/W/17/3187374) on 17th August 2020. In their Decision Notice for the appeal the Planning Inspector noted that “the proposed development would not harm the setting of Bocking Windmill, a Grade I listed building and scheduled ancient monument, or Bocking Conservation Area.” Therefore, the assessment of impact on the significance of Harriett’s Farmhouse (List UID: 1122488) as a result of the reserved matters is necessary here. The Heritage Statement accompanying the Outline Application stated that “glimpsed views of the development may be possible in views north and east from the heritage asset (Harriett’s Farmhouse) during the winter months” (Pegasus Group June 2017). I do not find that the layout, design, landscaping and materials would result in any increase in the low level of less than substantial harm to Harriett’s Farmhouse than that already identified in previous assessments of the scheme and the Inspectors comments. In general, and in terms of local character and distinctiveness, the variation in designs and materials for the dwellings is beneficial. I note that the drawings indicate the weatherboarded houses would be clad in “timber/equivalent looking material”. The ‘equivalent looking material’ is likely to be a faux timber, cement fibreboard cladding. Ideally the use of traditional, natural materials, such as timber weatherboarding will make a positive contribution to local character and distinctiveness and this should be encouraged.
- 7.19.2 No objections to the scheme proposed in this application and I recommend a condition on materials, to ensure the high quality of the development

makes a positive contribution to local character and distinctiveness, in line with Paragraph 197c of the NPPF.

7.20 ECC Independent Living

7.20.1 No response received.

7.21 ECC Suds (LLFA)

7.21.1 No objection, subject to the imposition of conditions in relation to (1) scheme to minimise the risk of offsite flooding during construction (2) yearly logs of maintenance. A number of Informatives have also been recommended.

8. REPRESENTATIONS

8.1 The application was advertised by way of site notice, newspaper notification and neighbour letter. Three rounds of consultation were undertaken due to amendments with the proposal. In total 38 objections have been received at the time of writing from 16 neighbours.

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

8.3 Representations received have been summarised below:

- Lack of infrastructure accompanying the application;
- Traffic congestion in the area is already ridiculous, with parked cars and fatalities;
- Speed limit of roads should be reduced to 30mph;
- Should be a traffic lights crossing on A131;
- Pedestrian safety is compromised;
- No space in dentist, doctors or schools;
- Involves building on the Greenbelt or Countryside;
- Detriment to air quality, local roads already being manned in terms of air quality;
- The surrounding villages will be hugely impacted;
- Space should stay as open countryside;
- Crime rate will increase;
- Impact on local wildlife;
- Concerns the drainage on the site has not been considered and riparian rights to the natural spring in back garden;
- Gardens at Hadley Close have been marked as flat with no water course running through;
- Concerned about the boundary fence halfway across back garden and the security of the gate;

- Not good design and dominant, bungalows are clumsy and should be redesigned;
- Should be conditions on materials;
- Houses should have PV and rainwater harvesting should be incorporated;
- Play area should be at the other end of the development away from main road;
- The affordable housing is not affordable;
- Too large and out of keeping with surrounding area;
- Disruption to local wildlife habitats;
- Overlooking to properties in Grove Field;
- Eastern maintenance track will increase burglary risk in the area;
- Would be better if the development became a natural extension of the village area with more sympathetic design;
- More amenities needed to cater for these homes;
- Factual inaccuracies in the documents which could have serious impacts on our garden;
- Use of herbicides over large areas will damage living creatures and go into water course;
- The trees indicated on the Arboricultural Impact Assessment are incorrect in that some are located within a property of Hadley Close and others missed;
- The close boarded fence should not stop short of the wooded area;
- The development will cause the spring that feeds our ponds and bog garden to dry up, taking away amenity of moorhen, mallard, fish, dragon and damselfly and occasionally otters;
- The Environmental Reports are flawed as well as the inaccurate statements in the Sustainability Statement;
- Natural England have stated that a Habitats Regulation Assessment has not been undertaken, and will disturb protected species;
- Drainage plan mentions Exceedance Flow Route, which indicates that if there is an over flow from the roads, this would run into our garden (Hadley Close) and potentially pollute our watercourses;
- Any overflow from the site may drain into Hadley Close rear gardens;
- Who will be responsible for ensuring that the wildflower meadows are cut at the right time of year and that cuttings removed to stop the soil becoming fertile?
- Can find no reference to swift bricks, bat boxes and bird nest boxes;
- Construction traffic using the roads, creating dirt and noise on the highway;
- Off street parking by contractors and future residents in adjacent streets;
- The design is not compatible with Ashpole Road or Hadley Close;
- The local pubs and sections of areas close to the Windmill reflect use of Roman bricks taken from a local villa. If the villa is exposed during the building of this development, will it be saved?

- Residents of Hadley Close benefit from Riparian Rights to the spring that feeds the gardens in this area, the water course to the rear gardens should not dry up;
- The level difference between Hadley Close and the site are not shown on the plans;
- The proposed wildlife corridor behind Hadley Close have always been used as a footpath to access and enjoy the countryside. How can we continue to do this?
- The disclaimers on the flood risk show no responsibility;
- Boundary dispute: The fence showing boundary treatment runs in to my garden;
- Harm to protected species within the site;
- Development will reduce wildlife on site;
- Increase in biodiversity on the site since last surveys undertaken. Wildlife should be protected and provided for;
- Building on green space will effect wellbeing and reduce property values.
- Boundaries should be 9m but plans say 4m;
- Biodiversity report misses out the stream and pond in Hadley Close gardens;
- There are protected species that use the unnamed stream at the rear of Hadley Close;
- Wildlife corridors of 2m and 4-5m, I was under the impression they would be as much as 9m;
- Holes in fences, how big will these be?;
- How will protected species access the orchard?;
- Work on site to protected species has been undertaken without consent;
- Loss of privacy;
- Sufficient protection of the woodland should be given;
- Back gardens of High Garrett being overlooked should be taken into consideration.

10. PRINCIPLE OF DEVELOPMENT

- 10.1 Outline Planning permission was granted on 17th August 2020 by way of appeal (Appeal Reference: APP/Z1510/W/17/3187374) for “up to 265 residential dwellings (including up to 30% affordable housing), planting, landscaping, informal public open space, children’s play area and sustainable drainage system (SuDS), with all matters reserved with the exception of access, at Land off Church Street, Bocking, Braintree in accordance with the terms of the application (Application Reference: 17/01304/OUT), dated 14th July 2017, and the plans submitted with it, subject to the conditions in the attached schedule.
- 10.2 The appeal (Public Inquiry) was made because of the failure of the Local Planning Authority to determine the original planning application that consisted of up to 300 residential dwellings. As part of the application, an illustrative scheme for the layout of the site was submitted. This scheme raised several concerns about the development of the site and particularly

the inter-relationship between Bocking and High Garrett. Therefore, an alternative illustrative scheme was put forward omitting development on the land at the road junction corner between Church Street and High Garrett (A131) and proposing that the housing numbers be reduced from up to 300 to up to 265 dwellings. Both scenarios were assessed by the Planning Inspector as part of the appeal.

- 10.3 The LPA cited 4 reasons for refusal: highways; character and appearance relating to coalescence of Bocking with High Garrett; flood risk; and affordable housing. Before the initial opening of the Inquiry the reason for refusal relating to highways had been resolved between the Appellant and the Council, subject to mitigation works, as set out in a Statement of Common Ground with regard to Highway and Transportation.
- 10.4 The reason for refusal related to flood risk matters was resolved when Essex County Council, as Lead Local Flood Authority were satisfied that a suitable drainage strategy could be developed and so the Council withdrew from defending this reason. However, some local residents remained concerned about some flood risk matters.
- 10.5 The reason for refusal related to affordable housing was also resolved. As a S106 planning obligation had been discussed between the Council and Appellant to provide 30% affordable housing, it was agreed that this matter would be resolved and, therefore, would not be an issue for the Inquiry other than clarifying the detail within the S106.
- 10.6 The remaining reason for refusal related to character and appearance; visual impacts, in particular, relating to coalescence of Bocking with High Garrett and the consideration of the effect of the proposed development on the setting of a nearby listed building, Harriets Farmhouse. These formed the main issues within the Inquiry. The Inspector also confirmed that the development would not harm the setting of Bocking Windmill, a Grade I Listed building and Scheduled Ancient Monument, or Bocking Conservation Area, given the extent of separation and intervening development and so did not consider those heritage assets further. At a local level concerns were raised regarding the impacts of the proposed development on wildlife, including protected species. The appeal was based on the 'tilted balance' due to the Council having a housing land supply of 4.49 years at the time of the Inquiry.
- 10.7 In conclusion the Inspector stated that *'There is no dispute that the proposed development would conflict with policies of the development plan which seek to protect the countryside by limiting development to that within development boundaries. However, the Framework provides a significant material consideration, expressing, as it does, national planning policy. Because the Council cannot identify a five year housing land supply, paragraph 11 (d) is engaged. As such, policies which constrain development as identified are out of date. This means for decision taking that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when*

assessed against the policies of the Framework taken as a whole'. The Inspector concluded that the scheme for up to 265 was the preferable scheme with limited landscape harms and negligible harm to Harriets Farmhouse which would not significantly and demonstrably outweigh the benefits of housing development, including the ancillary economic benefits, in this location.

10.8 In terms of landscape character and coalescence, the Inspector concluded that *'the position of the land is such that there would be a connecting of Bocking with High Garrett, separation being limited to narrow boundary strips between existing and proposed development. However, in visual terms, the proposed mitigation would limit the effect of this in views from the north on the public rights of way network, which in any event are at a relatively long distance. I therefore do not consider that this would cause serious harm to landscape character or indeed visual impact. The use of the existing parcel of land at the junction of Church Street and High Garrett (A131) to create a community orchard would result in a continuing sense of space and separation at this point, such that I do not consider that there would be a significant impact on the character and appearance of the locality in public views from this area'*. The Inspector concluded that this scheme should be approved.

10.9 The appeal decision approved 2 drawings, those being the Location Plan (CSA/3321/104) and the Access Plan (17-T047_06). A comprehensive set of 26 conditions and S106 obligations were agreed. A S106 agreement dated 20th June 2018 was also agreed. The S106 agreed the following clauses:

- Education - Financial contribution for Early Years and Primary years;
- Healthcare - Financial contribution (£378.50 per dwelling);
- Open Space Works Specification - the specification for laying out the Open Space and Play areas;
- Outdoor sports financial contribution (Formula based) - to be utilised for improvement and provision of outdoor sport facilities at Releet Sports Ground or Bocking Sports Club;
- Affordable Housing - 30% onsite with a 70:30 split (affordable rent/ shared ownership);
- Provision of Community Orchard - including submission of Community Orchard Specification;
- Management Plan and Management Company - formation of a Management Company for the purpose of managing and maintaining the Open Space and Community Orchard;
- Travel Information and Travel Pack;
- Travel Plan Monitoring Fee.

10.10 This was followed by a supplementary S106 Agreement, 10th May 2019, requiring a financial contribution in respect of the Habitat Regulations Assessment RAMS.

- 10.11 Condition 6 of the outline approval, required a Site Wide Design Guide to be submitted and agreed by the Local Planning Authority. A Site Wide Design Guide was submitted and approved by the Local Planning Authority on 5th May 2022 pursuant to Application Reference 22/00804/DAC.
- 10.12 The current application seeks approval for the Reserved Matters pursuant to the permission. The following have been considered:
- Appearance;
 - Landscaping;
 - Layout; and
 - Scale.
- 10.13 It is therefore these reserved matters which must be assessed in detail.
- 10.14 The principle of residential redevelopment of the site has been established by the appeal decision (Appeal Reference: APP/Z1510/W/17/3187374) which was issued on 17th August 2020. The current application has been assessed in accordance with the approved Site Wide Design Guide and is in general conformity. Therefore, the principle of this application for Reserved Matters is considered acceptable.

11. SITE ASSESSMENT

11.1 Layout, Appearance and Scale

- 11.1.1 Policy SP7 of the Adopted Local Plan states that all new development must meet high standards of urban and architectural design. Policy LPP52 of the Adopted Local Plan states that the Council will seek a high standard of layout and design in all developments in the District.
- 11.1.2 At the national level, the NPPF is also clear in its assertion at Paragraph 126 that:
- ‘The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities’.*
- 11.1.3 There is therefore a strong policy basis for achieving a high degree of quality in terms of the appearance, layout and scale of the development whilst ensuring that it complies with the outline planning permission and Site Wide Design Guide for the site.
- 11.1.4 During the lifetime of the application, the proposal has been modified following discussions between Officers and the Applicant to overcome concerns regarding layout. The details produced as part of the reserved matters application were produced following an extensive pre-application process involving significant engagement with Officers from Planning;

Landscaping, Ecology, Highways and Design specialisms. This included detailed Design Workshops, a number of pre-application meetings, design and layout critiques and regular discussions between the Local Planning Authority and the Applicant's Design Team.

- 11.1.5 Consequently, the level of detail submitted, and the proposed quality of the proposal is considered by Officers to be high and is underpinned by a carefully considered and detailed Site Wide Design Guide (SWDG) that was approved in May 2022 and sets the design principles for the site.
- 11.1.6 The details submitted with the Outline application did include an illustrative masterplan, although this drawing was not an approved document, it was commented on within the appeal decision by the Planning Inspector and has set the principles and expectations going forward.
- 11.1.7 The Applicant proposes 253 dwellings over a gross site area of approximately 15.7 ha, giving a gross density of approximately 16 dwellings per hectare. The net developable area within the site is 8.79ha, giving a net density of 29 dwellings per hectare. The density of development is graduated across the site with a medium density of development (characterised by short terraces and semi-detached houses) across the middle part of the site extending from the west, and lower density areas (characterised by semi-detached and detached dwellings) towards the north, south and eastern boundaries. Neither of these densities are excessive and both are considered appropriate for this location.

Layout

- 11.1.8 In terms of layout, and as per the Outline consent, the development will be served by a single vehicular access from Church Street to the south of the site. The principal street would run from south to north through the development with the secondary streets connecting from the principal street to serve the western pocket of development and provide a loop. Shared surface streets would be provided for the rest of the development which consist mainly of cul-de-sac areas. The main developable area sits within the centre of the site running north to south.
- 11.1.9 An active frontage is proposed along Church Street, with dwellings following the pattern of the existing properties. The siting, scale and design of these dwellings would positively address the road, reflecting adjacent detached built form and resulting in a high-quality character and appearance.
- 11.1.10 The layout has been structured by the site topography and existing landscape features. There is a large area of open space to the western side of the site (2.97ha, not including wet SuD's basins), with the community orchard (1.49ha) located to the south eastern corner of the site, in accordance with S106 plan 2017-018-400A. A central Green Corridor runs east to west leading from the open space area to the west, to the

community orchard to the east. Substantial landscape buffers are provided on all boundaries.

- 11.1.11 Footpaths have been integrated throughout the development to connect the open space to the west with the Community Orchard to the east, with footpath links to the wider Bocking area and High Garrett (road) bus stop. There are also links to the existing public footpath to the west and north of the open space, to the countryside beyond.
- 11.1.12 The application proposes residential dwellings as a series of 1, 2 and 2.5 storey detached, semi-detached and terraced dwellings with the inclusion of limited bungalows and maisonettes. The proposed dwelling mix is as follows:

Unit Mix	Unit Numbers	Unit %
1 bed	12	4.7
2 bed	69	27.3
3 bed	59	23.3
4 bed	116	44.7
Total	253	100

- 11.1.13 All dwellings are proposed to front the open space in the first instance, and internal roads in the second instance with a minimum of 1.5m defensible space to the front of the dwelling to improve privacy to future occupants and provide a boundary to the shared surface road and street. The orientation of dwellings and the positioning of windows will ensure there is plenty of natural light and informal surveillance overlooking the site. Furthermore, dwellings located on corner plots have been designed to ensure that they provide natural surveillance to both streets, preventing inactive frontages and maximise garden space by orientation. The configuration and positioning of the dwellings on the site is legible and logical with a variety of dwelling sizes which aids in the creation of mixed and sustainable communities.
- 11.1.14 The Affordable Housing is scattered throughout the site and provides a good level of variety and choice in terms of size and location in accordance with the requirements of the Council's Affordable Housing Officer.

Affordable Housing/ Tenure Mix

- 11.1.15 Planning policies are clear that the District Council should seek to promote mixed and inclusive communities. Policy LPP35 of the Adopted Local Plan states that the Council will seek the provision of a range of house types and sizes at an appropriate density of the area which reflects local need. Policy LPP35 also states that housing mix should be in line with the identified local need as set out in the 2015 Strategic Housing Market Assessment (SHMA) update (or its successor), unless material considerations indicate otherwise.

- 11.1.16 The S106 agreement attached to the Outline consent requires that 30% of proposed dwellings are provided as affordable with a 70:30 tenure split (Affordable Rent: Shared Ownership). The application proposes a total of 76 dwellings, requiring 53 social rented units and 23 shared ownership units. The proposals also include two wheelchair accessible affordable housing dwellings (2 x 3 bedroom wheelchair bungalows capable of housing 5 persons) which comply with Building Regulations Part M4 Category 3a.

Affordable Housing Mix

Unit Mix	Unit Numbers	Unit %
1 bed	12	15.8
2 bed	40	52.6
3 bed	18	23.7
4 bed	6	7.9
Total	76	100

Affordable Rented		
Unit Mix	Unit Numbers	Unit %
1 bed 2 person maisonette	8	15.1
2 bed 3 person FOG	0	0
2 bed 4 person house	27	50.9
3 bed 5 person house	10	18.9
3 bed 5 person bungalow (Part M4(3)a)	2	3.8
4 bed 6 person house	2	3.8
4 bed 7 person house	4	7.6
Total	53	100
Shared Ownership		
Unit Mix	Unit Numbers	Unit %
1 bed 2 person maisonette	4	17.4
2 bed 3 person FOG	1	4.4
2 bed 4 person house	12	52.2
3 bed 5 person house	6	26.1
3 bed 5 person bungalow (Part M4(3)a)	0	0
4 bed 6 person house	0	0
4 bed 7 person house	0	0
Total	23	100
Grand Total	76	

- 11.1.17 The Councils Housing Officer is supportive of the tenure mix and comments that it will match evidence of housing need. The grouping of the affordable housing across the site in terms of tenure size has been considered throughout the site and is not considered to result in an excessive cluster of affordable dwellings that would result in social exclusion. This does not raise any conflict with the Affordable Housing SPD. In addition, it is considered that the development is 'tenure blind', with the layout and

design of dwelling types and tenures across the development appearing uniform.

Market Housing Mix

- 11.1.18 In terms of Market dwelling mix, the Strategic Housing Market Assessment (SHMA) requires the following dwelling sizes for market housing: - 1 bed (5.7%); 2 bed (34.2%); 3 bed (42.8%); 4 bed + (17.2%). The Market dwelling mix is shown in the below.

Unit Mix	Unit Numbers	Unit %
1 bed	0	0
2 bed	23	13
3 bed	44	25
4 bed	110	62
Total	177	100

- 11.1.19 The mix of market dwelling types for the scheme is limited to the following: - 2 bed (13%); 3 bed (25%); 4 bed + (62%). The development therefore is not in accordance with policy requirements in terms of a lack of 1, 2 and 3 bed dwellings and the over-provision of 4 bed dwellings.
- 11.1.20 Whilst this is not ideal, the SHMA does state that market housing mix can deviate from the expected percentage mix should the site be more suited to an alternative mix. The pattern of development in the locality is for larger dwellings such that the housing mix would reflect the character of the locality. The site also presents a unique opportunity to provide family-sized dwellings which may not be achievable within a more urban and dense environment elsewhere within the District. It should also be noted that recent appeal decisions have stated that mix of market housing should be secured at the Outline stage, which was not applied by the Planning Inspector for this Outline consent. On balance, although this non-compliance with the SHMA does weigh against the proposal in the overall balance, it is not considered in its own right to form a reason for refusal.

Scale

- 11.1.21 In terms of scale, Condition 7 of the outline appeal decision dictates the height of the dwellings on the site as being no more than 2.5 storeys in height. The site is predominantly 2 storeys in height with a very small proportion (20 dwellings) of 2.5 storeys. The 2.5 storey properties are mainly located within the centre of the site, with 1 property along the eastern edge adjacent to Grove Field. Two one storey bungalows are located to the south western edge of the site.
- 11.1.22 The site consists of 135 detached dwellings (53%), 85 semi-detached dwellings (34%), 19 terraces (7%), 12 maisonettes (5%) and 2 detached bungalows (1%). Approximately half of the dwellings are detached, principally located around the edges of the site overlooking the countryside and public open space. A majority of the semi-detached and terraced

properties lie within the centre of the site, with the bungalows and maisonettes towards the south west of the site.

Residential Quality

- 11.1.23 The Council has adopted the Essex Design Guide as a Supplementary Planning Document which stipulates garden sizes and separation distances between buildings. Furthermore, Policy LPP52 of the Adopted Local Plan dictates residential quality for all new development.
- 11.1.24 The orientation, separation distances and garden sizes of the dwellings have been designed to comply with the Essex Design Guide and are NDSS compliant. There are two dwellings within the development that fall short of the Essex Design Guide back to back distance of 25m (Plots 183 and 184). These are both private detached dwellings that have a shortfall of 2-3 metres, due to the orientation of the properties. On balance, and given that the remainder of the site internally achieves the required amenity distances, this is considered acceptable.
- 11.1.25 Due to the gradients and levels of the site, the application was accompanied by a series of sections and finished floor level plans, required pursuant to Condition 8 of the Outline consent. These levels will dictate the future internal and external amenity of the properties and boundary enclosures throughout the site. Due to the complexity of these levels, they are still under consideration by the Council. A boundary and enclosures condition has been recommended to ensure that both details of levels, and enclosures can be considered concurrently, to prevent internal future amenity/overlooking issues between properties.
- 11.1.26 A full acoustic survey and noise mitigation scheme was recommended pursuant to Condition 19 on the Outline consent. This takes into consideration all aspects of noise and vibration from traffic movements and the potential effect on residents. Details have been submitted pursuant to Condition 19 and are currently under consideration.
- 11.1.27 In order for future residential amenity to be preserved, a condition has also been recommended to remove permitted development rights for all dwellings. This is in order to preserve the character of the countryside setting, prevent overlooking and ensure that the design of the buildings are preserved.
- 11.1.28 Overall, the quality of accommodation is considered acceptable, subject to conditions and the proposed standard of residential accommodation is deemed satisfactory in terms of floorspace, natural light, orientation and external amenity provision providing good quality residential accommodation.

Appearance

- 11.1.29 Policy LPP52 of the Adopted Local Plan seeks to secure the highest possible standards of design and layout in all new development. The design approach to the development is set out in detail in the accompanying Design and Access Statement (and addendums). The final proposed designs are the result of detailed pre-application and post submission dialogue with the Council and Planning Officers and Urban Design Consultant.
- 11.1.30 The appearance and layout of the site has been led by the approved Site Wide Design Guide (SWDG). The dwellings are of a sympathetic design and include high quality architectural and fenestration detailing, which would contribute to the overall quality of the development, in accordance with the approved SWDG. The chosen palette of materials include render, red/ orange brickwork, with roofing materials to include chimneys, brown/ red and grey roof tiles, and lead lined dormers. All of these are considered appropriate for Bocking and would ensure that the sympathetic design references back to the wider context of the site. A condition is imposed to require samples and details of the precise materials to secure the delivery of a high-quality finish. Four character areas are proposed within the site. These areas are characterised below:

Central Character Area

- 11.1.31 This character area forms the majority of the housing within the site, but includes the eastern boundary and frontage to Church Street. The dwellings are predominately detached 2 storey dwellings, with a limited number of 2.5 storey dwellings (8 properties) with boundary treatments to include flint walls and hedges. The dwellings are predominantly red/ dark red and orange brick with red/ brown/ artificial slate roof tiles except for keynote dwellings which are generally located on the corners and feature predominantly render and grey slate roof tiles. The streets are tree lined with regular planting with dwellings set back behind verge and front gardens where possible. The properties fronting Church Street have been designed to be in line with the existing frontages to the south west with materials and detailing found in and around the Conservation Area and Church Street east. A cluster of affordable rent and shared ownership dwellings are located to the south of the site within this character area.

Shared Space Streets Character Area

- 11.1.32 This character area sits to the south of the site, either side of the Green Corridor, bounded to the south by Hadley Close property boundary. It consists of a greater number of terraces, semi-detached dwellings, maisonettes and flats. A mixture of affordable rent dwellings and shared ownership dwellings are located in this area due to the variation in house size. This area also features 2 bungalows to the south. This area is defined by a more predominately shared surface street with block paved surfaces and parking spaces with a generally more urban character. The dwellings

are generally more narrow fronted, flat fronted dwellings with gable roofs and a limited palette of materials (red/ brown brick with brown roof tile).

Rural Edge Character Area

- 11.1.33 This character area runs the northern and western boundary of the built form for the site. The area consists of a lower density built form with two storey detached dwellings in larger plots with parking to the side. The dwellings front the public open space to the north and west. The dwellings are accessed from a shared private drive fronting the open space and consist of 2-6m deep front gardens. Render and brick are the prominent facing materials for these dwellings. Two shared ownership units are located within this character area which sit to the north western corner of the site.

Linear Corridor Character Area

- 11.1.34 This character area sits within the centre of the site in a linear form consisting of semi-detached dwellings ranging in 2 - 2.5 storeys in height. It is characterised by the homogeneity in built form and materials consisting of render and timber boarding with boundary treatment of flint panelling within the brick walls. There is a regular pattern of street trees within this character area with perpendicular parking for residents. This character area includes 18 affordable dwellings, both shared ownership and social rent.
- 11.1.35 Officers consider that the overall design and appearance of the dwellings and overall principle of the scheme's architectural treatment and justification is well handled. The proposal is also in general accordance with the approved Site Wide Design Guide. Overall, the layout, appearance and scale of the proposal are considered to be acceptable. Layout in relation to landscaping and green infrastructure is discussed in more detail below.

11.2 Open Space and Landscaping

Open Space

- 11.2.1 Policy LPP50 of the Adopted Local Plan requires land to be made available for open space in housing developments and for their size and location to be adequate to meet the needs of the development they serve in accordance with the requirements set within the Open Space Supplementary Planning Document 2009. Policy SP7 of the Adopted Local Plan states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. It goes on to state that new development should enhance the public realm through additional landscaping, street furniture and other distinctive features that help to create a sense of place.
- 11.2.2 The proposed development would provide a variety of public open space on the site, including the provision of amenity and natural green space, a large open space area to the west, recreation, a Community Orchard, a

central Neighbourhood Equipped Area of Play (NEAP) and an informal Local Equipped Area of Play (LEAP). This would provide a permeable and accessible network of green space which will be necessary to serve the needs of the residents of the development, but will also be of value to the wider community.

- 11.2.3 The illustrative masterplan, although not an approved document, set the principles for the location of the open space and landscape buffers throughout the site. These were carried through to the approved SWDG, which then set the principles for this Reserved Matters application. The extents and location of the green infrastructure has been informed by ecological and landscape surveys, the Outline Planning Permission, and engagement with the community and Officers. Throughout the application, discussions have been undertaken with Landscape Services and Ecology in relation to the soft and hard landscaping on site, particularly in relation to the inclusion of ecological corridors and links for existing ecology on site.
- 11.2.4 The Open Space SPD sets a minimum Open Space requirement of 1.79ha for this site. Approximately 5.54ha of useable Open Space is proposed on the site, well in excess of policy requirements. This is defined below:

Type	Ha
Community Orchard	1.49ha (including 0.1345ha NEAP and 0.12ha open kickabout area)
Strategic Open Space	3.88ha Comprising: - Countryside edge- 2.97ha (including 0.0365ha LEAP and 0.2ha dry basin) - Northern Boundary – 0.27ha - Green Corridor - 0.64ha
Amenity Space	0.17ha - Frontage to Church Street – 0.10ha - Green adjacent to plot 150/151 – 0.02ha - Nodal Space adjacent to plots 187-190- 0.05ha

- 11.2.5 There is a further 0.68ha of unusable open space within the proposal. The permanent pond and low flow channel (0.28ha) which sits within the Strategic Open Space, and the Green Corridors and Buffers (0.4ha) within the site.
- 11.2.6 The two significant areas of open space are the Countryside Edge and the Community Orchard, a requirement of the S106.

The Countryside Edge

- 11.2.7 The Countryside Edge is an area of open space, measuring approximately 2.97ha, which defines the edges to the north and west of the site providing a buffer to the existing water course and transition to the adjoining

countryside. The character of this area is semi-natural with spaces for informal recreation. Two Sustainable drainage (SuDS) basins sit within the open space area. The existing trees and hedgerows are being retained, except to facilitate access to the pumping station, and enhanced with a mosaic of habitats to encourage a range of wildlife including birds, reptiles, amphibians, invertebrates and protected species.

- 11.2.8 The area is accessible by meandering surfaced and mown lawn. Two connections are provided to the existing public right of way, to the northwest and southwest, providing links to the countryside beyond.
- 11.2.9 Informal play spaces are provided at 3 key points along a natural play trail (LEAP) measuring 0.0365ha. The natural play trail will provide natural equipment such as balance beams, crawling pyramids and play trees. Seating would be provided in these areas.
- 11.2.10 The SuDs features (0.48ha) are located within this open space area, which consists of 2 basins, a wet basin (0.28ha) and dry basin (0.2ha). There is a 'natural' permanent pond with wet benches for marginal planting and water of varying depths, and a detention area (generally dry) accessible for recreation.
- 11.2.11 A foul water pumping station is required to be located within the Countryside Edge towards the lowest point in the site. The pumping station is enclosed by native planting. On completion of the development, it is proposed that the pumping station and its enclosure is offered to Anglian Water for adoption.

The Orchard

- 11.2.12 The Community Orchard (1.49ha) is located to the south eastern corner of the site, to the south of the existing protected woodland, with the location in accordance with the Community Orchard Plan presented within the S106. Details of the Orchard have been submitted with the application, however, in accordance with the S106 a Community Orchard Specification will be submitted to and agreed with the Council prior to the commencement of the development. The Specification will set out the details of the open space, landform and proposed planting including the protection and maintenance of trees during establishment. The Community Orchard must be provided prior to the occupation of 75% of dwellings and shall be handed over to a management company in accordance with the S106.
- 11.2.13 The Community Orchard which sits to the east of the space, is a key component of the design and includes the main bulk of the orchard, with additional trees surrounding a NEAP and informal kick around area. The Orchard area is surrounded by wildflower lawn and drifts of bulbs, with mown paths for access through. A formal footpath features through the Orchard which connects the site to the existing footpath on the corner of Church Street/ High Garrett (road).

- 11.2.14 A Neighbourhood Equipped Area of Play (NEAP) (0.1345ha) and a kickabout area (0.12ha) provide focus to the space. The play area incorporates a variety of equipment and natural play features within the landscape setting. Shallow mounds define and separate the different activity zones and uses while providing opportunities for informal seating and play. The majority of existing hedgerows around the boundaries are retained and enhanced with spring flowering hedge species such as hawthorn, blackthorn and elder.
- 11.2.15 A comment has been received from Essex Police in relation to the surveillance and security of the NEAP to the south eastern corner of the site. The location of the NEAP was discussed throughout the design process, and the balance between retaining hedges and trees, noise and disturbance and lighting was discussed in the design evolution of the site. The location of the Orchard was approved as part of the S106 at the outline stage to provide an area of open space to prevent coalescence between Bocking and High Garrett. The nature of the boundaries that surround the south eastern corner of the site, prevent dwellings overlooking this area, however, with appropriate lighting, which will come forward by way of condition, and management of the area, it is considered that a safe environment can be achieved.
- 11.2.16 In terms of safety for children using this NEAP, the play area is set back from the corner of Church Street by approximately 70m at the nearest point. Residents from the surrounding area/ the proposed development would access the NEAP internally through the series of internal footpaths proposed. For those offsite residents wishing to utilise the NEAP, there is 1 access/ egress proposed from the corner of Church Street into the Community Orchard in which the NEAP sits. The Community Orchard is bounded by existing hedgerow on the High Garrett and Church Street boundaries to offer protection. A condition has been recommended that a boundary treatment around the NEAP is provided and a suitable gate provided to the access/ egress on the corner of Church Street/ High Garrett.
- 11.2.17 The S106 requires a Management Plan to provide for the future management and maintenance requirements of the Open Space and Community Orchard to be approved for all open space on the site, to ensure its upkeep and maintenance.
- 11.2.18 In terms of quantity of Playspace, the policy requirement for this size of development is 0.1707ha, the development is providing 0.1710ha in accordance with policy requirements. The details of the Play Areas are required to be submitted and approved as part of the Open Space specification, pursuant to the S106.
- 11.2.19 In terms of outdoor sports, in accordance with policies in the Local Plan and Open Spaces SPD, the Council require a financial contribution towards Outdoor Sports facilities in the town. This was assessed at the Outline application stage and consequently a S106 contribution was sought.

11.3 Landscaping and Buffers

- 11.3.1 The Reserved Matters proposals adopt a landscape-led approach. Important landscape and ecological features that contribute to the character of the site are to be retained. These existing features, in combination with new strategic planting including new trees, hedges, shrubs and grass, will create a comprehensive green infrastructure into which the built form will sit. The landscape-led approach enables the adoption of a strong sense of place and identity, connecting the site with the surrounding countryside. Important green linkages for biodiversity have been retained on the site, these are explained below.

The Green Corridor

- 11.3.2 The Green Corridor is an existing area of green space featuring trees/ hedgerows and scrub. This corridor connects the orchard and adjoining vegetation with the Countryside Edge open space to the west. It provides a strategic wildlife route through the development from Church Street and High Garrett to the south east, to the wider countryside to the north west. The corridor will be managed for its nature conservation value providing refuge and foraging opportunities for a range of wildlife. The existing field boundary, a dry ditch lined by mature hedgerows and trees, is the main feature of the green corridor. This provides an important wildlife habitat and link, which will be buffered and enhanced with new planting of native trees and shrubs to increase the vegetation cover and tussock grassland. There is a crossing of the corridor to the west, associated with access to the pumping station, and to the east associated with the main access. The pumping station was approved in principle at the outline stage.

Landscape Buffers

- 11.3.3 Landscape Corridors and Buffer widths are stipulated and set within the approved SWDG. The corridors and buffers feature along all of the boundaries but particularly to the east and south of the site where existing residential dwellings are located. The landscape corridors will provide a buffer between the development and existing properties on Church Street, Ashpole Road, Hadley Close, Grove Field and Grove Orchard and maintain permeability around the site for a range of wildlife. Existing trees and hedgerows on the boundaries will be retained and reinforced with new planting where appropriate.
- 11.3.4 At the south western boundary between residents of Hadley Close/ Church Street, an ecological buffer is proposed at a width of 9m adjacent to the rear gardens of Hadley Close. This is reduced to a width of between 4m adjacent to the rear gardens of Ashpole Crescent and 5m to the properties to Church Street. This section of buffer acts as a green corridor for ecological movement, and would be secured with gates so that access is restricted to occasional maintenance only.

- 11.3.5 At the eastern boundary, a buffer of 12m in width would be provided to protect the existing mature trees to the south eastern corner of the site. Further to the north, adjacent to the existing gardens of Grove Field/ Grove Orchard a landscape buffer of 7m in width will be provided. This buffer would also provide an ecological link from the north of the site to the existing woodland. This section of buffer acts as a green corridor and would be secured with gates so that access is restricted to occasional maintenance only. Details of the gates and fencing for both of these landscaped buffers have been recommended by way of condition.
- 11.3.6 Along the northern boundary, the existing immature native hedge is to be retained and enhanced with the addition of native tree planting and rough grassland to benefit wildlife within a buffer of circa 7-8m, sitting to the south of the existing agricultural track. This native buffer would form an appropriate transition to the open countryside beyond.
- 11.3.7 Dialogue between the Landscape Officer and Applicant has been ongoing throughout the process, particularly in relation to planting mix. A number of amendments to the species and mix, in accordance with the Essex Planting Palette, have been made throughout the process and the finished result is supported. The Essex Planting Palette has a very limited range of species. As set out in the SWDG (page 66 bullet point 2) it is important to balance local character with other considerations such as long-term resilience to pests / diseases, climate change and biodiversity (for example both birch and crab apple are important for wildlife). In the residential area of the site (including the buffers to the site boundaries) a slightly more varied tree planting palette has been used.
- 11.3.8 Areas of planting are specified throughout the open space areas to provide a landscape framework and visually attractive setting to the development and enhance biodiversity. Areas of ornamental planting are proposed within the residential area, amenity open spaces and around the neighbourhood play area. Species have been selected to include flowering and fruiting varieties to provide visual amenity, seasonal interest and a benefit to wildlife.
- 11.3.9 A mix of species-rich native hedgerows are used to define the boundaries of the open spaces and edges of the site. Species include Hornbeam, Hawthorn, Blackthorn, Field Maple, Hazel, Holly, Yew, Crab Apple, Wayfaring tree and Guelder Rose. Ornamental hedgerows are used in residential areas and along streets to break up perpendicular parking areas. Species have been selected to include flowering and fruiting varieties.
- 11.3.10 New areas of native shrub planting will be targeted within key areas of the open space to provide structure to the open space, manage access and provide foraging and refuge opportunities for a range of wildlife species including birds, hedgehogs, reptiles and protected species. Around the banks of the attenuation basin and pond and along existing and proposed woodland and hedgerows areas of native shrubs will be used to provide

structural diversity and additional screening. Native shrub planting in green corridors will be used to reinforce existing vegetation to the rear of adjoining gardens and visually separate the development from the adjoining properties. A proportion of evergreen species has been incorporated to ensure vegetation cover throughout the year. Species include Hawthorn, Blackthorn, Hazel, Dogwood, Holly, Wayfaring tree, Willow, Elder and Dog Rose.

- 11.3.11 In accordance with NPPF Paragraph 131, new strategic tree planting is incorporated along streets, throughout areas of public open space and along green corridors. A total of 516 new trees are proposed throughout the development. To promote biodiversity within the open spaces there is an emphasis on locally native species including larger, longer-lived native trees. Street trees on principal streets are specified as cultivars of native species with a regular shape and form suitable for the urban environment such as Hornbeam and Field Maple. Feature trees planted at nodal points include a mix of species selected for their flowers or autumn colour and include cultivars of Cherry and Field Maple.
- 11.3.12 Street trees on secondary and shared streets comprise generally smaller ornamental species with a regular shape and form and include varieties of Crab Apple, Cherry, Field Maple, Serviceberry and Birch. Street trees will be planted in verges away from front gardens and will be placed under the care of the Open Space management company. This will ensure their protection, care, and longevity.
- 11.3.13 Trees within the strategic open spaces and to the boundaries of the site comprise a mix of native species including Oak, Field Maple, Hornbeam, Wild Cherry and Birch and planted at a range of stock sizes. The species suitable for wetter soil conditions such as Alder and Willow are also proposed.
- 11.3.14 The Orchard to the south east of the site would be planted with a variety of traditional fruit and nut producing species. To encourage wildlife, the Orchard would be managed in a traditional manner, with the local community actively encouraged to participate in its management. A mixture of early mid and late flowering/ fruiting trees have been proposed to ensure a source of nectar, pollen and fruit through the year. These include local / traditional varieties of Apple, Pear, Cherry, Damson Plum (*Prunus* cv.), Cob and Walnut. The Applicant states that the trees will be sourced from a local supplier and include Essex heritage fruit varieties.
- 11.3.15 The sites hard landscaping varies throughout the site and is in accordance with the approved SWDG. The principal street would be constructed from tarmac whilst a combination of tarmac and block paving would be used across the site for lower order streets, driveways and parking bays. Flint walls would feature throughout the development in accordance with the SWDG.

Arboricultural Impacts

- 11.3.16 Paragraph 131 of the NPPF states that existing trees should be retained wherever possible. Policy LPP65 of the Adopted Local Plan sets out that trees which make a significant positive contribution to the character and appearance of their surroundings will be retained unless there is a good arboricultural reason for their removal. A Tree Survey, Arboricultural Impact Assessment (AIA), Arboricultural Method Statement (AMS) and Tree Protection Plan has been undertaken by FPCR (2022) and submitted as part of this application, specifically in relation to the detail pursuant to Condition 13 of the outline permission.
- 11.3.17 There are no TPO's within the site, however a designated veteran English Oak tree is located to the south west of the site. A TPO protected ancient woodland (40/2010-W1) lies to the south eastern corner of the site, outside of the red line boundary.
- 11.3.18 In order to facilitate the development, a number of tree losses would be required. The principle of the removal of hedgerow and trees to facilitate the access to the site was approved at the outline application stage, namely Tree T22 and tree group G12.
- 11.3.19 In terms of tree/ groups removal, no Category U, A or B trees are proposed to be removed. 9 Category C trees/ groups (low quality/value) are proposed to be removed or cut back to facilitate the development of the site. The trees/ groups to be felled are as follows:

Tree Group	Species	Length (m)	Reason
T22	Ash		To facilitate the access off Church Street
G7	Blackthorn, Hawthorn	47m	Cut back to allow boundary treatment
G9	Ash, Blackthorn, Elder, Field Maple, Hawthorn, Hazel	9m	To allow vehicular access to the pumping station
G10	Ash, Blackthorn, Elder, English Oak, Field Maple, Hawthorn	17m	To facilitate the construction of the spine road
G11	Ash, Blackthorn, English Oak, Field Maple, Hawthorn, Dogwood	17m	To allow access to the community orchard
G12	Blackthorn	41m	To facilitate the access off Church Street
G15	Ash, Blackthorn, Hawthorn, Holly, Sycamore	14m	To allow boundary treatment
G17	Blackthorn	7m	To facilitate the pedestrian link to off

			High Garrett
G18	Ash, Blackthorn, Field Maple, Hazel	40m	To facilitate junction improvement works

- 11.3.20 When assessing proposed tree and hedge loss it is necessary to consider whether it is proposed for justifiable reasons, if it is being kept to a reasonable minimum and where it is essential if appropriate replanting is secured.
- 11.3.21 The majority of the proposed tree/ hedge removals are located to the southern end of the site, either along the boundary edge, or within the site to facilitate highway construction. Due to the nature of the site, that being greenfield, and the widespread nature of the existing vegetation positioning it is not possible to retain all existing trees and hedges, whilst achieving a high quality design and layout for a residential development. There is only one access point into the site, and the access point must remain in the position proposed as it was approved by the Inspector at the Outline Stage.
- 11.3.22 Whilst it is regrettable that there will be tree/ hedge loss, importantly, a large number of existing trees and groups of trees on the site are being retained, particularly around its boundaries where well established mature tree cover exists, particularly to the west and south west. In terms of tree planting, the scheme includes significant proposals, with proposed Community Orchard, landscape buffers, green corridors and street trees and a commitment to net gain made across the site meaning that more trees would be planted than are lost. The trees will be planted in a range of maturities as can be seen in the tables below:

Tree Size on Planting	Approx Height	No.
Small	2-3m	271
Medium	3-4m	137
Large	4m+	108
TOTAL		516

Tree Size	Height	No.
Feather	2m	63
Multi-stem	2.5-3m	3
Standard and Select Standard	3m	165
Heavy Standard	3-3.5m	137
Extra Heavy Standard	3.5-4m	100
Semi-mature	4.5-5.5m	8
Orchard	2.5-3m	40
TOTAL		516

- 11.3.23 In terms of protection of existing trees, the Arboricultural Impact and Method statement, submitted pursuant to Condition 13 of the outline consent, sets out the protection methods for existing trees on site. These

documents are to be approved prior to the commencement of development onsite. With regard to the veteran Oak tree to the south west of the site, this is to be retained and integrated within the development with a large root protection zone to ensure no adverse impacts.

- 11.3.24 Overall, Officers consider that the impact of the proposal is limited for a scheme of this size, with the removal of Category C trees/ groups only. The Applicant proposes a net gain in tree planting against those lost, and the site contains expansive areas of interconnected green infrastructure and buffer zones. As with all such major residential developments there is a degree of landscape harm and this has been assessed at the outline stage by the Planning Inspector. On balance, Officers consider that the provision of new trees, to be provided at a variety of maturity levels, on site will be significantly more (516) than the number lost (9 trees/groups) in any regard. All new planting areas and existing retained areas would be actively professionally managed.
- 11.3.25 The Council's Landscape Officer has assessed the application and has no objection to the proposal on landscape grounds. The Landscape Officer has been involved in the evolution of the proposal, including planting palette and tree species. The proposed soft and hard landscaping is of high quality and is well considered. In addition to focussing on the existing features of ecological importance, the overall landscaping scheme will include a significant number of new tree, shrub and hedge planting, as well as SuDS designed with the intention of maximising biodiversity benefits that will be managed sensitively. It would create distinct open space whilst enhancing the overall architectural setting of the site. The proposed landscaping seeks to enhance and increase biodiversity on the site and surroundings and is therefore supported in principle.

11.4 Ecology

- 11.4.1 Paragraph 174(d) of the NPPF requires that proposals minimise their impacts on, and provide net gains for, biodiversity. Paragraph 180 of the NPPF states that when determining planning applications, LPAs should refuse planning permission if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or compensated for.
- 11.4.2 Policy SP7 of the Adopted Local Plan states that all new development proposals should incorporate biodiversity creation and enhancement measures. Policy LPP64 of the Adopted Local Plan outlines that where there is a confirmed presence or reasonable likelihood of protected species or priority species being present on or immediately adjacent to a development site, the developer will be required to undertake an ecological survey and will be required to demonstrate that an adequate mitigation plan is in place to ensure no harm to protected species and no net loss of priority species. Further, Policy LPP66 of the Adopted Local Plan requires that development proposals provide for the protection of biodiversity and the mitigation or compensation of any adverse impacts. Additionally,

enhancement of biodiversity should be included in all proposals, commensurate with the scale of the development.

- 11.4.3 The site is not subject to any statutory or non-statutory designation, nor is it immediately adjacent to such a designation. The nearest statutory designation is Bovingdon Hall Woods Site of Special Scientific Interest (SSSI), located approximately 1.3km northeast of the site. Bovingdon Hall Woods SSSI comprises eight adjacent woods, predominantly ancient coppice-with-standards woodland. There are no non-statutory designations within or adjacent to the site. Clapgate Wood Complex Local Wildlife Site (LWS) is situated approximately 0.6km to the east at its closest point and is comprised of a series of connected areas of ancient woodland. It is sufficiently removed from the site beyond open fields for there to be no likelihood of adverse effects upon it as a result of the proposed development.
- 11.4.4 In terms of Ecology, the principle of development is already established on this site and the Outline application was accompanied by the necessary Ecology Reports. The Planning Inspector recommended conditions on the Outline permission in relation to tree/ hedgerow protection, protection of retained habitats (14), clearance of trees and nesting birds (15), lighting (16) and submission of a Biodiversity Management Plan (17). The Planning Inspector stated that *'It was apparent that wildlife corridors exist within domestic properties close to the boundary of the site. However, it was also apparent that wildlife is able to use these corridors of land. Moreover, the scheme would provide for areas of green space and there would be remaining linkages to the agricultural landscape beyond the appeal site. The reserved matters stage would enable greater consideration of precise design details that can support wildlife routes. With this in mind, on the evidence before me, I am satisfied that the scheme would have limited effect on local ecology other than that to be anticipated with green field development.'*
- 11.4.5 There have been representations made in relation to the impact on wildlife within and surrounding the site, particularly in terms of protected species on the site and within the surrounding vicinity. Comments have also been made in relation to the fenced landscape/ green corridors and the ability for species to pass through such barriers. These comments have been noted and appropriate conditions have been recommended for details of the fences/ gates to be submitted by way of condition to ensure that the corridors cater for all species sizes passing through.
- 11.4.6 The original application was accompanied by an Ecological Appraisal and confidential protected species report. Given that the original ecological assessments are considered out of date, and as raised by representations, the Applicant submitted a Biodiversity Management Plan pursuant to Conditions 14, 15 and 17 of the outline planning consent, and an updated Ecological Briefing Note (Ecology Solutions Ltd January 2023). This outlines that walkover surveys have been completed by suitably qualified Ecologists

in 2021 and 2022, which updates the Biodiversity Management Plan of the site.

- 11.4.7 In addition to this, additional information was requested by the LPA to ascertain the works that has been undertaken to mitigate protected species on the site to date. The Applicant confirmed that a license was obtained from Natural England, however, due to complications, the works to protected species have ceased until July – November 2023 and an updated license will be obtained from Natural England to allow this work to be carried out lawfully. Queries have been raised in relation to the mesh that has remained in situ on the site. The Applicants ecologist has outlined this matter has been agreed with Natural England, however the Councils Ecologist has stated that this should be reviewed as part of the regular monitoring of the site.
- 11.4.8 Discussions with ECC Ecology consultants have been ongoing throughout the pre application and application process and have commented on the overall design of the landscape masterplan for the development. ECC Ecology have confirmed that they support the overall design of the landscape masterplan for this development and have no additional recommendations for the planting schedules of the scheme, following the submission of updated information. In addition, they were pleased to see that the Applicant has submitted a Biodiversity Metric 3.1 – Calculation Tool (October 2023), which demonstrates that a positive net gain of 50.73 Habitat units (15.93%) and of 25.45 Hedgerow units (33.72%) will likely be obtained. However, they did note that a trading issue is present (i.e. habitat with medium distinctiveness lost has not been replaced with other habitat with the same distinctiveness), which goes against Rule 3 of the Biodiversity Metric 3.1 User Guide. This has been acknowledged within the Briefing Note – Biodiversity Net Gain (Ecology Solutions Ltd, January 2023) and indicates that this was owing to net loss of arable field margins, which should ideally be replaced with a habitat of similar or higher distinctiveness. Nevertheless, they agreed that it is not possible to retain a similar habitat for this development and that a functional net gain will likely be achieved via the provision of the Other – Neutral Grassland a part of the proposals. As a result, they were satisfied that measurable biodiversity net gains can be delivered, in line with Paragraph 174d and 180d of the NPPF 2021.
- 11.4.9 ECC Ecology have recommended that the initial planting specifications and aftercare measures of the soft landscaping should be secured via a Landscape Ecological Management Plan to be secured as a condition of any consent prior to occupation, which should be prepared with consideration of the aims and objectives of the Biodiversity Metrics. A condition has therefore been recommended.

11.5 Highway Considerations

11.5.1 A number of representations have been received in relation to the impact the development will have on local traffic, fatalities and speeds. The impact of the development on the highway network in terms of traffic, and the acceptability of the access point was assessed at the outline planning application stage by the Planning Inspector and is not for consideration again under this application. The location of the access is also not for consideration at this stage.

11.5.2 To reiterate, the Planning Inspector '*considered the scheme would be acceptable in Highway terms*' subject to the following Highway works dictated under Condition (23) of the outline permission, which states:

No dwelling shall be occupied until the following have been provided:

- a) A priority junction and section of footway (with dropped kerbs/tactile paving both sides of the existing carriageway) off Church Street to provide access to the site as shown in principle on the planning application drawings, and constructed to at least base course level;
- b) Widening of Church Street and a pedestrian central refuge island with associated dropped kerbs/tactile paving at its junction with the A131 High Garrett as shown in principle on the planning application drawings;
- c) Improvements at the A131 High Garrett/B1053 Broad Road/Braintree Bypass roundabout as shown in principle on the planning application drawings or similar as shall be agreed with the Local Planning Authority prior to commencement of the development;
- d) Upgrade to current Essex County Council specification the two bus stops which would best serve the proposal site (details shall be agreed with the Local Planning Authority prior to commencement of the development).

. 11.5.3 Whilst traffic, access, or any additional accesses into the site are not for consideration under this application, parking provision and the internal site layout are. The road layout and footway layout were subject to detailed discussions with Essex County Council prior to the submission of the Reserved Matters application, as well as during the processing period. ECC Highways have been consulted and have no objection to the site's internal layout, all of which will be built out to adoptable standards, and a majority of which will be adopted by the Highway Authority.

11.5.4 In terms of parking, private provision would be made across the site in accordance with the Essex Parking Standards (2009) with the required 1 space per 1 bed dwelling and 2 spaces per two or more bed dwellings. Also 0.25 space per dwelling is required for visitor parking. Parking spaces should measure 5.5 metres by 2.9 metres, except in exceptional

circumstances, and garages (where to be counted towards parking provision) should measure 7 metres by 3 metres.

- 11.5.5 A total of 508 on plot parking spaces are proposed. 64 visitor parking spaces would be spread around the development and would also be in accordance with the standards. Garages are to be provided throughout the site with 75 single garage spaces and 72 integral garages. Equally, all vehicle parking spaces measure 5.5m x 2.9m and thus meet the preferred bay sizes as set out within the standards.
- 11.5.6 In terms of cycle storage facilities, these are provided either within a shed in a back garden or the garage. Within the public realm, cycle parking is provided in key open spaces, with 2 stands to the western open space in locations that will be overlooked by adjacent dwellings, and 1 stand within the NEAP/ Orchard area to the south east.
- 11.5.7 Policy LPP42 of the Adopted Local Plan states that development proposals should provide facilities for charging plug-in and other ultra-low emission vehicles. There was no provision secured within the Outline consent. However, the Applicant states that all dwellings will be EV charging ready ensuring that every home will be connected to and fully wired to a passive supply, allowing the passive supply to be activated should residents wish. A condition has been recommended to secure this provision.
- 11.5.8 In terms of refuse and recycling, the Councils Waste Services Section seek indemnity for any potential damage that occurs to private roads across the site, over which their refuse vehicles will need to travel across (due to carry distances for refuse). Having sought legal advice, it is considered that this can be secured via a Legal Agreement. A refuse strategy has also been recommended by way of condition.
- 11.5.9 In terms of impacts during construction, Condition 22 of the Outline consent requires a Construction Method Statement to be submitted to ensure that impacts during construction are kept to a minimum, this includes but is not limited to, parking of vehicles for operatives and visitors, control of emissions, dust and noise, wheel washing, and dedicated phone numbers for members of the public.
- 11.5.10 Overall, parking provision on the site is considered to be acceptable.

11.6 Impact upon Neighbouring Residential Amenity

- 11.6.1 The NPPF seeks to secure a good standard of amenity for all existing and future occupants of land and buildings. Similarly, Policy LPP52 of the Adopted Local Plan 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.

- 11.6.2 In terms of neighbouring amenity, the eastern, southern and south western boundaries all abut existing residential properties of Hadley Close, Ashpole Road, Church Street, Grove Orchard, Grove Field and High Garrett.
- 11.6.3 The approved SWDG addressed this relationship comprehensively, ensuring that buffer zones were carefully established to protect the amenity of the occupiers of the existing dwellings surrounding the site. This was taken from the illustrative masterplan presented at the Outline stage. The illustrative masterplan showed one way in which the site could be developed, and whilst not an approved document, the landscape buffers to the site boundaries as indicated in the masterplan, were carried through to the SWDG.
- 11.6.4 It should be noted that the level differences on the site and the surrounding landscape will result in the outlook of the site changing significantly from the existing situation. There would inevitably be an impact on the outlook to existing neighbouring dwellings given the present open nature of the site, which has to be taken into consideration in the overall planning balance. This was assessed at the Outline stage by the Planning Inspector who stated that *'In terms of impacts upon local residents, whilst there is no right to a private view, I accept there would be change. However, for those on Ashpole Road, this would be softened by existing vegetation along the water course which would be protected. For those on Grove Field/Grove Orchard the impact would be greater. However, those properties have sizeable gardens containing a number of significant trees which already provide screening. The proposed landscaping would add a planting buffer to further soften the impact of development. I am satisfied, that a high quality outlook would remain for the occupiers of the existing properties which could be enhanced through sensitive design at the reserved matters stage. There is no suggestion that living conditions would be unacceptable in terms of privacy, outlook or disturbance.'*
- 11.6.5 Given the sites levels, the impact on overlooking between existing and proposed properties needs to be carefully considered. Section drawings to illustrate the relationship to existing dwellings were submitted by the Applicant. The Essex Design Guide (2009) sets the acceptable distances between existing and proposed properties (back to back) as a minimum 25m whereby amenity will be retained.

Hadley Close and Ashpole Road

- 11.6.6 The approved SWDG (page 64) stipulates the relationship between existing and proposed residents of 2-19 Hadley Close and 14 Ashpole Road as a side on relationship with a 1m gap between the flank wall of the proposed dwelling and 9m wide the ecological landscape buffer. During discussions at the Reserved Matters stage, it was considered that by changing the orientation of the proposed properties to a back to back relationship, and increasing the distance of the back garden, a further separation distance between the existing properties of Hadley Close and proposed dwellings

would be achieved. This was considered a positive amendment and results in less overbearing by bringing the dwellings away from the site boundary.

- 11.6.7 The closest back to back distance from the proposed property to existing property is 60m. Finished floor level plans have been submitted pursuant to Condition 8 of the Outline consent, which give details of the proposed finished floor levels for the dwellings along this boundary. Proposed dwellings will sit with finished floor levels at between 62.70AOD and 65.00AOD. The existing site levels at 16 Hadley Close sit at approximately 62.50AOD, rising to 65.00AOD at 2-4 Hadley Close, so existing and proposed dwellings will sit at relatively the same level (albeit the valley shaped gardens). Given the proposed 9m ecological corridor along this boundary and the separation distances, overlooking and loss of amenity is considered minimal.
- 11.6.8 The rear gardens from 2-12 Ashpole Road are shallower in length and are separated from the site by the amenity land of 257 Church Street. The amenity land consists of an established mature planted boundary with the site. A 4m wide buffer will be provided within the site for the stretch of boundary between 2-12 Ashpole Road. 14 Ashpole Road also owns an additional area of land which sits within this amenity land and form part of the rear garden on 14 Ashpole Road, abutting the site. This was not known at the time the SWDG was approved and buffers were being established, and therefore the Applicant has proposed additional planting to this section, indicated on the approved plans. The closest back to back distance from proposed dwelling to existing property is 58m. The submitted level sections show that 2 and 4 Hadley Close sit at approximately 65.00 AOD, with the proposed dwellings sitting with finished floor levels of 63.90AOD.
- 11.6.9 The back to back distances from proposed to existing properties far exceed those stipulated within the Essex Design Guide and therefore the distances are considered acceptable in terms of overlooking and loss of amenity, furthermore, given the width of the ecological buffer between rear boundaries, along with rear fences, the prospect of overlooking into rear gardens is considered minimal.
- 11.6.10 Residents have raised concerns with regards to the boundary fence/ maintenance gate that has been proposed along the boundary between rear gardens and the site. Details of the fencing and gating for boundaries has been recommended by way of condition. It should also be noted that the gate will be within the development site to give access to maintenance of the ecological corridor only.

Church Street

- 11.6.11 The relationship between the proposed dwellings and existing dwellings along Church Street fall mainly within the context of substantial rear garden boundaries. The 3 properties along Church Street which sit closest to the developments southern western site boundary are Field House, Harriets Barn and Harriets Farm. The northern boundary between these properties

as stipulated in the SWDG (page 63) consists of a proposed 4m wide wildlife corridor made up of tussock grass mix and native hedge planting. The closest proposed property to the rear elevation of Field House will be approximately 60m away (plot 228/229) with a back to front relationship, however, plot 228/ 229 consists of a maisonette whereby habitable room windows could potentially overlook the adjoining rear garden of Field House due to the orientation of the proposed property, for this reason a condition has been recommended for the 1st floor windows on the south eastern elevation of plot 228/ 229 be obscured. The first floor maisonette within the plot is dual aspect and so this achievable within the floor layout plan without undue impact on future occupiers amenity.

- 11.6.12 The separation distance between the nearest proposed property to the rear elevation of Harriets Barn is approximately 70m, again with a front to back relationship, and again a 2 storey maisonette dwelling. This proposed property sits approximately 16m away from the site boundary which is considered an acceptable distance to prevent overlooking into the rear garden of Harriets Barn. It should also be noted that there are hedges and trees proposed along the boundary at this point which will also prevent overlooking.
- 11.6.13 Harriets Farm is bounded by the site boundary to the north and east. The SWDG (page 63) stipulates that a 5m wide landscape buffer be located on the eastern boundary and a 4m wide landscape buffer be located on the northern boundary. These boundaries are already established with existing planting and will be maintained as such. Harriets Farm directly abuts the south western boundary. There are no windows at second floor level on the eastern elevation of this property. The nearest proposed dwelling is plot 1 which fronts Church Street, and sits adjacent but forward of Harriets Farm resulting in a front to back oblique relationship to the existing and proposed properties. Whilst the relationship is considered acceptable in terms of amenity, the levels submitted for this area of the site are unclear so further clarification has been sought. This will be assessed further within the details submitted pursuant to Condition 8 (sections and finished floor levels).

Grove Field and Grove Orchard

- 11.6.14 The approved SWDG (page 60 and 61) stipulates the relationship between existing and proposed residents on Grove Field and Grove Close (Eastern Boundary). The eastern site boundary proposes a minimum 7m wide ecological corridor, to provide a link between the north of the site and the woodland. A 1.8m close board fencing and minimum 9m long rear garden is proposed, providing a total minimum width from back of proposed dwelling to site boundary of 16m. The ecological corridor is increased in width to between 12-14m on the protected woodland boundary.
- 11.6.15 The closest back to back distances from the proposed dwelling to existing property ranges from approximately 38m to 58m. The submitted level sections show that at 1 Grove Orchard and 11 Grove Field sit at

approximately the same level as the adjacent proposed dwelling. The back to back distances from proposed to existing property far exceed those stipulated within the Essex Design Guide and therefore the distances are considered acceptable in terms of overlooking and loss of amenity, furthermore, given the width of the ecological buffer between rear boundaries, along with rear fences, the prospect of overlooking into rear gardens is considered minimal.

- 11.6.16 Representations have been made with regards to boundary disputes. This has been raised with the Applicant who have been in discussion with residents. The Applicant has issued the landownership HM Registry Plan for the site, which is in accordance with the red line application boundary for the Reserved Matters application.
- 11.6.17 Overall the current reserved matters layout adheres to the previously approved generous landscape buffers surrounding the boundaries of the site, which seek to prevent undue loss of amenity to existing residents. It is not considered that the proposed development would result in any unacceptable degree of loss of amenity to existing residents in planning terms in relation to loss of privacy, sunlight and daylight or in terms of overbearing impacts. It is inevitable that there will be a loss of outlook for all dwellings surrounding the site due to the open countryside nature of the site, however, the proposed mitigation and generous landscape buffers/ corridors seek to keep this impact to a minimum.
- 11.6.18 In terms of impact to neighbours from increased noise, disturbance or similar, particularly during construction, no objection is raised by Environmental Services to the proposal subject to conditions imposed on the Outline consent, namely in relation to noise, vibration and acoustic mitigation and piling. A Construction Method Statement has also been imposed by way of condition on the outline consent, along with Hours of working.

11.7 Flooding and Drainage Strategy

- 11.7.1 Part 14 of the NPPF sets out the Government's stance on climate change, flooding and coastal change, recognising that planning plays a key role in, amongst other things, providing resilience to the impacts of climate change. Inappropriate development in areas at risk of flooding should be avoided. 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. Policy LPP76 of the Adopted Local Plan has the same objectives.
- 11.7.2 Flood risk and drainage were considered at the outline planning application stage and a detailed set of related conditions are attached to the outline planning permission in relation to this, namely Conditions 24 (Surface

Water Drainage Scheme) and 25 (Maintenance of SUDS). The details of both conditions have been submitted to the LPA for assessment by way of a discharge of conditions application (22/01924/DAC) whereby a decision has not yet been issued.

- 11.7.3 The application site is predominately located within Flood Zone 1 (low risk); however, an area associated with the watercourse to the northwest boundary of the site is located within Flood Zone 2 and 3 (medium to high risk). A Flood Risk Assessment and Sustainable Drainage Strategy have been submitted pursuant to this Reserved Matters application. These details have also been submitted by way of discharge of condition application for Conditions 24 and 25 of the Outline consent.
- 11.7.4 The application proposes a series of SUDs basins. The report concludes that *'based on the soils conditions across the site, it is proposed that surface water is discharged to the unnamed water course that runs along the northwest boundary of the site. This follows the current drainage scenario across the site and the approved outline strategy. In line with Essex Councils requirements discharge rates will be reduced to the 1 in 1-year green field development rates of 9.71l/s for all storm events up to and including the 1 in 100-year event with further allowances for climate change at 40% and urban creep. Attenuation will be provided within two large detention basins located along the northwest boundary of the site. It is intended that the main basin be operated as a wet pond to allow settlement and provide benefits in terms of biodiversity with a secondary pond operating as dry attenuation basin but incorporating a low flow stilling channel. Where appropriate permeable paving will be used to provide additional storage and treatment of run off. Foul Water will discharge from the site via the existing Anglian Water sewer system'*.
- 11.7.5 It must be noted that the levels on the site, and surrounding the site are undulating. The site falls from 74.5mAOD (in the southeast corner) to 54.7mAOD (in the southwest corner) over a distance of 540m. Furthermore, the residents to the rear of Hadley Close have particularly valleyed rear gardens with an unnamed flowing water course to the lowest point. Understandably, there are concerns from local residents in relation to flood risk or drying up of water features from development associated with this application, along with the level of inaccurate information that has been provided with the application. This has been discussed with the Applicant throughout the application process and with the Lead Local Flood Authority and the Flood Risk Assessment produced in November 2022 includes details of this unnamed watercourse, which have been assessed by the LLFA.
- 11.7.6 The concerns regarding the risk of surface water flooding as a result of the development are noted. These concerns were also raised at the time of the outline permission. At that time, the Applicant demonstrated that surface water run-off from the site could be controlled and then discharged in a controlled manner that does not increase flood risk elsewhere. The attenuation basin would store surface water before it is released at an

agreed discharge rate. The LLFA were content that this was acceptable and, as stated above, appropriate Conditions (No.24 and 25) were imposed to address both surface water drainage and off site flooding risk, as well as drainage maintenance.

- 11.7.7 As noted above, the LLFA raise no objections to this reserved matters application, however, additional conditions have been recommended. It should be noted that this application does not approve the requirements of Conditions 24 and 25 attached to the outline consent.
- 11.7.8 In terms of foul water generated from the site, it is proposed to be discharged via a series of gravity and pumped connections to the adopted sewer within the site. Anglian Water have been consulted on the application and raise no objection, subject to a condition requiring details of the connection points into the network.
- 11.7.9 Comments in relation to Riparian Rights are noted, however, are not a planning matter. Furthermore, the LLFA raise no objection to the details submitted.

11.8 Heritage

- 11.8.1 The application site is not located adjacent to any Conservation Area but is located close to Bocking Church Street Conservation Area containing Grade I and Grade II Listed Buildings. Grade II Listed Harriets Farmhouse is located on Church Street to the southwest. The Grade 1 Listed and Scheduled Monument Bocking Windmill is partially visible from parts of the site although there are no public rights of way on the site.
- 11.8.2 The likely heritage impact of the proposed development of the site was assessed at the outline planning application stage and the Planning Inspector confirmed that *'the proposed development would not harm the setting of Bocking Windmill, a Grade I Listed Building and Scheduled Ancient Monument, or Bocking Conservation Area, given the extent of separation and intervening development and so I do not consider those heritage assets further'*.
- 11.8.3 Paragraph 199 of the NPPF advises that, when considering the impact of proposed development upon the significance of a designated heritage asset, great weight should be given to the assets conservation (and the more important the asset, the greater the weight should be), irrespective of the level of harm to its significance.
- 11.8.4 The Council's Historic Buildings Consultant has been consulted and raises no objection stating that *'I do not find that the layout, design, landscaping and materials would result in any increase in the low level of less than substantial harm to Harriett's Farmhouse than that already identified in previous assessments of the scheme and the Inspectors comments... Ideally the use of traditional, natural materials, such as timber*

weatherboarding will make a positive contribution to local character and distinctiveness and this should be encouraged'.

- 11.8.5 A condition has been recommended in relation to materials to ensure the high quality of the development makes a positive contribution to local character and distinctiveness in accordance with Paragraph 197c of the NPPF.

11.9 Lighting

- 11.9.1 Policy LPP77 of the Adopted Local Plan indicates that external lighting should be designed as an integral element of the development and provides guidance on the design of lighting. It specifically states that there should be no harm to biodiversity, natural ecosystems, intrinsically dark landscapes, residential amenity and/or heritage assets.
- 11.9.2 Condition 16 attached to the appeal decision requires details of the proposed lighting for public areas to be submitted prior to the occupation of any dwellings. It also requires a lighting strategy for bats which should identify areas and features on that site that are sensitive (in particular barbastelles) and ensure that the areas that are lit will not disturb or prevent bats using their territory or having access to their breeding site or resting places.
- 11.9.3 Details of lighting have not yet been received but will be fully considered by ECC Ecology and Landscaping consultants when submitted.

11.10 Archaeology

- 11.10.1 ECC Archaeology Officer has confirmed that no further archaeological investigation is necessary for the site. The requirements of Condition 12 of the Outline Consent has been approved.

11.11 Habitat Regulations Assessment (HRA / RAMS)

- 11.11.1 In terms of the wider ecological context, the application site sits within the Zone of Influence of one or more of the following:
- § Blackwater Estuary Special Protection Area and Ramsar site;
 - § Dengie Special Protection Area and Ramsar site;
 - § Essex Estuaries Special Area of Conservation.
- 11.11.2 It is therefore necessary for the Council to complete an Appropriate Assessment under the Habitat Regulations to establish whether mitigation measures can be secured to prevent the development causing a likely significant adverse effect upon the integrity of these sites.
- 11.11.3 An Appropriate Assessment has been completed in accordance with Natural England's standard guidance and submitted to Natural England for review. Natural England have issued a formal response stating that they

have no objection subject to the proposed mitigation measures set out in the Council's Habitat Regulations Assessment being secured and that these mitigation measures would rule out the proposed development causing an adverse effect on the integrity of the above European Designated Sites.

11.11.4 The proposed mitigation measures would consist of both on-site and off-site components including:

- § Recreational opportunities for a 2.7km daily walking route around the site/surrounding area for new residents.
- § Promotion of this walking route by way of leaflets to first occupiers and permanent notice boards erected on the site.
- § Connections to the existing public rights of way network.
- § A long term management plan to cover all open space on the site.
- § Financial contribution of £137.31 per dwelling erected towards offsite visitor management measures at the above protected sites.

11.11.5 The mitigation measures for the financial contribution were secured by way of a Supplementary Unilateral Undertaking at the Outline application stage. The proposed mitigation measures have been secured by way of condition.

12. CONCLUSION

12.1 Outline planning permission was granted at appeal under Application Reference 17/01304/OUT for a scheme of up to 265 dwellings on land off Church Street, Bocking. In allowing the appeal, the Planning Inspector appended planning conditions, including a condition requiring the submission of an application for the approval of Reserved Matters. This application seeks approval of Reserved Matters for the development, namely for scale, layout, appearance, and landscaping. Access was approved by the Planning Inspector at the time of the decision.

12.2 The development proposes 253 dwellings, providing 30% as affordable housing, in accordance with the S106 attached to the Outline consent. The affordable housing is pepper potted around the site, providing a suitable mix of units which have been designed to be tenure blind. The mix of market dwellings on the site strongly favours larger 3 and 4 bed dwellings, which fails to meet the mix set out within the Strategic Housing Market Assessment. However, the market mix was not secured at the outline stage by the Planning Inspector and is therefore not a matter that can now be considered at the Reserved Matters stage.

12.3 The layout of the development follows the fundamental principles set out within the approved Site Wide Design Guidance for the site, with the creation of a strong frontage to Church Street to the south, a large area of Open Space to the west, and a Community Orchard to the south east. The primary street travels from south to north in a loop, branching off to provide secondary streets and cul-de-sac areas. Landscape buffers and ecological corridors are provided around the boundaries of the site to separate the

proposed dwellings from the existing residential boundaries, but to also provide wildlife corridors throughout the site.

- 12.4 All of the dwellings meet with the Nationally Described Space Standards for internal accommodation and externally are provided with amenity space in accordance with the Essex Design Guide. Dwellings would be provided with sufficient parking and garden space to meet the adopted standards. The overall, layout, scale and detailed design would result in a high quality development that would positively respond to the character and appearance of the locality.
- 12.5 The development would consist of mainly detached (54%) and semi-detached (34%) dwellings, with a very small proportion of terraces, maisonettes and two affordable bungalows. The site is predominantly 2 storeys in height with 20 dwellings (8%) of 2.5 storeys.
- 12.6 Significant areas of open space and landscaping are incorporated into the layout, including publicly accessible open spaces in excess of policy requirements, sustainable urban drainage features (SUDs) and tree-lined streets. Across the site, the landscaping scheme follows the principles of landscaped edges, street planting, parklands, and the Community Orchard. For the proposed planting within the public open space, much discussion has been undertaken with the Applicant to secure appropriate species for the site, and to ensure that the chosen trees and other planting is appropriate. The proposed soft and hard landscaping is of high quality and is well considered. In addition to focussing on the existing features of ecological importance, the overall landscaping scheme would include a significant number of new tree, shrub and hedge planting. The proposed landscaping seeks to enhance and increase biodiversity on the site and surroundings and is therefore supported in principle. In terms of ecology, the proposal meets the expectations of planning policies and Officers therefore have no issues in this regard. Direct access to the Public Right of Way to the northern corner and south west of the site would be retained.
- 12.7 The development would result in an adverse impact to existing trees and groups of trees on site. In order to facilitate the development, 9 Category C trees/ groups (low quality/value) are proposed to be removed or cut back. The principle of the removal of hedgerow and trees to facilitate the access to the site was approved at the outline application stage, namely Tree T22 and Tree Group G12. In terms of tree/ groups removal, no Category U, A or B trees are proposed to be removed. Officers consider that the impact of the proposal is limited for a scheme of this size, with the removal of Category C trees/ groups only. The Applicant proposes a net gain in tree planting against those lost, and the site contains expansive areas of interconnected green infrastructure and buffer zones. As with all such major residential developments there is a degree of landscape harm and this has been assessed at the outline stage by the Planning Inspector. Whilst this weighs against the development, Officers consider that the provision of new trees, to be provided at a variety of maturity levels, on site will be significantly more (516) than the number lost (9 trees/groups) in any regard.

- 12.8 The application site is predominately located within Flood Zone 1 (low risk); however, an area associated with the watercourse to the northwest boundary of the site is located within Flood Zone 2 and 3 (medium to high risk). The application proposes SUD's basins within the Open Space area of the site. Flood risk and drainage were considered at the outline planning application stage and a detailed set of related conditions were attached to the outline consents, namely Conditions 24 (Surface Water Drainage Scheme) and 25 (Maintenance of SUDS). The details of both conditions have been submitted to the LPA for assessment by way of a discharge of conditions application. For the purposes of this Reserved Matters application, Essex County Council as the Lead Local Flood Authority raise no objections to the proposal.
- 12.9 Impact on existing residential amenity has been carefully considered in terms of the relationship from proposed to existing dwellings, particularly in view of the different levels on the site and the surrounding rear gardens. The current Reserved Matters layout generally adheres to the previously approved boundary landscape buffers to preserve existing residential amenity. Separation distances are in accordance with the Essex Design Guide. It is not considered that the proposed development would result in any unacceptable degree of loss of amenity to existing residents in planning terms, particularly in relation to loss of privacy, sunlight, and daylight. It is inevitable that there will be a loss of outlook for all dwellings surrounding the site due to the current open countryside nature of the site, however, the proposed mitigation and generous landscape buffers/ corridors seek to keep loss of outlook to a minimum. In terms of noise and disturbance during construction, the Outline consent proposed a number of conditions to mitigate such impacts.
- 12.10 In respect of vehicle parking, all the dwellings are provided with parking provision in accordance with the Adopted Parking Standards. Unallocated parking spaces are well distributed throughout the site. The details demonstrate provision for electric vehicle charging within the scheme for all dwellings. A Unilateral Undertaking has been requested to ensure that waste vehicles can service the private streets.
- 12.11 There are no objections from the relevant statutory consultees and Officers consider that the proposed appearance, landscaping, layout and scale of the development is acceptable in planning terms, subject to the recommended conditions. Accordingly it is therefore recommended that reserved matters are approved, pending the issuing of the Unilateral Undertaking.

13. RECOMMENDATION

13.1 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:

- To secure a legal agreement for refuse vehicles using the private roads.

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

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

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

APPENDIX 1:

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

Approved Plan(s) & Document(s)

Plan Description	Plan Ref	Plan Version
House Types	2135.T13_T13A.01.P3	N/A
Elevations	2135.T13.02.P3	N/A
Elevations	2135.T13.03.P3	N/A
Elevations	2135.T13.04.P3	N/A
Elevations	2135.T13A.05.P3	N/A
House Types	2135.T14_T14A.01.P3	N/A
Elevations	2135.T14.02.P3	N/A
Elevations	2135.T14.03.P3	N/A
Elevations	2135.T14.04.P3	N/A
Elevations	2135.T14A.05.P3	N/A
House Types	2135.T15.01.P3	N/A
Elevations	2135.T15.02.P3	N/A
House Types	2135.T15_T15A.03.P3	N/A
Elevations	2135.T15.04.P3	N/A
Elevations	2135.T15.05.P3	N/A
House Types	2135.T16A_T16B_T18.01.P3	N/A
Elevations	2135.T16A_T16b_T18.02.P3	N/A
House Types	2135.T16A_T16B_T18.03.P3	N/A
Elevations	2135.T16A_T16B_T18.04.P3	N/A
House Types	2135.T17.03.P3	N/A
Elevations	2135.T17.04.P3	N/A
House Types	2135.T18.01.P3	N/A
Elevations	2135.T18.02.P3.1	N/A
Elevations	2135.T18.03.P3.1	N/A
Elevations	2135.T18.04.P3	N/A
Elevations	2135.T18.05.P3	N/A
House Types	2135.T18.06.P3	N/A
Elevations	2135.T18.07.P3	N/A
House Types	2135.T18.08.P3	N/A
Elevations	2135.T18.09.P3	N/A
House Types	2135.T19.01.P3	N/A
Elevations	2135.T19.02.P3	N/A
House Types	2135.T20.01.P3	N/A
Elevations	2135.T20.02.P3	N/A
Elevations	2135.T20.03.P3	N/A
Elevations	2135.T20.04.P3	N/A
Elevations	2135.T20.05.P3	N/A
House Types	2135.T21.01.P3	N/A
Elevations	2135.T21.02.P3	N/A
Play Area Plan	SES 21004-111 A	N/A
Play Area Plan	SES 21004-112 A	N/A

Other	SES 21004-113 A	ORCHARD
Elevations	2135.T9.02 P3	N/A
House Types	2135.T6.01 P3	N/A
House Types	2135.T4.03 P3	N/A
Elevations	2135.T2.04 P3	N/A
Elevations	2135.T1.02 P3	N/A
Highway Plan	2135.18 P3.1	N/A
Street elevation	2135.04.P3.2	N/A
Planning Layout	2135.01.P3.2	N/A
Location Plan	2135.02	B
Materials Details	2135.03.P3.2	N/A
Parking Strategy	2135.09.P3.1	N/A
Affordable Housing Plan	2135.11.P3.1	N/A
Storey Height	2135.12.P3.1	N/A
Garden Study	2135.15.P3.1	N/A
Other	2135.B.02	BRICKWALL
Other	2135.B.03	FLINTWALL
Garage Details	2135.DG.01	N/A
Garage Details	2135.SG.01	N/A
Substation Details	2135.SUB.01	N/A
House Types	2135.T1.01.P3	N/A
Elevations	2135.T2.01.P3	N/A
Elevations	2135.T2.02.P3	N/A
House Types	2135.T2.03.P3	N/A
House Types	2135.T3.01.P3	N/A
Elevations	2135.T3.02.P3	N/A
Elevations	2135.T3.03.P3	N/A
House Types	2135.T4.01.P3	N/A
Elevations	2135.T4.02.P3	N/A
House Types	2135.T5.01.P3	N/A
Elevations	2135.T5.02.P3	N/A
House Types	2135.T5A.03.P3	N/A
Elevations	2135.T5A.04.P3	N/A
Elevations	2135.T6.02.P3	N/A
Elevations	2135.T6.03.P3	N/A
House Types	2135.T7.01.P3	N/A
Elevations	2135.T7.02.P3	N/A
House Types	2135.T8.01.P3	N/A
Elevations	2135.T8.02.P3	N/A
House Types	2135.T8A.03.P3	N/A
Elevations	2135.T8A.04.P3	N/A
Elevations	2135.T8A.05.P3	N/A
Elevations	2135.T8A.06.P3	N/A
Elevations	2135.T8A.07.P3	N/A
House Types	2135.T9.01.P3	N/A
Elevations	2135.T9.03.P3	N/A
House Types	2135.T10.01.P3	N/A
Elevations	2135.T10.02.P3	N/A
Elevations	2135.T10.03.P3	N/A

House Types	2135.T11_T11A.01.P3	N/A
Elevations	2135.T11.02.P3	N/A
Elevations	2135.T11A.03.P3	N/A
House Types	2135.T12_T12A.01.P3	N/A
Elevations	2135.T12.02.P3	N/A
Elevations	2135.T12.03.P3.1	N/A
House Types	2135.T12.05.P3	N/A
Elevations	2135.T12.06.P3	N/A
Elevations	2135.T12A.04.P3.1	N/A
Elevations	2135.T24.01.P3	N/A
House Types	2135.T22.01.P3	N/A
Elevations	2135.T22.02.P3	N/A
Elevations	2135.T22.03.P3	N/A
Elevations	2135.T24.02.P3	N/A
Garage Details	2135-TG-01A	N/A
Garage Details	2135-TG-02	N/A
Other	8250-RED-001 REV D	SURFACES
Landscaping	SES 21004-102-D	N/A
Landscaping	SES 21004-103-D	N/A
Landscaping	SES 21004-104-D	N/A
Landscaping	SES 21004-105-D	N/A
Landscaping	SES 21004-106_D	N/A
Landscaping	SES 21004-107_D	N/A
Landscaping	SES 21004-108_D	N/A
Landscaping	SES 21004-109_B	N/A
Landscaping	SES 21004-110-B	N/A
Landscape Masterplan	SES 21004-100_D	N/A
Landscape Masterplan	SES 21004-101_D	N/A
Other	SES 21004-109 B	N/A
Other	Habitats Regulation Assessment	14.02.2023
Other	SES 21004-114	
Other	SES 21004-115	
Other	Sustainability Statement V3 Ref: 20/5624	N/A
Other	Planning Statement V4 January 2023	N/A
Other	Design and Access Statement and Addendums dated June 2022, October 2022, January 2023	Lambert Smith-Hampton
Other	Biodiversity Metric Calculations	12.10.2022

Condition(s) & Reason(s)

Condition 1

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

Reason: For the avoidance of doubt and in the interests of proper planning as to what is permitted.

Condition 2

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

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

Condition 3

Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting that Order) no enlargement by an additional storey(s) of the dwelling house, as permitted by Class AA of Part 1 of Schedule 2 of that Order shall be carried out without first obtaining planning permission from the Local Planning Authority.

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

Condition 4

Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting that Order) no addition or alteration to the roof of a dwelling house, as permitted by Class B of Part 1 of Schedule 2 of that Order shall be carried out without first obtaining planning permission from the Local Planning Authority.

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

Condition 5

Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting that Order) no installation of any hard standing, as permitted by Class F of Part 1 of Schedule 2 of that Order shall be carried out without first obtaining planning permission from the Local Planning Authority.

Reason: In order that the Local Planning Authority may exercise control over any new hard standing at the dwelling house in the interests of residential and/or visual

amenity and impact on on and offsite flooding.

Condition 6

The garages hereby permitted shall only be used for the parking of vehicles or for domestic storage associated with the relevant dwelling and shall not be used for living accommodation.

Reason: To ensure adequate parking and garage space is provided within the site in accordance with the standards adopted by the Local Planning Authority.

Condition 7

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

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

Condition 8

No above ground development shall commence until a strategy to provide fastest available broadband access has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to occupation and thereafter retained.

Reason: To ensure that all new dwellings are provided with appropriate internet connectivity that will improve commercial opportunities and facilitate working from home and improve residents' connections to essential online services and social networks.

Condition 9

Prior to the occupation of each dwelling, the vehicle parking area allocated for that dwelling as indicated on the approved plans, shall be hard surfaced, sealed and marked out in parking bays. The vehicle parking area and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development. The development shall only be implemented in accordance with the approved details.

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.

Condition 10

Prior to the first occupation of any dwelling, details of the proposed cycle storage provision for the site shall be submitted to and approved in writing by the Local Planning Authority. The cycle parking facilities as approved shall thereafter be provided prior to the first occupation of the dwelling that it serves and shall be retained at all times. The development shall only be implemented in accordance with

the approved details.

Reason: To ensure appropriate bicycle parking is provided.

Condition 11

No above ground works shall commence until a Refuse Scheme is submitted and approved in writing. The Refuse Scheme shall include the following details:

- Location of refuse bins and recycling materials;
- Their storage areas and waste/recycling presentation points;
- Appearance of any associated screening or/and enclosures;
- Confirmation that distances travelled by local authority refuse vehicle operatives from the location where a refuse vehicle are intended to stop to the presentation points specified do not exceed 20m each way;
- Confirmation of 26 tonne carrying capacity of all roads intended for use by local authority refuse vehicles;
- Refuse vehicle swept path analysis for all roads intended for use by local authority waste vehicles;

The development shall be implemented in accordance with the approved details prior to the first occupation of each respective unit of the development and thereafter retained.

Reason: In the interests of amenity; to ensure that the development layout provides suitable facilities and to prevent the unsightly storage of refuse containers.

Condition 12

No above ground work shall commence until details and locations of all enclosures within the site and around the site boundary are submitted and approved in writing by the LPA. Details shall include the following:

- a) The position, height and materials of all walls, fences and enclosures to dwellings within the site;
- b) The position, height, materials and maintenance of all walls, fences, enclosures and gates around the boundary of the site, including the wildlife corridors, green buffers and existing woodland;
- c) The position, height, materials and maintenance of the enclosure to the NEAP, and details of a proposed gate between the Community Orchard and the corner of Church Street/ High Garrett.

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

Reason: In the interests of visual amenity and safety.

Condition 13

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

Reason: In the interests of visual amenity.

Condition 14

All soil and waste plumbing shall be run internally and shall not be visible on the exterior.

Reason: In the interests of visual amenity.

Condition 15

Notwithstanding the details shown on the plans and documents hereby approved, no above ground development shall commence until full particulars of the following have been submitted to and approved in writing by the Local Planning Authority:

- a) A sample board for all facing materials; to include window frames, ventilation screens and vent pipes, meter boxes, brickwork and mortar colour;
- b) Brick samples and specifications along with plans indicating location of bricks;
- c) Façade design and detailing;
- d) Details of all ground floor frontages including entrance doorways, canopies, soffits, lighting and areas allocated for signage;
- e) Window design: setting out specification of all typical windows including reveals, spandrels, flashing and frame thickness and the location of glazing bars;
- f) Roof detailing including tile samples and specification of all ridges and verges;
- g) Details of all ground surface finishes, including kerbs and manhole cover;

The development shall only be carried in accordance with the approved details.

Reason: To ensure that the external appearance of the building is satisfactory and does not detract from the character and visual amenity of the area.

Condition 16

The development hereby permitted shall not be occupied until all first floor windows for plot 228/229 on the south facing elevation have been fitted with obscured glazing to a minimum of level 3, and shall be non-opening unless the parts of the window which can be opened are more than 1.7 metres above the finished internal floor level of the room in which the window is installed and thereafter retained as such.

Reason: In the interests of residential amenity and in order to secure the privacy of adjoining occupiers.

Condition 17

No above ground development shall commence, until a scheme for on-site foul water drainage works, including connection point and discharge rates into the network and whether they are pumping or gravitating, has been submitted to and approved in writing by the Local Planning Authority in consultation with Anglian Water. Prior to the occupation, the foul water drainage works must be implemented in complete accordance with the approved scheme.

Reason: To prevent environmental and amenity problems arising from flooding.

Condition 18

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: 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.

Condition 19

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.

Condition 20

Details of bird and bat nesting boxes/ swift bricks shall be submitted to and approved in writing by the Local Planning Authority prior to any exterior cladding or brickwork commencing. The details shall include the exact location, specification and design of the habitats.

The boxes / bricks shall be installed within the development prior to the first occupation of the building to which they form part or the first use of the space in which they are contained. The nesting boxes / bricks shall be installed strictly in accordance with the approved details, and shall be retained as such thereafter.

Reason: To ensure the development provides the maximum possible provision towards creation of habitats and valuable areas for biodiversity.

Condition 21

Prior to first occupation, the two proposed links to the existing Public Rights of Way (PROW 68_96) as shown on drawing no. 21004-100 Rev D, will be provided and remain in perpetuity for the lifetime of the development.

Reason: In the interest of amenity.

Condition 22

A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the Local Planning Authority prior to occupation of the development.

The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

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).

Condition 23

On site measures to avoid impacts from the development alone to the Blackwater Estuary Special Protection Area (SPA) & Ramsar site and Essex Estuaries Special Area of Conservation (SAC) shall be submitted to, and be approved in writing by, the Local Planning Authority prior occupation of the development.

The content of the onsite measures will be in line with the approved Habitats Regulations Assessment and shall include the following:

- a) Purpose and conservation objectives for the proposed measures;
- b) Detailed designs of the interpretation board and leaflets;
- c) Timetable for implementation demonstrating that measures are aligned with the proposed phasing of development;
- d) Locations of proposed interpretation boards by appropriate maps and plans; and
- e) Details of initial aftercare and long-term maintenance.

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

Reason: To avoid Adverse Effects on Site Integrity from the development alone upon the Blackwater Estuary Special Protection Area (SPA) and Ramsar site and Essex

Estuaries Special Area of Conservation (SAC) and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended).

Informative(s)

Informative 1

Sustainable Urban Drainage

Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to suds@essex.gov.uk.

- Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
- Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.
- It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.
- The Ministerial Statement made on 18th December 2014 (ref. HCWS161) states that the final decision regarding the viability and reasonableness of maintenance requirements lies with the LPA. It is not within the scope of the LLFA to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside of this authority's area of expertise.
- We will advise on the acceptability of surface water and the information submitted on all planning applications submitted after the 15th of April 2015 based on the key documents listed within this letter. This includes applications which have been previously submitted as part of an earlier stage of the planning process and granted planning permission based on historic requirements. The Local Planning Authority should use the information submitted within this response in conjunction with any other relevant information submitted as part of this application or as part of preceding applications to make a balanced decision based on the available information.

Informative 2

Glazing to provide privacy is normally rated on a Pilkington or equivalent scale of 1-5, with 5 providing the most privacy.

Positive and Proactive Statement

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

APPENDIX 2:

POLICY CONSIDERATIONS

National Planning Guidance

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

Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP2	Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
SP3	Spatial Strategy for North Essex
SP4	Meeting Housing Needs
SP6	Infrastructure & Connectivity
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP16	Housing Provision and Delivery
LPP32	Affordable Housing in Rural Areas
LPP35	Housing Mix, Density and Accessibility
LPP42	Sustainable Transport
LPP43	Parking Provision
LPP45	New Road Infrastructure
LPP46	Broadband
LPP47	Built and Historic Environment
LPP48	An Inclusive Environment
LPP49	Health and Wellbeing Impact Assessment
LPP50	Provision of Open Space, Sport and Recreation
LPP52	Layout and Design of Development
LPP59	Archaeological Evaluation, Excavation and Recording
LPP63	Natural Environment and Green Infrastructure
LPP65	Tree Protection
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP67	Landscape Character and Features
LPP70	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP71	Climate Change
LPP72	Resource Efficiency, Energy Generation and Energy Efficiency
LPP74	Flooding Risk and Surface Water Drainage
LPP75	Surface Water Management Plan
LPP76	Sustainable Urban Drainage Systems
LPP77	External Lighting

APPENDIX 3:

SITE HISTORY

Application No:	Description:	Decision:	Date:
17/00084/NONDET	Outline planning permission for up to 300 residential dwellings (including 30% affordable housing), planting, landscaping, informal public open space, children's play area and sustainable drainage system (SuDS). All matters reserved with the exception of access.	Appeal Allowed	17.08.20
22/00034/COND	Application for approval of details as reserved by condition 6 (Site Wide Design Guide) of approved application 17/01304/OUT	Appeal Withdrawn	05.05.22
94/00859/FUL	Proposed change of use from agricultural to domestic gardens	Granted	16.08.94
17/00881/FUL	Change of use of land for the keeping of horses and erection of stable block with associated handstanding, fencing and vehicular access	Refused	02.08.17
17/01304/OUT	Outline planning permission for up to 300 residential dwellings (including 30% affordable housing), planting, landscaping, informal public open space, children's play area and sustainable drainage system (SuDS). All matters reserved with the exception of access.	Non-Determination, Allowed at Appeal	23.11.17
17/02188/OUT	Outline planning permission for up to 265 residential dwellings (including 30% affordable housing), planting,	Refused	26.04.18

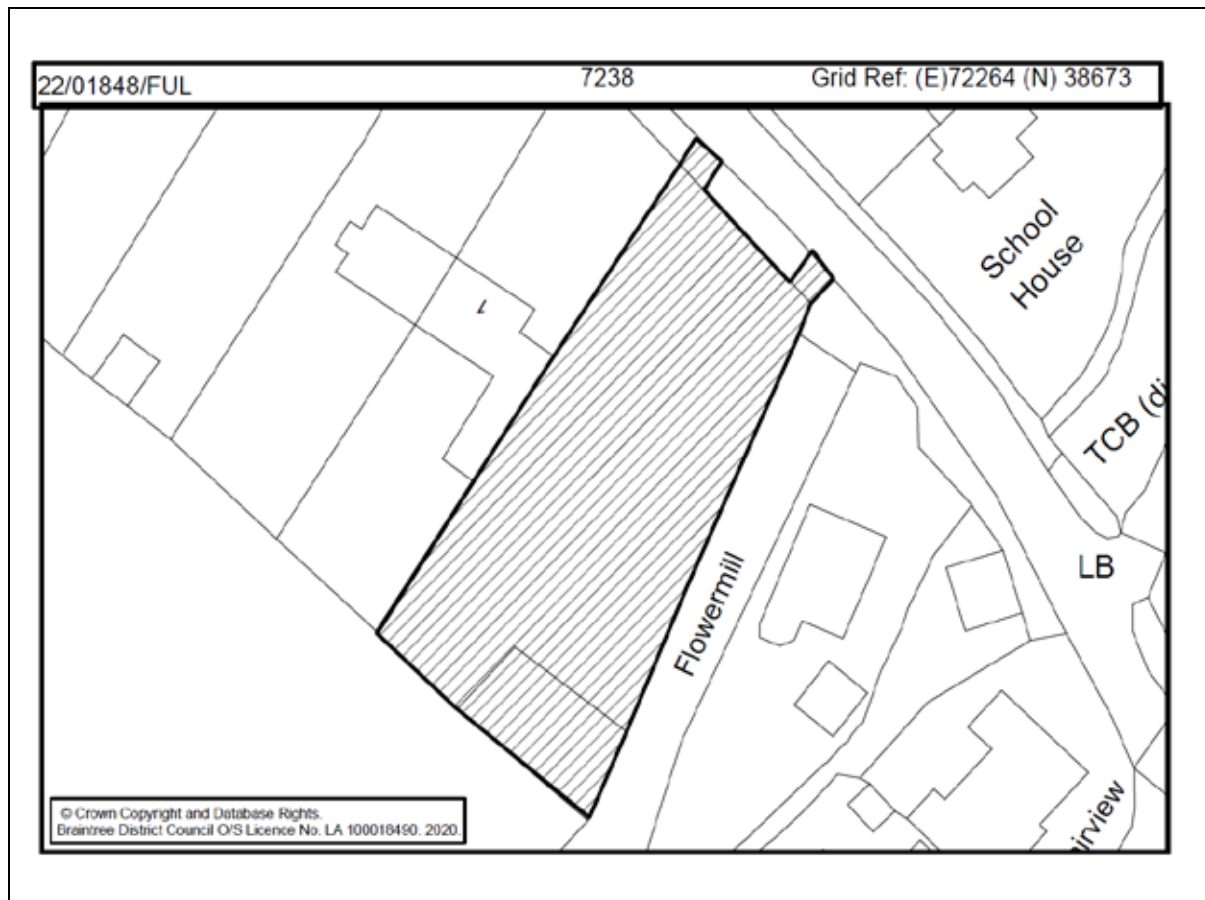
	landscaping, informal public open space, children's play area and sustainable drainage system (SuDS). All matters reserved with the exception of access.		
21/00213/DAC	Application for partial approval of details pursuant to condition 12 (Archaeological Investigation) of application 17/01304/OUT.	Granted	25.05.21
21/01722/DAC	Application for approval of details as reserved by condition 6 (Site Wide Design Guide) of approved application 17/01304/OUT	Refused	27.10.21
21/02334/DAC	Application for approval of details pursuant to condition 12 (Archaeological Investigation - Post Excavation Assessment) of application 17/01304/OUT.	Granted	23.09.21
22/00804/DAC	Application for approval of details as reserved by condition 6 (Site Wide Design Guide) of approved application 17/01304/OUT	Granted	05.05.22
22/01922/DAC	Application for approval of details as reserved by Condition 13 (Tree Protection) of planning permission 17/01304/OUT.	Pending Consideration	
22/01923/DAC	Application for approval of details as reserved by Conditions 19 (Noise Mitigation) and 21 (Piling) of planning permission 17/01304/OUT.	Pending Consideration	
22/01924/DAC	Application for approval of details as reserved by Condition 24 (Water Drainage) of planning	Pending Consideration	

	permission 17/01304/OUT.		
22/01949/S106A	Application for approval of Schedule 3, Part 3, Paragraph 3.1 of the S106 agreement for application 17/01304/OUT (approved at Appeal APP/Z1510/W/17/3187374 on 17th August 2020) for the submission of a Residential Travel Plan.	Pending Consideration	
22/02113/DAC	Application for approval of details pursuant to condition 25 (Drainage Maintenance Plan) of approved application 17/01304/OUT	Pending Consideration	
22/02128/DAC	Application for approval of details pursuant to Condition 8 (Sections and Finished Floor Levels) of approved application 17/01304/OUT	Pending Consideration	
22/02220/S106A	Application for approval of Schedule 2, Paragraph 4.1 of the S106 agreement for application 17/01304/OUT (approved at Appeal APP/Z1510/W/17/3187374 on 17th August 2020) for the submission of the Affordable Housing Scheme.	Pending Consideration	
22/02296/DAC	Application for approval of details pursuant to Condition 9 (Contamination) of approved application 17/01304/OUT	Pending Consideration	
22/02507/S106A	Application for approval of Schedule 2, Paragraph 6.2 of the S106 agreement for application 17/01304/OUT (approved at Appeal APP/Z1510/W/17/3187374 on 17th August 2020) for the submission of evidence for the formation	Pending Consideration	

	of a Management Company.		
22/02937/DAC	Application for approval of details reserved by conditions 14 (Protecting Retained Habitats) and 17 (Biodiversity Management Plan) of approval 17/01304/OUT	Pending Consideration	

Report to: Planning Committee		
Planning Committee Date: 7th March 2023		
For: Decision		
Key Decision: No		Decision Planner Ref No: N/A
Application No:	22/01848/FUL	
Description:	Proposed 2 No. 4 bed chalet bungalows and associated works.	
Location:	Land Adjacent 1 Church Road, Stambourne	
Applicant:	Mr M Jones, Laurel Wood House, The Street, Takeley, CM22 6LY	
Agent:	Mr R Swann, Swann Edwards Architecture, Fen Road, Guyhirn, Wisbech, PE13 4AA	
Date Valid:	11th July 2022	
Recommendation:	It is RECOMMENDED that the following decision be made: § Application REFUSED for the reasons outlined within Appendix 1 of this Committee Report.	
Options:	The Planning Committee can: a) Agree the Recommendation b) Vary the Recommendation c) Overturn the Recommendation d) Defer consideration of the Application for a specified reason(s)	
Appendices:	Appendix 1:	Reason(s) for Refusal Submitted Plan(s) / Document(s)
	Appendix 2:	Policy Considerations
	Appendix 3:	Site History
Case Officer:	Jack Street For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2515, or by e-mail: jack.street@braintree.gov.uk	

Application Site Location:



Purpose of the Report:	The Committee Report sets out the assessment and recommendation of the abovementioned application to the Council's Planning Committee. The report sets out all of the material planning considerations and the relevant national and local planning policies.
Financial Implications:	<p>The application was subject to the statutory application fee paid by the applicant for the determination of the application.</p> <p>There are no direct financial implications arising out of the decision, notwithstanding any costs that the Council may be required to pay from any legal proceedings. Financial implications may arise should the decision be subject to a planning appeal or challenged via the High Court.</p>
Legal Implications:	<p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either set out the relevant Conditions & Reasons and any Informatives, or the Reasons for Refusal if applicable.</p> <p>All relevant policies are set out within the report, within Appendix 2.</p> <p>The application site is currently owned by BDC. Contracts have been exchanged on a subject to planning basis.</p>
Other Implications:	The application has been subject to public consultation and consultation with relevant statutory and non-statutory consultees. All responses received in response to this consultation are set out within the body of this Committee Report.
Equality and Diversity Implications	<p>Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:</p> <ul style="list-style-type: none"> a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act; b) Advance equality of opportunity between people who share a protected characteristic and those

	<p>who do not;</p> <p>c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.</p> <p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
Background Papers:	<p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> § Application Form § All Plans and Supporting Documentation § All Consultation Responses and Representations <p>The application submission can be viewed online via the Council's Public Access website: www.braintree.gov.uk/pa by entering the Application Number: 22/01848/FUL.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> § National Planning Policy Framework (NPPF) § Braintree District Local Plan 2013 - 2033 § Neighbourhood Plan (if applicable) § Supplementary Planning Documents (SPD's) (if applicable) <p>The National Planning Policy Framework can be viewed on the GOV.UK website: www.gov.uk/.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: www.braintree.gov.uk</p>

1. EXECUTIVE SUMMARY

- 1.1 The application regards a site known as 'Land Adjacent to 1 Church Road' in Stambourne. The application proposes 2no. detached residential dwellinghouses described as 4-bed "chalet bungalows" and associated works including site access and driveway and boundary treatments.
- 1.2 The northern sections of the application site, which includes the proposed dwellings, falls within the village envelope of Stambourne Dyers End. The southernmost section of the plot, which falls beyond the village envelope, contains the garden areas. In accordance with Policy LPP1 of the Adopted Local Plan the principle of development is acceptable subject to material considerations.
- 1.3 The proposed dwellings would each be two-storey and orientated vertically with the building frontage appearing as a gable end. The first floor would be accommodated in the roof space, with roof lights and a dormer window to provide additional lighting and headroom in this space. Each dwelling would provide four bedrooms arranged on the first floor, with living areas (i.e. lounge, kitchen, dining) provided at ground floor.
- 1.4 The application site is currently an undeveloped plot of land typified by vegetation and set behind established trees which form the northern perimeter of the site along the highway. The street scene is typified by semi-detached 'pairs' of dwellings, both two-storey and bungalow, with the site bordered by a semi-detached pair of horizontal bungalows to its west and a single, detached gable-fronted dwelling to the east.
- 1.5 The proposed design and appearance of the dwellinghouses is considered to contrast to the established pattern of local development observable within Church Road. The dwellings bear little resemblance to the street scene character and, when appearing next to the neighbouring single-storey bungalows, the buildings would be overly prominent in this section of the street scene and would not be in keeping with the Church Road street scene. This conflicts with Policies SP7, LPP35 and LPP52 of the Adopted Local Plan.
- 1.6 Officers also note that, notwithstanding, the position of the site in the settlement boundary of Stambourne Dyers End, the site is a considerable walkable distance from services and facilities. There are no nearby public transport routes and so reliance on public transport and/or travel by foot or cycle to services and facilities is not a considered a realistic prospect. This weighs against the proposal, however only limited weight can be attributed to this factor, given the site is located within a settlement boundary.
- 1.7 The benefits of the proposal include social and economic benefits, an increase in housing supply, and potential biodiversity enhancement measures. However, these are limited to the small-scale of the proposal and does not outweigh the identified harms. It is therefore recommended that the application is refused.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

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

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

- 5.1 The northern section of the application site, which includes the proposed dwellings, is within the village envelope of Stambourne Dyers End. The southernmost section of the plots, which includes the indicated garden areas, is beyond the village envelope.
- 5.2 The application site is an undeveloped plot of land typified by vegetation and set behind established trees which line the front (northern) perimeter of the site along its boundary with the highway and served by an existing access at the north-east of the plot.
- 5.3 The site is bordered on each side by bungalows along Church Road organised as follows: a semi-detached pair of bungalows set horizontally across Church Road to the west of the site, and a detached single bungalow set vertically with a gable end frontage to the east of the site. Further along to the west of the site sits a linear, uniform pattern of semi-detached dwellings of two-stories interspersed with bungalows on the southern side of the highway. Opposite the site is the Village Hall and associated car park, and south-east is the residential street scene of Dyers End.

6. PROPOSAL

- 6.1 The proposed dwellings would each be two-storey and orientated vertically with the building frontage appearing as a gable end. The first floor would be accommodated in the roof space, with roof lights and a dormer window to provide additional lighting and headroom in this space. Each dwelling would provide four bedrooms arranged on the first floor, with living areas (i.e., lounge, kitchen, dining) provided at ground floor.
- 6.2 In terms of dimensions, both buildings demonstrate a similar footprint of approximately 14 metres (m) in length and 7.50m in width. The buildings would follow a rectangular footprint orientated so that its narrow width faces

onto the street scene. The height of both buildings would measure approximately 7.50m from ground level to the apex of the ridge. The gabled front and rear create a continuous pitched roof across the entirety of the buildings, with a single gabled dormer window inserted into the outer flank of each building. Each dormer window is indicated in the Design and Access Statement to be obscure glazed. Roof lights would be inserted onto other sections of the roof; two roof lights on the inner flank of the buildings facing one another and a single roof light on the outer flank.

6.3 The application proposes the front curtilage to form a parking area for the dwellinghouses, with three parking bays indicated. The two plots would be bisected by a 1.20m timber post-and-rail fence at the front of the buildings and a 1.80m high timber close-boarded fence dividing the rear garden plots.

6.4 As noted in Section 5, the site is set behind an established tree canopy which fronts onto the highway. The design and access statement indicates that the landscaping in this area would remain untouched.

7. SUMMARY OF CONSULTATION RESPONSES

7.1 Essex Fire and Rescue Service

7.1.1 No objection.

7.2 BDC Ecology

7.2.1 Initially raised a holding objection owing to insufficient ecological information.

7.2.2 Following the submission of an Ecological Impact Assessment (EIA) (Glaven Ecology, November 2022), the Ecology Officer raised no objection to the scheme provided recommended ecological mitigation and enhancement measures outlined in the report are implemented and secured by condition.

7.3 BDC Landscapes

7.3.1 It is noted that the planting across the northern perimeter of the site, which is typified by established, mature trees and vegetation, lends itself to the amenity of the locality. Any loss of vegetation should be mitigated through a suitably worded landscaping condition, although the preservation of the specimens would be the preferred option.

7.3.2 It was noted that the limited amount of frontage could not be assessed as important under the Hedgerow Regulations 1997, particularly as there is evidence of dead branching, probably from elm in the existing. Notwithstanding, the roadside vegetation was assessed to lend itself to the visual amenity of the area.

7.4 Essex County Council Highways

7.4.1 The Local Highways Authority initially raised objection to the proposed scheme as it had not been demonstrated that the proposal would be acceptable in terms of highway safety, efficiency and accessibility. It was advised that the applicant submit a visibility splay indicating the extent of highway boundary to be clear that splays do not encroach over third-party land.

7.4.2 Following the submission of revised information in accordance with the Local Highway Authority's initial response, no objection was raised toward the scheme, subject to conditions.

8. PARISH / TOWN COUNCIL

8.1 Stambourne Parish Council

8.1.1 No objection but noted concerns from local residents regarding protection of wildlife habitat.

9. REPRESENTATIONS

9.1 A site notice was displayed at the entrance to the application site for a 21 day period and immediate neighbours were notified in writing. The Council received four representations, two registered as objections and two registered as general comments. A summary of responses is provided below.

9.1.1 *Objections:*

- Concern raised toward impact of the development on privacy, particularly from the proposed dormer windows.
- Concern raised toward the impact on wildlife habitats and biodiversity features local to the site area, including habitats for bats, hedgehogs, and red-listed birds.
- Concern about the extent of tree removal, and recommendations made that the trees are preserved and that any loss to planted features should be mitigated by new planting.
- Recommendations that hedgerows are retained owing to biodiversity benefits currently provided on site. Any loss should be mitigated with replanting.
- Recommendation made for a Preliminary Ecological Appraisal (an Ecological Impact Assessment was subsequently submitted – see Section 7.4).

9.1.2 *General Comments:*

- Attention raised toward local habitat features on site and the need to protect existing hedgerows and trees on site.

10. PRINCIPLE OF DEVELOPMENT

10.1 National Planning Policy Framework (NPPF)

- 10.1.1 As set out in Paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 of the NPPF explains that achieving sustainable development means that the planning system has three overarching objectives: economic; social; and environmental; which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives).
- 10.1.2 Paragraph 9 of the NPPF outlines that planning decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area. In addition, paragraph 38 of the NPPF prescribes that local planning authorities should approach decisions on proposed development in a positive and creative way and that decision makers at every level should seek to approve applications for sustainable development where possible.
- 10.1.3 Paragraph 12 of the NPPF sets out that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making. In addition, paragraph 47 of the NPPF states that planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise.
- 10.1.4 The NPPF underlines the Government's objective of significantly boosting the supply of homes. In this regard, Paragraph 60 of the NPPF highlights the importance of ensuring that there is a sufficient amount and variety of land that can come forward where it is needed, that specific housing requirements are met, and that land with permission is developed without unnecessary delay. Paragraph 74 of the NPPF outlines that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against (in the case of Braintree District) our 'local housing need' plus the relevant buffer.
- 10.1.5 In this regard, and in considering the overall planning balance as to whether the proposed development subject to this application constitutes sustainable development, an important material consideration in this case is whether the Council can robustly demonstrate a 5 Year Housing Land Supply. This will affect whether Paragraph 11 of the NPPF is engaged and consequently the weight that can be attributed to the Development Plan (see below).

10.2 5 Year Housing Land Supply

- 10.2.1 The Council has an up-to-date Local Plan which has an approved minimum housing target of 716 new homes per year in the District between 2013 and 2033.
- 10.2.2 To this annual supply the Council must add the backlog which it has not delivered at that level since the start of the Plan period. This figure is recalculated each year and as of April 2022 stands at 1,169 across the 5 Year Housing Land Supply.
- 10.2.3 The Council must also apply a buffer to the housing land supply based on the results of the Housing Delivery Test. In the latest results published on the 14th January 2022, the Council had delivered 125% of the homes required. This means that the Council is required to apply the lowest level of buffer at 5%.
- 10.2.4 Taking the above into account, the Council's latest 5 Year Housing Land Supply position for 2022-2027 shows a supply of 4.86 years. This position is marginal and with a number of strategic sites starting to deliver homes alongside other permissions, that situation is likely to change.
- 10.2.5 Nevertheless, as the Council cannot demonstrate the required 5 Year Housing Land Supply, the 'tilted balance' pursuant to Paragraph 11d) of the NPPF is engaged. It also means that the most important Development Plan policies relevant to the provision of housing are out-of-date. However, this does not mean that Development Plan policies should be completely disregarded. It is for the decision-maker to determine the weight to be attributed to the conflict with those policies.

10.3 The Development Plan

- 10.3.1 Currently the Council's statutory Development Plan consists of the Braintree District Local Plan (2013-2033).
- 10.3.2 Policy LPP1 of the Adopted Local Plan requires that development outside development boundaries will be confined to uses appropriate to the countryside whilst also protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils to protect the intrinsic character and beauty of the countryside.
- 10.3.3 The application site is located within the Stambourne Dyers End village envelope, wherein the principle of development is acceptable subject to material considerations.

11. SITE ASSESSMENT

11.1 Location and Access to Services and Facilities

- 11.1.1 The application site is located within the Stambourne, although the site is located within the Stambourne Dyers End village envelope. Stambourne Dyers End is designated in the Adopted Local Plan as a third tier village, which are recognised as the smallest village in the District and lack most of the facilities required to meet day-to-day life. The Adopted Local Plan recognises that 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.
- 11.1.2 Stambourne includes a village hall and a chapel, but little services and facilities require for day-to-day life. The nearest villages to Stambourne are Great Yeldham, some 4km to the east, and Steeple Bumpstead 4.5m to the west. In the wider vicinity, the town of Haverhill is located some 7km north-west of the of site. The road network in the locality is typical to a rural area, meaning pedestrian travel to these villages by foot or cycle may require pedestrians to navigate narrow country lanes with poor visibility, especially during darker hours and inclement weather. Owing to the lack of public transport links local to the site, it is realistic to conclude that the private vehicle would prevail as the primary mode of transport from the site.
- 11.1.3 Paragraph 79 of the National Planning Policy Framework (NPPF) (2021) states that, to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.
- 11.1.4 In terms of the settlement hierarchy, Great Yeldham and Steeple Bumpstead are recognised as second tier villages. The Adopted Local Plan identifies these as those which may not serve a wider hinterland but provide the ability for some day to day needs to be met. It is therefore likely that Haverhill will provide the most direct day-to-day needs. Given the distance between the site and wider settlements, it is likely that the private vehicle will prevail as the primary mode of transport and there are limited opportunities to support local services.
- 11.1.5 Policy LPP42 of the Adopted Local Plan outlines that sustainable modes of transport should be favoured, and that priority should be given to cycle and pedestrian movements and access to public transport. No such prospects exist, wherein there is a recognised conflict with Policy LPP42 and the environmental objectives of the NPPF. Therefore, albeit noted that the site is located within a village envelope, conflict with Policy LPP42 is identified. Limited weight is attributed to this given that the application site is located within a settlement boundary.

- 11.2 Design, Appearance and Impact upon the Character and Appearance of the Area
- 11.2.1 The application proposes two detached, narrow dwellinghouses of two-stories. As noted in Section 5, the residential street scene of Dyers End is noted for its uniform pattern of linear development across the southern side of the highway. The existing dwellinghouses follow a distinct rhythm with equal spacing and are predominantly horizontally orientated across the street. Although there is a mixture of two-storey dwellings and bungalows, the rhythm and spacing creates a clear pattern of development viewed west to east.
- 11.2.2 Adjacent to the site to the east adjoining to the corner plot, a single detached bungalow is noted. This bungalow is orientated with its narrow front elevation facing onto the street scene and deep flank walls. Although this building breaks from the uniform pattern of development across Church Road, the building is low-scale and relatively unassuming. The space offered by the site somewhat reinforces a gap between the adjacent dwelling and the uniform Church Road settlement. Development in this section of the street scene must, therefore, be sensitive to tie the Church Road and Dyers End street scenes together.
- 11.2.3 The dwellings proposed, however, would be of two-storey in height albeit with the first floor taken in the roof space. Notwithstanding, the height necessary to provide adequate headroom within this space would emphasise the overall height of the building which would then contrast to the much lower bungalows either side of the application site. The dwellings would therefore appear to contrast from the otherwise uniform pattern of development across Church Road and reflects little reference to the adjacent dwelling to the east. As such, the dwellings would appear wholly out of keeping with the spacing, rhythm, massing, and design of the street scene.
- 11.2.4 This would be exacerbated by the massing of the structures and their overly long, deep gable-fronted design. There is a distinct lack of chalet-style dwellinghouses within the locality such as that designed, save for one example noted at *Cross Winds* along Dyers End. However, this particular comparable dwelling is set within an inherently different street scene, which is developed on both sides of the road and demonstrates a greater variety of housing stock, spacing and rhythm to that of Church Road. Irrespective, the presence of a building within a nearby, yet different, street context should not set precedent for acceptability within a different street scene.
- 11.2.5 With respects to the appearance of the dwellings, Officers note the considerable roof ratio when compared to the eaves. To accommodate the proposed first floors, the roof heights are considerable and appear expansive given the overly deep and narrow form of the buildings. The relatively small dormer windows are not commensurate to the overall size of the roof plane and appears out of proportion to the overall massing of the buildings.

- 11.2.6 In addition, the fenestration appears unbalanced with deep flank walls demonstrating excessive solid-to-void ratio which does not break up the length of these elevations. This serves to exacerbate the depth of the structures.
- 11.2.7 The boundary treatments are indicated as low-scale post-and-rail fencing at the front of the site, which would serve as a suitable feature to divide the plots within this residential setting. Close-boarded fencing to the rear would not rescind the character and identity of the local area and would likely be considered acceptable. The front curtilage areas are understood to be driveways. It may have been considered appropriate to agree a condition for hard and soft landscaping details to ensure the design of the front garden areas, whilst ensuring existing planting and trees providing visual amenity are protected and any loss to natural features mitigated.
- 11.2.8 Therefore, the height, massing, and design of the dwellings in the position proposed, when accounting for the immediate surrounds and street scene within which the scheme is proposed, would be out of keeping and therefore contrary to Policy LPP35 of the Adopted Local Plan, which seeks to ensure the density and massing of residential development should relate to the character of the site and its immediate surroundings, as well as the wider locality.
- 11.2.9 In addition, Policy SP7 of the Adopted Local Plan requires developments to respond positively to local character, whilst Policy LPP52 of the Adopted Local Plan requires proposals to be of a high-quality design and that the scale, layout, height and massing of buildings and overall elevation design should reflect or enhance the area's local distinctiveness and shall be in harmony with the character and appearance of the surrounding area. The application is contrary to these policies.

11.3 Proposed Residential Amenity

Internal Amenity

- 11.3.1 Policy LPP35 of the Adopted Local Plan requires developments to accord with the national technical standards and, together with Policy LPP52, seeks to ensure a high standard of accommodation for all developments. In calculation of the potential residential amenity afforded to future occupants requires consideration, Officers recognise the governmental Nationally Described Space Standards ['NDSS'] (2015) published by the Department for Communities and Local Government (now the Department for Levelling Up, Housing and Communities).
- 11.3.2 Both dwellings are two-storey, four-bedroom and, given each dwelling is a reflection of the floorplan of the other, propose similarly sized rooms. Each room is over 11.5sq.m in footprint, wherein they may be considered double rooms accommodating two bedspaces in accordance with the NDSS. Thus,

both dwellings are two-storey, four-bedroom and eight bedspaces. The internal NDSS space requirement for a dwelling of this size is 124sq.m.

- 11.3.3 Both dwellings are considered to demonstrate the expectations of the NDSS and thus the internal amenity is considered to a workable standard for future occupants, affording acceptable internal amenity as a result.

External Amenity

- 11.3.4 The Essex Design Guide (EDG) has been adopted by Braintree District Council as a supplementary planning document and thus forms a material consideration. The standard measurement for garden sizes set out in the EDG is 100 square metres (sqm) for a three bedroom or more property. The space should be private and usable for the occupant, to provide a means of domestic activity without fear of unwanted overlooking. Any screening (i.e. fencing, hedging, landscaping) associated with an amenity space should be indicated on plans.
- 11.3.5 Both garden spaces far exceed the minimum 100sq.m requirement set out in the EDG. The garden spaces are usable and well-related to the dwellinghouse and are considered acceptable.

11.4 Ecology

- 11.4.1 The application is currently an open plot of land bound by planted and vegetated features across its northern, southern, and eastern perimeters. Public consultations have noted the potential of the site to foster biodiversity and wildlife habitats.
- 11.4.2 The BDC Ecology Officer and BDC Landscaping Officer have been consulted during the course of this application. It is noted through the Design and Access Statement that the landscaping across the northern perimeter is to be retained. However, it is not clear how the second access would be provided in the north-west of the site given no such access is currently in-situ. Undoubtedly there would be a loss to a section of the natural boundary treatment.
- 11.4.3 BDC Landscape Officers noted that the trees provide visual amenity and it was suggested they were retained or, if loss was required in the event of approval or at a later date, that a condition for a landscaping plan was secured and that any loss would be suitably mitigated.
- 11.4.4 It is noted through consultation with the Ecology Officer that there was initially insufficient information to determine the application. However, following the submission of an Ecological Impact Assessment, no objection was raised.
- 11.4.5 The report demonstrated the expected level of impact to particular protected species, offering also commensurate mitigation and biodiversity enhancement measures on site. The Ecology Officer recommended that

these recommendations were implemented in full and secured by condition in the event of an approval.

11.4.6 On this basis, the ecological matters are acceptable.

11.5 Impact upon Neighbouring Residential Amenity

11.5.1 Policy LPP52 of the Adopted Local Plan state that development shall not cause undue or unacceptable impacts on the amenities of nearby residential properties. Unacceptable impacts are considered as any factors that can carry the potential to degrade the enjoyment of neighbouring properties in terms of overlooking, overshadowing, loss of light or loss of privacy. The NPPF also seeks a high quality amenity for existing and future occupiers of neighbouring dwellings.

11.5.2 The dwellinghouses would be of two stories with upper floor windows inserted into the roof planes. This would include the insertion of a dormer window on the outer flank elevation of the dwelling, facing onto neighbouring residential plots. The Design and Access Statement references that these windows would be obscure glazed, given they are intended to serve a bathroom. This would protect both occupants and neighbours from loss of privacy. A condition would likely have been recommended should the application have been recommended for approval, to ensure these window remain obscure glazed to an acceptable obscurity level.

11.5.3 Owing to the position of the dwellings in relation to the adjoining plots and taking into account the obscurity of the side dormer windows, no unacceptable levels of overlooking are likely to arise. The roof lights, which would naturally draw views upward given their insertion at an angle within the roof plane, would not give rise to an objectionable level of overlooking.

11.5.4 Furthermore, given the position of the dwellings and their orientations respective to each of the adjoining neighbours, taking into account plot distances, it is not considered the dwellings would introduce an unneighbourly overbearing impact on the adjacent plots, nor an overshadowing impact on light sources.

11.5.5 The application is therefore acceptable in this regard.

11.6 Highway Considerations

11.6.1 The site is served by an existing access, with a proposed access in the north-western section of the site to serve 'Plot 1'. ECC Highways initially raised objection owing to insufficient information but, following the submission of visibility splays by the Applicant, have raised no objection subject to conditions.

11.6.2 Policy LPP43 of the Adopted Local Plan states that development will be required to provide off-street vehicle parking in accordance with ECC

Vehicle Parking Standards ('the Parking Standards'), which state that "prior to any extension or change of use, the developer must demonstrate that adequate parking will be provided". This includes a requirement for properties of two or more bedrooms to provide two off-street parking spaces unless there is evidence by which a lower provision may be appropriate.

- 11.6.3 The plots can demonstrate adequate parking spaces which are suitably sized, meeting the requirements of Policy LPP43. The application would therefore be considered acceptable subject to conditions recommended by ECC Highways.

11.7 Habitat Regulations Assessment (HRA / RAMS)

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

13. PLANNING BALANCE AND CONCLUSION

- 13.1.1 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 (this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in Paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years), 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.
- 13.1.2 As the Council cannot currently demonstrate a 5 Year Housing Land Supply, the 'titled balance' pursuant to Paragraph 11d) of the NPPF is engaged. As a consequence, the most important Development Plan policies relevant to the provision of housing are currently out-of-date due to a lack of 5 Year Housing Land Supply. However this does not mean that Development Plan policies should be completely disregarded. It is for the decision-maker to determine the weight to be attributed to the conflict with those policies. In this regard it is considered that Policy LPP1 of the Adopted Local Plan, which seeks to restrict development outside defined development boundaries to uses appropriate to the countryside, can only be afforded moderate weight. Similarly, it is considered that Policy SP3,

which sets out the spatial strategy for North Essex, can only be afforded less than significant, but more than moderate weight.

- 13.1.3 In this case, it is not considered that pursuant to Paragraph 11d) (i) that the application of policies in the Framework provide a clear reason for refusing the proposed development.
- 13.1.4 As such, pursuant to Paragraph 11d) (ii) it is necessary to consider whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of the proposed development, 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.
- 13.1.5 As set out in Paragraph 8 of the NPPF, achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and needed to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):
- an economic objective (to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure);
 - a social objective (to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being); and
 - an environmental objective (to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy).

13.2 Summary of Adverse Impacts

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

Conflict with the Development Plan

- 13.2.2 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".

- 13.2.3 As set out within Paragraph 47 of the NPPF, planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In this case, the application site is located within a defined development boundary where the principle of development is acceptable. The proposal therefore accords with Policy LPP1 of the Adopted Local Plan in principle, however this is subject to compliance with amenity, design, environmental and highway criteria. As set out below, the proposal fails to comply with this criteria, and substantial weight is attributed to this harm.

Design and Impact Upon Character and Appearance of the Area

- 13.2.4 The design of the proposed dwellings would be out of keeping with the pattern of local development in terms of their scale, massing, and design. The application would contrast with the established spacing, rhythm and identity of the locality and would represent an overdevelopment of the site. The proposal would be contrary to policies set out in Policies SP7, LPP35 and LPP52 of the Adopted Local Plan. As per the NPPF, designs considered of insufficient quality should be refused. Substantial weight is therefore given to this conflict.

Location and Access to Services and Facilities

- 13.2.5 The site would not be within a reasonable distance from nearby service and facilities to support day-to-day needs, nor are realistic public transport opportunities available within the locality of the site. The site is therefore considered to be relatively unsustainable. However, as the site is situated within a village envelope (where the principle of development is acceptable), limited weight is given to this conflict.

13.3 Summary of Public Benefits

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

Delivery of Market and Affordable Housing

- 13.3.2 The development would facilitate the provision of 2 new dwellings. Although the Council cannot demonstrate a 5-year housing land supply, this position is marginal. Given the scale of the development, two dwellings would only provide a limited benefit and therefore only limited weight is given to this benefit.

Economic and Social Benefits

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

13.4 Conclusion

- 13.4.1 Taking into account the above, while the proposal complies with some Development Plan policies which weigh in favour of the proposal, it is considered that the proposal conflicts with the Development Plan as a whole. 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, as indicated above, an important material consideration in this case is that as the Council cannot currently demonstrate a 5 Year Housing Land Supply, the 'titled balance' pursuant to Paragraph 11d) of the NPPF is engaged. As a consequence, the most important Development Plan policies relevant to the provision of housing are currently out-of-date due to a lack of 5 Year Housing Land Supply. Notwithstanding this, Officers consider that there are no material considerations, including the Council's 5 Year Housing Land Supply position, that indicate that a decision should be made other than in accordance with the Development Plan. The Planning Balance is concluded below.

13.5 Planning Balance

- 13.5.1 When considering the planning balance and having regard to the adverse impacts and benefits outlined above, Officers have concluded that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. Consequently, it is recommended that planning permission is refused for the proposed development.

14. RECOMMENDATION

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

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

APPENDIX 1:

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

Submitted Plan(s) / Document(s)

Plan Description	Plan Ref	Plan Version
Location / Block Plan	PP1000 A	N/A
Proposed Elevations and Floor Plans	PP1100	N/A
Topographical Survey	1445-0000-001	N/A

Reason(s) for Refusal

Reason 1

The proposed design of the two dwellinghouses would be out of keeping with the identity, spacing and rhythm of the street scene and would not reflect the scale and design of surrounding developments, wherein the proposed dwellings would contrast with the pattern of local development and would result in the overdevelopment of the site. This would be contrary to Policies SP7, LPP35 and LPP52 of the Braintree District Local Plan 2013 - 2033, as well as design guidance outlined in the National Planning Policy Framework.

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying the matters of concern and discussing these with the applicant either at the pre-application stage or during the life of the application. Unfortunately, it has not been possible to resolve those matters within the timescale allocated for the determination of this planning application. The applicant may wish to seek further advice from the Local Planning Authority in respect of any future application for a revised development.

APPENDIX 2:

POLICY CONSIDERATIONS

National Planning Guidance

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

Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP3	Spatial Strategy for North Essex
SP4	Meeting Housing Need
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP35	Housing Mix, Density and Accessibility
LPP42	Sustainable Transport
LPP43	Parking Provision
LPP52	Layout and Design of Development
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity

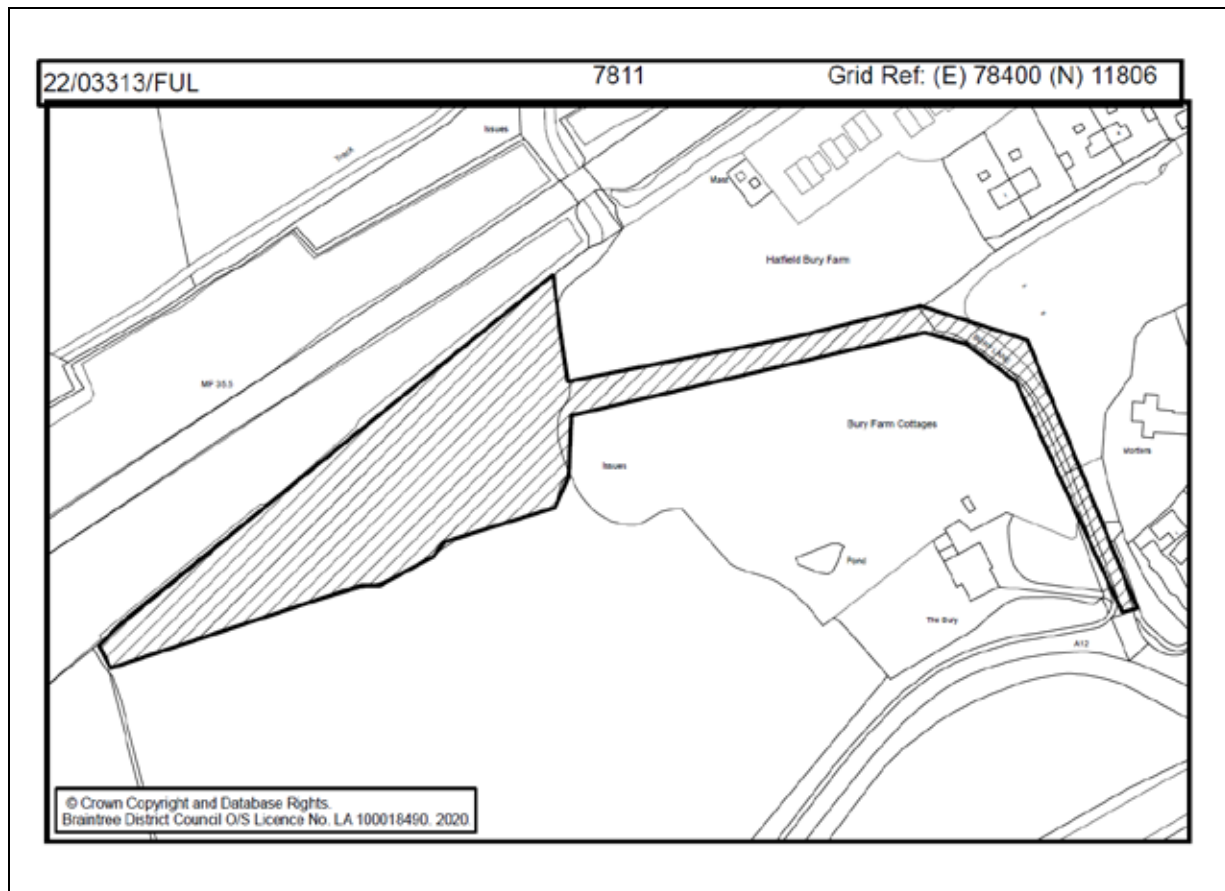
APPENDIX 3:

SITE HISTORY

Application No:	Description:	Decision:	Date:
22/01486/FUL	Proposed 2 No. 4 bed chalet bungalows and associated works.	Withdrawn	30.06.22

Report to: Planning Committee		
Planning Committee Date: 7th March 2023		
For: Decision		
Key Decision: No		Decision Planner Ref No: N/A
Application No:	22/03313/FUL	
Description:	Change of use to ecological mitigation area 5 (linked to the A12 widening scheme) including the creation of 1 pond, creation of 2 bunds from on-site excavated material, perimeter fencing and associated landscaping.	
Location:	Land West Of Bury Lane, Hatfield Peverel	
Applicant:	Mr Kampandila Kaluba, National Highways, Woodlands, Bedford, MK41 6FS	
Agent:	Mrs Sophie Douglas, Jacobs, 1 City Walk, London, LS11 9DX	
Date Valid:	5th December 2022	
Recommendation:	It is RECOMMENDED that the following decision be made: § Application GRANTED subject to the Condition(s) & Reason(s) and Informative(s) outlined within Appendix 1 of this Committee Report.	
Options:	The Planning Committee can: a) Agree the Recommendation b) Vary the Recommendation c) Overturn the Recommendation d) Defer consideration of the Application for a specified reason(s)	
Appendices:	Appendix 1:	Approved Plan(s) & Document(s) Condition(s) & Reason(s) and Informative(s)
	Appendix 2:	Policy Considerations
	Appendix 3:	Site History
Case Officer:	Jack Street For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2515, or by e-mail: jack.street@braintree.gov.uk	

Application Site Location:



Purpose of the Report:	The Committee Report sets out the assessment and recommendation of the abovementioned application to the Council's Planning Committee. The report sets out all of the material planning considerations and the relevant national and local planning policies.
Financial Implications:	The application was subject to the statutory application fee paid by the applicant for the determination of the application.
Legal Implications:	<p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either set out the relevant Conditions & Reasons and any Informatives, or the Reasons for Refusal if applicable.</p> <p>All relevant policies are set out within the report, within Appendix 2.</p>
Other Implications:	The application has been subject to public consultation and consultation with relevant statutory and non-statutory consultees. All responses received in response to this consultation are set out within the body of this Committee Report.
Equality and Diversity Implications	<p>Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:</p> <ul style="list-style-type: none"> a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act; b) Advance equality of opportunity between people who share a protected characteristic and those who do not; c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding. <p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p>

	<p>The consideration of this application has not raised any equality issues.</p>
Background Papers:	<p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> § Application Form § All Plans and Supporting Documentation § All Consultation Responses and Representations <p>The application submission can be viewed online via the Council's Public Access website: www.braintree.gov.uk/pa by entering the Application Number: 22/03313/FUL.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> § National Planning Policy Framework (NPPF) § Braintree District Local Plan 2013 - 2033 § Neighbourhood Plan (if applicable) § Supplementary Planning Documents (SPD's) (if applicable) <p>The National Planning Policy Framework can be viewed on the GOV.UK website: www.gov.uk/.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: www.braintree.gov.uk.</p>

1. EXECUTIVE SUMMARY

- 1.1 This planning application seeks full planning permission for the change of use and development of the site to form an ecological mitigation area (Site Area 5). The development would facilitate the provision of one pond together with the creation of two bunds from on-site excavated material, the provision of animal shelter systems (hibernacula, basking bank, log pile), trees (both individual specimens and intermittent along with shrubs), perimeter fencing and access gating and general associated landscaping.
- 1.2 During the course of this assessment, the proposed site plan has been altered although the red line boundary has remained the same. The revised plans demonstrate that no works would be undertaken in the easternmost section of the site, which has been in response to proposed development features associated with the adjoining housing development. This area would therefore remain in its current state following completion of development. The revisions have also relocated the pond proposed clear of a Root Protection Area (RPA). The revised plans are those which will be subject to this assessment.
- 1.3 The proposal is supported in terms of principle by the Adopted Local Plan, which states that proposals that result in a net gain in priority habitat will be supported, and by the NPPF which states that applications to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.
- 1.4 The Hatfield Peverel Neighbourhood Plan states that strong support will be given to the retention of natural boundary treatments and the provision of new areas of natural planting and habitat as part of new developments, to help to promote wildlife corridors. It is therefore considered that, in view of the potential for biodiversity and ecological enhancement, the loss of agricultural land has been justified.
- 1.5 The introduction of a pond, together with associated animal shelter systems, would alter the character of the existing arable field. However, the site is set on a sloping topographical gradient which declines away from an adjoining housing development currently under construction and is set lower and some distance from the A12 slip-road to the south. The modest verticality and nature of the development, together with its placement within an enclosed field set against an incline up to the trainline to the north and sparse woodland area to the west, would integrate the site within natural surrounds.
- 1.6 The proposed access for construction is considered appropriate. The access would be provided through an ongoing housing development, with a gated access proposed on the easternmost site boundary providing access to the compound set-up during construction. The compound would be

dismantled toward the end of construction and the land returned to its existing state.

- 1.7 In regard to ecology and landscape considerations, the proposed design of habitat creation is supported, as is the proposed planting scheme. The biodiversity net gains are strongly supported. The development would result in no significant ecological constraints, and any impacts can be addressed by the mitigation proposed. The proposal means of landscaping the site are acceptable. Following the relocation of the proposed pond, the development would not affect the root protection areas (RPA) of any trees, and the RPA's of the other trees would be protected during construction at key areas (such as access points) by protective fencing and matting. All fences would be hand-rammed and overseen by an Arboricultural clerk in sensitive areas.
- 1.8 The site adjoins an ongoing housing development along Bury Lane. Although there would be some impacts to neighbouring residential amenities during construction, these would be consistent with the current conditions on site. Once construction is completed, there would be no adverse impact to neighbouring amenity.
- 1.9 Taking the above factors into account, the application is recommended for approval subject to conditions.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

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

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

- 5.1 The application site consists of an open, undeveloped parcel of agricultural pastoral land at the western conclusion of Bury Lane, Hatfield Peverel. The red line boundary measures 0.98 hectares (ha) inclusive of the main site area and the area for construction and site access. The site area subject to the proposed development measures 0.64ha. The site is situated beyond the defined settlement boundary.
- 5.2 The site encompasses the northern section of the field; the southern side between the site and A12 slip-road to the south is not subject to this assessment. The site is bound to the north by a railway track, which sits atop a vegetated incline in the topography, to the east by an ongoing housing development, and to the west by an area of woodland surrounding the River Ter.
- 5.3 The site is served by an access formed through the adjoining housing development, with the access provided where the westernmost perimeter of the housing development boundary meets the easternmost boundary of the red line boundary.
- 5.4 The site is 100m east of the River Ter. The entirety of the site is located within Flood Zone 1, which is identified as being of lowest risk of flooding.
- 5.5 Adjoining to the adjacent housing development are a collection of existing dwellinghouses, which include two dwellings accessed from Bury Lane and a residential cul-de-sac formed from the Weale Close/Bury Lane junction. These dwellings do not abut the area of proposed development.
- 5.6 The proposed site has been found to be classified Subgrade 3a in the Agricultural Land Classification (ALC), recognised as good-quality agricultural land.
- 5.7 The nearest ecological designated site is Titbeech Wood local wildlife site approximately 635m north of the application site.

6. CONTEXT TO PROPOSALS

- 6.1 The proposal forms part of the wider Nationally Significant Infrastructure Project (NSIP) proposed for widening the A12 between Chelmsford and Colchester. A Development Consent Order (DCO) application for this NSIP was accepted for examination by the Planning Inspectorate on the 12th of September 2022.
- 6.2 The DCO identifies a number of ecological mitigation areas to help mitigate the impacts of the A12. The Applicant (National Highways), is seeking full permission under the Town and Country Planning Act 1990 for 16 ecological mitigation areas through the submission of 13 planning applications across the Districts of Braintree, Colchester and Chelmsford in order to enable the creation of habitats in advance of the A12 construction.
- 6.3 The ecological mitigation areas have already been identified within the DCO which provides a high-level indicative layout for each ecological mitigation area. This planning application provides the detailed design with regards to the scale and nature of the proposal and how the ecological mitigation area would be constructed, operated, and maintained.

7. PROPOSAL

- 7.1 The application seeks planning permission for the change of use and development of ecological mitigation areas. The site is envisaged to be a reptile receptor site. The proposed ecological mitigation areas would include the following forms of development:
- § The creation of 1no. pond within the centre of the site area.
 - § 2no. bunds from on-site materials.
 - § The provision of animal shelter systems, including hibernacula, basking banks and log piles.
 - § Proposed planting of new trees, shrubs, grassland and aquatic and marginal planting around the pond, as well as reedbeds and bankside herbs in this location.
 - § A perimeter fence enveloping the site and an access gate on the easternmost section of the site, adjoining the current access via Bury Lane.
- 7.2 The Construction Management Plan (CMP) sets out that during the construction of the proposal, up to 2no. excavators and dumpers (though more likely 1no. of each) would be kept at the application site. The length of construction is anticipated to last approximately 2 months. Daily workforce is unlikely to exceed 10 people, and the majority of these people would arrive at the site in a single vehicle. The CMP envisages up to 15 light vehicle (cars and vans) trips per day in and out of site, whilst deliveries may total up to 6 trips per day but is likely to be a single HGV vehicle on turnaround.

7.3 It is not proposed that the general public would have any form of contact or right of access over the application site. The use of post and wire fencing, together with 3no. access gates, would be used to prevent unauthorised access.

7.4 Part of the application submission seeks to ascertain whether an Environmental Impact Assessment is required. A Screening Report has been provided. The proposal does not fall within any of the descriptions of development for the purposes of the definition of 'Schedule 1 or 2 Development', as set out within the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. An Environmental Impact Assessment is therefore not required.

8. SUMMARY OF CONSULTATION RESPONSES

8.1 The application site area was altered following the completion of the initial 21-day public consultation period. Following receipt of revised plans, the application was subject to a second round of consultation on the revisions, as well as a second round of public consultation with adjoining neighbours and the local Parish Council. The responses received are set out below.

8.2 Environment Agency

8.2.1 The Environment Agency (EA) notes the site is located within a Flood Zone 1 and below 1ha in size. The EA considered the application and raised no comment on the application.

8.3 Essex Wildlife Trust

8.3.1 Essex Wildlife Trust were satisfied that the proposed mitigation and Habitat Maintenance Plan accompanying both the original and revised plans are appropriately designed and targeted to achieve suitable reptile mitigation and contribute towards the Biodiversity Net Gain target.

8.4 Health and Safety Executive

8.4.1 The Health and Safety Executive (HSE) has no comments to make on the application.

8.5 National Highways

8.5.1 No comment.

8.6 National Rail

8.6.1 No objection, but raised that the Applicant ensures the works do not encroach onto Network Rail land, should not affect the railway and its infrastructure, should not undermine its support zone, place additional load on cuttings or otherwise adversely affect, obstruct or interfere with Network Rail, its infrastructure and any current or future works.

- 8.7 North East Essex Badger Group
- 8.7.1 North East Essex Badger Group state that they have no comments to make.
- 8.8 BDC Environmental Health
- 8.8.1 Recommended that, where weekend is proposed, the Local Authority is notified and should as far as practicable comply with typical hours of working. These hours of working and activities were reflected within the revised Construction Management Plan and are considered acceptable.
- 8.9 BDC Landscape Services
- 8.9.1 BDC Landscape Services raises no objection to the application.
- 8.9.2 They consider that the proposed change of use and appearance are acceptable.
- 8.9.3 They note that the proposed planting and species mix is acceptable.
- 8.9.4 They note that it is stated within the documentation that no hedgerows or trees will be removed to allow for development. At the time the comments were made, cross section drawings had not been provided, and this was noted in their response.
- 8.9.5 Although subsequent to these comments being received, the additional detail requested has been submitted, further comments on this information has not been received by Landscape Services at the time of writing the report.
- 8.10 ECC Archaeology (Place Services)
- 8.10.1 Place Services Archaeology noted there are no Historic Environment Records recorded within the site or immediately adjacent. Due to the scale and nature of the works, impacts on any archaeological remains is considered unlikely and an archaeological investigation was not considered required and recommends no conditions.
- 8.11 ECC Ecological Advice (Place Services)
- 8.11.1 Place Services Ecological Officer supported both the original submission as well as the revised submission and its revised details. The Biodiversity Metric Calculations were supplied to the Ecological Officer following the receipt of revised information. The Ecological Officer voiced support for the scheme generally and welcomed the inclusion of natural features and habitat creation. The scheme was therefore considered acceptable, subject to a condition to ensure works are carried out in accordance with recommendations made in submitted documentation.

8.12 ECC Highways

- 8.12.1 ECC Highways state that the application is considered acceptable in respect of highway considerations. In their response, they recommend the submission of a Construction Management Plan, which it was suggested could be provided by way of a condition. The Applicants submitted the detail during the assessment of the application, which ECC Highways has subsequently considered. They responded to state that they have assessed the submitted Construction Management Plan, and that they consider it is acceptable.

8.13 ECC SUDS (LLFA)

- 8.13.1 The LLFA wishes to make no comments on the proposed development.

9. PARISH / TOWN COUNCIL

9.1 Hatfield Peverel Council

- 9.1.1 No comment.

10. REPRESENTATIONS

- 10.1 Neighbours were consulted by way of letter, and several site notices were displayed outside of the site and wider residential areas for a period of 21 days in respects to the original submission. No comments were received.
- 10.2 Following the receipt of revised plans, a second round of consultation was undertaken with members of the public via letter and several site notices for a 14-day period. No comments were received.

11. PRINCIPLE OF DEVELOPMENT

- 11.1 The Council's Statutory Development Plan consists of the Braintree District Local Plan 2013-2033 and the Hatfield Peverel Neighbourhood Plan.
- 11.2 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.
- 11.3 Policy LPP 1 of the Adopted Local Plan states that new development outside of development boundaries should be confined to uses appropriate to the countryside whilst also protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils to protect the intrinsic character and beauty of the countryside.
- 11.4 Policy SP7 of the Adopted Local Plan requires that new development incorporates biodiversity creation and enhancement measures.

- 11.5 Policy LPP64 of the Adopted Local Plan permits that proposals that result in a net gain in priority habitat will be supported in principle.
- 11.6 The NPPF states at Paragraph 174 of the NPPF that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing site of biodiversity value. At Paragraph 180, it goes on to states that 'development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.'
- 11.7 The Hatfield Peverel Neighbourhood Plan (Adopted in 2019), contains policies which are relevant to the determination of this application. Policy HPE1 of the Neighbourhood Plan states that development should retain and enhance existing trees, hedgerows and habitats, and that strong support will be given to the retention of natural boundary treatments and the provision of new areas of natural planting and habitat as part of new developments, to help to promote wildlife corridors.
- 11.8 Policy HPE5 states that the landscape setting of the village will be protected, and that new development shall not detract from the key landscape features identified within the Neighbourhood Plan.
- 11.9 Officers are satisfied that the general principle of development is accepted by policies within the Council's Development Plan and the NPPF.
12. SITE ASSESSMENT
- 12.1 Loss of agricultural land
- 12.1.1 Paragraph 174(b) of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by recognising '...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'.
- 12.1.2 In this regard, the loss of the existing agricultural land is a material consideration. The Agricultural Land Classification (ALC) provides a method for assessing the quality of agricultural land within England and Wales. Land is graded between 1 and 5, depending on the extent to which physical or chemical characteristics impose long-term limitations on agricultural use. Grades 1, 2 and 3a are defined as the best and most versatile (BMV) land. The application site is categorised as subgrade 3a land.
- 12.1.3 The majority of agricultural land in the Braintree District is BMV land. This includes alternative land in and around the Hatfield Peverel area. Paragraph 6.29 of the Local Plan confirms that the use of BMV for development is inevitable. Although the loss of the subgrade 3a agricultural

land is regrettable (the loss of agricultural land is around 0.98 hectares), it is at worst sequentially neutral in the consideration of BMV. Weight is also attributed to the fact that this site would enable the mitigation measures and features to be easily integrated and embedded with existing nearby habitats, and that to achieve this outcome, it would inevitably require the loss of such agricultural land.

- 12.1.4 In this regard, the development is considered to not conflict with Paragraph 174 of the NPPF, as it would contribute to and enhance the natural and local environment (Paragraph 174(b)), whilst providing net gains for biodiversity (Paragraph 174(d)).

12.2 Design, Appearance and Impact upon the Character and Appearance of the Area

- 12.2.1 Paragraph 126 of the NPPF states that good design is a key aspect of sustainable development. Policy SP7 of the Adopted Local Plan states that new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs.
- 12.2.2 The application site is located within the northern section of a wider, open agricultural field north of an A12 slip-road which leads into the Bury Lane flyover bridge. The site area is obscured from the highway by a tree belt along the southern perimeter of the wider field within which the site is positioned. Development within the site is likely to be glimpsed through breaks in the trees, but most prominently from the housing development to the east once completed and occupied.
- 12.2.3 As noted in the preceding sections of this report, the site is characterised by a sloping gradient as the site travels east to west. The houses that would be situated eastward of the site (once their development has completed) will therefore be set on a higher topographical position and able to look out across the site.
- 12.2.4 The proposed development would change the use of the northern half of the wider field, with the southern section retained as agricultural land between the site and the highway.
- 12.2.5 The proposed pond would be set within the centre of the plot and would measure approximately 30 metres in length and some 16 metres in total width (although the shape of the pond must be noted to narrow in some places and widen elsewhere). The maximum depth recorded on the plans is 1 metre. The overall footprint of the pond would be some 400 square metres, thus creating a considerable landscape feature within the centre of the site.
- 12.2.6 The pond would be accommodated by landscaping on its outer edge, namely pond edge grassland, marginal planting and reedbeds. Aquatic planting is noted within the pond itself.

- 12.2.7 Topsoil would be stripped across identified areas, subsoil materials spread, and then topsoil re-laid to form a rough plateau area up to a maximum of 500mm above ground level in the north-eastern section of the revised site area. Edges of the plateau would be graded back into adjacent areas to form sweeping gradients clear of any root protection areas.
- 12.2.8 The application proposes 2no. bunds which would form reptile basing banks situated immediately south of the pond's eastern edge and toward the north-east of the site. The heights of these would measure between 0.8 to 1 metre in height and would be formed from excavated soils taken from the pond. The bund would be covered with gravel/crushed natural stone on one side to restrict vegetation growth, whilst the opposing side would be seeded with scattered vegetation at the apex of the bund. Although the bunds are likely to be noticeable additions, they are considered likely to integrate into the prevailing natural surrounds of the site and its backdrop and a legible ecological feature in conjunction with the adjacent pond.
- 12.2.9 The plans indicate 5no. hibernacula across the site, including 2no. south-west of the pond, 2no. immediately east and 1no. in the north-east of the site adjacent to the access. The hibernacula would allow species to hibernate and would measure between 0.5 to 1 metres above ground level. It is likely that those in the eastern section of the site would be most readily visible, owing to their position on higher topographical positions to the west of the site. However, the features would appear outwardly natural and cohesive with the surrounding ecological features.
- 12.2.10 The application also proposes 2no. log piles, which would measure up to 1 metre in height, approximately 1m in width and between 1 to 2 metres in length. These would be positioned to the east of the pond, adjoining 2no. hibernacula, and 1no. to the north-west of the site adjoining 2no. proposed trees. Consistent with the overall ecological features and character prevailing in the plans, the features are not considered overly intrusive features within the landscape and are compatible with the scheme.
- 12.2.11 Overall, the development would inevitably result in a change in the character of the land, altering from an agricultural pasture field to an ecological area with man-made land formations and features. The impact of this change would primarily be seen in glimpsed views when travelling along the A12 through the tree belt from the south, from the higher vantage offered when travelling by train across the northern periphery of the site, and from the housing development to the east. However, the impacts of the proposed development are likely to be limited by virtue of the nature of works.
- 12.2.12 In addition to the described features, the introduction of native trees, intermittent trees and shrubbery and planting across the site will establish an outwardly natural character clearly legible as a site for ecological purposes. It is likely that the sites will introduce a degree of visual intrigue and amenity, whilst serving a beneficial ecological function.

- 12.2.13 Officers note that the eastern most section of the red line boundary, left blank on the revised site plan, would be used temporarily as a compound for the site and then dismantled close to works completing and the land returned to its existing condition. The easternmost section of the site will therefore be unaltered and will remain as existing, which is not considered objectionable.
- 12.2.14 The site would be encompassed by a post-and-rail fence with a gate at the site access. The post-and-rail fence would be low-lying and would clearly bound the ecological site within a protective parameter. Given the change of the character of the site when viewed in comparison to the undisturbed section of field to the south, the subdivision by gating would not be intrusive within the landscape; it would instead serve to delineate between the ecological and agricultural land within the wider field. The materials are appropriate, and this aspect is considered acceptable.
- 12.2.15 Officers are satisfied that the proposed development would not result in harm to the character and appearance of the countryside location.

12.3 Archaeology

- 12.3.1 Policy LPP59 of the Adopted Local Plan states that where granting planning permission could affect archaeological deposits, an archaeological evaluation will be required, and conditions utilised to ensure archaeological remains are excavated and recorded prior to the development commencing.
- 12.3.2 Part of the application site is located within an 'archaeological site'. These are areas which are recognised as being potential locations for archaeological interest. The data is provided by Essex County Council.
- 12.3.3 ECC Place Services Archaeology have been consulted with during the assessment of the application. They have responded to raise no objections to the approval of the application and recommend no conditions. They note that the area has been subject to archaeological trial trenching as part of the archaeological evaluation carried out in advance of the proposals for the A12 widening. This site was included in those works and no mitigation was requested for any further archaeological investigation.
- 12.3.4 The application is considered acceptable in respect of archaeology considerations.

12.4 Ecology and Landscaping

- 12.4.1 Policy LPP63 of the Adopted Local Plan states that Development proposals shall provide for the protection of biodiversity and the mitigation or compensation of any adverse impacts. Additionally, enhancement of biodiversity should be included in all proposals, commensurate with the scale of the development. If significant harm 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.

- 12.4.2 Policies LPP66 and LPP67 of the Adopted Local Plan require development to take into account existing landscape features, preserve them where appropriate, and be sensitive to the need to preserve and enhance biodiversity.
- 12.4.3 The application has been made in order to mitigate impacts to habitats, resulting from the proposed widening of the A12. This application has been accompanied by a suite of documents relevant to ecology and the proposed landscaping of the site. Officers are satisfied that there is enough ecological information provided with the application for determination.
- 12.4.4 The submitted Biodiversity Statement and Mitigation Plan confirms that there are no significant ecological constraints, and the Council's Ecology Officer is satisfied that any impacts can be addressed by the mitigation measures as demonstrated within the report.
- 12.4.5 The report includes details of surveys carried out at the site in order to protect species from harm during construction.
- 12.4.6 The report identifies records for a range of protected species within 2 kilometres of the A12 (5km for bats and barn owls), including bats, badgers, otter, water vole, birds (including Schedule 1 species), reptiles, great crested newts and white-clawed crayfish. The latter (crayfish) were subsequently scoped out given the record was isolated to just one record in 2001 within the River Blackwater.
- 12.4.7 Records of dormouse were also considered, although the records were located 8km along the A12 beyond the south-west limit of the A12 roadside vegetation. No connectivity was found with this record and this site.
- 12.4.8 The report concludes there to be a low-risk of encountering GCN owing to the closest known GCN pond being 1 kilometre from site, although precautionary measures are recommended.
- 12.4.9 The report suggests the site to be suitable for badgers, with appropriate measures recommended.
- 12.4.10 The site is considered sub-optimal and not conducive to reptiles current residing on site. Should reptiles be encountered, appropriate measures are recommended by an Ecological Clerk of Works (ECoW).
- 12.4.11 Two buildings were identified at ground-level as having suitability to support roosting bats and were confirmed as roosts. One tree has 'moderate' suitability to support roosting bats. No bridges were deemed suitable. As no trees, buildings or bridges would be impacted by the works, no harm was identified.

- 12.4.12 An old roosting site was identified within the site area, although it was found this was no longer in use.
- 12.4.13 No impacts are anticipated on riparian mammals.
- 12.4.14 Officers support the proposed design of the habitat creation, as well as the proposed planting scheme for this ecological mitigation areas. The proposed inclusion of the ponds, hibernacula, and log piles, which the Ecology Officer is satisfied have been designed appropriately with consideration of the soil and the site topography, are considered acceptable.
- 12.4.15 Furthermore, Officers are satisfied that the proposals will demonstrate measurable biodiversity net gains, as outlined with paragraph 174d and 180d of the NPPF 2021. This would include a net increase of 61.56% of habitat units and 12.17% of river and stream units. Officers are therefore confident that a 10% biodiversity net gain will be achieved.
- 12.4.16 When the application was first made, the Council's Ecology Officer noted that the full Biodiversity Metric Calculations had not been submitted. This information has now been provided and the Council's Ecology Officer has noted that the calculations have been carried out appropriately.
- 12.4.17 The proposed development is considered to be acceptable in respect of ecology considerations.
- 12.4.18 The Council's Landscape Services Officer has considered the provided planting and species mix for each of the areas proposed. These would include the intermittent trees and shrubs mix, wet woodland, wildflower mix for silty soil, marginal planting, aquatic planting, pond-edge and reedbeds, together with the individual native trees. BDC Landscapes has commented to state that the proposed species selection are acceptable.
- 12.4.19 As noted in preceding sections, the application has been revised from its current inception. The original plan was unclear whether the pond interfered with an indicated root protection area (RPA), and the pond has subsequently been relocated slightly eastward to completely avoid the RPA. Following the relocation of the proposed pond, the development would not affect the RPAs of any trees, and the RPA's of the other trees would be protected during construction at key areas (such as access points) by protective fencing and matting. All fences would be hand-rammed and overseen by an Arboricultural clerk in sensitive areas. No vehicles or works would take place within any root protection areas, and a qualified Arboricultural Officer would be on site to oversee works to ensure correct protection measures are put in place.
- 12.4.20 Provided that the recommendations made in the supported ecological documentation and reports are implemented, there is no objection to the scheme on these grounds.

12.5 Highway Considerations

- 12.5.1 The application includes detailed information regarding means of access to the site during construction and during maintenance, as well as anticipated vehicular traffic.
- 12.5.2 The application site would be served by an access provided through the ongoing housing development at Bury Lane, immediately east of the site. Although the developed site area has been reduced within the red line boundary, access is maintained with the existing entrance/exit point. The access connects the site with the Bury Lane flyover bridge south of the site.
- 12.5.3 Bury Lane refers to both the flyover formed from the A12 slip-lane south of the site, together with the name of the access road formed north travelling westward to the site access. The road is one-way where it forms from the slip-road, with the road forming the site access allowing vehicular travel both ways to serve both the existing dwellings and ongoing housing construction. The Weale Close cul-de-sac is also formed from Bury Lane prior to the flyover.
- 12.5.4 The application proposes to utilise the site access created through the housing development to access the site area from the east.
- 12.5.5 It is understood that the application includes no permanent hardstanding. Whilst construction is underway, temporary construction matting would be placed to protect the ground and vehicles from damage. This would be removed once construction is completed.
- 12.5.6 The Construction Traffic Management Plan (CTMP) accompanying the proposal states that construction traffic is likely to be low. There would be up to 2no. excavators and dumpers, although it is more likely only 1no. of each would be used, which could remain on site throughout construction. The number of people working at the site each day is likely to be up to 10. A single vehicle will transport 6 of these people to the site from a compound. The remaining workforce will look to car share. At the peak of construction, it is anticipated that there would be up to 15 trips to the site in a day, consisting cars and vans. Materials being delivered to the site would be dropped off by HGV, and this would occur up to 6 occasions a day, using a single HGV on a turnaround basis.
- 12.5.7 The CTMP states that no improvements are required to any sections of the access road, access point or field tracks, and that Bury Lane is conducive to pedestrian travel if needed.
- 12.5.8 The CTMP sets out that it is unlikely large quantities of dust will be produced. If dust does become an issue, there will be a towable dust suppression unit on hand. All vehicles leaving the site would be checked for cleanliness by the on-site supervisor, and cleaned before they enter the public highway. In the event that material makes it onto the public highway, a road sweeper will be made available for cleaning.

- 12.5.9 Given the low numbers of traffic anticipated, no traffic management is considered necessary on Bury Lane. All interfaces between Bellway Homes (the developer of the adjoining housing development) and National Highways will be in place prior to works commencing. Owing to the ongoing construction works, signage is in place in certain sections of Bury Lane notifying of construction activities. If required, appropriate additional signage would be erected by the Applicant.
- 12.5.10 ECC Highways has assessed the submitted Construction Traffic Management Plan and have responded to state they find it to be acceptable. A condition is recommended to ensure that the development is carried out in accordance with the CTMP.
- 12.5.11 Officers are satisfied that the proposed development would be acceptable in terms of highway considerations.
- 12.6 Impact upon Neighbouring Residential Amenity
- 12.6.1 The National Planning Policy Framework sets out that decisions should seek to ensure a high quality amenity for all current and future occupiers of dwelling-houses. Policy LPP52 of the Adopted Local Plan state that development shall not cause undue or unacceptable impacts on the amenities of nearby residential properties. Unacceptable impacts are considered as any factors that can carry the potential to degrade the enjoyment of neighbouring properties such as overlooking, overshadowing, loss of light or loss of privacy.
- 12.6.2 Policy LPP70 of the Adopted Local Plan requires that new developments should prevent unacceptable risks from all emissions and other forms of pollution (including light and noise pollution) and ensure no deterioration to either air or water quality. Amongst other factors, unacceptable impacts in terms of noise will be resisted.
- 12.6.3 The application site is set within a semi-isolated position on the northern fringe of the A12 motorway. The residual noise impacts of the motorway provides a degree of background noise, although this is buffered somewhat by planting across the fringes of the motorway and its slip-road. Existing noise impacts are also likely to arise from the ongoing construction activity on Bury Lane.
- 12.6.4 There are a couple of occupied dwellings near to the site which are understood to pre-date the housing development. These are between approximately 163 metres and 222 metres east-by-south-east of the site and buffered by the ongoing construction site. The Weale Close cul-de-sac is situated 265 metres south-east of the site.
- 12.6.5 The existing dwellings do not immediately adjoin the application site, and thus no proposed features abut the residential curtilage or amenity area of a dwelling. Officers note the expected interference in terms of noise

disturbance emitting from the ongoing housing development, yet when taking into account the low-level of traffic envisaged, together with the temporary nature of the development cycle for the mitigation area, the added disturbance is not considered to be unacceptably detrimental to neighbouring residential amenity.

- 12.6.6 Hours of operation have been revised within the CTMP to accord with recommendations made by BDC Environmental Health, which is acceptable.
- 12.6.7 Once construction is completed, there would be no unacceptable impacts to residential amenities. The maintenance plan submitted with the application sets out that the site would be accessed for maintenance for 5no. years following completion. The maintenance plan sets out that monitoring and maintenance works would not be so often that it would result in unacceptable impacts to neighbours.
- 12.6.8 Officers are satisfied that the proposed development would not result in unacceptable impacts to neighbouring residential amenities.

12.7 Flooding and Drainage Strategy

- 12.7.1 Policy LPP74 of the Adopted Local Plan states that new development shall be located on Flood Zone 1 or areas with the lowest probability of flooding, taking climate change into account, and should not increase flood risk elsewhere.
- 12.7.2 The site is located within Flood Zone 1, wherein the application is compliant with Policy LPP74.
- 12.7.3 The site has been subject to consultation with the Environment Agency and Essex County Council SuDs as the Lead Local Flood Authority. No objections were raised from either.

13. CONCLUSION

- 13.1 The principle for the proposed change of use to an ecological area is accepted and supported by policies within the Council's Adopted Local Plan and the NPPF which encourage biodiversity creation and enhancement, together with net gain in priority habitats. In this case, the loss of the agricultural land has been justified.
- 13.2 The development would result in a change in the character of the field, altering from an agricultural pasture field to an ecological area, including man-made land formation and features. However, it is considered that the impact would be acceptable and minimised due to the modest verticality of the development proposed, together with the Areas being experienced alongside existing natural boundary features and near to the River Ter (west of the site), in this enclosed field.

- 13.3 The proposed access for construction purposes has been assessed and is considered appropriate. Due to the low level of vehicles associated with the proposed development during construction, there would be no harmful impact to the highway network. The submitted CTMP satisfactorily sets out how traffic management would be undertaken throughout the construction period and provides for appropriate management of vehicles, including HGVs delivering to the site.
- 13.4 In regard to ecology and landscape considerations, the proposed design of habitat creation is supported, as is the proposed planting scheme. The biodiversity net gains are strongly supported. The development would result in no significant ecological constraints, and any impacts can be addressed by the mitigation proposed. The proposed means of landscaping the site, both hard and soft, are acceptable.
- 13.5 Although there would be some impacts to neighbouring residential amenities during construction, these would be temporary impacts and measures have been undertaken to minimise these. Once construction is completed, there would be no adverse impact to neighbouring amenity.
- 13.6 The site is located within Flood Zone 1 and is considered to have a negligible impact on flood risk. The Local Lead Flood Authority and the Environment Agency raise no objections to the development.
- 13.7 Taking into account the above, it is considered that the proposal complies with the Development Plan when taken as a whole. Officers consider that there are no material considerations, that indicate that a decision should be made other than in accordance with the Development Plan.

14. RECOMMENDATION

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

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

APPENDIX 1:

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

Approved Plan(s) & Document(s)

Plan Description	Plan Ref	Plan Version
Location Plan	HE551497-JAC-EGN-5_SCHEME-SK-GI-0009	N/A
Existing Site Plan	DR-L-0207	P01
Habitat Survey Plan	DR-LE-0002	P02
Habitat Survey Plan	DR-LE-0005	P01
Fencing Layout/Details	DR-LE-0001	P03
Landscape Specification	DR-L-0310	P02
Section	DR-L-0350	P01
Proposed Site Plan	DR-L-0309	P03
Traffic Management Plan	Construction Traffic Management Plan (National Highways, January 2023)	Rev.1
Habitat Survey Plan	Biodiversity Statement and Mitigation Plan (National Highways, January 2023)	P02
Tree Plan	Tree Protection Measures (National Highways, January 2023)	Rev. 1
Habitat Survey Plan	Series 3000 Landscape _ Ecology Specification Appendix 30 (National Highways, November 2022)	Rev. 1
Habitat Survey Plan	Habitat Maintenance Plan (National Highways, November 2022)	P01
Habitat Survey Plan	Biodiversity Metrics 3.0	N/A

Condition(s) & Reason(s)

Condition 1

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

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

Condition 2

The development hereby permitted shall only be implemented in accordance with the approved plans and documents listed above.

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

Condition 3

The development hereby permitted shall be carried out in accordance with the approved Construction Traffic Management Plan (January 2023).

Reason: In the interests of highway safety and convenience (including pedestrians) and neighbouring amenity.

Condition 4

All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained the Biodiversity Statement and Mitigation Plan (National Highways, January 2023), the Biodiversity Metrics 3.0, the Habitat Maintenance Plan (National Highways, November 2022), Series 3000 Landscape & Ecology Specification Appendix 30 (National Highways, November 2022), Ecological Mitigation Areas Standard Details Ecological Habitat Features PO2 (Jacobs Ltd, November 2022).

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).

Positive and Proactive Statement

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

APPENDIX 2:

POLICY CONSIDERATIONS

National Planning Guidance

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

Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP52	Layout and Design of Development
LPP63	Natural Environment and Green Infrastructure
LPP64	Protected Sites
LPP65	Tree Protection
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP70	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP74	Flooding Risk and Surface Water Drainage
LPP75	Surface Water Management Plan
LPP76	Sustainable Urban Drainage Systems

Hatfield Peverel Neighbourhood Plan

HPE1	Natural Environment and Biodiversity
HPE5	Protection of Landscape Setting

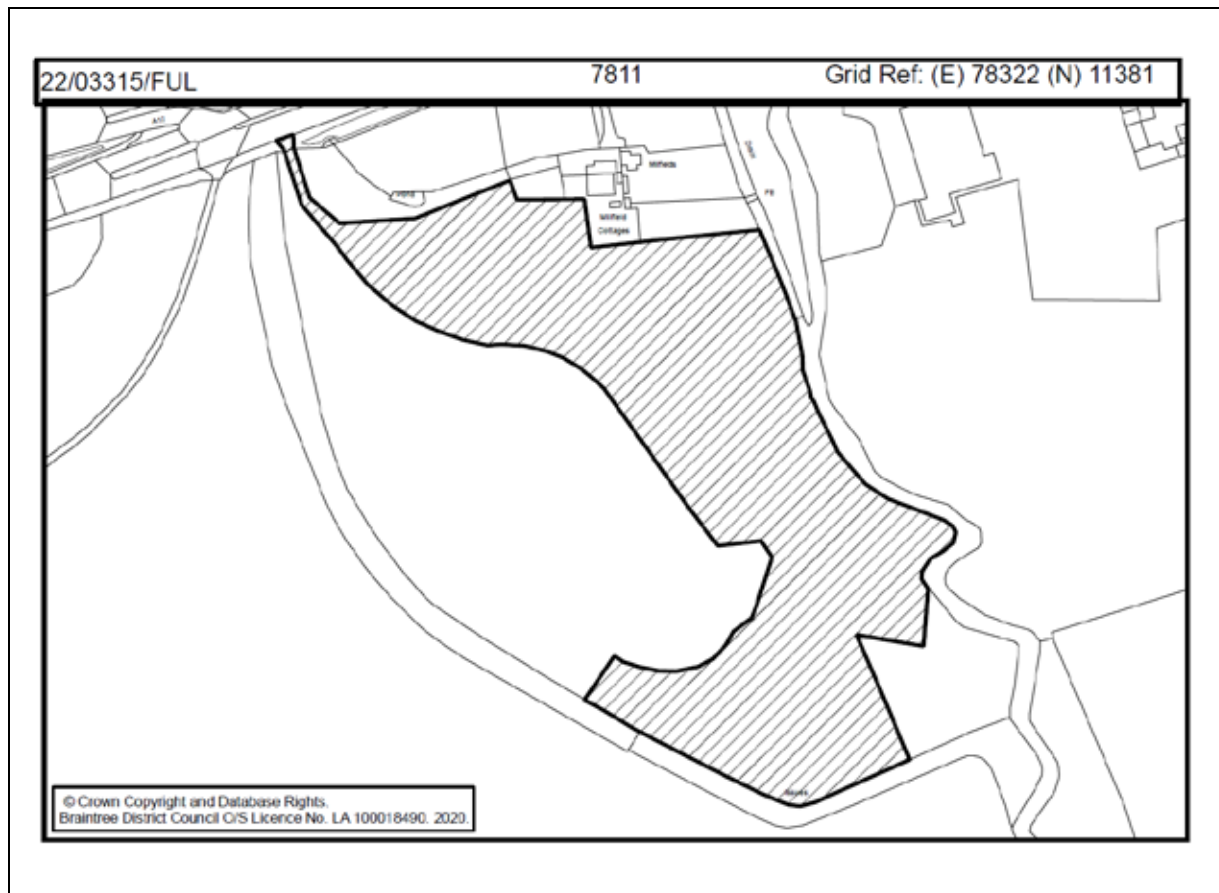
APPENDIX 3:

SITE HISTORY

Application No:	Description:	Decision:	Date:
22/03316/FUL	Change of use to ecological mitigation area 16 (linked to the A12 widening scheme) including the creation of 3 ponds, creation of 2 bunds and the raising of ground level from on-site excavated material, perimeter fencing and associated landscaping	Pending Decision	
22/03156/FUL	Change of use to ecological mitigation area (linked to the A12 widening scheme) including the creation of 4 ponds, 257metres of ditches, creation of 5 bunds and one area of wider re-grading of land from on-site excavated material, perimeter fencing and associated landscaping.	Pending Decision	

Report to: Planning Committee		
Planning Committee Date: 7th March 2023		
For: Decision		
Key Decision: No		Decision Planner Ref No: N/A
Application No:	22/03315/FUL	
Description:	Change of use to ecological mitigation areas 6 and 7 (linked to the A12 widening scheme) including the creation of 3 ponds, creation of 5 bunds and the raising of ground level from on-site excavated material, perimeter fencing and associated landscaping.	
Location:	Land South East Of The Street, Hatfield Peverel	
Applicant:	Mr Kampanila Kaluba, National Highways, Woodlands, Bedford, MK41 6FS	
Agent:	Mrs Sophie Douglas, Jacobs, 1 City Walk, London, LS11 9DX	
Date Valid:	5th December 2022	
Recommendation:	It is RECOMMENDED that the following decision be made: § Application GRANTED subject to the Condition(s) & Reason(s) and Informative(s) outlined within Appendix 1 of this Committee Report.	
Options:	The Planning Committee can: a) Agree the Recommendation b) Vary the Recommendation c) Overturn the Recommendation d) Defer consideration of the Application for a specified reason(s)	
Appendices:	Appendix 1:	Approved Plan(s) & Document(s) Condition(s) & Reason(s) and Informative(s)
	Appendix 2:	Policy Considerations
	Appendix 3:	Site History
Case Officer:	Sam Trafford For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2520, or by e-mail: sam.trafford@braintree.gov.uk	

Application Site Location:



Purpose of the Report:	The Committee Report sets out the assessment and recommendation of the abovementioned application to the Council's Planning Committee. The report sets out all of the material planning considerations and the relevant national and local planning policies.
Financial Implications:	The application was subject to the statutory application fee paid by the applicant for the determination of the application.
Legal Implications:	<p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either set out the relevant Conditions & Reasons and any Informatives, or the Reasons for Refusal if applicable.</p> <p>All relevant policies are set out within the report, within Appendix 2.</p>
Other Implications:	The application has been subject to public consultation and consultation with relevant statutory and non-statutory consultees. All responses received in response to this consultation are set out within the body of this Committee Report.
Equality and Diversity Implications	<p>Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:</p> <ul style="list-style-type: none"> a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act; b) Advance equality of opportunity between people who share a protected characteristic and those who do not; c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding. <p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p>

	<p>The consideration of this application has not raised any equality issues.</p>
Background Papers:	<p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> § Application Form § All Plans and Supporting Documentation § All Consultation Responses and Representations <p>The application submission can be viewed online via the Council's Public Access website: www.braintree.gov.uk/pa by entering the Application Number: 22/03315/FUL.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> § National Planning Policy Framework (NPPF) § Braintree District Local Plan 2013 - 2033 § Neighbourhood Plan (if applicable) § Supplementary Planning Documents (SPD's) (if applicable) <p>The National Planning Policy Framework can be viewed on the GOV.UK website: www.gov.uk/.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: www.braintree.gov.uk.</p>

1. EXECUTIVE SUMMARY

- 1.1 This planning application seeks full planning permission for the change of use and development of the site to become two ecological mitigation areas (Areas 6 and 7). The development would facilitate the provision of two ponds to Area 6, and one pond to Area 7, together with the provision of hibernaculas, bunds, a plateau, trees and additional woodland and shrub planting.
- 1.2 The proposal is supported in terms of principle by the Adopted Local Plan, which states that proposals that result in a net gain in priority habitat will be supported, and the NPPF which states that applications to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate. The Hatfield Peverel Neighbourhood Plan also states that strong support will be given to the retention of natural boundary treatments and the provision of new areas of natural planting and habitat as part of new developments, to help to promote wildlife corridors. The loss of agricultural land has also been justified.
- 1.3 The development would result in a change in the character of the field, altering from an agricultural pasture field to an ecological area, including man-made land formation and features. However, it is considered that the impact would be acceptable and minimised due to the modest verticality of the development proposed, together with the Areas being experienced alongside existing natural boundary features and against the River Ter to the rear, in this enclosed field.
- 1.4 The proposed access for construction purposes has been assessed and is considered appropriate. Due to the low level of vehicles associated with the proposed development during construction, there would be no harmful impact to the highway network. The submitted CTMP satisfactorily sets out how traffic management would be undertaken throughout the construction period and provides for appropriate management of vehicles, including HGVs delivering to the site.
- 1.5 There would be no harm to either the setting or significance of the nearby Grade II* and Grade II listed buildings at Crix House and Hatfield Place. Appropriate archaeology works have already been undertaken.
- 1.6 With regard to ecology and landscape considerations, the proposed design of habitat creation is supported, as is the proposed planting scheme. The biodiversity net gains are strongly supported. The development would result in no significant ecological constraints, and any impacts can be addressed by the mitigation proposed. The proposed means of landscaping the site, both hard and soft, are acceptable. Following the relocation of one of the three ponds, the development would not affect the root protection areas (RPA) of any trees and the RPA's of the other trees would be

protected during construction at key areas (such as access points) by protective fencing and matting.

- 1.7 The Flood Risk Assessment demonstrates that the development would have a negligible impact on flood risk. The Local Lead Flood Authority and the Environment Agency raise no objections to the development. The Sequential Test has been passed.
- 1.8 Although there would be some impacts to neighbouring residential amenities during construction, these would be temporary impacts and measures have been undertaken to minimise these. Once construction is completed, there would be no adverse impact to neighbouring amenity.
- 1.9 Taking the above factors into account, the application is recommended for approval subject to conditions.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE
- 2.1 This application is being reported to Planning Committee in accordance with Part A of the Council's Scheme of Delegation as the application is categorised as a Major planning application.
3. POLICY CONSIDERATIONS
§ See Appendix 2
4. SITE HISTORY
§ See Appendix 3
5. DESCRIPTION OF THE SITE AND SITE CONTEXT
- 5.1 The application site consists of a portion of a parcel of land situated off The Street, to the west of the closest settlement, Hatfield Peverel. The application site measures 2.08 hectares. The site is located outside of the defined settlement boundary.
- 5.2 The site benefits from an existing vehicular access directly onto The Street. To the north of the site is a slip-road joining onto the west-bound carriageway of the A12. To the east of the site is the River Ter.
- 5.3 Part of the application site is located in Flood Zone 2 and Flood Zone 3a. A flood risk assessment has been provided with the application submission. The remainder of the site sits within Flood Zone 1.
- 5.4 The site is situated between the Grade II* Listed Hatfield Place, and the Grade II Listed Crix House. The northern part of the site is within an archaeological site.
- 5.5 The site is largely enclosed to its south, east and west by a tree belt and hedgerows. There are glimpsed views out of the site toward Hatfield Place to the east. To the north, the site is generally more open, with a wire fence allowing views from the public highway into the site.
- 5.6 Adjacent to the application site are 3no. residential dwellinghouses known as Millfields, Millfields Cottage North, and Millfields Cottage South. The gardens to these dwellings abut the site boundary.
- 5.7 The application site falls within an area of pastureland, which is classified as Subgrade 3b and Grade 2 in the Agricultural Land Classification (ALC).
- 5.8 Approximately 0.4km to the south of the application site is the Long Wood Complex local wildlife site.

6. CONTEXT TO PROPOSALS

- 6.1 The proposal forms part of the wider Nationally Significant Infrastructure Project (NSIP) proposed for widening the A12 between Chelmsford and Colchester. A Development Consent Order (DCO) application for this NSIP was accepted for examination by the Planning Inspectorate on the 12th of September 2022.
- 6.2 The DCO identifies a number of ecological mitigation areas to help mitigate the impacts of the A12 widening project. The Applicant (National Highways) is seeking full permission under the Town and Country Planning Act 1990 for 16 ecological mitigation areas through the submission of 13 planning applications across the Districts of Braintree, Colchester and Chelmsford in order to enable the creation of habitats in advance of the A12 construction.
- 6.3 The ecological mitigation areas have already been identified within the DCO which provides a high-level indicative layout for each ecological mitigation area. This planning application provides the detailed design with regards to the scale and nature of the proposal and how the ecological mitigation area would be constructed, operated, and maintained.

7. PROPOSAL

- 7.1 The application seeks planning permission for the change of use and development of 2no. ecological mitigation areas. Throughout this report, reference will be made to Areas 6 and 7. For clarity, Area 6 refers to the larger area to the north of the site, and Area 7 refers to the smaller area to the south of the site.
- 7.2 The proposed ecological mitigation areas would include the following forms of development:
- § The creation of 3 ponds;
 - § The creation of 5 bunds using excavated material;
 - § An increase in ground level height toward the northern part of the site, where excavated material will be deposited;
 - § The installation of perimeter fencing (timber post and 4 wire fence);
 - § Reptile features including hibernacula, log piles, basking banks and egg laying features;
 - § Proposed planting of new trees, shrubs, grassland on land and aquatic and marginal planting across the 3 ponds;
 - § 3 field gates to provide access from the road and between each of the Areas.
- 7.3 Area 6 would include 2 of the proposed ponds. These would be located in the centre and to the south-western parts of this area. Area 7 would include 1 pond and this would be located to the south of the site.
- 7.4 The Construction Management Plan sets out that during the construction of the proposal, up to 2no. excavators and dumpers (though more likely 1no.

of each) would be kept at the application site. The length of construction is anticipated to last approximately 1 month. The daily workforce is unlikely to exceed 10 people, and the majority of these people would arrive at the site in a single vehicle.

7.5 It is not proposed that the general public would have any form of contact or right of access over the application site. The use of post and wire fencing, together with 3no. access gates would be used to prevent unauthorised access.

7.6 Part of the application submission seeks to ascertain whether an Environmental Impact Assessment is required. A Screening Report has been provided. The proposal does not fall within any of the descriptions of development for the purposes of the definition of 'Schedule 1 or 2 Development', as set out within the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. An Environmental Impact Assessment is therefore not required.

8. SUMMARY OF CONSULTATION RESPONSES

8.1 Environment Agency

8.1.1 The Environment Agency notes the site is located within a Flood Zone 3a and Flood Zone 2. The proposed development is 'water compatible'. Elements of the development which would be vulnerable to floods where they could wash into the River Ter and cause a debris hazard would be located in Flood Zone 1. None of the proposed measures would be located in Flood Zone 3 and therefore compensatory storage is not required.

8.2 Essex Wildlife Trust

8.2.1 Essex Wildlife Trust are satisfied that the proposed mitigation and Habitat Maintenance Plan are appropriately designed and targeted to achieve suitable reptile mitigation and contribute towards the Biodiversity Net Gain target.

8.3 Health and Safety Executive

8.3.1 The Health and Safety Executive (HSE) has no comments to make on the application.

8.4 Historic England

8.4.1 Historic England wishes to make no comments on the application.

8.5 North East Essex Badger Group

8.5.1 North East Essex Badger Group state that they have no comments to make.

8.6 BDC Landscape Services

8.6.1 BDC Landscape Services raises no objection to the application.

8.6.2 They note that it is stated within the documentation that no hedgerows or trees will be removed to allow for development. At the time the comments were made, cross section drawings had not been provided, and this was noted in their response.

8.6.3 Although subsequent to these comments being received, the additional detail requested has been submitted, further comments on this information has not been received by Landscape Services at the time of writing the report.

8.6.4 They consider that the proposed change of use and appearance are acceptable.

8.6.5 They note that the proposed planting and species mix is acceptable.

8.7 ECC Archaeology (Place Services)

8.7.1 Place Services Archaeology notes that the site falls within an archaeological area of interest. They note that prior to the application being submitted, archaeological investigations have been undertaken. The Officer considers that no further archaeological work is required and recommends no conditions.

8.8 ECC Ecological Consultant (Place Services)

8.8.1 The Place Services Ecological Consultant states that they strongly support the ecological mitigation measures proposed and that they support the proposed habitat maintenance plan in principle. They note that at the time of submission, the application had not been accompanied by the full Biodiversity Metric Calculations although this has now been provided and been confirmed to be acceptable.

8.9 ECC Highways

8.9.1 ECC Highways state that the application is considered acceptable in respect of highway considerations. In their response, they recommend the submission of a Construction Management Plan, which it was suggested could be provided by way of a condition. The applicants submitted the detail during the assessment of the application, which ECC Highways has subsequently considered. They responded to state that they have assessed the submitted Construction Management Plan and that they consider it is acceptable.

8.10 ECC Historic Buildings Consultant (Place Services)

8.10.1 The Historic Buildings Consultant notes that the site is located between 2no. listed buildings. The Historic Buildings Consultant also notes that the site would change from being an open grassland to having areas of woodland, individual trees, wildflower areas and 3no. ponds.

8.10.2 The Historic Buildings Consultant concludes that the scheme would not fundamentally alter the character or result in harm to the setting or significance of the nearby listed buildings.

8.11 ECC SUDS (LLFA)

8.11.1 The LLFA wishes to make no comments on the proposed development.

9. PARISH / TOWN COUNCIL

9.1 Hatfield Peverel Parish Council

9.1.1 Hatfield Peverel Parish Council has no comment to make on this application.

10. REPRESENTATIONS

10.1 Neighbours were consulted by way of letter, and several site notices were displayed outside of the site for a period of 21 days.

10.2 At the time of writing the report, 1no. representation had been received. This representation has been made on behalf of the land owner. They raise objection to the application, on grounds pertaining to:

- § The owner of the land has not given consent for the Applicants to make an application on their land, and it has not been agreed that the works can be undertaken on the land.
- § The compulsory purchase of the land is, in their point of view, not necessary and of excessive cost.
- § The site is located in between 2no. historic buildings. Another development indicated in the DCO would, cumulatively, have a greater impact to the setting of these buildings than this proposal in isolation.
- § The proposals would not provide mitigation for great crested newts or reptiles.

10.3 Officers note that in respect of the first part of the objection, relating to the landowner not giving the Applicants consent to submit the application or carry out the works; the Applicants have signed Certificate B in the application form, and served notice on the owners of the land. Procedurally and for the purposes of this application, the application is valid.

- 10.4 In respect of the issues relating to the compulsory purchase of the land; this issue is not a material consideration in the determination of this planning application.
- 10.5 Matters relating to heritage harm and ecology are assessed in depth below.
11. PRINCIPLE OF DEVELOPMENT
- 11.1 The Council's Statutory Development Plan consists of the Braintree District Local Plan 2013 – 2033 and the Hatfield Peverel Neighbourhood Plan.
- 11.2 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.
- 11.3 Policy LPP1 of the Adopted Local Plan states that new development outside of development boundaries should be confined to uses appropriate to the countryside whilst also protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils to protect the intrinsic character and beauty of the countryside.
- 11.4 Policy SP7 of the Adopted Local Plan requires that new development incorporates biodiversity creation and enhancement measures.
- 11.5 Policy LPP64 of the Adopted Local Plan permits that proposals that result in a net gain in priority habitat will be supported in principle'.
- 11.6 The NPPF states at Paragraph 174 of the NPPF that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing site of biodiversity value. At Paragraph 180, it goes on to states that 'development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.'
- 11.7 The Hatfield Peverel Neighbourhood Plan, adopted in 2019, contains policies which are relevant to the determination of this application. Policy HPE1 of the Neighbourhood Plan states that development should retain and enhance existing trees, hedgerows and habitats, and that strong support will be given to the retention of natural boundary treatments and the provision of new areas of natural planting and habitat as part of new developments, to help to promote wildlife corridors.
- 11.8 Policy HPE5 states that the landscape setting of the village will be protected, and that new development shall not detract from the key landscape features identified within the Neighbourhood Plan.
- 11.9 Officers are satisfied that the general principle of development is accepted by policies within the Council's Development Plan and the NPPF.

12. SITE ASSESSMENT

12.1 Loss of agricultural land

- 12.1.1 Paragraph 174(b) of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by recognising ‘...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’.
- 12.1.2 In this regard, the loss of the existing agricultural land is a material consideration. The Agricultural Land Classification (ALC) provides a method for assessing the quality of agricultural land within England and Wales. Land is graded between 1 and 5, depending on the extent to which physical or chemical characteristics impose long-term limitations on agricultural use. Grades 1, 2 and 3a are defined as the best and most versatile (BMV) land. The application site is categorised mostly as either 3a or 3b, however some of the site is Grade 2.
- 12.1.3 The majority of agricultural land in the Braintree District is BMV land, including a high proportion of the high Grade 2 land. This includes alternative land in and around the Hatfield Peverel area. Paragraph 6.29 of the Local Plan confirms that the use of BMV for development is inevitable. Although the loss of the Grade 2, 3a and 3b agricultural land is regrettable (the loss of agricultural land is around 2.08 hectares), it is at worst sequentially neutral in the consideration of BMV. Weight is also attributed to the fact that this site would enable the mitigation measures and features to be easily integrated and embedded with existing nearby habitats and that to achieve this outcome, it would inevitably require the loss of such agricultural land.
- 12.1.4 In this regard, the development is considered to not conflict with Paragraph 174 of the NPPF, as it would contribute to and enhance the natural and local environment (Paragraph 174(b)), whilst providing net gains for biodiversity (Paragraph 174(d)).

12.2 Design, Appearance and Impact upon the Character and Appearance of the Area

- 12.2.1 Paragraph 126 of the NPPF states that good design is a key aspect of sustainable development. Policy SP7 of the Adopted Local Plan states that new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs.
- 12.2.2 The application site is located in a field which is open toward the public highway. Development within the site would be largely visible from The Street, itself a road which not only serves to connect Hatfield Peverel and Boreham, but also provides direct access onto the west-bound carriageway of the A12.

- 12.2.3 The field within which the application site is located makes a positive contribution to the countryside location and its rural setting. The development of the site should seek to preserve and enhance the character of the countryside.
- 12.2.4 The proposed development would include the creation of 2no. ecological mitigation areas (Areas 6 and 7). For the avoidance of doubt, Area 6 would be the larger of the two, and would be situated to the northern part of the application site.
- 12.2.5 Within Area 6, it is proposed to develop 2no. ponds. The larger pond would measure 24 metres in length and 8.8 metres in width, occupying an area of approximately 200 square metres. The maximum depth of the larger pond would be 1.7 metres. The smaller pond would measure 10 metres in length and 4.1 metres in width, and occupy a footprint of approximately 40 square metres. Its maximum depth would measure 0.6 metres.
- 12.2.6 Within Area 7, it is proposed to install 1no. pond. This would measure 21 metres in length, and 10 metres in width; occupying a floor area of approximately 182 square metres. It would have a maximum depth of 1.8 metres.
- 12.2.7 Each of the ponds would be set within several layers of planting as appropriate; including pond edge grassland mix to the outer edge, marginal planting, reed beds, and aquatic plants to the inner edge.
- 12.2.8 Toward the northern part of the site, an area of land would receive excavated soil resulting in an increase in overall height of up to 500mm, referred to as a plateau. The edges of the plateau would be graded to gently slope into the surrounding site, to give the impression of a natural slope. This area would be the location for 3no. log piles and 3no. hibernacula (discussed in more depth below).
- 12.2.9 On the site there would be a total of 5no. bunds constructed, which would be used as reptile basking banks. These would vary in size, and would largely be concentrated around the lakes, with the exception of 1no. which would be toward the south of Area 6. Their heights would range from between 0.8 metres and 1 metre. They would also be constructed using excavated soil from the creation of the ponds.
- 12.2.10 5no. log piles would be installed on the site, including 3no. in Area 6 toward the northern part of the site (on top of the plateau) and 2no. in Area 7 toward the south-west of the site. 6no. The log piles would range from between 0.5 metres and 1 metre in height. Hibernaculas would be installed on the site to allow areas for species to hibernate, including 4no. in the north part of the site and 2no. in the south part of the site. The hibernaculas would measure between 0.5 metres and 1 metre in height. Those in the northern part of the site would be visible in the street scene, in part due to their being on an elevated position, but also due to the site being visible

from The Street. However, log piles and hibernaculas by their nature would be discreet in their appearance and compatible with the character of the site. The proposed means of enclosing, including a post a wire fence and metal gates, are considered acceptable.

- 12.2.11 The northern and eastern boundaries of the site would be planted to become a 'wet woodland'. Most of this woodland would be located within Flood Zone 2 and 3. Areas of intermittent trees and shrubs mix would be installed west of the wet woodland and within the south-eastern corner of Area 7. Individual native trees would be planted sporadically throughout the site.
- 12.2.12 Overall, the development would inevitably result in a change in the character of the land, altering from an agricultural pasture field to an ecological area with man-made land formations and features. The impact of this change would primarily be seen in glimpsed views when travelling along The Street to the north of the site. There would be little opportunity to view the application site from other locations.
- 12.2.13 Officers consider that the impact of the proposed development would be limited by virtue of the modest change associated with the re-levelling work to the north of the site, the planting and scale of the ponds, the limited height of the bunds, log piles, and hibernaculas, and the use of discreet fencing. In addition, the development would be seen against the backdrop of the existing hedgerows and trees to the southern, eastern, and western boundaries of the site.
- 12.2.14 Officers are satisfied that the proposed development would not result in harm to the character and appearance of the countryside location.

12.3 Heritage

- 12.3.1. When considering the impact of development on a historical asset the National Planning Policy Framework (NPPF) states in Paragraph 202 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".
- 12.3.2 Policies SP7 and LPP57 of the Adopted Local Plan state that works will only be permitted where they do not harm the setting, character, structural stability and fabric of the building (or structure); and will not result in the loss of, or significant damage to the building or structure's historic and architectural elements of special importance, and include the use of appropriate materials and finishes.
- 12.3.3 The application site is located between 2no. listed buildings; including the Grade II* Listed Hatfield Place, and the Grade II Listed Crix House. The site forms part the wider setting of each of these buildings. The site is not

located within a Conservation Area, and the closest defined settlement at Hatfield Peverel does not have a Conservation Area.

12.3.4 The Council's Historic Buildings Consultant raises no objections to the application. They note that the site would change from being an open grassland field to having areas of woodland, individual trees, wildflower areas and three ponds. However, they do not find that the proposed development would fundamentally alter the character or result in harm to the setting or significance of the nearby heritage assets.

12.3.5 Historic England were consulted, due to the application site's proximity to a Grade II* listed building. They have responded to note that they have no comments to make on the proposal.

12.3.6 The application is considered acceptable in respect of impacts to heritage assets.

12.4 Archaeology

12.4.1 Policy LPP59 of the Adopted Local Plan states that where granting planning permission could affect archaeological deposits, an archaeological evaluation will be required and conditions utilised to ensure archaeological remains are excavated and recorded prior to the development commencing.

12.4.2 Part of the application site is located within an 'archaeological site'. These are areas which are recognised as being potential locations for archaeological interest. The data is provided by Essex County Council.

12.4.3 ECC Archaeology have been consulted during the assessment of the application. They have responded to raise no objections to the approval of the application and recommend no conditions. They note that the area has been subject to archaeological trial trenching as part of the archaeological evaluation carried out in advance of the proposals for the A12 widening. This site was included in those works and no mitigation was requested for any further archaeological investigation.

12.4.4 The application is considered acceptable in respect of archaeology considerations.

12.5 Ecology and Landscaping

12.5.1 Policy LPP63 of the Adopted Local Plan states that Development proposals shall provide for the protection of biodiversity and the mitigation or compensation of any adverse impacts. Additionally, enhancement of biodiversity should be included in all proposals, commensurate with the scale of the development. If significant harm 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.

- 12.5.2 Policies LPP66 and LPP67 of the Adopted Local Plan require development to take into account existing landscape features, preserve them where appropriate, and be sensitive to the need to preserve and enhance biodiversity.
- 12.5.3 The application has been made in order to mitigate impacts to habitats resulting from the proposed widening of the A12. This application has been accompanied by a suite of documents relevant to ecology and the proposed landscaping of the site. Officers are satisfied that there is enough ecological information provided with the application for determination.
- 12.5.4 The submitted Biodiversity Statement and Mitigation Plan confirms that there are no significant ecological constraints, and the Council's Ecology Officer is satisfied that any impacts can be addressed by the mitigation measures as demonstrated within the report.
- 12.5.5 The report includes details of surveys carried out at the site in order to protect species from harm during construction. It sets out that badgers were not found to be present on the site, however the site is suitable for supporting badgers. Precautionary measures are set out in the assessment. In respect of the potential to impact bats; there are 19 no trees and 6 no buildings within 50 metres of the application which could accommodate bats, and that one of these trees sits on the boundary of the site. The report sets out that no works are proposed to any existing trees at the site, however good practice measures would be adhered to throughout development.
- 12.5.6 There are suitable habitats within 50 metres of the application site which could support nesting birds. The report sets out that there would be no vegetation clearance within any of these potential habitats. The report sets out that the application site is physically isolated from ponds within 500 metres where there are confirmed great crested newts. As such, the report concludes that great crested newts are likely absent. The site as it currently exists represents a sub-optimal habitat for reptiles. It is considered that there would be a low risk of encountering reptiles during construction works. Riparian mammals, including otters and water voles, were found close by to the application site (190 metres and 415 metres respectively), however are not considered to be in danger due to the proposed development.
- 12.5.7 Officers support the proposed design of the habitat creation, as well as the proposed planting scheme for this ecological mitigation areas. The proposed inclusion of the ponds, hibernacula, and log piles, which the Ecology Officer is satisfied have been designed appropriately with consideration of the soil and the site topography, are considered acceptable.
- 12.5.8 Furthermore, Officers are satisfied that the proposals will demonstrate measurable biodiversity net gains, as outlined with Paragraph 174d and

180d of the NPPF. This would include a net increase of 61.56% of habitat units and 12.17% of river and stream units. Officers are therefore confident that a 10% biodiversity net gain would be achieved.

- 12.5.9 When the application was first made, the Council's Ecology Officer noted that the full Biodiversity Metric Calculations had not been submitted. This information has now been provided and the Council's Ecology Officer has noted that the calculations have been carried out appropriately.
- 12.5.10 The proposed development is considered to be acceptable in respect of ecology considerations.
- 12.5.11 The Council's Landscape Services Officer has considered the provided planting and species mix for each of the areas proposed. These would include the intermittent trees and shrubs mix, wet woodland, wildflower mix for silty soil, marginal planting, aquatic planting, pond-edge and reedbeds, together with the individual native trees. The Landscapes Officer has commented to state that the proposed species selection are acceptable.
- 12.5.12 When the application was first made, the proposed plans showed that the pond within Area 7 would have been dissected by the root protection area of the trees to the southern-most boundary. The plans have been revised to relocate the pond, and now the proposed development, particularly that including re-grading, bunding or earthworks/pond digging, would take place outside of any root protection area. Protecting fencing and matting would be installed around existing veteran or Grade A trees and shrubs where they may be at risk of accidental damage, for example at access points. No vehicles or works would take place within any root protection areas, and a qualified Arboricultural Officer would be on site to oversee works to ensure correct protection measures are put in place.

12.6 Highway Considerations

- 12.6.1 The application includes detailed information regarding means of access to the site during construction and during maintenance, as well as anticipated vehicular traffic.
- 12.6.2 The application site is served by an existing access, which includes a metal gate to the highway edge.
- 12.6.3 The site is situated off The Street, which is for the most part a two-way street, however immediately outside of the access to the site there is a filter lane which leads to a slip-road on to the A12 (westbound), and the oncoming lanes are separated by a central reservation.
- 12.6.4 It is understood that the application includes no permanent hardstanding. Whilst construction is underway, temporary construction matting would be placed to protect the ground and vehicles from damage. This would be removed once construction is completed.

- 12.6.5 The application states that construction traffic is likely to be low. There would be up to 2no. excavators and dumpers, although it is more likely only 1no. of each would be used, which could remain on site throughout construction. The number of people working at the site each day is likely to be up to 10. A single vehicle will transport 6 of these people to the site from a compound. The remaining workforce would look to car share. At the peak of construction, it is anticipated that there would be up to 15 trips to the site in a day, consisting of cars and vans. Materials being delivered to the site would be dropped off by HGV, and this would occur up to 6 occasions a day, using a single HGV on a turnaround basis.
- 12.6.6. It is proposed that, during the delivery and collection of heavy plant machinery, there would be temporary 2-way traffic lights installed on the Street. This would be agreed with Essex County Council Highways. For general day to day operations during construction, no traffic management is required or proposed.
- 12.6.7 The Construction Traffic Management Plan sets out that it is unlikely large quantities of dust will be produced. If dust does become an issue, there would be a towable dust suppression unit on hand. All vehicles leaving the site would be checked for cleanliness by the on-site supervisor and cleaned before they enter the public highway. In the event that material makes it onto the public highway, a road sweeper would be made available for cleaning.
- 12.6.8 ECC Highways has assessed the submitted Construction Traffic Management Plan, and have responded to state they find it to be acceptable. A condition is recommended to ensure that the development is carried out in accordance with the CTMP.
- 12.6.9 Officers are satisfied that the proposed development would be acceptable in terms of highway considerations.
- 12.7 Impact upon Neighbouring Residential Amenity
- 12.7.1 The National Planning Policy Framework sets out that decisions should seek to ensure a high quality amenity for all current and future occupiers of dwellinghouses. Policy LPP52 of the Adopted Local Plan state that development shall not cause undue or unacceptable impacts on the amenities of nearby residential properties. Unacceptable impacts are considered as any factors that can carry the potential to degrade the enjoyment of neighbouring properties in terms of overlooking, overshadowing, loss of light or loss of privacy.
- 12.7.2 The application site is located within close proximity to the residential dwellings at Millfields, Millfields Cottage North, and Millfields Cottage South. The amenity areas associated with these dwellings directly abut the application site boundary. They are largely exposed to the application site, due to the features separating them from the application site being a post

and rail fence. The dwellings also have windows which face toward the application site.

- 12.7.3 The application proposes a wet woodland abutting the boundaries to these dwellings. This would result in the loss of views which are currently experienced from the dwellings and their respective gardens toward the application site. However, it is noted that loss of a view is not a material consideration, and it would not be reasonable to withhold planning permission on this basis.
- 12.7.4 There would inevitably be impacts to neighbouring residential amenities during construction. The hours of construction proposed would be between 08:00 and 18:00 during weekdays, and the construction management plan states that some weekend working on Saturdays may be required, and that this would be limited to 08:00 to 13:00. There would be no working on Sundays or Bank Holidays. There would be noise impacts associated with the scale of vehicular movements on, off and around the site as well as the construction works themselves generating noises and vibrations.
- 12.7.5 It is noted that these impacts would be relatively short term (construction is intended to last approximately 1 month), and temporary in their nature. Means of reducing these impacts during construction, for example ensuring 6 of the 10 workforce each day arrive and leave in a single vehicle, using one HGV for deliveries, and the use of broadband reversing repeaters to dumper trucks and HGVs, which are quieter and less intrusive than typical reversing repeaters, would minimise such impacts. It is also understood that standard good practise, for example not leaving plant machinery idling or revving up unnecessarily, personnel behaving professionally, including no shouting or playing music, would be followed at all times.
- 12.7.6. Once construction is completed, there would be no unacceptable impacts to residential amenities. The maintenance plan submitted with the application sets out that the site would be accessed for maintenance for 5no. years following completion. The maintenance plan sets out that monitoring and maintenance works would not be so often that it would result in unacceptable impacts to neighbours.
- 12.7.7 Officers are satisfied that the proposed development would not result in unacceptable impacts to neighbouring residential amenities.

12.8 Flooding and Drainage Strategy

- 12.8.1 Policy LPP74 of the Adopted Local Plan states that new development shall be located on Flood Zone 1 or areas with the lowest probability of flooding, taking climate change into account, and should not increase flood risk elsewhere.
- 12.8.2 The application site is located largely within Flood Zone 1, but parts of it are located within Flood Zones 2 and 3. The Flood risk vulnerability classification set out in the NPPF categorises 'nature conservation and

biodiversity' as 'water compatible development', and as such this type of development is considered appropriate within Flood Zone 2 and 3. (It is noted that the habitats intended for use by hibernating animals are to be located outside of these flood risk areas).

- 12.8.3 Despite being considered to be appropriate development within Flood Zones 2 and 3, there is a requirement to apply the 'sequential test'. Paragraph 162 of the NPPF sets out that the aim of the sequential test is to direct development to areas with the lowest probability of flooding. A sequential approach is shown in order to achieve this. This requires that development can be located in Flood Zone 2 and then Flood Zone 3, only if there are no reasonably available sites in Flood Zone 1.
- 12.8.4 In the assessment of this application, Officers have undertaken the sequential test and determine that there are justified reasons relating to wider objectives relating to the DCO and specific ecological considerations as to why this site has been selected.
- 12.8.5 There are a limited number of suitable sites close enough to the A12 to provide mitigation. The application site is situated within close proximity to one of the attenuation ponds proposed within the DCO. This would ensure the proposed mitigation areas are beneficial from an ecological perspective, as they would enable reptiles to utilise the areas of grassland planting around the attenuation pond. The application site would be used as a receptor site for reptiles in order to reduce the overall land take requirement for mitigation for the A12 and would provide connectivity to the existing population of reptiles within the area. It would provide long term sustainability and stability for reptiles to flourish and significantly increase the areas of available habitats to reptiles in the long term. The elements of the development which would be vulnerable to flooding, for example the hibernaculas where animals would hibernate, are located outside of Flood Zones 2 and 3.
- 12.8.6 The level of frequency of flood anticipated by the parts of the application site being located within a Flood Zone 2 and 3 wouldn't have an impact on the habitat and the establishment of species within the mitigation areas proposed.
- 12.8.7 The ground levels at the site are such that they naturally fall down towards the River Ter. The ponds proposed are due to be naturally filled via ground water and rainfall, and therefore their placement, at the lowest ground level point to allow maximum ground water interface, and to allow the collection of surface water run-off that would migrate downwards across the land plot, is appropriate.
- 12.8.8 Officers consider that that there are clear and justified reasons why the development needs to be located at this site and why it cannot be located to an alternative site of lower flood risk. Other sites of lower flood risk which could fulfil this need, are not considered suitable or available to accommodate the proposed development. The sequential test is therefore

passed, and as set out within the 'Flood risk vulnerability and flood risk compatibility table', there is no requirement to undertake the Exceptions Test.

- 12.8.9 In addition to the sequential test, there is also a requirement for a Flood Risk Assessment to accompany the application and an FRA has been provided. In summary, the FRA confirms that the proposed development would have a low risk of surface water flooding, not being located within the fluvial floodplain of the River Ter (except when taking climate change into account), there is a high risk of potential for groundwater flooding at the surface, there is a risk of reservoir flooding, and the proposals would have a negligible impact to flood risk elsewhere due to there being no increase in impermeable land; a negligible impact to existing fluvial or surface water flood storage capacity or flows and no interruption to groundwater flow paths or displacement of groundwater elsewhere.
- 12.8.10 Essex County Council SUDS as the LLFA has reviewed the FRA. They raise no objections and recommend no conditions are required to be attached to the Decision Notice. In addition, as the site lies within 20 metres of a main river (River Ter), the Environment Agency have been consulted. They have responded to confirm they have no objections to the application and recommend no conditions.
- 12.8.11 The application is considered acceptable in respect of flood and drainage considerations.

13. CONCLUSION

- 13.1 The principle for the proposed change of use to an ecological area is accepted and supported by policies within the Council's Adopted Local Plan and the NPPF which encourage biodiversity creation and enhancement, together with net gain in priority habitats. In this case, the loss of the agricultural land has been justified.
- 13.2 The development would result in a change in the character of the field, altering from an agricultural pasture field to an ecological area, including man-made land formation and features. However, it is considered that the impact would be acceptable and minimised due to the modest verticality of the development proposed, together with the areas being experienced alongside existing natural boundary features and against the River Ter to the rear, in this enclosed field.
- 13.3 The proposed access for construction purposes has been assessed and is considered appropriate. Due to the low level of vehicles associated with the proposed development during construction, there would be no harmful impact to the highway network. The submitted CTMP satisfactorily sets out how traffic management would be undertaken throughout the construction period and provides for appropriate management of vehicles, including HGVs delivering to the site.

- 13.4 There would be no harm to either the setting or significance of the nearby Grade II* and Grade II listed buildings at Crix House and Hatfield Place. Appropriate archaeology works have already been undertaken.
- 13.5 In regard to ecology and landscape considerations, the proposed design of habitat creation is supported, as is the proposed planting scheme. The biodiversity net gains are strongly supported. The development would result in no significant ecological constraints, and any impacts can be addressed by the mitigation proposed. The proposed means of landscaping the site, both hard and soft, are acceptable.
- 13.6 The Flood Risk Assessment demonstrates that the development would have a negligible impact on flood risk. The Local Lead Flood Authority and the Environment Agency raise no objections to the development. The Sequential Test has been passed.
- 13.7 Although there would be some impacts to neighbouring residential amenities during construction, these would be temporary impacts and measures have been undertaken to minimise these. Once construction is completed, there would be no adverse impact to neighbouring amenity.
- 13.8 Taking into account the above, it is considered that the proposal complies with the Development Plan when taken as a whole. Officers consider that there are no material considerations that indicate that a decision should be made other than in accordance with the Development Plan.
14. RECOMMENDATION
- 14.1 It is RECOMMENDED that the following decision be made:
Application GRANTED in accordance with the Approved Plans and Documents, and subject to the Condition(s) & Reason(s), and Informative(s) outlined within APPENDIX 1.

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

APPENDIX 1:

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

Approved Plan(s) & Document(s)

Plan Description	Plan Ref	Plan Version
Site Plan	0311	P02
Other	0312	P02
Fencing Layout/Details	0001	P03
Section	0351	P01
Section	0352	P01
Other	0005	P01
Habitat Survey Plan	0002	N/A
Section	0003	N/A
Other	0012	N/A
Site Plan	0208	N/A

Condition(s) & Reason(s)

Condition 1

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

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

Condition 2

The development hereby permitted shall only be implemented in accordance with the approved plans and documents listed above.

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

Condition 3

The development hereby permitted shall be carried out in accordance with the approved Construction Traffic Management Plan (January 2023).

Reason: In the interests of highway safety and convenience (including pedestrians) and neighbouring amenity.

Condition 4

All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained the Biodiversity Statement and Mitigation Plan (National Highways, December 2022), the Habitat Maintenance Plan (National Highways, November 2022), Series 3000 Landscape & Ecology Specification Appendix 30 (National Highways, November 2022), Ecological Mitigation Areas Standard Details Ecological Habitat Features PO2 (Jacobs Ltd, November 2022).

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).

Informative(s)

Informative 1

The Applicant may need an environmental permit for flood risk activities if they want to do work in, under, over or within 8 metres (m) from a fluvial main river and from any flood defence structure or culvert or 16m from a tidal main river and from any flood defence structure or culvert. The River Ter is designated a 'main river'. Application forms and further information can be found at:

<https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>.

Anyone carrying out these activities without a permit where one is required, is breaking the law.

Informative 2

All work within or affecting the highway should be laid out and constructed by prior arrangement with and to the requirements and satisfaction of the Highway Authority, details to be agreed before commencement of the works. An application for the necessary works should be made to development.management@essexhighways.org.

Informative 3

Mitigating and adapting to a changing climate is a national and Essex County Council priority. The Climate Change Act 2008 (amended in 2019) commits the UK to achieving net-zero by 2050. In Essex, the Essex Climate Action Commission proposed 160+ recommendations for climate action. Essex County Council is working with partners to achieve specific goals by 2030, including net zero carbon development. All those active in the development sector should have regard to these goals and applicants are invited to sign up to the Essex Developers Group Climate Charter [2022] and to view the advice contained in the Essex Design Guide. Climate Action Advice guides for residents, businesses and schools are also available.

Positive and Proactive Statement

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

APPENDIX 2:

POLICY CONSIDERATIONS

National Planning Guidance

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

Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP47	Built and Historic Environment
LPP52	Layout and Design of Development
LPP57	Heritage Assets and their Settings
LPP59	Archaeological Evaluation, Excavation and Recording
LPP63	Natural Environment and Green Infrastructure
LPP64	Protected Sites
LPP65	Tree Protection
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP67	Landscape Character and Features
LPP70	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP74	Flooding Risk and Surface Water Drainage
LPP75	Surface Water Management Plan
LPP76	Sustainable Urban Drainage Systems

Hatfield Peverel Neighbourhood Plan

HPE1	Natural Environment and Biodiversity
HPE5	Protection of Landscape Setting

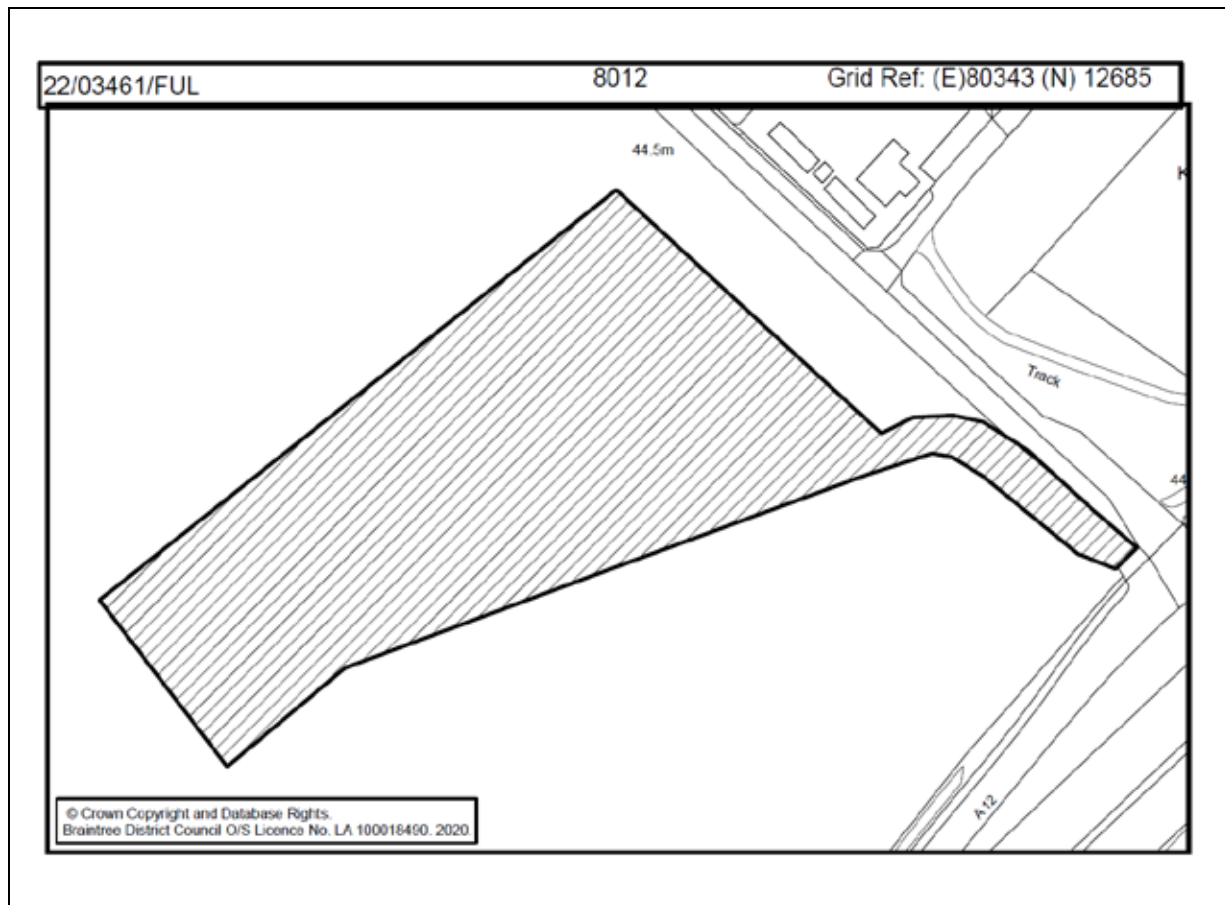
APPENDIX 3:

SITE HISTORY

N/A

Report to: Planning Committee		
Planning Committee Date: 7th March 2023		
For: Decision		
Key Decision: No		Decision Planner Ref No: N/A
Application No:	22/03461/FUL	
Description:	Change of use to ecological mitigation area 8 (linked to the A12 widening scheme) including the creation of 1 pond, creation of 1 bund from on-site excavated material, perimeter fencing and associated landscaping.	
Location:	Land North East Of Hatfield Road, Hatfield Peverel	
Applicant:	Mr Kampanila Kaluba, National Highways, Woodlands, Bedford, MK41 6FS	
Agent:	Mrs Sophie Douglas, Jacobs, 1 City Walk, Leeds, LS11 9DX	
Date Valid:	28th December 2022	
Recommendation:	It is RECOMMENDED that the following decision be made: § Application GRANTED subject to the Condition(s) & Reason(s) and Informative(s) outlined within Appendix 1 of this Committee Report.	
Options:	The Planning Committee can: a) Agree the Recommendation b) Vary the Recommendation c) Overturn the Recommendation d) Defer consideration of the Application for a specified reason(s)	
Appendices:	Appendix 1:	Approved Plan(s) & Document(s) Condition(s) & Reason(s) and Informative(s)
	Appendix 2:	Policy Considerations
	Appendix 3:	Site History
Case Officer:	Harrison Lockwood For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2543, or by e-mail: harrison.lockwood@braintree.gov.uk	

Application Site Location:



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

	<p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
Background Papers:	<p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> § Application Form § All Plans and Supporting Documentation § All Consultation Responses and Representations <p>The application submission can be viewed online via the Council's Public Access website: www.braintree.gov.uk/pa by entering the Application Number: 22/03461/FUL.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> § National Planning Policy Framework (NPPF) § Braintree District Local Plan 2013 - 2033 § Neighbourhood Plan (if applicable) § Supplementary Planning Documents (SPD's) (if applicable) <p>The National Planning Policy Framework can be viewed on the GOV.UK website: www.gov.uk/.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: www.braintree.gov.uk.</p>

1. EXECUTIVE SUMMARY

- 1.1 The application seeks full permission for an ecological mitigation area to facilitate the translocation of reptile populations prior to the construction of the A12 widening project. The ecological mitigation area would include the creation of one pond and one bund, formed from on-site excavated material, together with the installation of 1.1m high fencing and associated landscaping works. The associated landscaping works includes the introduction of hibernacula and log piles, approximately 1041.42 sqm of trees and shrubs and the seeding of species rich grassland.
- 1.2 The principle for the change of use to an ecological area is supported by a number of policies within the Adopted Local Plan (Policies SP7 and LPP64) which encourage biodiversity creation and enhancement measures, and net gain in priority habitats. Support is also attributed to the NPPF (Paragraphs 174 and 180) which requires planning to contribute to and enhance the natural and local environment by protecting and enhancing sites of biodiversity value and also seeks to secure measurable net gains for biodiversity. Although the development would result in the loss of some subgrade 3a agricultural land, weight is attributed to the fact that this site would enable the mitigation measures and features to be easily integrated and embedded with existing nearby habitats, and that to achieve this outcome it would inevitably require the loss of such agricultural land. Overall, the principle of development is considered acceptable.
- 1.3 In terms of layout and landscape impacts, the development would inevitably result in a change in the character of the land, altering from an open agricultural field to an ecological area with artificial land formation and features and subdivision of an existing larger field parcel. The impact of this change would primarily be seen from public views along pathways to the south and west of the site, together with road users on the A12. However, it is considered that the impact would be reduced due to the modest change associated with the re-levelling work, limited height of the bunds and other features, and low level and appropriately designed fencing. In addition, the development would be seen against the backdrop of the existing landscaping to the northern and eastern boundary. On this basis, it is not considered that the development would result in harm to the character and appearance of the local landscape.
- 1.4 Access to the site for construction purposes would be via an existing agricultural access from Hatfield Road (B1389). The submitted Construction Traffic Management Plan (CTMP) satisfactorily sets out how traffic management would be undertaken throughout the construction period and provides for appropriate management of vehicles, including to prevent conflict with pedestrians on the PROW.
- 1.5 In terms of heritage there are no nearby listed buildings or other statutory listings. Approximately 200m to the west of the site, lies a non-designated Cold War Nuclear Monitoring Post. The ECC Historic Buildings Consultant has raised no objection to the proposal in this regard, noting that the site

would not have a particularly tangible visual impact in relation to the heritage asset. A condition is imposed to provide for archaeology monitoring.

- 1.6 In regard to ecology and landscape considerations, the location of the site is supported, as it would strengthen the ecological networks at this location and within the District more widely. The development would result in no significant ecological constraints and any impacts can be addressed via mitigation proposed. Equally, the proposed soft landscaping scheme is acceptable, and the creation of biodiversity net gain is supported.
- 1.7 The site is located entirely within Flood Zone 1 and the proposed site area is below the 1ha threshold for a Flood Risk Assessment. Furthermore, the Local Lead Flood Authority raise no objections to the development.
- 1.8 In terms of neighbouring amenity, given the distance from neighbours, the relatively low level of vehicle movements and limited size of vehicles, restricted construction working hours and dust mitigation measures (all as set out within the CTMP), the development would result in no unacceptable harm to neighbouring amenity.
- 1.9 Taking the above factors into account, the application is recommended for approval subject to conditions.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

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

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

- 5.1 The site is located to the south-west of Witham and covers a total area of 0.80 hectares (including the land required for the access to the site from the public highway and the main site area wherein the ponds and landscaping would be formed).
- 5.2 The main part of the site is a roughly rectangular parcel of land to the north / north-west of the A12. The site is largely surrounded by arable farmland to the north and west, with further arable land also located to the south side of the A12. The Witham town development boundary begins to the east of the site, with one dwelling and some mixed-use areas nearby informing this change in character.
- 5.3 The application site area also includes the access to the site, formed from an existing farmers entrance to the field to the east of the main site area. This entrance is situated from the A12 slip road in an eastwards direction. Though an approach from the east is also possible with the 'no entry' signs positioned immediately west of the access, traffic is unlikely to be considerable in this direction.
- 5.4 The site is located adjacent to land north of Woodend Farm, which has approval at outline planning stage for up to 400 residential dwellings and a day nursery together with all associated access, servicing, parking, drainage infrastructure, landscaping, open space and utilities infrastructure. The subsequent reserved matters application is not yet forthcoming.
- 5.5 The main part of the site lies within arable use. The Agricultural Land Classification (ALC) is subgrade 3a.
- 5.6 The site is entirely within a Flood Zone 1.
- 5.7 There are no Tree Preservation Orders (TPOs) within the site boundary.

- 5.8 The site is not located within a Conservation Area, nor within the immediate setting of any nearby Listed Buildings. A non-designated Cold War Nuclear Monitoring Post lies approximately 200m to the west of the site, positioned centrally within the open setting of the field.
- 5.9 There are no European sites or other areas classified or protected under national legislation, which are situated within the locality of the ecological mitigation area. Furthermore, the site is not located near any Local Nature Reserves or Local Wildlife Sites.
- 5.10 Public footways run alongside the A12 carriageways in either direction, immediately near the proposed site. These footpaths connect to a Public Right of Way which runs to the south, some distance from the proposed site, and more closely associated with Ecological Mitigation Area 9.

6. BACKGROUND TO THE PROPOSAL

- 6.1 The proposal forms part of the wider Nationally Significant Infrastructure Project (NSIP) proposed for widening the A12 between Chelmsford and Colchester. A Development Consent Order (DCO) application for this NSIP was accepted for examination by the Planning Inspectorate on the 12th of September 2022.
- 6.2 The DCO identifies a number of ecological mitigation areas to help mitigate the impacts of the A12. The Applicant (National Highways) is seeking full permission under the Town and Country Planning Act 1990 for 16 ecological mitigation areas through the submission of 13 planning applications across the Districts of Braintree, Colchester and Chelmsford in order to enable the creation of habitats in advance of the A12 construction.
- 6.3 The ecological mitigation areas have already been identified within the DCO which provides a high-level indicative layout for each ecological mitigation area. This planning application provides the detailed design with regards to the scale and nature of the proposal and how the ecological mitigation area would be constructed, operated and maintained.

7. PROPOSAL

- 7.1 The proposed ecological mitigation area subject to this planning application is required to facilitate the translocation of reptile populations prior to the construction of the A12 widening project. The habitats created on the site would also contribute to Biodiversity Net Gain of the A12 works.
- 7.2 The application proposes a change of use to an ecological area. This would include the construction of:
- § 1 pond with associated aquatic and marginal planting (the profile and depth varies to a maximum depth of 1.8 metres);
 - § 1 bund / basking bank created from excavated material (to a maximum height of 1 metre);

- § Features for reptiles including:
 - 4no. hibernacula (approximately 0.5 metres in height);
 - 1no. log piles (to a maximum height of 1 metre);
 - § 2 areas of intermittent trees and shrubs, aquatic planting, reedbed planting and seeding of species rich grassland;
 - § Timber post and wire fencing around the perimeter of the site (height of 1.1 metres), 1 metal field gate and a surrounding hedgerow.
- 7.3 Access for construction vehicles and similar, would be from Hatfield Road (B1389). It is outlined that a small number of excavators and dumpers would be taken to site and remain on site for the duration of the works. At the peak, there would be up to 12 light vehicles (cars and vans) trips daily, with up to 4 daily deliveries of materials via HGVs.
- 7.4 The submission details that the construction period would be approximately 1.5 months.
- 7.5 There would be no public access to the site. (A perimeter fence is proposed to be erected to prevent public access).
- 7.6 The proposal does not fall within any of the descriptions of development for the purposes of the definition of 'Schedule 1 or 2 Development', as set out within the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. An Environmental Impact Assessment is therefore not required.
8. SUMMARY OF CONSULTATION RESPONSES
- 8.1 HSE
- 8.1.1 No consultation required.
- 8.2 Natural England
- 8.2.1 No objection.
- 8.3 BDC Ecology
- 8.3.1 No objection subject to securing ecological mitigation and enhancement measures.
- 8.4 BDC Environmental Health
- 8.4.1 No objection. It is noted that the site is adjacent to a residential property, therefore the construction phase shall be implemented with careful management secured by accordance with the conditions outlined in the response.

- 8.5 ECC Archaeology
- 8.5.1 Confirm the need for archaeological monitoring to be secured via condition.
- 8.6 ECC Highways
- 8.6.1 No comments.
- 8.7 ECC Historic Building Consultant
- 8.7.1 No objection.
- 8.8 ECC Local Lead Flood Authority (LLFA)
- 8.8.1 No objection.
- 9. PARISH / TOWN COUNCIL
- 9.1 Hatfield Peverel Parish Council
- 9.1.1 No objection.
- 10. REPRESENTATIONS
- 10.1 The application was advertised by way of site notices, newspaper notification and neighbour letter.
- 10.2 One representation has been received from Mr David Brien of Terling Place. The representation outlines that the owner of the land does not give permission for the works. Officers note that Certificate B on the application form has been signed and notice served upon the owner of the land. No objections have been raised which would warrant withholding planning permission, such as harmful impact upon residential amenity.
- 10.3 Comments have also been provided by the North East Essex Badger Group who have raised no objection to the proposal.
- 11. PRINCIPLE OF DEVELOPMENT
- 11.1 The Council's statutory Development Plan consists of the Braintree District Local Plan 2013-2033.
- 11.1.2 There are no made Neighbourhood Plans affecting the site.
- 11.1.3 The principle for the change of use to an ecological area is supported by a number of Policies within the Adopted Local Plan. Policy SP7 of the Adopted Local Plan requires new development to 'incorporate biodiversity creation and enhancement measures', whilst Policy LPP64 of the Adopted Local Plan states that 'proposals that result in a net gain in priority habitat will be supported in principle'.

- 11.1.4 Further policy support can be attributed to the NPPF. Paragraph 174 of the NPPF requires planning to contribute to and enhance the natural and local environment by protecting and enhancing site of biodiversity value, whilst Paragraph 180 states that ‘development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.’
- 11.1.5 It is therefore considered that in terms of the principle of development, the proposed scheme would be in compliance with the Development Plan and relevant parts of the NPPF.

12. SITE ASSESSMENT

12.1 Loss of agricultural land

- 12.1.1 Paragraph 174(b) of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by recognising ‘...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’.
- 12.1.2 In this regard, the loss of the existing agricultural land is a material consideration. The Agricultural Land Classification (ALC) provides a method for assessing the quality of agricultural land within England and Wales. Land is graded between 1 and 5, depending on the extent to which physical or chemical characteristics impose long-term limitations on agricultural use. Grades 1, 2 and 3a are defined as the best and most versatile (BMV) land. The development site is categorised as subgrade 3a.
- 12.1.3 The majority of agricultural land in the District is BMV, including a high proportion of the higher Grade 2 land. This includes alternative land in the Witham area. Paragraph 6.29 of the Local Plan confirms that the use of BMV for development is inevitable. Although the loss of the subgrade 3a agricultural land is regrettable, it is at worst sequentially neutral in the consideration of BMV. It is further noted that the proposed site area is less than one hectare, with details provided within the application outlining that the proposal will result in the loss of 0.76 hectares of agricultural land.
- 12.1.4 Weight is also attributed to the fact that this site would enable the mitigation measures and features to be easily integrated and embedded with existing nearby habitats, and that to achieve this outcome, it would inevitably require the loss of such agricultural land. In this regard, the development is considered to not conflict with Paragraph 174 of the NPPF, as it would contribute to and enhance the natural and local environment (Paragraph 174(b)), whilst providing net gains for biodiversity (Paragraph 174(d)).

- 12.2 Layout, appearance and Impact upon the character and appearance of the locality including the local landscape
- 12.2.1 As set out above, the application proposes the creation of a number of different features across the site to provide habitats for a variety of differing species. The most notable features would be the creation of the pond and bund, together with the surrounding hedgerow.
- 12.2.2 The proposed pond would be located to the east of the site area. In terms of scale, it would measure approximately 30 metres in length and 17 metres in width. The profile and depth would vary between 0.3 metres depth to a maximum depth of 1.8 metres. The pond would be planted with an aquatic planting mix, reedbed planting and marginal planting.
- 12.2.3 The proposal also facilitates the creation of a single bund / basking bank created from excavated material. This would be positioned to west of the proposed pond and extend to a maximum height of 1 metre, measuring 8m in width. In terms of its finish, the southern side would form a gentle slope which would be covered with a layer of gravel to limit vegetation growth, whilst the remaining sides would be allowed to vegetate with grass or scrub vegetation to offer safe escape habitats from predators.
- 12.2.4 The application also seeks some wider re-grading of the land with the depositing of excess material from the excavation works. The area affected by the re-levelling is a roughly oval shape located in proximity of the proposed bund, towards the western boundary of the main site. Although the application does not include sections of the existing and proposed ground levels, the proposed plans do include existing and proposed topographical information. Given that the level change only amounts to a maximum height increase of 0.5 metres, Officers are content that the consideration in terms of visual impact can be readily assessed. It is considered that the re-grading would only result in a relatively modest increase over the highlighted area. In addition, the submission details that the edges of this re-levelled area would be graded back into the adjacent land to form sweeping gradients, which would assist in minimising its visual impact. This element of the proposal would be read in conjunction with the aspects of the development and is not considered to result in adverse harm to the wider character and appearance of the locality.
- 12.2.5 In addition, the application also proposes a number of smaller features designed specifically for reptiles. These include the creation of one log pile immediately east of the proposed bund. The log pile comprises shape cut timber, stacked randomly. Each log pile would be at around 1 metre wide and 2 metres long, with a height of around 0.5 to 1 metre (the lower-level timbers would be dug approx. 0.10 metres into the ground surface to provide stability to the pile).
- 12.2.6 To further support reptiles, is the creation of 4no. hibernacula features also within proximity of the proposed log pile and bund. These are to be constructed to provide potential habitat for hibernating amphibians and

reptiles. These would be 4 metres long, 2 metres wide and 1 metre high. The pile would be covered with a coir membrane over which soil or turf would be laid to allow grass vegetation to establish, though some rubble extrusions would be present around the edges (not covered in soil/turf) to allow access for sheltering animals.

- 12.2.7 The site would be surrounded by 140m of mixed hedgerow, together with intermittent tree spacing. Intermittent tree and shrub mixes, together with individual native trees, are also proposed. It is considered that the proposed planting mix for the tree and shrub planting and the proposed seeding of grassland, would be appropriate for this location and would reinforce the landscape character and biodiversity of surrounding landscape. The surrounding hedgerow would further reveal the character of the surrounding landscape, following patterns observed to the south and east of the plot.
- 12.2.8 Lastly, a 1.1-metre-high timber post and wire fence would be erected around the perimeter of the ecology area site, (in addition to a metal field gate to allow access for maintenance etc. as and when required). This is required to prevent access (as previously noted, there would be no public access to the site). Whilst this would create a somewhat arbitrary subdivision of the wider field parcel, it would, due to the low height and appropriate design (timber construction / post and rail), be appropriate to the rural context of the site, and given the need for it, is considered appropriate. The surrounding hedgerow would further serve to soften this impact.
- 12.2.9 Overall, the development would inevitably result in a change in the character of the land, altering from an open agricultural field to an ecological area with artificial land formation and features, and subdivision of an existing larger field parcel. The impact of this change would primarily be seen from public views along the A12 to the south of the main ecological mitigation site area. However, it is considered that the impact would be reduced due to the modest change associated with the re-levelling work, limited height of the bunds and other features, and low level and appropriately designed fencing. In addition, the development would be seen against the backdrop of the existing landscaping to the northern and eastern boundary and obscured from view in large parts by planting alongside the A12. Altogether, the development would be viewed within the context of the wider countryside setting. On this basis, it is not considered that the development would result in harm to the character and appearance of the local landscape.

12.3 Heritage

- 12.3.1 The site lies outside of any Conservation Area and is not within the locality of any listed buildings. A non-designated Cold War Nuclear Monitoring Post lies approximately 200m to the west of the site. The ECC Historic Buildings Consultant has raised no objection to the proposal in this regard, noting

that the site would not have a particularly tangible visual impact in relation to the heritage asset.

12.3.2 Further in regard to heritage is the consideration on archaeology. The site lies adjacent to and possibly overlaps with a site which was identified through trial trenching as being of archaeological significance. The remains of an unturned cremation were found within a trench which borders the proposed site. The works proposed would require ground disturbance for a pond and topsoil stripping which could disturb or destroy any surviving below ground archaeological remains.

12.3.3 The County Archaeologist has reviewed the submission and has outlined that the works proposed have the potential to impact upon archaeological remains associated with the nearby cremation deposit. A programme of archaeological investigation shall therefore be required to record and investigate any associated archaeological remains.

12.4 Ecology and Landscape

12.4.1 The application is submitted with a Biodiversity Statement and Mitigation Plan to indicate the impacts of the development upon designated sites and protected and Priority species / habitats, in addition to the information contained within the submitted plans and other supporting documentation. Officers are satisfied that sufficient ecological information is available for determination.

12.4.2 BDC Ecology have raised no objections to the scheme subject to securing ecological mitigation and enhancement measures. Furthermore, Natural England have raised no objection outlining that the proposed development would not have a significant adverse impact on statutorily protected nature conservation sites or landscapes.

12.4.3 The Biodiversity Statement and Mitigation Plan has confirmed no significant ecological constraints, and that any impacts can be addressed via mitigation proposed. An Impact Assessment and Conservation Payment Certificate has been prepared by Natural England and signed by National Highways for the proposed A12 widening DCO and this site technically would be covered under the Essex District Level Licencing Strategy for Great Crested Newt. However, as there are no ponds within 500 metres of this application and species is highly unlikely to be present and affected, it is not considered reasonable to request any additional measures for Great Crested Newt as part of this application. This provides certainty for the LPA of the likely impacts on designated sites, protected and Priority species and habitats and, with appropriate mitigation measures secured, the development can be made acceptable. The mitigation measures identified in the Biodiversity Statement and Mitigation Plan should be secured and implemented in full, as this is necessary to conserve protected and Priority species and a condition is imposed to secure this.

- 12.4.4 Officers support the design of the ponds and ditches, which have been designed to fully maximise biodiversity potential in line with the biodiversity metrics, whilst considering the potential functional use of the waterbodies by notable species. The inclusion of the hibernacula and log piles, which have also been designed appropriately with consideration of the soil and the site topography, is also welcomed. The management of these habitat features is detailed within the submission and details that the aftercare plans would be relevant for a 20-year period, to ensure that the habitat creation would be successfully implemented.
- 12.4.5 Further support is also given to the creation of biodiversity net gain (BNG). Officers are content that the development would secure at least 10% BNG, a desire outlined with Paragraph 174d and 180d of the NPPF. Indeed, the submission details that the development site would result in a net increase of 197.17% of Habitat units and 948.91% of Hedgerow units.
- 12.4.6 In addition, Officers consider the approach to soft landscaping for the site to be acceptable. As detailed above, the proposed planting mix for the areas of tree and shrub planting, together with the wider marginal planting, aquatic planting mix and reedbeds would be appropriate for this location and would reinforce the landscape character and biodiversity of the surrounding landscape. In terms of the wider consideration of the impact upon the local landscape character, this has been set out above.
- 12.4.7 It is also highlighted that no trees, hedgerows or other established planting would be removed, and no development would occur within the root protection area of existing trees. It is noted that the access partially encompasses some of the nearby root protection area. However, no development is proposed within this area which forms an existing access to the field. The proposed site plan also indicates that a root protection mat shall be laid to mitigate vehicular movement atop this area.

12.5 Highway Considerations

- 12.5.1 Access to the site for construction purposes would be via an existing agricultural access from Hatfield Road (B1389). The level of traffic that the development would generate is considered relatively limited. A small number of excavators and dumpers (up to 1 each) would be taken to site and would remain on site for the duration of the works. Daily, the main workforce shall arrive by single vehicle (6 people) and up to 4 other vehicles would bring other workers to the site daily (the main workforce would utilise carsharing from the main A12 Compound in Kelvedon). In addition, at the peak, there would be up to a further 12 light vehicles (cars and vans) trips per day, and delivery of materials to the site would be via a HGV, up to 4 trips in a day. The traffic movements per day would equate to 21 vehicles in and 21 vehicles out – a total of 42 movements.
- 12.5.2 The application has been submitted with a Construction Traffic Management Plan (CTMP) which sets out how traffic management would be undertaken throughout the construction period. In addition to setting out

the anticipated traffic movements as set out above, the CTMP also details that no improvements are required to any sections of the access to facilitate to the construction work and no permanent hardstanding is proposed.

- 12.5.3 The CTMP does further detail however, that in the event of wet weather, temporary construction matting would be placed where required to protect the ground and vehicles during construction, which would be implemented as and when required and removed as soon as it is no longer required.
- 12.5.4 It is acknowledged that the access is positioned at the end of the A12 exit slip-road, where cars may approach at high speeds. However, there is sufficient visibility from the access in both directions. The Highway Authority have been consulted on the application and have not raised any comments which would suggest that the level of traffic generated from the development would give rise to any adverse impact to highway capacity nor in terms of highway safety.
- 12.5.5 In addition, there are no Public Right of Ways within the immediate area. Warning signage shall be erected to warn road users and pedestrians of construction traffic. Low footfall is expected due to the nature of the surrounding area.
- 12.5.6 The CTMP also addresses matters of dust, stating that although it is not envisaged that large quantities of dust would be produced during the works if dust does become an issue it would be suppressed by a towable dust suppression unit. Wheel washing would also be undertaken to ensure that the wheels and undercarriages of vehicles would be clean prior to using the public highway, but that if any material still makes it onto the highway or access roads it would be cleaned by a road sweeper.
- 12.5.7 The Highway Authority have reviewed the CTMP and find the contents acceptable. Subject to the imposition of a condition to secure that the development be carried out in accordance with the CTMP, the development would be acceptable in terms of highway considerations.

12.6 Impact upon Neighbouring Residential Amenity

- 12.6.1 In terms of neighbouring impacts arising from the development, there is only one residential property within the vicinity, Mayfield Cottage. This dwelling is situated approximately 60m north-east of the site and is accessed via an adjacent narrow lane. Given the distance from neighbours, there would be no unacceptable adverse impact with the ecological site area itself (either during construction works within the site, nor once it is completed and 'in use / operational').
- 12.6.2 The main impact to neighbours would be from access during the construction period from the associated traffic movements. As detailed above, the access to the site is via Hatfield Road with a total daily movements of 42 vehicles. Given the relatively low number of vehicle movements, the size of the vehicles being primarily limited to 'light

vehicles', and the distance to neighbours, it is not anticipated that any neighbours would be unduly impacted from noise disturbance of similar.

- 12.6.3 In addition, the CTMP details that the construction hours would be from 08:00 to 18:00 on weekdays and 08:00 to 13:00 on Saturdays with no work taking place on Sundays or Bank Holidays. This would also limit any harm to neighbours amenity. In addition, it is noted that the construction period is short (approximately 1.5 months).
- 12.6.4 The CTMP also details that whilst matters of dust is not considered to be an issue, if dust does become an issue, it would be suppressed by a towable dust suppression unit.
- 12.6.5 Overall, given these matters, it is considered that the development would result in no unacceptable harm to neighbouring amenity.

12.7 Flooding and Drainage Strategy

- 12.7.1 The site is located entirely within Flood Zone 1.
- 12.7.2 Furthermore, the proposed site area is below the 1ha threshold for a Flood Risk Assessment and the Local Lead Flood Authority have raised no objections to the development.

12.8 Contamination

- 12.8.1 No on-site constraints have been identified in this regard and historical records do not indicate that the land has ever been in use for any purpose other than agriculture which could give rise to potential contaminants. Environmental Health have also been consulted on the proposed development and raised no concern.

13. CONCLUSION

- 13.1 The principle for the change of use to an ecological area is acceptable and is supported by policies within the Adopted Local Plan and by the NPPF which encourages biodiversity creation and enhancement, and net gain in priority habitats. The loss of the subgrade 3a agricultural land has been justified.
- 13.2 The development would result in a change in the character of the land, altering from an open agricultural field to an ecological area with artificial land formation and features and subdivision of an existing larger field parcel. However, it is considered that the impact would be reduced due to the modest change height / level changes proposed and as the development would be seen against the backdrop of the existing landscaping to the site boundaries.
- 13.3 The proposed access for construction purposes is considered appropriate and due to the low level of vehicles associated with the development, there

would be no harmful impact to the highway network. The submitted CTMP satisfactorily sets out how traffic management would be undertaken throughout the construction period and provides for appropriate management of vehicles, including to prevent conflict with pedestrians on the PROW.

- 13.4 There would be no harm to the setting of any nearby heritage assets including the non-designated ROC post.
- 13.5 With regard to ecology and landscape considerations, the location of the site is supported as it would strengthen the ecological networks. The development would result in no significant ecological constraints and any impacts can be addressed via mitigation proposed. Equally, the proposed soft landscaping scheme is acceptable and the creation of biodiversity net gain is supported.
- 13.6 The site is located within Flood Zone 1, meaning that it has the lowest probability of flooding.
- 13.7 There would be no adverse impact to neighbouring amenity.
- 13.8 No contamination matters have been identified.
- 13.9 Taking into account the above, it is considered that the proposal complies with the Development Plan when taken as a whole. Officers consider that there are no material considerations, that indicate that a decision should be made other than in accordance with the Development Plan.

14. RECOMMENDATION

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

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

APPENDIX 1:

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

Approved Plan(s) & Document(s)

Plan Description	Plan Ref	Plan Version
Proposed Site Plan	0313	P02
Other	0314	P02
Section	0360	P01
Habitat Survey Plan	DR LE 0005	P02
Existing Block Plan	SK-GI-0019	N/A
Location Plan	SK-GI-0019	N/A
Fencing Layout/Details	DR LE 0001	03

Condition(s) & Reason(s)

Condition 1

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

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

Condition 2

The development hereby permitted shall only be implemented in accordance with the approved plans and documents listed above.

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

Condition 3

- a) No development or preliminary groundworks of any kind shall take place until a programme of archaeological investigation has been secured in accordance with a written scheme of investigation which has been submitted by the applicant, and approved in writing by the local planning authority.
- b) No development or preliminary groundworks of any kind shall take place until the completion of the programme of archaeological investigation identified in the WSI defined in 1 above and the submission of a mitigation strategy detailing the excavation / preservation strategy.
- c) The applicant will submit to the local planning authority a final archaeological or post excavation assessment which has been approved in writing by the Local Planning Authority. This shall be done within 6 months of the date of completion of the archaeological fieldwork unless otherwise agreed in advance in writing by the Local Planning Authority. This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

Reason: To properly provide for archaeology.

Condition 4

The development hereby permitted shall be carried out in accordance with the approved Construction Traffic Management Plan (January 2023).

Reason: In the interests of highway safety and convenience (including pedestrians) and neighbouring amenity.

Condition 5

All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained within the Biodiversity Statement and Mitigation Plan (National Highways, December 2022), the biodiversity metric 3.0 (October 2022), the Habitat Maintenance Plan (National Highways, November 2022), Series 3000 Landscape & Ecology Specification Appendix 30 (National Highways, November 2022), Ecological Mitigation area 8 - Planting Schedule (Jacobs Ltd, February 2023) and Ecological Habitat Features PO2 (Jacobs Ltd, February 2023).

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).

Condition 6

Notwithstanding the submitted documents, no site clearance, demolition or construction work shall take place on the site, including starting of machinery and delivery of materials, outside the following times:

Monday to Friday 0800 hours - 1800 hours

Saturday 0800 hours - 1300 hours

Bank Holidays & Sundays - No work

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

Positive and Proactive Statement

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

APPENDIX 2:

POLICY CONSIDERATIONS

National Planning Guidance

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

Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP47	Built and Historic Environment
LPP52	Layout and Design of Development
LPP59	Archaeological Evaluation, Excavation and Recording
LPP63	Natural Environment and Green Infrastructure
LPP64	Protected Sites
LPP65	Tree Protection
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP67	Landscape Character and Features
LPP71	Climate Change

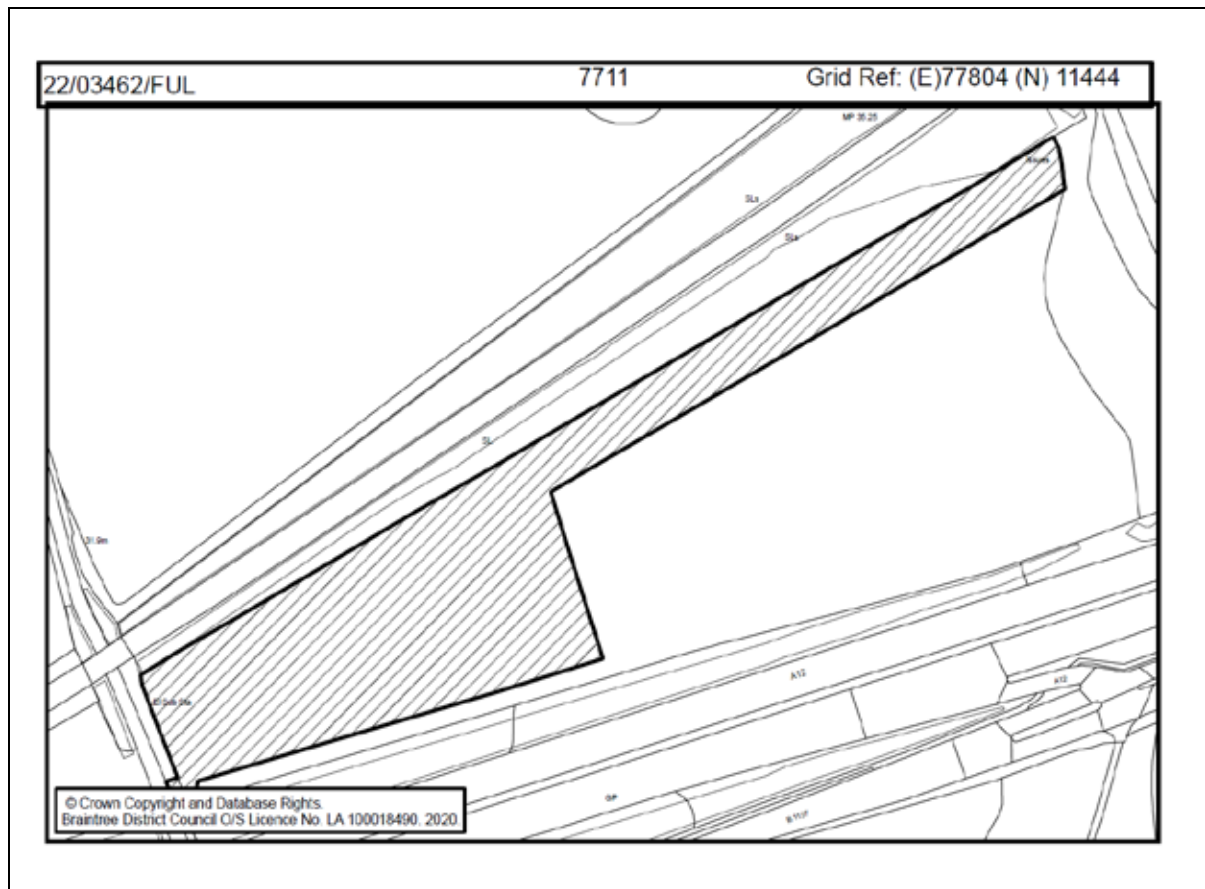
APPENDIX 3:

SITE HISTORY

Application No:	Description:	Decision:	Date:
23/00247/FUL	Change of use to Ecological Mitigation Area 17 (linked to the A12 widening scheme) including the creation of 3 ponds, creation of 8 bunds and the raising of ground level from on-site excavated material, perimeter fencing and associated landscaping.	Pending Consideration	

Report to: Planning Committee		
Planning Committee Date: 7th March 2023		
For: Decision		
Key Decision: No		Decision Planner Ref No: N/A
Application No:	22/03462/FUL	
Description:	Change of use to ecological mitigation area 4 (linked to the A12 widening scheme) including the creation of 1 pond, creation of 3 bunds from on-site excavated material, perimeter fencing and associated landscaping.	
Location:	Land East Of Terling Hall Road, Hatfield Peverel	
Applicant:	Mr Kampanila Kaluba, National Highways, Woodlands, Bedford, MK41 6FS	
Agent:	Mrs Sophie Douglas, Jacobs, 1 City Walk, Leeds, LS11 9DX	
Date Valid:	28th December 2022	
Recommendation:	It is RECOMMENDED that the following decision be made: § Application GRANTED subject to the Condition(s) & Reason(s) and Informative(s) outlined within Appendix 1 of this Committee Report.	
Options:	The Planning Committee can: a) Agree the Recommendation b) Vary the Recommendation c) Overturn the Recommendation d) Defer consideration of the Application for a specified reason(s)	
Appendices:	Appendix 1:	Approved Plan(s) & Document(s) Condition(s) & Reason(s) and Informative(s)
	Appendix 2:	Policy Considerations
	Appendix 3:	Site History
Case Officer:	Fiona Hunter For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2521, or by e-mail: fiona.hunter@braintree.gov.uk	

Application Site Location:



Purpose of the Report:	The Committee Report sets out the assessment and recommendation of the abovementioned application to the Council's Planning Committee. The report sets out all of the material planning considerations and the relevant national and local planning policies.
Financial Implications:	The application was subject to the statutory application fee paid by the applicant for the determination of the application.
Legal Implications:	<p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either set out the relevant Conditions & Reasons and any Informatives, or the Reasons for Refusal if applicable.</p> <p>All relevant policies are set out within the report, within Appendix 2.</p>
Other Implications:	The application has been subject to public consultation and consultation with relevant statutory and non-statutory consultees. All responses received in response to this consultation are set out within the body of this Committee Report.
Equality and Diversity Implications	<p>Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:</p> <ul style="list-style-type: none"> a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act; b) Advance equality of opportunity between people who share a protected characteristic and those who do not; c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding. <p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p>

	The consideration of this application has not raised any equality issues.
Background Papers:	<p>The following background papers are relevant to this application include:</p> <ul style="list-style-type: none"> § Planning Application submission: <ul style="list-style-type: none"> § Application Form § All Plans and Supporting Documentation § All Consultation Responses and Representations <p>The application submission can be viewed online via the Council's Public Access website: www.braintree.gov.uk/pa by entering the Application Number: 22/03462/FUL.</p> <ul style="list-style-type: none"> § Policy Documents: <ul style="list-style-type: none"> § National Planning Policy Framework (NPPF) § Braintree District Local Plan 2013 - 2033 § Neighbourhood Plan (if applicable) § Supplementary Planning Documents (SPD's) (if applicable) <p>The National Planning Policy Framework can be viewed on the GOV.UK website: www.gov.uk/.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: www.braintree.gov.uk.</p>

1. EXECUTIVE SUMMARY

- 1.1 This application seeks full planning permission for the change of use of land from agricultural land to an ecological mitigation area. The development would involve the construction of a pond, the erection of animal shelter systems including hibernaculas, basking banks and log piles, a small amount of regrading of the land to provide a plateau, along with the planting of trees and further planting areas, with associated fencing and access gates.
- 1.2 The proposal is supported in terms of principle by the Adopted Local Plan, which states that proposals that result in a net gain in priority habitat will be supported in principle, the NPPF which states that applications to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.
- 1.3 The Hatfield Peverel Neighbourhood Plan states that strong support will be given to the retention of natural boundary treatments and the provision of new areas of natural planting and habitat as part of new developments, to help to promote wildlife corridors. It is therefore considered that, in view of the potential for biodiversity and ecological enhancement, the loss of agricultural land has been justified.
- 1.4 The proposal would lead to a biodiversity net gain which is supported and would not lead to the loss of existing trees or habitats. Trees to the west of the site would be protected during the construction phase by protective fencing and matting.
- 1.5 The proposal would lead to a change in the landscape character of the application site, however it is considered that this would be acceptable, and would be minimised due to the limited views of the application site from a wider setting by virtue of the location of the site between the A12 and the railway line, and existing vegetation to the south and west of the site.
- 1.6 The proposed access for construction purposes has been assessed and is considered appropriate. Due to the low level of vehicles associated with the proposed development during construction, there would be no harmful impact to the highway network. The submitted CTMP satisfactorily sets out how traffic management would be undertaken throughout the construction period and provides for appropriate management of vehicles, including HGVs delivering to the site.
- 1.7 Taking the above factors into account, the application is recommended for approval subject to conditions.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

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

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

- 5.1 The application site, covering an area of 1.41 hectares, is located within the countryside, to the west of Hatfield Peverel. The site is accessed from Terling Hall Road, and currently forms part of an agricultural field.
- 5.2 The site is bound by Terling Hall Road to the west, the railway line to the north, and the A12 to the south. To the east of the application site is the remaining portion of the agricultural field, along with a section of vegetation to the east of the northern part of the site.
- 5.3 The site is at an elevated position from the A12, with the land sloping down towards the A12 away from the railway line, with the lowest part of the site located to the south eastern corner. The railway line is set at an elevated position on an embankment along the northern boundary of the site.
- 5.4 The site is currently open agricultural land, with two large trees located just outside the western boundary of the site, alongside the existing access. To the south, between the application site and the A12 lies a number of trees along the sloped ground, limiting views of the site from the south/east.
- 5.5 The River Ter runs to the east of the site, however the application site is located entirely within Flood Zone 1, which is identified as being at the lowest risk of flooding.
- 5.6 The proposed site has been found to be classified Subgrade 3a in the Agricultural Land Classification (ALC), recognised as best and most versatile agricultural land.
- 5.7 A Public Right of Way (PRoW) runs along the northern boundary of the railway track, to the north of the site and along western side of the River Ter, to the east of the site. The PRoW does not encroach on the application site.

6. CONTEXT TO PROPOSALS

- 6.1 The proposal forms part of the wider Nationally Significant Infrastructure Project (NSIP) proposed for widening the A12 between Chelmsford and Colchester. A Development Consent Order (DCO) application for this NSIP was accepted for examination by the Planning Inspectorate on the 12th of September 2022.
- 6.2 The DCO identifies a number of ecological mitigation areas to help mitigate the impacts of the A12. The applicant (National Highways) is seeking full permission under the Town and Country Planning Act 1990 for 16 ecological mitigation areas through the submission of 13 planning applications across the Districts of Braintree, Colchester and Chelmsford in order to enable the creation of habitats in advance of the A12 widening construction.
- 6.3 The ecological mitigation areas have already been identified within the DCO which provides a high-level indicative layout for each ecological mitigation area. This planning application provides the detailed design with regards to the scale and nature of the proposal and how the ecological mitigation area would be constructed, operated and maintained.

7. PROPOSAL

- 7.1 The application seeks planning permission for the change of use and development of ecological mitigation areas. The proposed ecological mitigation areas would include the following forms of development:
- § The creation of 1no. pond within the main section of the site, with surrounding reedbed planting.
 - § 3no. bunds constructed from on-site materials, one located within the section of the site to the north east, and two located to the west of the pond, on an area of regraded land.
 - § The provision of animal shelter systems, including 6 hibernaculas, the aforementioned 3 bunds/basking banks and 3 log piles.
 - § Proposed planting of new trees, hedgerow, shrubs, grassland and aquatic and marginal planting around the pond, as well as reedbeds and bankside herbs in this location.
 - § Timber post and wire fencing around the perimeter of the site, including the erection of a new gate within the access for the site.
- 7.2 Access from the site would be from Terling Hall Road, utilising the existing access to the wider agricultural site. The Construction Traffic Management Plan (CTMP) sets out that during the construction of the site, a maximum of 2 excavators and dumpers would be kept at the application site. The length of construction is envisaged to be 1.5 months, with the daily workforce not exceeding 10 people, with 12 light vehicle (cars and vans) trips per day in and out of the site. Deliveries are expected to be up to 4 trips per day via HGV, with the same vehicle providing these deliveries, limiting the impact on parking, use of the road or interference with pedestrians.

- 7.3 There would be no public access to the application site, with a perimeter post and wire fence preventing public access.
- 7.4 The proposal does not fall within any of the descriptions of development for the purposes of the definition of ‘Schedule 1 or 2 Development’, as set out within the Town and Country Planning (Environment Impact Assessment) Regulations 2017. An Environment Impact Assessment is therefore not required.

8. SUMMARY OF CONSULTATION RESPONSES

8.1 Health and Safety Executive

- 8.1.1 Does not cross any consultation zones.

8.2 Historic England

- 8.2.1 No advice.

8.3 National Highways

- 8.3.1 No comment.

8.4 Natural England

- 8.4.1 No objection. Will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

8.5 Network Rail

- 8.5.1 No objection.

8.6 North East Essex Badge Group

- 8.6.1 No comments.

8.7 BDC Environmental Health

- 8.7.1 No adverse comments, subject to standard hours of working within the Construction Management Plan.

8.8 ECC Archaeology

- 8.8.1 No objection to the application, and no further archaeological mitigation is required due to the previous evaluations of the site.

8.9 ECC Ecological Consultant

- 8.9.1 No objection subject to securing ecological mitigation and enhancement measures, by way of a condition requiring compliance with submitted information.
- 8.10 ECC Highways
- 8.10.1 Proposal is acceptable subject to the provision of a Construction Traffic Management Plan. Following the submission of this, a further response was received confirming the CTMP is acceptable from a highway point of view.
- 8.11 ECC Historic Buildings Consultant
- 8.11.1 No concerns from a built heritage perspective.
- 8.12 ECC SUDS (LLFA)
- 8.12.1 No comments, as unlikely to have significant impact on surface water flood risk.
- 9. PARISH / TOWN COUNCIL
- 9.1 Hatfield Peverel Parish Council
- 9.1.1 No comment.
- 10. REPRESENTATIONS
- 10.1 A number of site notices were displayed outside of the site for a period of 21 days. Neighbouring residential properties were also consulted by letter.
- 10.2 One letter of representation was received, objecting to the proposal on the basis that the landowner has not given consent for the works. The correct ownership certificate was signed as part of the application and land ownership and subsequent consent for the works in this instance would be regarded as a civil matter not covered by the planning process.
- 10.3 Maldon District Council
- 10.3.1 No comments.
- 11. PRINCIPLE OF DEVELOPMENT
- 11.1 The Council's Statutory Development Plan consists of the Braintree District Local Plan 2013 – 2033 and the Hatfield Peverel Neighbourhood Plan.
- 11.2 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.

- 11.3 Policy LPP1 of the Adopted Local Plan states that new development outside of development boundaries should be confined to uses appropriate to the countryside whilst also protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils to protect the intrinsic character and beauty of the countryside.
- 11.4 Policy SP7 of the Adopted Local Plan requires that new development incorporates biodiversity creation and enhancement measures.
- 11.5 Policy LPP64 of the Adopted Local Plan permits that proposals that result in a net gain in priority habitat will be supported in principle.
- 11.6 The NPPF states at Paragraph 174 of the NPPF that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing site of biodiversity value. At Paragraph 180, it goes on to states that ‘development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.’
- 11.7 The Hatfield Peverel Neighbourhood Plan, adopted in 2019, contains policies which are relevant to the determination of this application. Policy HPE1 of the Neighbourhood Plan states that development should retain and enhance existing trees, hedgerows and habitats, and that strong support will be given to the retention of natural boundary treatments and the provision of new areas of natural planting and habitat as part of new developments, to help to promote wildlife corridors.
- 11.8 Policy HPE5 states that the landscape setting of the village will be protected, and that new development shall not detract from the key landscape features identified within the Neighbourhood Plan.
- 11.9 Officers are satisfied that the general principle of development is accepted by policies within the Council’s Development Plan and the NPPF.

12. SITE ASSESSMENT

12.1 Loss of agricultural land

- 12.1.1 Paragraph 174(b) of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by recognising ‘...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’.
- 12.1.2 In this regard, the loss of the existing agricultural land is a material consideration. The Agricultural Land Classification (ALC) provides a method for assessing the quality of agricultural land within England and Wales. Land is graded between 1 and 5, depending on the extent to which

physical or chemical characteristics impose long-term limitations on agricultural use. Grades 1, 2 and 3a are defined as the best and most versatile (BMV) land. The application site is categorised as Grade 3a land.

- 12.1.3 The majority of agricultural land in the Braintree District is BMV land, including a high proportion of the high Grade 2 land. This includes alternative land in and around the Hatfield Peverel area. Paragraph 6.29 of the Local Plan confirms that the use of BMV for development is inevitable. Although the loss of the 3a agricultural land is regrettable (the loss of agricultural land is around 1.41 hectares), it is at worst sequentially neutral in the consideration of BMV. Weight is also attributed to the fact that this site would enable the mitigation measures and features to be easily integrated and embedded with existing nearby habitats, and that to achieve this outcome, it would inevitably require the loss of such agricultural land.
- 12.1.4 In this regard, the development is considered to not conflict with Paragraph 174 of the NPPF, as it would contribute to and enhance the natural and local environment (Paragraph 174(b)), whilst providing net gains for biodiversity (Paragraph 174(d)).
- 12.2 Design, Appearance and Impact upon the Character and Appearance of the Area
- 12.2.1 Paragraph 126 of the NPPF states that good design is a key aspect of sustainable development. Policy SP7 of the Adopted Local Plan states that new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs.
- 12.2.2 The application seeks the construction of one pond towards the centre of the site. The pond would be irregular in shape, with the maximum extent of 25 metres by 43 metres. The pond would have a maximum depth of 1.2 metres, with areas of reedbeds, marginal planting and pond edge grassland surrounding the pond. There would also be areas of pond edge grassland planting around the pond area.
- 12.2.3 There would be the construction of a plateau, exceeding a maximum of 0.5 metres from the existing ground level, which would support the creation of two basking banks, along with two log piles and three hibernaculas. A further basking bank would be located within the north most stretch of the application site, along with two log piles. Between the pond and the plateau would be a further hibernacula and log pile.
- 12.2.4 The 3 proposed basking banks, for reptiles, would be between 0.8 and 1.0 metres in height, with a length of between 5 and 8 metres. They would be constructed of materials excavated from the creation of the ponds and hibernaculas, with a top layer on the south/south west facing sides being a gravel/crushed natural stone layer. On the opposing sides, the banks would be turfed and seeded with scattered vegetation.

- 12.2.5 The 5 proposed log piles would be at least 1.0 metres wide, 2.0 metres long and between 0.5 and 1.0 metres in height. A mixture of log sizes would be utilised to create the piles, left uncovered.
- 12.2.6 The 6 hibernaculas would be formed from loose materials such as rocks, logs, dead wood and other rubble type material. These would have a maximum height of between 0.5 and 1.0 metres, at a minimum width of 1.0 metres. The hibernaculas would be capped with a layer of topsoil, turf or moss, resulting in a minimal visual impact, appearing more as mounds in the earth.
- 12.2.7 With regards to means of enclosure, the application would see the erection of fencing around the perimeter of the site, along with the planting of hedgerow to the southern/eastern boundaries of the site. The proposed fencing would be post and wire fencing, at a maximum height of 1.1 metres, with the gate being a maximum of 1.4 metres in height. There is an area of fencing to be erected to protect the root protection area of the two large horse chestnut trees located just outside the western boundary of the site. A temporary reptile exclusion fence is to be erected along the southern boundary during the construction phase.
- 12.2.8 In terms of planting, the proposed pond would be surrounded by reedbeds and aquatic plants, with marginal planting surrounding this. This would be set within a larger area of pond edge grassland planting. There would be three areas of intermittent trees and shrubs, one located to the north western corner, one to the north east of the pond, and one to the very most north eastern point of the site. 10No. native trees are to be planted interspersed throughout the site.
- 12.2.9 The application site is located in a field which is located between the A12 and the railway line. There are limited views of the application site when viewed from public vantage points, due to both the elevation of the application site, and the existing vegetation to the south along the boundary with the A12. The site would be visible in part from Terling Hall Road, however due to the gradient of the site sloping downwards to the north east, limited views would be experienced of the proposed ecological works, particularly the proposed pond feature. The proposed regrading work and basking banks to the western side of the site would be visible, as would the proposed hedgerows and means of enclosure proposed. The site already benefits from fencing and gates to the northern and western boundaries.
- 12.2.10 The proposed remodelling of the site, by virtue of the creation of a plateau towards the middle of the site, would be limited in scale with a maximum height of 0.5 metres above existing ground levels. These would be created from existing topsoil on the site, with no additional soil material brought onto the site for the creation of the plateau.
- 12.2.11 Overall, whilst the proposal would result in a change in character of the land from agricultural field to man-made ecological features, there would be limited views of the application site from public vantage points. Views from

the A12 and the main road of Hatfield Peverel would be limited to the proposed fence and hedgerows along the southern boundaries, by virtue of the raised elevation and existing vegetation between the application site and the A12. There would also be limited views experience from Terling Hall Road, which would not experience vast changes from the existing due to the retention of the horse chestnut trees, and prevalence of existing fencing.

- 12.2.12 Officers are satisfied that the proposal development would not lead to harm to the character and appearance of the application site or the wider setting.

12.3 Heritage

- 12.3.1 When considering the impact of development on a historical asset the National Planning Policy Framework (NPPF) states in paragraph 202 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".
- 12.3.2 Policies SP7 and LPP57 of the Adopted Local Plan state that works will only be permitted where they do not harm the setting, character, structural stability and fabric of the building (or structure); and will not result in the loss of, or significant damage to the building or structure's historic and architectural elements of special importance, and include the use of appropriate materials and finishes.
- 12.3.3 The application site is part of the wider setting of Berwick Farmhouse to the north, and Little Crix and Crix House to the south, all Grade II listed buildings. The Council's Historic Buildings Consultant raises no objections to the proposals as the application site does not contribute to the significance of these assets due to the separation of the site from the heritage assets.
- 12.3.4 Historic England were consulted and have responded to note that they have no comments to make on the proposal.

12.4 Archaeology

- 12.4.1 Policy LPP59 of the Adopted Local Plan states that where granting planning permission could affect archaeological deposits, an archaeological evaluation will be required and conditions utilised to ensure archaeological remains are excavated and recorded prior to the development commencing.
- 12.4.2 Part of the application site is located within an 'archaeological site'. These are areas which are recognised as being potential locations for archaeological interest. The data is provided by Essex County Council.

- 12.4.3 ECC Archaeology were consulted on the application, and raised no objection, with no recommended conditions. The site was previously subject to an archaeological investigation as part of the wider A12 works, and no mitigation was requested for any further archaeological investigation.
- 12.4.4 The application is considered acceptable in respect of archaeology considerations.
- 12.5 Ecology and Landscaping
- 12.5.1 Policy LPP63 of the Adopted Local Plan states that Development proposals shall provide for the protection of biodiversity and the mitigation or compensation of any adverse impacts. Additionally, enhancement of biodiversity should be included in all proposals, commensurate with the scale of the development. If significant harm 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.
- 12.5.2 Policies LPP66 and LPP67 of the Adopted Local Plan require development to take into account existing landscape features, preserve them where appropriate, and be sensitive to the need to preserve and enhance biodiversity.
- 12.5.3 The application has been made in order to mitigate impacts to habitats, resulting from the proposed widening of the A12. This application has been accompanied by a suite of documents relevant to ecology and the proposed landscaping of the site. Officers are satisfied that there is enough ecological information provided with the application for determination.
- 12.5.4 The report includes details of surveys carried out at the site in order to protect species from harm during construction.
- 12.5.5 The provided Biodiversity Statement and Mitigation Plan includes a Preliminary Ecological Appraisal, which considered an assessment of the presence of the following species; barn owls, badgers, bats, breeding birds, dormice, great crested newts, reptiles and riparian mammals. These were all scoped out of the impact assessment due to the lack of presence on or surrounding the site. The Ecology Officer considered the information provided and concurred with the findings.
- 12.5.6 The submitted Biodiversity Statement and Mitigation Plan confirms that there are no significant ecological constraints, and the Council's Ecology Officer is satisfied that any impacts can be addressed by the mitigation measures as demonstrated within the report.
- 12.5.7 Officers support the proposed design of the habitat creation, as well as the proposed planting scheme for this ecological mitigation areas. The proposed inclusion of the ponds, hibernacula and log piles, which the

Ecology Officer is satisfied have been designed appropriately with consideration of the soil and the site topography, are considered acceptable.

- 12.5.8 Furthermore, Officers are satisfied that the proposals will likely demonstrate measurable biodiversity net gains, as outlined with paragraph 174d and 180d of the NPPF 2021. This would include a net increase of 291.05% of habitat units and 100% of hedgerow units. Officers are therefore confident that a 10% biodiversity net gain will be achieved.
- 12.5.9 Further information was submitted during the lifetime of the application, most notable updated drawings to demonstrate specific section detailing of the proposed pond, along with biodiversity net gain metrics. The Council's Ecological Consultant had no further comments following the submission of these details.
- 12.5.10 The proposed development is considered to be acceptable in respect of ecology considerations.
- 12.5.11 With regards to the proposed planting, a planting schedule was provided within the lifetime of the application. The planting and species mix considers the proposed planting of aquatic planting, marginal planting, pond edge grassland and reedbeds, along with the intermitted tree and shrubs. The proposed planting mix is considered to be acceptable, with native trees being proposed.
- 12.5.12 To the western boundary of the site are two large horse chestnut trees, located outside of the site but with their root protection areas located partially within the site. It is proposed that protective fencing and matting are to be erected during the construction phase of the development. The originally submitted Construction Traffic Management Plan originally saw the welfare unit located within the RPA for these trees, which has been subsequently amended. There would be the erection of fencing along the western boundary of the site, along the line of existing fencing, however this would be hand-rammed and a qualified Arboricultural officer would be on site to oversee works to ensure correct protection measures are put in place.
- 12.5.13 Provided that the recommendations made in the supported ecological documentation and reports are implemented, there is no objection to the scheme on these grounds.

12.6 Impact upon Neighbouring Residential Amenity

- 12.6.1 The National Planning Policy Framework sets out that decisions should seek to ensure a high quality amenity for all current and future occupiers of dwelling-houses. Policy LPP52 of the Adopted Local Plan state that development shall not cause undue or unacceptable impacts on the amenities of nearby residential properties. Unacceptable impacts are considered as any factors that can carry the potential to degrade the

enjoyment of neighbouring properties in terms of overlooking, overshadowing, loss of light or loss of privacy.

- 12.6.2 The application site is located between the A12 and the railway line, with the nearest residential properties located in excess of 200 metres away, and are separated by either the A12 or the railway line.
- 12.6.3 Whilst there is the expectation that there would be impacts to neighbouring residential properties during construction, these would be limited in scale and due to the distance to neighbouring properties would not have an unacceptable impact. The construction phase would be relatively short term, at 1.5 months, and the hours of construction are contained within the Construction Traffic Management Plan, as recommended by BDC Environmental Health.
- 12.6.4 Once construction is completed, there would be no unacceptable impacts to residential amenities. The maintenance plan submitted with the application sets out that the site would be accessed for maintenance for 5no. years following completion. The maintenance plan sets out that monitoring and maintenance works would not be so often that it would result in unacceptable impacts to neighbours.
- 12.6.5 Officers are satisfied that the proposed development would not result in unacceptable impacts to neighbouring residential amenities.

12.7 Flooding and Drainage Strategy

- 12.7.1 Policy LPP74 of the Adopted Local Plan states that new development shall be located on Flood Zone 1 or areas with the lowest probability of flooding, taking climate change into account, and should not increase flood risk elsewhere.
- 12.7.2 The site is located within Flood Zone 1, wherein the application is compliant with Policy LPP74.
- 12.7.3 The site has been subject to consultation with Essex County Council SuDs as the Lead Local Flood Authority, who raised no objection to the proposals.

12.8 Highway Considerations

- 12.8.1 The application includes detailed information regarding means of access to the site during construction and during maintenance, as well as anticipated vehicular traffic.
- 12.8.2 The application site is accessed from an existing access point along Terling Hall Road. Terling Hall Road is a protected lane to the north, however the stretch of Terling Hall Road from Main Road to the south, over the A12, is not protected.

- 12.8.3 No permanent alterations are proposed for the access to the site, with the exception of the relocation of the site access gate. Temporary matting would be installed to protect ground from damage, along with the provision of root protection area matting.
- 12.8.4 The Construction Traffic Management Plan (CTMP) sets out the expected vehicle trips for the site, which would not be in excess of 12 light vehicle (cars and vans) trips per day in and out of the site. Deliveries are expected to be up to 4 trips per day via HGV, carried out by a singular HGV.
- 12.8.5 ECC Highways have provided comments on the application, stating that the proposed are acceptable from a highways perspective. Following the submission of the CTMP, a further consultation was received confirming the CTMP is acceptable.
- 12.8.6 A condition is suggested to be imposed to ensure the development is carried out in accordance with the CTMP.
- 12.8.7 Officers are satisfied that the proposed development would be acceptable in terms of highway considerations.

12. CONCLUSION

- 12.1 The principle for the proposed change of use to an ecological area is accepted and supported by policies within the Council's Adopted Local Plan and the NPPF which encourage biodiversity creation and enhancement, together with net gain in priority habitats. In this case, the loss of the agricultural land has been justified.
- 12.2 The development would result in a change in the character of the field, altering from an agricultural pasture field to an ecological area, including man-made land formation and features. However, it is considered that the proposed changes would be minor in nature, and the landscapes impact would be limited by virtue of the location of the application site, the topography of the site, and the existing vegetation limited wider views of the site.
- 12.3 The proposed access for construction purposes has been assessed and is considered appropriate. Due to the low level of vehicles associated with the proposed development during construction, there would be no harmful impact to the highway network. The submitted CTMP satisfactorily sets out how traffic management would be undertaken throughout the construction period and provides for appropriate management of vehicles, including HGVs delivering to the site.
- 12.4 There would be no harm to the wider of setting of the nearby Grade II listed buildings to the north and south of the site. Archaeological investigations have been carried out previously, and therefore there have been no objections raised or conditions recommended from an archaeological perspective.

12.5 The proposed ecological features are strongly supported, as is the resultant 291.05% biodiversity net gain for habitat units, and 100% net gain for hedgerow units. The proposed planting scheme is considered acceptable, and there would be no loss of existing trees to the site.

12.6 Taking into account the above, it is considered that the proposal complies with the Development Plan when taken as a whole. Officers consider that there are no material considerations, that indicate that a decision should be made other than in accordance with the Development Plan.

13. RECOMMENDATION

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

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

APPENDIX 1:

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

Approved Plan(s) & Document(s)

Plan Description	Plan Ref	Plan Version
Location Plan	SK-GI-0017	N/A
Landscape Specification	DR-L-0308 REV P02	N/A
Proposed Sections	DR-L-0359 P01	N/A
Fencing Layout/Details	DR LE 0001 REV P3	N/A
Proposed Site Plan	DR-L-0307 P02	N/A
Proposed Sections	DR LE 0005 REV P02	N/A
Traffic Management Plan	Construction Traffic Management Plan (National Highways, January 2023)	N/A
Habitat Survey Plan	Biodiversity Statement and Mitigation Plan (National Highways, January 2023)	N/A
Habitat Survey Plan	Series 3000 Landscape _ Ecology Specification Appendix 30 (National Highways, November 2022)	P01
Habitat Survey Plan	Habitat Maintenance Plan (National Highways, November 2022)	P01
Habitat Survey Plan	Biodiversity Metrics 3.0	N/A

Condition(s) & Reason(s)

Condition 1

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

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

Condition 2

The development hereby permitted shall only be implemented in accordance with the approved plans and documents listed above.

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

Condition 3

The development hereby permitted shall be carried out in accordance with the approved Construction Traffic Management Plan (January 2023).

Reason: In the interests of highway safety and convenience (including pedestrians) and neighbouring amenity.

Condition 4

All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained the Biodiversity Statement and Mitigation Plan (National Highways, December 2022), the Biodiversity Metrics 3.0, the Habitat Maintenance Plan (National Highways, November 2022), Series 3000 Landscape & Ecology Specification Appendix 30 (National Highways, November 2022), Ecological Mitigation Areas Standard Details Ecological Habitat Features PO2 (Jacobs Ltd, February 2023).

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).

Positive and Proactive Statement

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

APPENDIX 2:

POLICY CONSIDERATIONS

National Planning Guidance

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

Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP52	Layout and Design of Development
LPP57	Heritage Assets and their Settings
LPP59	Archaeological Evaluation, Excavation and Recording
LPP63	Natural Environment and Green Infrastructure
LPP64	Protected Sites
LPP65	Tree Protection
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP70	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP74	Flooding Risk and Surface Water Drainage
LPP75	Surface Water Management Plan
LPP76	Sustainable Urban Drainage Systems

Hatfield Peverel Neighbourhood Plan

HPE1	Natural Environment and Biodiversity
HPE5	Protection of Landscape Setting

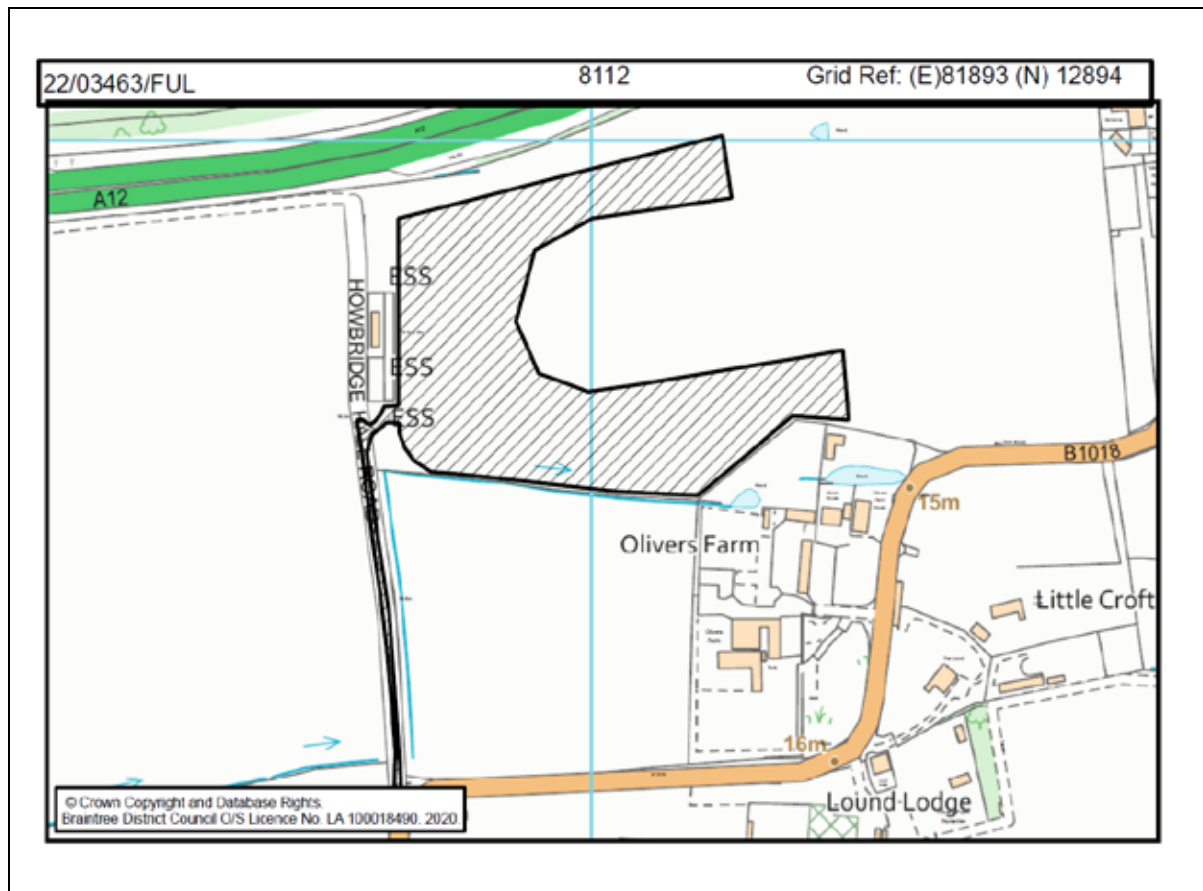
APPENDIX 3:

SITE HISTORY

Application No:	Description:	Decision:	Date:
22/03463/FUL	Change of use to ecological mitigation area (linked to the A12 widening scheme) including the creation of 3 ponds, creation of 8 bunds and one area of wider re-grading of land from on-site excavated material, perimeter fencing and associated landscaping.	Pending Decision	

Report to: Planning Committee		
Planning Committee Date: 7th March 2023		
For: Decision		
Key Decision: No		Decision Planner Ref No: N/A
Application No:	22/03463/FUL	
Description:	Change of use to ecological mitigation area (linked to the A12 widening scheme) including the creation of 3 ponds, creation of 8 bunds and one area of wider re-grading of land from on-site excavated material, perimeter fencing and associated landscaping.	
Location:	Land South Of Howbridge Hall Road, Witham	
Applicant:	Mr Kampanila Kaluba, National Highways, Woodlands, Bedford, MK41 6FS	
Agent:	Mrs Sophie Douglas, Jacobs, 1 City Walk, Leeds, LS11 9DX	
Date Valid:	29th December 2022	
Recommendation:	It is RECOMMENDED that the following decision be made: § Application GRANTED subject to the Condition(s) & Reason(s) and Informative(s) outlined within Appendix 1 of this Committee Report.	
Options:	The Planning Committee can: a) Agree the Recommendation b) Vary the Recommendation c) Overturn the Recommendation d) Defer consideration of the Application for a specified reason(s)	
Appendices:	Appendix 1:	Approved Plan(s) & Document(s) Condition(s) & Reason(s) and Informative(s)
	Appendix 2:	Policy Considerations
	Appendix 3:	Site History
Case Officer:	Lisa Page For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2516, or by e-mail: lisa.page@braintree.gov.uk	

Application Site Location:



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

	<p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
Background Papers:	<p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> § Application Form § All Plans and Supporting Documentation § All Consultation Responses and Representations <p>The application submission can be viewed online via the Council's Public Access website: www.braintree.gov.uk/pa by entering the Application Number: 22/03463/FUL</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> § National Planning Policy Framework (NPPF) § Braintree District Local Plan 2013 - 2033 § Neighbourhood Plan (if applicable) § Supplementary Planning Documents (SPD's) (if applicable) <p>The National Planning Policy Framework can be viewed on the GOV.UK website: www.gov.uk/.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: www.braintree.gov.uk.</p>

1. EXECUTIVE SUMMARY

- 1.1 The application seeks full permission for an ecological mitigation area to facilitate the translocation of reptile populations prior to the construction of the proposed A12 widening project. The habitats created on the site will contribute to Biodiversity Net Gain of the A12 works. This site has an ecological benefit as it would provide connectivity with woodland, grassland and planting around the proposed A12 attenuation pond and the new highway verges. This would mean in the long term (post construction of the A12 DCO works) the total area of suitable habitat available to reptiles would be larger, and the connectivity would enable them to disperse into the wider landscape. The ecological mitigation area will include ponds, basking banks, other features for reptiles, together with associated tree, shrub and grassland planting, enclosed by 1.1 metre high fencing.
- 1.2 The principle for the change of use to an ecological area is supported by a number of Policies within the Adopted Local Plan (Policies SP7 and LPP64) which encourage biodiversity creation and enhancement measures, and net gain in priority habitats. Support is also attributed to the NPPF (Paragraphs 174 and 180) which requires planning to contribute to and enhance the natural and local environment by protecting and enhancing sites of biodiversity value, and also seeks to secure measurable net gains for biodiversity. Although the development will result in the loss of Grade 3a agricultural land, weight is attributed to the fact that this site will enable the mitigation measures and features to be easily integrated and embedded with existing nearby habitats, and that to achieve this outcome, it will inevitably require the loss of such agricultural land. Overall, the principle of development is considered acceptable.
- 1.3 In terms of layout and landscape impacts, the development will inevitably result in a change in the character of the land, altering from an open agricultural field to an ecological area with artificial land formation and features, and subdivision of an existing larger field parcel. The impact of this change will primarily be seen from public views along the PROW to the east. However, it is considered that the impact will be reduced due to the modest change associated with the re-levelling work, limited height of the bunds and other features, and low level and appropriately designed fencing. In addition, the development will be seen in the context of the extensive planting proposed within the site and against the backdrop of the existing tree belt along the southern boundary. On this basis, it is not considered that the development would result in harm to the character and appearance of the local landscape.
- 1.4 Access to the site for construction purposes would be directly off Howbridge Hall Road and the shared access with UK Power Networks (UKPN) substation. The level of traffic that the development would generate is considered relatively limited - two excavators and two dumpers would be taken to site and will remain on site for the duration of the works and there would be 5 vehicles daily for staff. In addition, at the peak, there would be up to a further 12 light vehicles (cars and vans) trips per day (in and out of

the site), and delivery of materials to the site would be via HGV's up to a maximum of 6 trips per day. The submitted Construction Traffic Management Plan (CTMP) satisfactorily sets out how traffic management will be undertaken throughout the construction period.

- 1.5 In terms of heritage there would be no harm to the setting of nearby listed buildings and no harm to the setting of the Witham Conservation Area. Equally there would be no harm to archaeology.
- 1.6 In regard to ecology and landscape considerations, the location of the site is supported as it will strengthen the ecological networks at this location and within the District more widely. The development will result in no significant ecological constraints and any impacts can be addressed via mitigation proposed. Equally, the proposed soft landscaping scheme is acceptable, and the creation of biodiversity net gain is supported.
- 1.7 The site is mostly located within Flood Zone 1 (a low probability of flood risk). Matters in relation to flood risk and drainage are not considered a constraint to development. The Local Lead Flood Authority and the Environment Agency raise no objections to the development.
- 1.8 In terms of neighbouring amenity, given the distance from neighbours, the relatively low level of vehicle movements, restricted construction working hours, and dust mitigation measures (all as set out within the CTMP), the development will result in no unacceptable harm to neighbouring amenity.
- 1.9 Taking the above factors into account, the application is recommended for approval subject to conditions.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

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

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

- 5.1 The site is located to the south-east of Witham and covers a total area of 3.18 hectares (including the land required for the access to the site from the public highway and the main site area wherein the ponds and landscaping will be formed).
- 5.2 The site consists of a roughly U-shaped parcel of land to the south of the A12. To the east, the land is in agricultural use with rear curtilages of residential dwellings on Maldon Road; to the south there are some residential and commercial curtilages and further agricultural land. Immediately to the west is the UKPN Sub-Station and Howbridge Hall Road.
- 5.3 The application site area also includes the access to the site, which is from Howbridge Hall Road, off Maldon Road.
- 5.4 The main part of the site lies within arable use. The Agricultural Land Classification (ALC) is subgrade 3a.
- 5.5 The site is located within Flood Zone 1 (a low probability of flood risk). A Flood Risk Assessment (FRA) has been submitted with the application.
- 5.6 There are no Tree Preservation Orders (TPOs) within the site boundary.
- 5.7 The site is not located within a Conservation Area and there are no built heritage assets within 300 metres of the site.
- 5.8 The River Blackwater is located approximately 440 metres east of the site.
- 5.9 The site does not fall within a designated landscape or ecological site. The nearest site is Sparkey Wood local wildlife site, which is located 720 metres to the south-east.

- 5.10 A public footpath 121_95 runs in a north to south direction to the far eastern boundary of the application site.

6. BACKGROUND TO THE PROPOSAL

- 6.1 The proposal forms part of the wider Nationally Significant Infrastructure Project (NSIP) proposed for widening the A12 between Chelmsford and Colchester. A Development Consent Order (DCO) application for this NSIP was accepted for examination by the Planning Inspectorate on the 12th of September 2022.
- 6.2 The DCO identifies a number of ecological mitigation areas to help mitigate the impacts of the A12. The applicant (National Highways) is seeking full permission under the Town and Country Planning Act 1990 for 16 ecological mitigation areas through the submission of 13 planning applications across the Districts of Braintree, Colchester and Chelmsford in order to enable the creation of habitats in advance of the A12 construction.
- 6.3 The ecological mitigation areas have already been identified within the DCO which provides a high-level indicative layout for each ecological mitigation area. This planning application provides the detailed design with regards to the scale and nature of the proposal and how the ecological mitigation area would be constructed, operated and maintained.

7. PROPOSAL

- 7.1 The proposed ecological mitigation area subject to this planning application is required as a reptile receptor site to facilitate the translocation of reptile populations prior to the construction of the A12. The habitats created on the site will contribute to Biodiversity Net Gain of the A12 works.
- 7.2 This site has an ecological benefit as it would provide connectivity with woodland, grassland and planting around the proposed A12 attenuation pond and the new highway verges. This would mean in the long term (post construction of the A12 DCO works) the total area of suitable habitat available to reptiles would be larger, and the connectivity would enable them to disperse into the wider landscape. The proposed A12 attenuation pond may also provide a source of amphibian prey for grass snakes.
- 7.3 The application proposes a change of use to an ecological area. This would include the construction of:
- § 3 ponds with associated aquatic and marginal planting (to a maximum depth of 1.8 metres);
 - § 8 bunds / basking banks created from excavated material (to a maximum height of 1 metre);
 - § Re-grading of land with excess excavated material (to a maximum height of 0.5 metres);
 - § Features for reptiles including: 12no. hibernacula (4 m long x 2 m wide x 1 m high – but as they are dug into the ground by 0.5 m, the pile would

- sit approximately 0.5 metres above ground); and 8no. log piles (1m wide x 2m long, to a maximum height of 1 metre);
 - § 5 areas of intermittent trees and shrubs planting (371.98 m²); dispersed tree planting, and seeding of species rich grassland;
 - § Timber post and wire fencing around the perimeter of the site (height of 1.1 metres) and 1 metal field gate;
 - § Temporary reptile fencing (330 metres in length).
- 7.4 Access for construction vehicles and similar would be directly off Howbridge Hall Road. It is outlined that 2 excavators and 2 dumpers would be taken to site and remain on site for the duration of the work and daily there would be 5 vehicles to and from the site for staff. In addition, at the peak, there would be up to 12 light vehicles (cars and vans) arriving daily, and 6 daily heavy goods vehicles (HGV's). There is an existing stone track which would be utilised to access the site. A gate secures the access road towards the substation.
- 7.5 The submission details that the construction period would be approximately 2 months. It is anticipated that works would commence in early May 2023.
- 7.6 There would be no public access to the site. (A perimeter fence is proposed to be erected to prevent public access).
- 7.7 The proposal does not fall within any of the descriptions of development for the purposes of the definition of 'Schedule 1 or 2 Development', as set out within the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. An Environmental Impact Assessment is therefore not required.
- 8. SUMMARY OF CONSULTATION RESPONSES
- 8.1 Cadent Gas (formerly National Grid)
- 8.1.1 No Objection in principle.
- 8.2 Environment Agency
- 8.2.1 Advise that the application is unlikely to have a significant impact on surface water flood risk and therefore raise no comments.
- 8.3 Health and Safety Executive
- 8.3.1 Do not advise on safety grounds against the granting of planning permission.
- 8.4 National Highways
- 8.4.1 Comment that the development is part of the National Highway's major road infrastructure improvement and therefore have no comments.

- 8.5 BDC Ecology
- 8.5.1 No objections subject to a condition to secure that the development be carried out in accordance with the Ecological Report and Management Plan recommendations.
- 8.6 BDC Environmental Health
- 8.6.1 No objection subject to conditions for hours of working and no burning of waste materials on site.
- 8.7 BDC Landscape Services
- 8.7.1 Raise no objections to the proposed planting scheme.
- 8.8 ECC Archaeology
- 8.8.1 No objection. Comment that a programme of archaeological assessment and trial trench evaluation has already taken places across much of the site. No significant archaeological remains were identified. No further archaeological mitigation is required.
- 8.9 ECC Highways
- 8.9.1 Comment that having reviewed the Construction Traffic Management Plan dated January 2023 can confirm it is acceptable from a highway point of view.
- 8.10 ECC Historic Building Consultant
- 8.10.1 No objections. Comment that the scheme would not affect any designated heritage assets.
- 8.11 ECC Local Lead Flood Authority (LLFA) – SuDS
- 8.11.1 No objection.
9. PARISH / TOWN COUNCIL
- 9.1 Witham Town Council
- 9.1.1 No objection but comment that signage should be erected to warn of deep water.
10. REPRESENTATIONS
- 10.1 The application was advertised by way of site notices, newspaper notification and neighbour letter.

- 10.2 One third-party letter of representation has been received which neither objects nor supports the application. They raise the following comments:

§ Question whether the site will have public access.

- 10.3 The North East Essex Badger Group have also responded and raise no comments.

11. PRINCIPLE OF DEVELOPMENT

11.1 The Development Plan

- 11.1.1 The Council's statutory Development Plan consists of the Braintree District Local Plan 2013-2033.

- 11.1.2 There are no made Neighbourhood Plans affecting the site. (Under the Neighbourhood Planning (General) Regulations, 2012, the Witham Neighbourhood Area has been approved. Although the application site falls within the proposed Neighbourhood Plan Area, given the stage of the Neighbourhood Plan (Regulation 7), there are no policies to which weight can be applied).

- 11.1.3 The principle for the change of use to an ecological area is supported by a number of Policies within the Adopted Local Plan. Policy SP7 of the Adopted Local Plan requires new development to 'incorporate biodiversity creation and enhancement measures', whilst Policy LPP64 of the Adopted Local Plan states that 'proposals that result in a net gain in priority habitat will be supported in principle'.

- 11.1.4 Further policy support can be attributed to the NPPF. Paragraph 174 of the NPPF requires planning to contribute to and enhance the natural and local environment by protecting and enhancing site of biodiversity value, whilst Paragraph 180 states that 'development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.'

- 11.1.5 It is therefore considered that in terms of the principle of development, the proposed scheme would be in compliance with the Development Plan, and policy within the NPPF.

12. SITE ASSESSMENT

12.1 Loss of agricultural land

- 12.1.1 Paragraph 174(b) of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by recognising '...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’.

- 12.1.2 In this regard, the loss of the existing agricultural land is a material consideration. The Agricultural Land Classification (ALC) provides a method for assessing the quality of agricultural land within England and Wales. Land is graded between 1 and 5, depending on the extent to which physical or chemical characteristics impose long-term limitations on agricultural use. Grades 1, 2 and 3a are defined as the best and most versatile (BMV) land. The development site is categorised as grade 3a.
- 12.1.3 The majority of agricultural land in the District is BMV, including a high proportion of the higher Grade 2 land. This includes alternative land in the Witham area. Paragraph 6.29 of the Local Plan confirms that the use of BMV for development is inevitable. Although the loss of the grade 2 agricultural land is regrettable (the loss of agricultural land is around 3.06 hectares), it is at worst sequentially neutral in the consideration of BMV. Weight is also attributed to the fact that this site will enable the mitigation measures and features to be easily integrated and embedded with existing nearby habitats, and that to achieve this outcome, it will inevitably require the loss of such agricultural land. In this regard, the development is considered to not conflict with Paragraph 174 of the NPPF, as it would contribute to and enhance the natural and local environment (Paragraph 174(b)), whilst providing net gains for biodiversity (Paragraph 174(d)).
- 12.2 Layout, appearance and impact upon the character and appearance of the locality including the local landscape
- 12.2.1 As set out above, the application proposes the creation of a number of different features across the site to provide for habitats for a variety of differing species. The most notable features will be the creation of the ponds and bunds.
- 12.2.2 Across the site 3 ponds would be created – all located towards the south, to benefit from the natural fall of the land away from the north, and to allow the ponds to naturally fill. In terms of scale, these measure between 27 and 41 metres in length and 15 to 28 metres in width. The ponds would vary in depth, varying between a maximum of 1.6 and 1.8 metres. The ponds would be planted with an aquatic planting mix, reedbed planting and marginal planting.
- 12.2.3 The creation of 8 bunds / basking banks created from excavated material are also proposed across the site. These vary in size with the majority falling around 7 x 9 metres, whilst the largest (there are 2 larger basking banks) would measure 15 x 27 metres. In terms of height, they are all a maximum height of 1 metre. In terms of their finish, the southern side will form a gentle slope which would be covered with a layer of gravel or scree to limit vegetation growth, whilst the remaining sides would be allowed to vegetate with grass or scrub vegetation to offer safe escape habitats from predators.

- 12.2.4 The application also seeks some wider re-grading of the land with the depositing of excess material from the excavation works. The area affected by the re-levelling is a roughly square shape located to the north-west / corner of the site. Although the application does not include sections of the existing and proposed ground levels, the proposed plans do include existing topographical information. Given that the level change only amounts to a maximum height increase of 0.5 metres, Officers are content that the consideration in terms of visual impact can be readily assessed. It is considered that the re-grading would only result in a relatively modest increase over the highlighted area, where there is a natural change in the land levels (across the area of land affected, the land naturally falls from the north to the south by around 1.25 metres). In addition, the submission details that the edges of this re-levelled area would be graded back into the adjacent land to form sweeping gradients, which would assist in minimising its visual impact. This element of the proposal would be read in conjunction with the aspects of the development and against the backdrop of the A12 embankment and is not considered to result in adverse harm to the wider character and appearance of the locality.
- 12.2.5 In addition, the application also proposes a number of smaller features designed specifically for reptiles. These include the creation of 8no. log piles across the site more widely. The log piles would be constructed of multiple size and shape cut timber, stacked randomly. Each log pile would be at around 1 metre wide and 2 metres long, with a height of around 0.5 to 1 metre (the lower-level timbers would be dug approx. 0.10 metres into the ground surface to provide stability to the pile).
- 12.2.6 To further support reptiles, is the creation of 12no. hibernacula features also distributed across the entirety of the site. These would be constructed to provide potential habitat for hibernating amphibians and reptiles. These would be 4 metres long, 2 metres wide and 1 metre high, but as they are dug into the ground by approximately 0.5 metres, the pile would sit approximately 0.5 metres above ground. The pile would be covered with a coir membrane over which soil or turf would be laid to allow grass vegetation to establish, though some rubble extrusions would be present around the edges (not covered in soil/turf) to allow access for sheltering animals.
- 12.2.7 Temporary reptile fencing is also proposed around the southern extent of the site given the suitability of the surrounding habitat to support reptiles. The temporary reptile exclusion fencing would be installed by hand with the wooden stakes hammered into the ground, with localised, shallow trenches (approx. 0.2m deep) shall be scraped back along the fence line to allow for burying the polythene sheet.
- 12.2.8 Across the site, there are 5 areas of trees and shrub planting (3 to the western boundary, 1 at the southern boundary and the largest one to the eastern edge). This results in a total planting area of 3067 m². In addition, there is other sporadic tree planting across the site (17no. trees). Officers

are content that the species selected would be appropriate to the landscape character and soil type, and in terms of ecological considerations. It is considered that the proposed planting mix for the tree and shrub planting and the proposed seeding of grassland, would be appropriate for this location and would reinforce the landscape character and biodiversity of surrounding landscape.

- 12.2.9 Lastly, a 1.1-metre-high timber post and wire fence is proposed to be erected around the perimeter of the ecology area site, (in addition to a metal field gate to allow access for maintenance etc. as and when required). This is required to prevent access (as previously noted, there will be no public access to the site). Whilst this would create a somewhat arbitrary subdivision of the wider field parcel, especially along the northern and eastern side of the site, it would, due to the low height and appropriate design (timber construction / post and wire), be appropriate to the rural context of the site, and given the need for it, is considered appropriate.
- 12.2.10 Overall, the development would inevitably result in a change in the character of the land, altering from an open agricultural field to an ecological area with artificial land formation and features, and subdivision of an existing larger field parcel. The impact of this change would be most readily seen from the PROW (121_95) which runs in a north to south direction to the eastern boundary, with some limited views observed from the elevated A12 (though given that vehicles would be travelling past the site at speed the impact would be minimal). Overall, it is considered that the visual impact will be reduced due to the modest change associated with the re-levelling work, limited height of the bunds and other features, and low level and appropriately designed fencing. In addition, the development would be seen against the backdrop of the existing embankment to the A12, the existing landscaping to the southern boundary, and the extensive proposed tree and shrub planting proposed across the site. On this basis, it is not considered that the development would result in harm to the character and appearance of the local landscape.

12.3 Heritage

- 12.3.1 The site lies outside of any Conservation Area. The proposal would not affect any designated heritage assets - the closest listed building, Jacksons Farm is 650 metres away, and is separated by new development. The Councils Historic Building Consultant has been consulted and raises no objections.
- 12.3.2 Further in regard to heritage is the consideration on archaeology. A programme of archaeological assessment and trial trench evaluation took place across much of the site proposed as part of the A12 widening scheme. No significant archaeological remains were identified within this area. Part of the site lay beyond the areas included in this fieldwork however were subject to a geophysical survey where no archaeological remains were detected. It is noted that the area for topsoil stripping for the re-grading of land lay mostly within the area previously evaluated and this

will need to be ensured to avoid potential disturbance to any archaeological remains that lay beyond the previously evaluated areas. This largely corresponds with the northern strip of land where minimal disturbance is proposed. The County Archaeologist has reviewed the application and is content that no further archaeological mitigation is required.

12.4 Ecology and Landscape

- 12.4.1 The application is submitted with a Biodiversity Statement and Mitigation Plan, Biodiversity Metric 3.0, Habitat Maintenance Plan, Landscape & Ecology Specification and Planting Schedule.
- 12.4.2 The Biodiversity Statement and Mitigation Plan confirms that there are no Ramsar sites, Special Protection Areas (SPA's), Special Area of Conservation (SAC's), or Sites of Special Scientific Interest (SSSI) within 2km of the proposed development. Furthermore, there are no Local Nature Reserves (LNR) or Local Wildlife Sites (LWS) within 250 metres.
- 12.4.3 Officers are satisfied that sufficient ecological information is available for determination and that there are no significant ecological constraints, with any impacts addressed via mitigation proposed. The mitigation measures identified in the Biodiversity Statement and Mitigation Plan would need to be secured and implemented in full, to conserve protected and Priority species. (It is also noted that this site will be covered under the Essex District Level Licencing Strategy for Great Crested Newt).
- 12.4.4 The proposed design of the habitat creation with the inclusion of ponds, hibernacula and log piles are supported and are considered to have been designed appropriately with consideration of the soil and the site topography. The management of these habitat features is detailed within the submission and details that the aftercare plans to ensure that the habitat creation will be successfully implemented.
- 12.4.5 Further support is also given to the creation of biodiversity net gain (BNG). Officers are content that the development will secure at least 10% BNG, a desire outlined with Paragraph 174d and 180d of the NPPF. Indeed, the submission details that the development site will result in an on-site net percentage change of 285.63% units.
- 12.4.6 In addition, Officers consider the approach to soft landscaping for the site to be acceptable. The proposed planting mix for the areas of tree and shrub planting, together with the wider marginal planting, aquatic planting mix and reedbeds would be appropriate for this location and would reinforce the landscape character and biodiversity of the surrounding landscape.
- 12.4.7 It is also highlighted that no trees, hedgerows or other established planting would be removed, and no development would occur within the root protection area of existing trees (with the exception of the reptile fencing and wider perimeter fencing which will be hand-rammed or hand dug under arboricultural supervision). The application includes details for the siting of

tree protection fencing which would be required to be installed prior to the commencement of development. In terms of the wider consideration of the impact upon the local landscape character, this has been set out above.

12.5 Highway Considerations

- 12.5.1 Access to the site for construction purposes would be directly off Howbridge Hall Road and the shared access with UK Power Networks (UKPN) substation. (Howbridge Hall Road provides access to Dengie Farm and the substation only. There are no footpaths along Howbridge Hall Road). The level of traffic that the development would generate is considered relatively limited. Two excavators and two dumpers would be taken to site and will remain on site for the duration of the works and daily there would be 5 vehicles daily for staff (the main workforce will utilise carsharing from the main A12 Compound in Kelvedon). In addition, at the peak, there would be up to a further 12 light vehicles (cars and vans) trips per day (in and out of the site), and delivery of materials to the site would be via a HGV's up to a maximum of 6 trips per day.
- 12.5.2 The application has been submitted with a Construction Traffic Management Plan (CTMP) which in addition to outlining the construction traffic vehicle numbers, sets out that due to the low numbers of traffic and adequacy of the entrance, no traffic management would be required for day-to-day movements on and off Howbridge Hall Road.
- 12.5.3 In addition, the CTMP also details that no permanent hardstanding is proposed. However, during construction period and in the event of wet weather, temporary construction matting would be placed at the access point to protect the ground and vehicles. This would be implemented as and when required and removed from site when construction is complete.
- 12.5.4 The CTMP also sets out that warning signage would be erected to warn road users of construction traffic on the shared bell mouth area. As there is low foot traffic on Howbridge Hall Road, and due to its nature and location, with good visibility, there is no requirement for any additional protection or procedures.
- 12.5.5 The Highway Authority have been consulted on the application and are content that the level of traffic generated from the development would not give rise to any adverse impact to highway capacity nor in terms of highway safety. Subject to the imposition of a condition to secure that the development be carried out in accordance with the CTMP, the development would be acceptable in terms of highway considerations.

12.6 Impact upon Neighbouring Residential Amenity

- 12.6.1 There are some residential and commercial curtilages that adjoin the site to its south-eastern corner. Further residential properties lie to the east, backing onto the wider field parcel, at a distance of between 200 and 250 metres.

- 12.6.2 Due to the proposed nature of the use and limited level changes, there would be no adverse impacts to neighbours from the end use, in terms of outlook, or general noise and disturbance.
- 12.6.3 In terms of the assessment of neighbour impacts during construction, it is noted that the CTMP details that the construction hours will be from 08:00 to 18:00 Monday to Friday and 08:00 to 13:00 on Saturdays, with no Sunday working. This will also limit any harm to neighbours amenity. It is noted that the construction period is short (approximately 2 months). In addition, the access point is to the west of the site, the furthest point away from neighbours, which would also minimise any harm to neighbours from traffic movements.
- 12.6.4 The CTMP also details that whilst matters of dust is not considered to be an issue, if dust does become an issue, it will be suppressed by a towable dust suppression unit.
- 12.6.5 Overall, given these matters, it is considered that the development will result in no unacceptable harm to neighbouring amenity.

12.7 Flooding and Drainage Strategy

- 12.7.1 The site is entirely located within Flood Zone 1 but due to the site size, there is also a requirement for a Flood Risk Assessment (FRA) to accompany the application. Such a FRA has been submitted. The FRA demonstrates that the development will have a negligible impact on flood risk elsewhere as it would involve no increase in impermeable land (and therefore no alteration in surface water runoff), negligible impact on existing fluvial or surface water flood storage capacity or flows, with any disrupted flow paths likely to lead to locally raised levels within the site only, and no interruption of groundwater flow paths or displacement of groundwater elsewhere.
- 12.7.2 The Local Lead Flood Authority (LLFA) have reviewed the FRA and raise no objections. No conditions are required to be imposed in this regard.

13. CONCLUSION

- 13.1 The principle for the change of use to an ecological area is acceptable and is supported by Policies within the Adopted Local Plan and the NPPF which encourage biodiversity creation and enhancement, and net gain in priority habitats. The loss of the Grade 3a agricultural land has been justified.
- 13.2 The development would result in a change in the character of the land, altering from an open agricultural field to an ecological area with artificial land formation and features. However, it is considered that the impact would be reduced due to the modest change in height / level changes proposed and as the development would be seen against the embankment

to the A12 itself to the north and the backdrop of the existing landscaping to the south.

- 13.3 The proposed access for construction purposes is considered to be acceptable and there would be no harmful impact to the highway network. The submitted CTMP satisfactorily sets out how traffic management would be undertaken throughout the construction period and provides for appropriate management of vehicles.
- 13.4 There are no heritage impacts in terms of listed buildings, and the site lies outside of a Conservation Area. Equally, the development would not impact upon archaeology.
- 13.5 In regard to ecology and landscape considerations, the location of the site is supported as it would strengthen ecological networks and provide connectivity of habitats. The development would result in no significant ecological constraints and any impacts can be addressed via mitigation proposed. Equally, the proposed soft landscaping scheme is acceptable, and the creation of biodiversity net gain is supported.
- 13.6 The FRA demonstrates that the development would not have an impact on flood risk. The Local Lead Flood Authority and the Environment Agency raise no objections to the development.
- 13.7 There would be no adverse impact to neighbouring amenity.
- 13.8 Taking into account the above, it is considered that the proposal complies with the Development Plan when taken as a whole. Officers consider that there are no material considerations, that indicate that a decision should be made other than in accordance with the Development Plan.

14. RECOMMENDATION

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

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

APPENDIX 1:

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

Approved Plan(s) & Document(s)

Plan Description	Plan Ref	Plan Version
Site Plan	HE551497-JAC-ELS-5_SCHME-DR-L-0317	P02
Other	HE551497-JAC-ELS-5_SCHME-DR-L-0318	P02
Landscaping	HE551497-JAC-ELS-5_SCHME-DR-L-0357	P01
Landscaping	HE551497-JAC-ELS-5_SCHME-DR-L-0358	P01
Other	HE551497-JAC-EBD-5_SCHME-DR-LE-0005	P02
Fencing Layout / Details	HE551497-JAC-EBD-5_SCHME-DR-LE-001	PO3
Location Plan	HE551497-JAC-EGN-5_SCHME-SK-GI-0023	P01

Condition(s) & Reason(s)

Condition 1

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

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

Condition 2

The development hereby permitted shall only be implemented in accordance with the approved plans and documents listed above.

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

Condition 3

The development hereby permitted shall be carried out in accordance with the approved Construction Traffic Management Plan (January 2023).

Reason: In the interests of highway safety and convenience (including pedestrians) and neighbouring amenity.

Condition 4

No development, including preparatory works or construction, shall commence until the tree protection fencing as shown on plan HE551497-JAC-ELS-5_SCHME-DR-L-0317 REV P02 and as detailed within the 'Tree Protection Measures' document January 2023 has been fully implemented. The means of protection shall remain in place until the completion of the development.

Reason: To ensure the protection and retention of existing trees, shrubs and hedges.

Condition 5

All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained the Biodiversity Statement and Mitigation Plan (December 2022), the Biodiversity Metric 3.0 (October 2022), the Habitat Maintenance Plan (November 2022), Series 3000 Landscape & Ecology Specification Appendix 30 (November 2022), Ecological Mitigation Area 11 - Planting Schedule P02.

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).

Positive and Proactive Statement

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

APPENDIX 2:

POLICY CONSIDERATIONS

National Planning Guidance

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

Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP47	Built and Historic Environment
LPP52	Layout and Design of Development
LPP59	Archaeological Evaluation, Excavation and Recording
LPP63	Natural Environment and Green Infrastructure
LPP64	Protected Sites
LPP65	Tree Protection
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP67	Landscape Character and Features
LPP71	Climate Change
LPP74	Flooding Risk and Surface Water Drainage
LPP75	Surface Water Management Plan

APPENDIX 3:

SITE HISTORY

N/A