

PLANNING COMMITTEE AGENDA

Tuesday 12th October 2021 at 7.15pm

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

THIS MEETING IS OPEN TO THE PUBLIC

*(Please note this meeting will be broadcast via the Councils YouTube Channel,
webcast and audio recorded) www.braintree.gov.uk*

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

Membership:-

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

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

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

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

A WRIGHT
Chief Executive

INFORMATION FOR MEMBERS - DECLARATIONS OF INTERESTS

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

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

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

Members of the public wishing to speak are requested to register by contacting the Governance and Members Team on 01376 552525 or email governance@braintree.gov.uk by **midday on the second working day** before the day of the Committee meeting. For example, if the Committee Meeting is on a Tuesday, the registration deadline is midday on Friday, (where there is a Bank Holiday Monday you will need to register by midday on the previous Thursday).

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

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

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

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

Documents: There is limited availability of printed Agendas at the meeting. Agendas, Reports and Minutes can be accessed via www.braintree.gov.uk

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

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

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

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

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

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

Health and Safety/COVID:

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

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

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

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

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

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

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

3 Minutes of the Previous Meeting

To approve as a correct record the Minutes of the meeting of the Planning Committee held on 28th September 2021 (copy to follow).

4 Public Question Time

(See paragraph above)

5 Planning Applications

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

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

PART A Planning Applications

5a	App. No. 20 1100 VAR and App. No. 20 01101 VAR - Variation, Appletree Farm, Polecat Road, CRESSING	6-80
5b	App. No. 20 02148 FUL – 70 Little Yeldham Road, LITTLE YELDHAM	81-100
5c	App. No. 21 00850 OUT – Land West of Boars Tye Road, SILVER END	101-141
5d	App. No. 21 01896 FUL – Land at Elizabeth Lockhart Way BRAINTREE	142-168

PART B Minor Planning Applications

There are no applications in Part B

6 Urgent Business - Public Session

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

7 Exclusion of the Public and Press

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

At the time of compiling this Agenda there were none.

PRIVATE SESSION

Page

8 Urgent Business - Private Session

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

Variation to resolution to approve Variation Applications at Appletree Farm Polecat Road Crossing (Application Reference 20/01100/VAR)		Agenda No: 5a
Portfolio	Planning and Infrastructure	
Corporate Outcome:	Connecting People and Places Enhancing our Environment	
Report presented by:	Mathew Wilde, Senior Planning Officer	
Report prepared by:	Mathew Wilde, Senior Planning Officer	
Background Papers: Planning Committee Report – Application Reference 20/01100/VAR Planning Committee Minutes: - 20/01100/VAR – 27.10.2020 [ATTACHED AT THE END OF THE REPORT]		Public Report Key Decision: No
Executive Summary:		
<u>Main Considerations</u>		
<p>This report relates to a Variation of Condition application (Application Reference 20/01100/VAR) at Appletree Farm, Crossing relating to originally approved planning application 18/00920/FUL for 78 dwellings.</p> <p>Application Reference 20/01100/VAR was previously considered at the Planning Committee held on 27th October 2020, where the Committee resolved to grant the application, subject to conditions, and subject to the completion of a Deed of Variation to the Section 106 Agreement.</p> <p>Since the Planning Committee meeting held on 27th October 2020, it has transpired that a ransom strip has been included within the land title documents. The ransom strip is 0.5m wide and has been included along the entirety of the eastern and southern boundaries of the site. This ransom strip was identified within the Title Deed attached to the Deed of Variation to the original S106 agreement (for Application Reference 18/00920/FUL).</p> <p>While ordinarily this would not be something that the Council would take issue with, the owners of the ransom strip are not now proposed to be included as a signatory to the</p>		

Deed of Variation which would be secured for Application Reference 20/01100/VAR. This means that the entirety of the ransom strip would be outside of the control of the Management Company which would be formed to manage the open space at the site. There is therefore a possibility that this ransom strip would not be managed, and the Council would be unable to enforce its management.

Therefore the purpose of bringing variation application 20/01100/VAR before the Committee again is for Members to decide whether the Council can still resolve to grant the application despite the inclusion of the 0.5m ransom strip in the Section 106 Agreement and its possible implications for the management of open space.

Other Considerations

Officers have also requested two additional conditions be attached to the decision if granted in relation to the Design and Construction Certificates relating to Affordable Housing. This is to better ensure that the affordable housing is designed and built to appropriate standards.

It should be noted that Application Reference 20/01101/VAR, also a Variation application to 18/00920/FUL which was resolved to be granted by Members at the 13th October 2020 Planning Committee, is also affected by this ransom strip issue. While both applications are separate they are also intrinsically linked in terms of the decision making (see recommended decision section below).

Finally, it should also be noted that a further Variation application has been submitted (Application Reference 21/01922/VAR) however this is not for consideration at this stage, and will be reported to Committee at a later date.

Recommended Decision:

Resolution

That Members resolve to grant variation application 20/01100/VAR, subject to two additional conditions:

New Condition 20

No development shall commence unless written confirmation from an Approved Inspector or Local Authority Building Control Service to certify that Plots 5,6,9,10,11,12,13,14,15,16,17,28,29,36,37,38,39,40,66,67,70,71,84 and 85 as indicated on drawing number IN009-5 Rev B have been designed to comply with Building Regulations 2015 Part M4 Category 2 has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that all relevant affordable housing plots comply with the required standards at the design stage.

New Condition 21

Prior to occupation of each of the following Plots;
5,6,9,10,11,12,13,14,15,16,17,28,29,36,37,38,39,40,66,67,70,71,84 and 85 as indicated

on drawing number IN009-5 Rev B hereby approved, written confirmation from an Approved Inspector or Local Authority Building Control Service to certify that each respective plot (as indicated above) has been constructed in accordance with Building Regulations 2015 Part M4 Category 2 shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that all relevant affordable housing plots comply with the required standards when they are constructed.

Order of Decision Making (linking the application to 20/01101/VAR)

For the avoidance of doubt, as before, application 20/01101/VAR should be granted first, as this effectively forms a new planning consent. Then the description of development for linked application 20/01100/VAR needs to be amended so that it refers to the Variation consent (20/01101/VAR) as opposed to the original planning permission (18/00920/FUL).

Therefore in terms of order of decisions as previously agreed:

1. Approve and Issue 20/01101/VAR
2. Update description of 20/01100/VAR (to include reference to 20/01101/VAR instead of 18/00920/FUL)
3. Issue decision with additional conditions for 20/01100/VAR (if also resolved to grant at Planning Committee on 12th October 2021)

Purpose of Decision:

To enable the Local Planning Authority to approve the Variation applications and allow the proposed development to proceed.

Any Corporate implications in relation to the following should be explained in detail.	
Financial:	No matters arising out of this report
Legal:	The inclusion of the ransom strip has been duly considered
Safeguarding:	None
Equalities/Diversity:	No matters arising out of this report
Customer Impact:	The impact of the ransom strip has been considered in respect to possible management and visual impacts
Environment and Climate Change:	No matters arising out of this report
Consultation/Community Engagement:	No further re-consultation was carried out on the ransom strip inclusion as the scheme remains as approved.
Risks:	That the 0.5m ransom strip is not managed effectively
Officer Contact:	Mathew Wilde
Designation:	Senior Planner
Ext. No:	2512
E-mail:	mathew.wilde@braintree.gov.uk

REPORT

Application No:	20/01100/VAR
Description:	Application for variation of Condition 2 'Approved Plans' of application 18/00920/FUL granted 13/02/2020 for: Demolition of existing buildings on site and erection of 78 residential dwellings with associated open space, landscaping, amenity space, car and cycle parking and other associated works. Variation would allow: - Amendment to site layout and house types.
Location:	Appletree Farm, Polecat Road, Cressing, CM77 8PJ

BACKGROUND

Application 18/00920/FUL for 78 dwellings was approved at Committee on 10th September 2019 subject to a number of conditions, and subject to the completion of a Deed of Variation to the Section 106 Agreement.

This report relates to a Variation of Condition application (Application Reference 20/01100/VAR). This report seeks to gain Member approval for an amendment to Application Reference 20/01100/VAR previously considered at the Planning Committee held on 27th October 2020, where the Committee resolved to grant planning permission, subject to conditions.

This application is also intrinsically linked to Application Reference 20/01101/VAR which sought to amend Conditions 6c, 9, 11 17 and 18 of original application 18/00920/FUL. Condition 19 was also added. This is because both Variation applications 20/01101/VAR (this report) and 20/01100/VAR were submitted at the same time by the developer. Application 20/01101/VAR was resolved to grant planning permission on 13th October 2020.

Since the applications were resolved to grant planning permission at Committee, it has transpired that a ransom strip has been included within the land title documents.

It should be noted that nothing else has changed in terms of the plans previously approved, the reason for re-consideration by Members is consider the consequences of the above in relation to the ransom strip, as well as the inclusion of two additional affordable housing conditions.

RANSOM STRIP OVERVIEW

For the avoidance of doubt, a ransom strip is often a small segment of land at the edge of a development which is retained by the original land owner/developer. The purpose of a ransom strip is for the land owner/developer to financially benefit from any future developments which may require access over the ransom strip. Ransom strips generally sit outside of the planning process, therefore it is very difficult to protect against them with any development.

In this particular case, a 0.5m wide ransom strip has been included along the eastern and southern boundaries of the site. This ransom strip was identified within the Title Deed attached to the Deed of Variation to the original S106 agreement (for 18/00920/FUL).

While ordinarily this would not be something that the Council could take issue with, in this case the original land owners (who will retain ownership the ransom strip) have gone into liquidation, and therefore are not proposed to be a signatory on the Deed of Variation. This means that the original land owner (or whoever in future picks up responsibility for the ransom strip) cannot be bound by terms of the Deed of Variation (to the original S106) which would be attached to 20/01100/VAR. This omission has potential ramifications for the management of the open space at the site.

Without the owners of the ransom strip being signatories to the Deed of Variation (to the original S106 agreement), it means that the entirety of the ransom strip would be outside of the control of the management company required to manage the open space at the site. There is therefore a possibility that this ransom strip would not be managed, and the Council would be unable to enforce that it is managed. If the ransom strip owners were signatories to the S106 agreement as before, there would be no issue with management.

RANSOM STRIP ASSESSMENT

For the avoidance of doubt, the Council cannot object to the existence of a ransom strip, as this is a legally binding contract between the developer and land owner. The Council can however consider the implications of the ransom strip.

The implications are that a 0.5m strip of land along the entire south (approx. 230m) and eastern boundaries (approx. 250m) may not be managed by the appointed Management Company as the owners are not signatories to the Deed of Variation. This could have visual implications for future occupiers, as well as possible general vegetation management issues (where vegetation exists on the boundaries).

Officers have considered how this particular issue could be overcome. The most obvious resolution is that the liquidator for the ransom strip sign up to the Deed of Variation. The issue of maintenance would therefore be resolved as the Council could enforce against the liquidator (or any future owner) if the land was not being appropriately managed. However upon speaking to the developer, they reported that they could not get the liquidator to sign up to the agreement, nor would they want to do that given the circumstances. As such, this option was not able to be taken forward.

The only other reasonable option available given the circumstances is to omit the liquidator from the Deed of Variation to allow development to proceed. This of course has an implication as discussed above in relation to possible future management issues of the 0.5m wide ransom strip. The Developer sets out that the 0.5 strip if land will be managed irrespective of the ownership (as well as the other Open Space), however as discussed Officers would be unable to enforce its management.

Officers have considered whether the variation applications could or should be refused on the above basis. However, given the small width of the land (even if it is over a cumulative 480m length), a Planning Inspector is unlikely to conclude that the

risks are sufficient to outweigh the overall significant benefits that the scheme will bring.

Owing to all of the above factors, Officers have weighed the risk versus the scheme benefits and have taken a pragmatic approach in recommending that Variation of Condition application 20/01101/VAR is still granted without guaranteed management of the 0.5m ransom strip. This is in order to ensure the delivery of much needed housing on a Draft Allocated site in the Section 2 Plan.

ADDITIONAL CONDITIONS

At Officers request, the developer has also agreed to accept two additional conditions relating to the design and construction of the Affordable Housing units and compliance with Part M of the Building Regulations.

Part M of the Building Regulations are concerned with access to and use of buildings. Amongst other matters the document provides information about the ease of access to, and use of, buildings, including facilities for disabled visitors or occupants, and the ability to move through a building easily including to toilets and bathrooms. It sets out three categories of dwellings:

- M4(1) Category 1: Visitable dwellings (the minimum standard that applies for all new dwellings where the local planning authority do not require that the dwelling is constructed to a higher standard)
- M4(2) Category 2: Accessible and adaptable dwellings
- M4(3) Category 3: Wheelchair user dwellings

It is well known that people are living longer lives and the proportion of older people in the population is increasing. Nationally in mid-2016 there were 1.6 million people aged 85 and over. It is forecast that this number will double to 3.2 million by mid-2041. The Council's Strategic Housing Market assessment considered these trends locally and it was found that the growth in number of over-65's was projected to be higher in Braintree (27%) compared to the rate in Essex (19.5%) and England (17.1%). With this growth in mind it is necessary to increase opportunities to access accommodation which will suit changing needs and help people live independently for longer, feel more connected to their communities and help reduce costs to the social care and health systems.

As a result of a range of factors, including an ageing population, national trends also show a growing need for housing which is suitable for people living with disabilities. Unsuitable or general housing that has not been adapted housing can negatively impact on people through reduced mobility inside and outside the home; deteriorating mental and physical health and a lack of employment opportunities. Providing suitable housing can enable people to continue to keep living in their community, safely and independently. By providing better access to suitable housing it would also be hoped that the cost of adapting homes to meet the needs of disabled residents can be reduced. In 2020, by way of example the District Council paid out Disability Facilities Grants totalling approximately £800,000.

To ensure that new Affordable Housing stock is designed to meet both existing and projected future needs of occupiers, the Council requires that all houses provided as Affordable Housing and all the flats which provide ground floor accommodation must

be designed to the Category 2 standard - Accessible and Adaptable. These dwellings are designed to enable people to live more independently, while also saving on health and social costs in the future. Accessible and adaptable housing will provide safe and convenient approach routes into and out of the home and outside areas, suitable circulation space and suitable bathroom and kitchens within the home.

Officers consider that it is better to build accessible housing from the outset rather than have to make adaptations at a later stage – to help ensure that people can remain safe and independent in their homes and in financial terms, reducing the need and cost of adapting properties.

As such, and when weighing the risk and benefits of the proposed variation, while there would potentially be some risks of allowing development to proceed with the ransom strip, there would also be a benefit of providing accessible affordable housing.

SUMMARY

The reason for reporting application 20/01100/VAR back to Committee is so Members can decide whether the Council will accept the risks posed by allowing the Deed of Variation to be signed without the owner of the ransom strip as a signatory. Members also need to decide whether to accept the two additional conditions suggested by Officers in relation to affordable housing design and construction.

Officers have concluded that the risks are not sufficient to warrant the refusal of the application, and that development should proceed with the inclusion of the two additional conditions with their associated benefits.

RECOMMENDATION

It is recommended that 20/01100/VAR is again granted by Members with the same conditions and reasons as in the report appendix attached, but including the two additional conditions relating to affordable housing as follows:

New Condition 20

No development shall commence unless written confirmation from an Approved Inspector or Local Authority Building Control Service to certify that Plots 5,6,9,10,11,12,13,14,15,16,17,28,29,36,37,38,39,40,66,67,70,71,84 and 85 as indicated on drawing number IN009-5 Rev B have been designed to comply with Building Regulations 2015 Part M4 Category 2 has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that all relevant affordable housing plots comply with the required standards at the design stage.

New Condition 21

Prior to occupation of each of the following Plots;
5,6,9,10,11,12,13,14,15,16,17,28,29,36,37,38,39,40,66,67,70,71,84 and 85 as indicated on drawing number IN009-5 Rev B hereby approved written confirmation from an Approved Inspector or Local Authority Building Control Service to certify that

each respective plot (as indicated above) has been constructed in accordance with Building Regulations 2015 Part M4 Category 2 shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that all relevant affordable housing plots comply with the required standards when they are constructed.

Order of Decision Making (linking the application to 20/01101/VAR)

For the avoidance of doubt, as before, application 20/01101/VAR should be granted first, as this effectively forms a new planning consent. Then the description of development for linked application 20/01100/VAR needs to be amended so that it refers to the Variation consent (20/01101/VAR) as opposed to the original planning permission (18/00920/FUL).

Therefore in terms of order of decisions as previously agreed:

1. Approve and Issue 20/01101/VAR
2. Update description of 20/01100/VAR (to include reference to 20/01101/VAR instead of 18/00920/FUL)
3. Issue decision with additional conditions for 20/01100/VAR (if also resolved to grant at Planning Committee on 12th October 2021)

PART A

AGENDA ITEM NUMBER 5b

APPLICATION NO: 20/01100/VAR
DATE VALID: 08.07.20

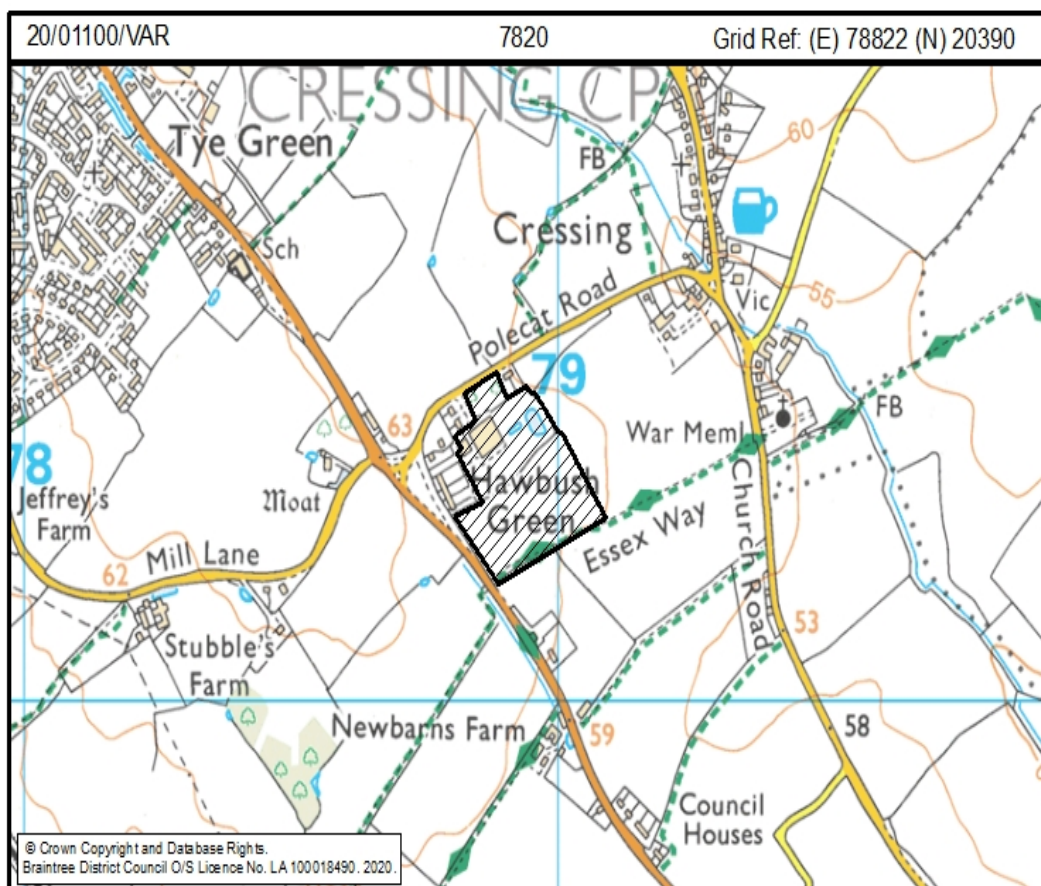
APPLICANT: Mr Patrick Thomas
Inland Ltd, Burnham Yard, London End, Beaconsfield, HP9 2JH, United Kingdom

AGENT: Mr Patrick Thomas
Inland Homes, Burnham Yard, London End, Beaconsfield, HP9 2JH

DESCRIPTION: Application for variation of Condition 2 'Approved Plans' of application 18/00920/FUL granted 13/02/2020 for: Demolition of existing buildings on site and erection of 78 residential dwellings with associated open space, landscaping, amenity space, car and cycle parking and other associated works. Variation would allow: - Amendment to site layout and house types.

LOCATION: Appletree Farm, Polecat Road, Cressing, Essex

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



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QD5/VWBFFHH00>

SITE HISTORY

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

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

POLICY CONSIDERATIONS

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

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

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

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

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

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

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

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

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

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

National Planning Guidance

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

Braintree District Local Plan Review 2005

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

Braintree District Local Development Framework Core Strategy 2011

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

Braintree District Publication Draft Local Plan 2017

SP1	Presumption in Favour of Sustainable Development
-----	--

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

Crossing Neighbourhood Plan

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

Relevant policies to this application include inter alia:

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

Other Material Considerations

Essex Design Guide

- Page 76 & 77 – Amenity Space
- Page 89 - 45

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

CONSULTATIONS

Essex SUDS

No objection.

Essex Police

No further comments to make.

Natural England

No comment.

Essex Historic Buildings Consultant

No objection

Waste Services

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

Ecology

No objection.

Essex Highways

No objection.

PARISH/TOWN COUNCIL

Cressing Parish Council

Outline a number of reservations about the proposed changes:

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

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

REPRESENTATIONS

- No other public representations have been received.

REPORT

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

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

Condition 2: Plans

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

Layout

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

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

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

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

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

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

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

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

Affordable Housing

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

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

House Types

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

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

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

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

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

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

Habitat Regulations Assessment (HRA / RAMS)

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

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

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

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

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

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

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

Conditions

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

CONCLUSION

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

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

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

RECOMMENDATION

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

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

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

RECOMMENDATION

It is RECOMMENDED that the following decision be made:

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

APPROVED PLANS

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

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

Reason

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

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

Reason

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

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

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

Reason

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

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

Monday to Friday 0730 hours - 1800 hours

Saturday 0730 hours - 1300 hours

Bank Holidays & Sundays - no work

Reason

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

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

Reason

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

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

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

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

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

Reason

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

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

Reason

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

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

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

The approved Construction Method Statement shall be adhered to throughout

the construction period for the development.

Reason

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

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

The scheme shall subsequently be implemented prior to occupation.

Reason

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

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

Reason

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

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

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

Reason

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

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

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

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

Reason

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

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

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

Reason

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

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

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

Reason

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

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

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

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

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

Reason

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

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

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

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

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

Reason

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

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

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

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

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

Reason

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

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

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

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

Reason

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

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

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

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

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

Reason

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

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

Minutes

Planning Committee 27th October 2020



This meeting was held in accordance with the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 via Zoom and YouTube.

Present

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

78 DECLARATIONS OF INTEREST

INFORMATION: The following interests were declared:-

Councillor T Cunningham declared an enhanced non-pecuniary interest in Application No. 20/00501/FUL - Great Notley Skate Park, Notley Green, Great Notley as a Member of Great Notley Parish Council. Councillor Cunningham remained in the meeting whilst a statement was read by Councillor Ricci during Question Time in support of the application on behalf of the Braintree District Councillors for Great Notley and Black Notley Ward - Councillor G Butland, Councillor T Cunningham and Councillor F Ricci. Councillor Cunningham withdrew from the meeting for the remainder of Question Time and he did not take part in the meeting when the application was discussed and determined.

Councillor F Ricci declared an enhanced non-pecuniary interest in Application No. 20/00501/FUL - Great Notley Skate Park, Notley Green, Great Notley as Vice-Chairman of Great Notley Parish Council and having been involved with the Skate Park project. Councillor Ricci remained in the meeting to read a statement during Question Time in support of the application on behalf of the Braintree District Councillors for Great Notley and Black Notley Ward - Councillor G Butland, Councillor T Cunningham and Councillor F Ricci. Councillor Ricci withdrew from the meeting for the remainder of Question Time and he did not take part in the meeting when the application was discussed and determined.

In accordance with the Code of Conduct, Councillors did not take part in the discussion when the application was considered.

79 **MINUTES**

DECISION: That the Minutes of the meetings of the Planning Committee held on 18th August 2020 and 13th October 2020 be approved as a correct record.

80 **QUESTION TIME**

INFORMATION: There were three statements made about the following matters. Those people who had registered to participate during Question Time had submitted written statements in advance of the meeting and these were read to the Committee by the registered speaker immediately prior to the consideration of the applications.

Application No. 20/00501/FUL - Great Notley Skate Park, Notley Green, Great Notley
Application No. 20/01100/VAR - Appletree Farm, Polecat Road, Cressing

Principally, these Minutes record decisions taken only and, where appropriate, the reasons for the decisions.

81 **PLANNING APPLICATION APPROVED**

DECISION: That the undermentioned planning application be approved under the Town and Country Planning Act 1990, including Listed Building Consent where appropriate, subject to the conditions and reasons contained in the Planning Development Manager's report. Details of this planning application are contained in the Register of Planning Applications.

<u>Plan No.</u>	<u>Location</u>	<u>Applicant(s)</u>	<u>Proposed Development</u>
*20/00501/FUL (APPROVED)	Great Notley	Great Notley Parish Council	Installation of concrete skate ramp and teen shelter, Great Notley Skate Park, Notley Green.

Great Notley Parish Council submitted a written statement in support of this application, which was read to the Committee by Mrs S Walker, Clerk to Great Notley Parish Council, prior to the consideration of the application.

Councillor F Ricci, Braintree District Councillor for Great Notley and Black Notley Ward, submitted a written statement in support of this application on behalf of himself and his fellow Ward Councillors Councillor G Butland and Councillor T Cunningham, which he read to the Committee prior to the consideration of the application.

Councillor T Cunningham and Councillor F Ricci were re-admitted to the meeting following the consideration of Application No. 20/00501/FUL.

82 **SECTION 106 AGREEMENT**

<u>Plan No.</u>	<u>Location</u>	<u>Applicant(s)</u>	<u>Proposed Development</u>
*20/01100/VAR (APPROVED)	Cressing	Mr Patrick Thomas	Application for variation of Condition 2 'Approved Plans' of application 18/00920/FUL granted 13/02/2020 for: Demolition of existing buildings on site and erection of 78 residential dwellings with associated open space, landscaping, amenity space, car and cycle parking and other associated works. Variation would allow: - Amendment to site layout and house types, (Application reference no. 20/01101/VAR), Appletree Farm, Polecat Road.

DECISION: That the Variation application be granted, subject to:

- (1) The completion of a suitable legal agreement to secure a Habitat Regulations Assessment (HRA) financial contribution of £9,795.24 (£125.58 per dwelling);
- (2) The decision on application reference no. 20/01101/VAR being issued;
- (3) The description of development for this Variation application being amended so that it refers to the Variation consent (application reference no. 20/01101/VAR) as opposed to the original planning permission (application reference no. 18/00920/FUL);
- (4) The approved plans and the conditions and reasons set out in the report, as amended below.

Details of this planning application are contained in the Register of Planning Applications.

In discussing this application, Members of the Planning Committee were advised that on 13th October 2020 the Planning Committee had approved application reference no. 20/01101/VAR relating to the same site. This application had sought the variation

of conditions attached to an extant consent (application reference no. 18/00920/FUL), which had been granted subject to a Section 106 Agreement.

As part of the Variation application, the applicant had agreed to the payment of a Habitat Regulations Assessment financial contribution, which would be secured via a Deed of Variation to the Section 106 Agreement. This payment was required to ensure that the proposed development would not have an unacceptable impact on the Blackwater Estuary Special Protection Area/Ramsar sites. The payment would amount to £9,795.24 (£125.58 per dwelling). It was proposed that there should be a single Deed of Variation to ensure that both Variation consents (application reference nos. 20/01100/VAR and 20/01101/VAR) were bound by the provisions of the original Agreement.

It was also proposed that the revised conditions attached to the Variation consent (application reference no. 20/01101/VAR) should be incorporated within the Variation consent for application reference no. 20/01100/VAR.

The Committee approved this application, subject to the Decision Notice being amended to include reference to Policy RLP76 of the Adopted Local Plan and an Information to Applicant as follows:-

Additional Local Plan Policy Reference

Braintree District Local Plan Review 2005 - Policy RLP76 (Grey water)

Information to Applicant

1. The developer is advised to review the principles contained within the Secured By Design guidance <https://www.securedbydesign.com/guidance/design-guides> prior to discharging Conditions for lighting and boundary treatments etc in order to try and comply with as many of the key principles as possible.

PLEASE NOTE: The full list of standard conditions and reasons can be viewed at the office of the Planning Development Manager, Council Offices, Causeway House, Bocking End, Braintree, Essex CM7 9HB.

(Where applications are marked with an * this denotes that representations were received and considered by the Committee).

The start of the meeting was delayed until 7.20pm due to a technical problem associated with the connection to the Council's YouTube channel.

The meeting closed at 8.15pm.

Councillor Mrs W Scattergood
(Chairman)

Variation to resolution to approve Variation Applications at Appletree Farm Polecat Road Crossing (Application References 20/01101/VAR)		Agenda No: 5a
Portfolio	Planning and Infrastructure	
Corporate Outcome:	Connecting People and Places Enhancing our Environment	
Report presented by:	Mathew Wilde, Senior Planning Officer	
Report prepared by:	Mathew Wilde, Senior Planning Officer	
Background Papers: Planning Committee Report – Application Reference 20/01101/VAR Planning Committee Minutes: - 20/01101/VAR – 13.10.2020 [ATTACHED AT THE END OF THE REPORT]		Public Report Key Decision: No
Executive Summary:		
<u>Main Considerations</u>		
<p>This report relates to a Variation of Condition application (Application Reference 20/01101/VAR) at Appletree Farm, Crossing relating to originally approved planning application 18/00920/FUL for 78 dwellings.</p> <p>Application Reference 20/01101/VAR was previously considered at the Planning Committee held on 13th October 2020, where the Committee resolved to grant the application, subject to conditions, and subject to the completion of a Deed of Variation to the Section 106 Agreement.</p> <p>Since the Planning Committee meeting held on 13th October 2020, it has transpired that a ransom strip has been included within the land title documents. The ransom strip is 0.5m wide and has been included along the entirety of the eastern and southern boundaries of the site. This ransom strip was identified within the Title Deed attached to the Deed of Variation to the original S106 agreement (for Application Reference 18/00920/FUL).</p> <p>While ordinarily this would not be something that the Council would take issue with, the owners of the ransom strip are not now proposed to be included as a signatory to the Deed of Variation which would be secured for Application Reference 20/01101/VAR. This means that the entirety of the ransom strip would be outside of the control of the</p>		

Management Company which would be formed to manage the open space at the site. There is therefore a possibility that this ransom strip would not be managed, and the Council would be unable to enforce its management.

Therefore the purpose of bringing variation application 20/01101/VAR before the Committee again is for Members to decide whether the Council can still resolve to grant the application despite the inclusion of the 0.5m ransom strip in the Section 106 Agreement and its possible implications for the management of open space.

Other Considerations

It should be noted that Application Reference 20/01100/VAR, also a Variation application to 18/00920/FUL which was resolved to be granted by Members at the 27th October 2020 Planning Committee, is also affected by this ransom strip issue. While both applications are separate they are also intrinsically linked in terms of the decision making (see recommended decision section below).

Finally, it should also be noted that a further Variation application has been submitted (Application Reference 21/01922/VAR) however this is not for consideration at this stage, and will be reported to Committee at a later date.

Recommended Decision:

Resolution

That Members again resolve to grant variation application 20/01101/VAR subject to conditions.

Order of Decision Making (linking the application to 20/01100/VAR)

For the avoidance of doubt, as before, application 20/01101/VAR should be granted first, as this effectively forms a new planning consent. Then the description of development for linked application 20/01100/VAR needs to be amended so that it refers to the Variation consent (20/01101/VAR) as opposed to the original planning permission (18/00920/FUL).

Therefore in terms of order of decisions as previously agreed:

1. Approve and Issue 20/01101/VAR
2. Update description of 20/01100/VAR (to include reference to 20/01101/VAR instead of 18/00920/FUL)
3. Issue decision with additional conditions for 20/01100/VAR (if also resolved to grant at Planning Committee on 12th October 2021)

Purpose of Decision:

To enable the Local Planning Authority to approve the Variation applications and allow the proposed development to proceed.

Any Corporate implications in relation to the following should be explained in detail.	
Financial:	No matters arising out of this report
Legal:	The inclusion of the ransom strip has been duly considered
Safeguarding:	None
Equalities/Diversity:	No matters arising out of this report
Customer Impact:	The impact of the ransom strip has been considered in respect to possible management and visual impacts
Environment and Climate Change:	No matters arising out of this report
Consultation/Community Engagement:	No further re-consultation was carried out on the ransom strip inclusion as the scheme remains as approved.
Risks:	That the 0.5m ransom strip is not managed effectively
Officer Contact:	Mathew Wilde
Designation:	Senior Planner
Ext. No:	2512
E-mail:	mathew.wilde@braintree.gov.uk

REPORT

Application No:	20/01101/VAR
Description:	Application for variation of Conditions 6c, 9, 11, 17, 18 of application 18/00920/FUL granted 13/02/2020 for: Demolition of existing buildings on site and erection of 78 residential dwellings with associated open space, landscaping, amenity space, car and cycle parking and other associated works.
Location:	Appletree Farm, Polecat Road, Cressing, CM77 8PJ

BACKGROUND

Application 18/00920/FUL for 78 dwellings was approved at Committee on 10th September 2019 subject to a number of conditions, and subject to the completion of a Deed of Variation to the Section 106 Agreement.

This report relates to a Variation of Condition application (Application Reference 20/01101/VAR). This report seeks to gain Member approval for an amendment to Application Reference 20/01101/VAR previously considered at the Planning Committee held on 13th October 2020, where the Committee resolved to grant planning permission, subject to conditions.

This application is also intrinsically linked to Application Reference 20/01100/VAR which sought to only amend Condition 2 (plans) of original application 18/00920/FUL. This is because both Variation applications 20/01101/VAR (this report) and 20/01100/VAR were submitted at the same time by the developer. Application 20/01100/VAR was resolved to grant planning permission on 22th October 2020.

Since the applications were resolved to grant planning permission at Committee, it has transpired that a ransom strip has been included within the land title documents.

It should be noted that nothing else has changed in terms of the plans previously approved, the reason for re-consideration by Members is consider the consequences of the above in relation to the ransom strip, as well as the inclusion of two additional affordable housing conditions.

RANSOM STRIP OVERVIEW

For the avoidance of doubt, a ransom strip is often a small segment of land at the edge of a development which is retained by the original land owner/developer. The purpose of a ransom strip is for the land owner/developer to financially benefit from any future developments which may require access over the ransom strip. Ransom strips generally sit outside of the planning process, therefore it is very difficult to protect against them with any development.

In this particular case, a 0.5m wide ransom strip has been included along the eastern and southern boundaries of the site. This ransom strip was identified within the Title Deed attached to the Deed of Variation to the original S106 agreement (for 18/00920/FUL).

While ordinarily this would not be something that the Council could take issue with, in this case the original land owners (who will retain ownership the ransom strip) have gone into liquidation, and therefore are not proposed to be a signatory on the Deed of Variation. This means that the original land owner (or whoever in future picks up responsibility for the ransom strip) cannot be bound by terms of the Deed of Variation (to the original S106) which would be attached to 20/01101/VAR. This omission has potential ramifications for the management of the open space at the site.

Without the owners of the ransom strip being signatories to the Deed of Variation (to the original S106 agreement), it means that the entirety of the ransom strip would be outside of the control of the management company required to manage the open space at the site. There is therefore a possibility that this ransom strip would not be managed, and the Council would be unable to enforce that it is managed. If the ransom strip owners were signatories to the S106 agreement as before, there would be no issue with management.

RANSOM STRIP ASSESSMENT

For the avoidance of doubt, the Council cannot object to the existence of a ransom strip, as this is a legally binding contract between the developer and land owner. The Council can however consider the implications of the ransom strip.

The implications are that a 0.5m strip of land along the entire south (approx. 230m) and eastern boundaries (approx. 250m) may not be managed by the appointed Management Company as the owners are not signatories to the Deed of Variation. This could have visual implications for future occupiers, as well as possible general vegetation management issues (where vegetation exists on the boundaries).

Officers have considered how this particular issue could be overcome. The most obvious resolution is that the liquidator for the ransom strip sign up to the Deed of Variation. The issue of maintenance would therefore be resolved as the Council could enforce against the liquidator (or any future owner) if the land was not being appropriately managed. However upon speaking to the developer, they reported that they could not get the liquidator to sign up to the agreement, nor would they want to do that given the circumstances. As such, this option was not able to be taken forward.

The only other reasonable option available given the circumstances is to omit the liquidator from the Deed of Variation to allow development to proceed. This of course has an implication as discussed above in relation to possible future management issues of the 0.5m wide ransom strip. The Developer sets out that the 0.5 strip of land will be managed irrespective of the ownership (as well as the other Open Space), however as discussed Officers would be unable to enforce its management.

Officers have considered whether the variation applications could or should be refused on the above basis. However, given the small width of the land (even if it is over a cumulative 480m length), a Planning Inspector is unlikely to conclude that the risks are sufficient to outweigh the overall significant benefits that the scheme will bring.

Owing to all of the above factors, Officers have weighed the risk versus the scheme benefits and have taken a pragmatic approach in recommending that Variation of Condition application 20/01101/VAR is still granted without guaranteed management of the 0.5m ransom strip. This is in order to ensure the delivery of much needed housing on a Draft Allocated site in the Section 2 Plan.

SUMMARY

The reason for reporting application 20/01101/VAR back to Committee is so Members can decide whether the Council will accept the risks posed by allowing the Deed of Variation to be signed without the owner of the ransom strip as a signatory.

Officers have concluded that the risks are not sufficient to warrant the refusal of the application, and that development should proceed with the inclusion of the two additional conditions with their associated benefits.

RECOMMENDATION

It is recommended that 20/01101/VAR is again granted by Members with the same conditions and reasons as in the report appendix attached.

Order of Decision Making (linking the application to 20/01100/VAR)

For the avoidance of doubt, as before, application 20/01101/VAR should be granted first, as this effectively forms a new planning consent. Then the description of development for linked application 20/01100/VAR needs to be amended so that it refers to the Variation consent (20/01101/VAR) as opposed to the original planning permission (18/00920/FUL).

Therefore in terms of order of decisions as previously agreed:

1. Approve and Issue 20/01101/VAR
2. Update description of 20/01100/VAR (to include reference to 20/01101/VAR instead of 18/00920/FUL)
3. Issue decision with additional conditions for 20/01100/VAR (if also resolved to grant at Planning Committee on 12th October 2021)

PART A

AGENDA ITEM NUMBER 5d

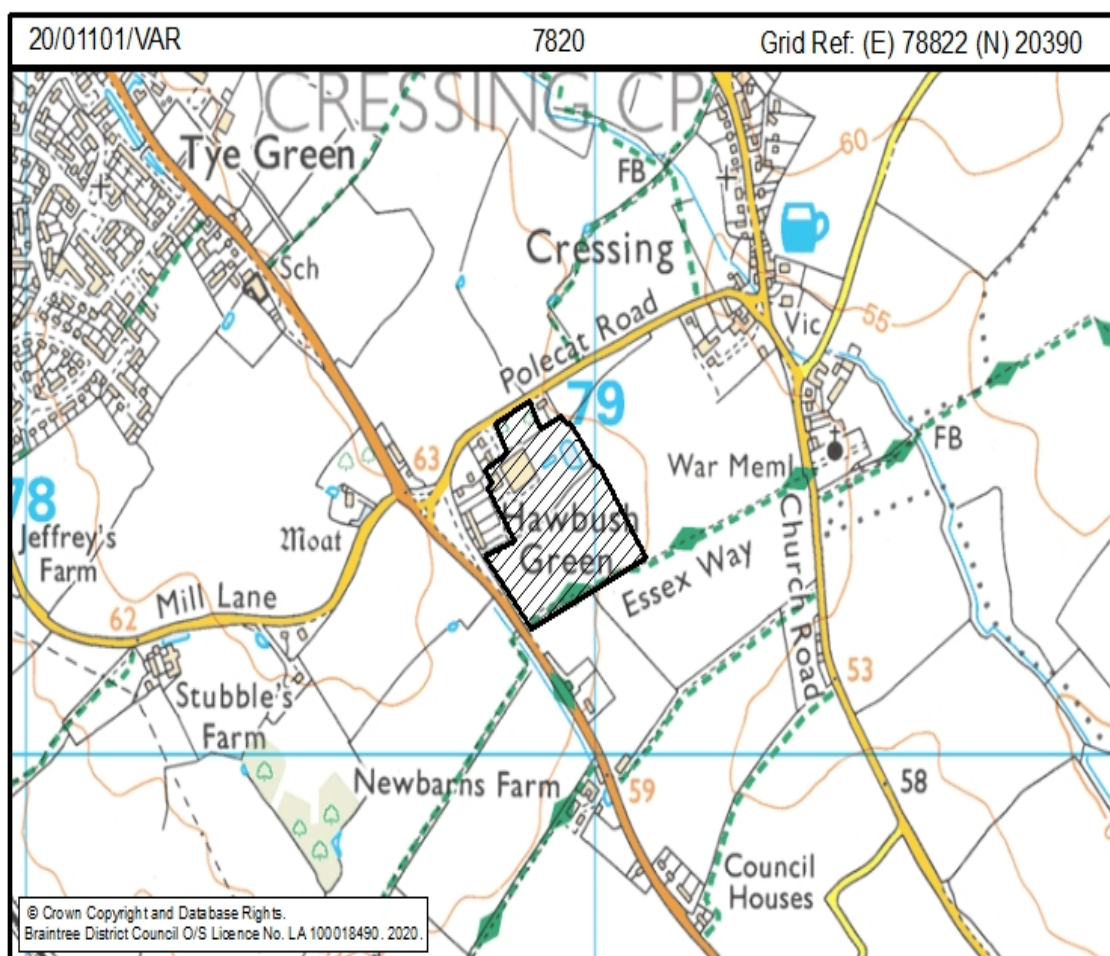
APPLICATION NO: 20/01101/VAR
 DATE VALID: 08.07.20

APPLICANT: Inland Limited
 Mr Patrick Thomas, Burnham Yard, London End,
 Beaconsfield, HP9 2JH

DESCRIPTION: Application for variation of Conditions 6c, 9, 11, 17, 18 of application 18/00920/FUL granted 13/02/2020 for:
 Demolition of existing buildings on site and erection of 78 residential dwellings with associated open space, landscaping, amenity space, car and cycle parking and other associated works.

LOCATION: Appletree Farm, Polecat Road, Cressing, Essex

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



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QD5LO8BFFHK00>

SITE HISTORY

89/01045/P	Proposed New Weighbridge	Granted	28.06.89
13/01340/ELD	Application for a Lawful Development Certificate for an Existing Use - Creation of Hardstanding	Granted	14.03.14
14/01064/FUL	Change of use of office and land to construction training ground	Granted	28.11.14
14/01586/FUL	Change of use of B2 workshop to B8 storage unit	Granted	14.04.15
15/00169/FUL	Application for removal or variation of a condition no. 3 following grant of planning permission 14/01064/FUL - Change of use of office and land to construction training ground	Granted	19.01.16
15/00004/NMA	Application for a non-material amendment following grant of planning permission 14/01064/FUL - Change of use of office and land to construction training ground	Granted	05.01.16
18/00920/FUL	Demolition of existing buildings on site and erection of 78 residential dwellings with associated open space, landscaping, amenity space, car and cycle parking and other associated works	Granted with S106 Agreement	13.02.20
18/00921/FUL	Demolition of existing buildings on site and erection of 65 residential dwellings with associated open space, landscaping, amenity space, car and cycle parking and other associated works	Pending Consideration	
20/01100/VAR	Application for variation of Condition 2 'Approved Plans' of application	Pending Consideration	

18/00920/FUL granted
13/02/2020 for: Demolition
of existing buildings on site
and erection of 78
residential dwellings with
associated open space,
landscaping, amenity
space, car and cycle
parking and other
associated works. Variation
would allow:
- Amendment to site layout
and house types.

POLICY CONSIDERATIONS

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

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

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

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

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

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

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

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

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

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

National Planning Guidance

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

Braintree District Local Plan Review 2005

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

Braintree District Local Development Framework Core Strategy 2011

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

Braintree District Publication Draft Local Plan 2017

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

Cressing Neighbourhood Plan

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

Relevant policies to this application include inter alia:

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

- Policy 9: Economy
- Policy 11: Developer Contributions

Other Material Considerations

Essex Design Guide

- Page 76 & 77 – Amenity Space
- Page 89 - 45

- Condition 18 – Various aspects including earthworks, means of enclosure and renewable energy

The changes sought to these conditions are discussed in the report below.

It is important to note that when the application was initially submitted, it included proposals to also amend other conditions including Condition 3 (materials), Condition 4 (site clearance) and Condition 16 (bin and external lighting details). These condition amendments were removed from the application proposal following concerns raised by Officers. As such, Conditions 3, 4 and 16 would remain unaltered from the extant planning permission. The description of development has been accordingly updated to reflect this.

It should also be noted that a further variation application has also been submitted at this site (Application Reference 20/01100/VAR) which seeks to amend some of the approved plans associated with the extant planning permission (Application Reference 18/00920/FUL). This application will be reported separately to Planning Committee and does not influence the decision on this application currently for consideration by Members.

CONSULTATIONS

Essex SUDS

No objection to the changing of wording to Condition 11. Tabled a revised wording for Condition 9 (*which was later agreed by the developer*).

Essex Police

No further comments to make.

Essex Historic Buildings Consultant

No objection.

Essex Highways

No objection.

Environment Agency

No comments or objections.

Environmental Health

Raise concerns with increase in construction hours (*amendment no longer sought*) and also requested that Condition 6 be amended to include some form of written notice, although not necessarily the standard 4 months in advance as usually requested.

PARISH / TOWN COUNCIL

Cressing Parish Council

Objects to the application for the following summarised reasons:

- Condition 4 – Unacceptable working hour change and no justification here
- Condition 9 – ECC responsible for condition and should not be changed
- Condition 16 – Condition too stand – trigger sought too early
- Condition 17,18 and 19 - Shouldn't be changed to much later triggers

REPRESENTATIONS

One neighbour objection was received setting out the following summarised concerns:

- Changing of working hours is unacceptable (*amendment no longer sought*)
- Providing details of bin storage on first occupation is too late (*amendment no longer sought*)
- Conditions 17 and 18 should remain as approved and the information provided before any building starts

REPORT

Planning permission (Application Reference 18/00920/FUL) has been granted for the demolition of existing buildings on the site and the erection of 78 residential dwellings with associated open space, landscaping, amenity space, car and cycle parking and other associated works. This application (20/01101/VAR) proposes to amend a number of conditions attached to this original extant permission.

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

Condition 6 - Contamination

Condition 6 relates to contamination. It is a lengthy condition and as such this report will focus on the area which is subject to change. The condition was approved as:

“...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 the agreed remediation measures shall be submitted to the Local Planning Authority for approval...

The developer initially requested that the requirement for the one month's advance notice be removed in its entirety (underlined above). The Environmental Health Officer set out that this requirement was included on the approved Condition 6 as notifying before everything has been completed allows Environmental Health Officer's to attend the site if they need to check the works. However, the Environmental Health Officer has confirmed that they are satisfied in this case that the Condition could be amended to remove the one month's notice, and instead just include a 'notification of commencement of remediation' requirement. Furthermore, the Environmental Health Officer requested a requirement for 'an anticipated duration/completion of remediation estimate.' These suggested condition alterations would still therefore allow Environmental Health Officers to check operations during the works if needed, and make sure they are not missed. Therefore the core ethos of the policy wording remains, it is only that they do not have to give 4 weeks' notice before starting.

Accordingly, it is proposed Condition 6 is amended as follows:

"...Such agreed measures shall be implemented and completed prior to the first occupation of any parts of the development.

Upon commencement of remediation works at the site, the developer shall give written notice to the Local Planning Authority which shall include an anticipated duration/completion estimate of the remediation works. Within four weeks of completion of the remediation works of the relevant phase a validation report undertaken by competent person or persons and the agreed remediation measures shall be submitted to the Local Planning Authority for approval..."

The Developer has agreed to this wording and as such it is proposed that this is the approved wording of the Condition moving forward.

Condition 9 - Surface Water Drainage

Condition 9 relates to the requirement for a Surface Water Drainage Scheme which reads as follows on the extant planning permission:

"No development shall commence unless and 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:

- Demonstrate that storage features such as the attenuation basin have suitable half drain times. Storage should half empty within 24 hours wherever possible.*
- Final modelling and calculations for all areas of the drainage system.*
- Detailed engineering drawings of each component of the drainage scheme, this includes cross sections of each component.*
- A final drainage plan which details exceedance and conveyance routes, finished floor levels 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”.

The developer initially requested that the pre-commencement trigger of the condition (underlined above) be changed to a ‘prior to above ground works’ condition. Essex SUDS, the statutory body are not satisfied with this change, but have considered a greater degree of flexibility by allowing demolition to be excluded from the pre-commencement activities. Accordingly, the condition is now proposed as follows:

“No development, except for demolition, shall commence until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

- Demonstrate that storage features such as the attenuation basin have suitable half drain times. Storage should half empty within 24 hours wherever possible.*
- Final modelling and calculations for all areas of the drainage system.*
- Detailed engineering drawings of each component of the drainage scheme, this includes cross sections of each component.*
- A final drainage plan which details exceedance and conveyance routes, finished floor levels 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.”

The developer is in agreement with this condition change and as such it is proposed that the wording of Condition 9 is amended accordingly.

Condition 11 – SUDS Maintenance Plan

Condition 11 relates to a SUDS Maintenance Plan which reads as follows on the extant planning permission:

“No development shall commence unless and 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 developer requested that the trigger for this condition (underlined above) be amended to require the information later in the process. Essex SUDS have no objection to this change. Officers also have no objections to the proposed amendment. As such, it is now proposed that the condition be worded as follows:

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

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

Condition 17 - Landscaping

Condition 17 relates to Landscaping. The requested change only seeks to remove one element of the condition, as such only the relevant section of the condition is outlined below:

“...The scheme shall incorporate a detailed specification including plant/tree types and sizes, plant numbers and distances, soil specification, seeding and turfing treatment, colour and type of material for all hard surface areas and method of laying where appropriate.

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

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

The developer seeks permission to remove the wording underlined above as the development would include a SUDS strategy which may not require all areas of hard standing to be constructed of porous materials. Officers consider this assessment to be acceptable and have no objection to the removal of this element of the condition. As such, it is proposed that Condition 17 is amended to remove the following wording:

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

Condition 18 - Various

Condition 18 relates to various factors including earthworks and hard landscaping. The condition was included the extant planning permission reads as follows:

“No development shall commence until details of hard landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:

- Earthworks showing existing and proposed finished levels or contours;*
- Means of enclosure and retaining structures;*
- Boundary treatment[s];*
- Other vehicle and pedestrian access and circulation areas;*
- Colour and type of material for all hard surface areas and method of laying;*
 - Minor artefacts and structures [e.g. furniture, play equipment, refuse or other storage units, signs, external letter boxes etc.];*
- Proposed and existing functional services above and below ground [e.g. drainage, power, communications cables, pipelines etc. indicating alignments, levels, access points, supports as relevant];*
 - Renewable energy installations where relevant;*
- Lighting, floodlighting*
- An implementation programme, [including phasing of work where relevant].*

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

All areas of hardstanding which do not form part of the adoptable highway shall be constructed using porous materials laid on a permeable base.

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

The developer in this case seeks to split up Condition 18, so that earthworks and services are separate to the remaining other requirements, which would form a new ‘Condition 19’. The developer also seeks to change the triggers on the conditions, so that:

- The trigger for Condition 18 (earthworks & services) would be ‘prior to above ground development’.

- The trigger for Condition 19 (everything else) would be 'prior to first occupation'.

Officers have no objection in principle with the splitting up of Condition 18, as it is multi-faceted including elements which require details submitting at different times. However, the suggested trigger points proposed above are considered to be too late in the process of development with regard to the earthworks and services. As such, Officers have negotiated that the Condition be split, but Condition 18 would retain its 'pre-commencement' trigger and be amended to:

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

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

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

Officers are satisfied the other elements of Condition 18 can be dealt with before above ground development is commenced on the site. As such, a new Condition 19 is proposed which is as follows:

"No above ground development shall commence until details pertaining to the list below have been submitted to and approved in writing by the Local Planning Authority. These details shall include:

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

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

The completed scheme shall be managed and/or maintained in

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

The developer has accepted these revisions to the proposed conditions.

CONCLUSION

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

In this case, the application proposes a number of condition changes which are relatively minor in nature and Officers are satisfied the development would still come forward in a suitably managed way. As such, it is considered that this application to vary Conditions 6, 9, 11, 17, and 18, which would include the addition of Condition 19, is acceptable, and is therefore recommended for approval, subject to the completion of a Deed of Variation to the S106 Agreement, to ensure that the application is bound by the obligations within the original S106 Agreement pursuant to extant planning permission for the site.

RECOMMENDATION

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

APPROVED PLANS

Location Plan	Plan Ref: 02-001	
Garden Study	Plan Ref: 02-003	Version: P4
Housing Mix Plan	Plan Ref: 02-002	Version: P4
Tenure Plan	Plan Ref: 32584	Version: P3
Highway Plan	Plan Ref: 173096/A/02.2	Version: A
Drainage Plan	Plan Ref: S18-236-501 A	
House Types	Plan Ref: 02-100	Version: P1
House Types	Plan Ref: 05-001	Version: P1
House Types	Plan Ref: 05-002	Version: P1
House Types	Plan Ref: 05-003	Version: P1
House Types	Plan Ref: 05-004	Version: P1
House Types	Plan Ref: 05-005	Version: P1
House Types	Plan Ref: 05-006	Version: P1
House Types	Plan Ref: 05-007	Version: P1
House Types	Plan Ref: 05-008	Version: P1
House Types	Plan Ref: 05-009	Version: P1
House Types	Plan Ref: 05-010	Version: P1

House Types	Plan Ref: 05-011	Version: P1
House Types	Plan Ref: 05-012	Version: P1
House Types	Plan Ref: 05-013	Version: P1
House Types	Plan Ref: 05-014	Version: P1
House Types	Plan Ref: 05-015	Version: P1
House Types	Plan Ref: 05-016	Version: P1
House Types	Plan Ref: 05-017	Version: P1
Proposed Plans	Plan Ref: 05-020	Version: P1
Carport / Cartlodge Details	Plan Ref: 05-021	Version: P1
Street elevation	Plan Ref: 05-030	Version: P1
Street elevation	Plan Ref: 05-031	Version: P1
Floor Plan	Plan Ref: 03-017	Version: P1
Floor Plan	Plan Ref: 03-018	Version: P1
Drainage Plan	Plan Ref: WHS1452_001	Version: A
Access Details	Plan Ref: 173096/SK/05	
Highway Plan	Plan Ref: 173096/A/01	Version: C
House Types	Plan Ref: 05-018	Version: P1

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

Reason

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

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

Reason

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

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

Reason

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

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

Monday to Friday 0730 hours - 1800 hours
Saturday 0730 hours - 1300 hours
Bank Holidays & Sundays - no work

Reason

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

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

Reason

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

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

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

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

strict accordance with the documents and plans comprising the remediation scheme agreed in writing with the Local Planning Authority.

Reason

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

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

Reason

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

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

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

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

Reason

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

- 9 No development, except for demolition, shall commence, until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:
- o Demonstrate that storage features such as the attenuation basin have

- suitable half drain times. Storage should half empty within 24 hours wherever possible.
- o Final modelling and calculations for all areas of the drainage system.
 - o Detailed engineering drawings of each component of the drainage scheme, this includes cross sections of each component.
 - o A final drainage plan which details exceedance and conveyance routes, finished floor levels and ground levels, and location and sizing of any drainage features.
 - o A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

Reason

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

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

Reason

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

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

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

Reason

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

pollution.

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

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

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

Reason

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

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

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

Reason

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

- 14 No development shall take place unless and until a construction environmental management plan (CEMP: Biodiversity) is submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.
 - a) Risk assessment of potentially damaging construction activities.
 - b) Identification of "biodiversity protection zones".
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be

provided as a set of method statements).

d) The location and timing of sensitive works to avoid harm to biodiversity features.

e) The times during construction when specialist ecologists need to be present on site to oversee works.

f) Responsible persons and lines of communication.

g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

h) Use of protective fences, exclusion barriers and warning signs. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority"

Reason

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

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

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

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

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

Reason

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

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

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

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

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

Reason

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

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

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

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

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

Reason

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

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

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

The completed scheme shall be managed and/or maintained in

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

Reason

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

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

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

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

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

Reason

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

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

Minutes

Planning Committee 13th October 2020



This meeting was held in accordance with the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 via Zoom and YouTube.

Present

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

71 DECLARATIONS OF INTEREST

INFORMATION: The following interests were declared:-

Councillor J Abbott declared a pecuniary interest in Application No. 18/02010/FUL - Gimsoms, Kings Chase, Witham as when he had not been a Member of the Planning Committee he had met with objectors to the development, taken part in a protest walk and campaigned for a Tree Preservation Order for the site. On the basis of pre-determination, Councillor Abbott did not take part in the meeting when the application was considered and determined.

Councillor Abbott declared a pecuniary interest also in Application No. 20/01101/VAR - Appletree Farm, Polecat Road, Cressing as when he had not been a Member of the Planning Committee he had submitted a personal objection to the development of the site. On the basis of pre-determination, Councillor Abbott did not take part in the meeting when the application was considered and determined.

Councillor Mrs G Spray declared a non-pecuniary interest in Application No. 20/00352/REM - Land rear of Tey Road, Earls Colne as a number of the objectors and members of the 'Tey Road Action Group' were known to her. Councillor Mrs Spray stated that she had previously provided practical advice on the planning process, but that she had not expressed an opinion on the application.

In accordance with the Code of Conduct, Councillors remained in the meeting, unless stated otherwise, and took part in the discussion when the applications were considered.

72 **MINUTES**

DECISION: That the Minutes of the meetings of the Planning Committee held on 22nd September 2020 and 29th September 2020 be approved as a correct record.

It was reported that the Minutes of the meeting of the Planning Committee held on 18th August 2020 were not available for approval.

73 **QUESTION TIME**

INFORMATION: There were nine statements made about the following matters. Those people who had registered to participate during Question Time had submitted written statements in advance of the meeting and these were read to the Committee either by the registered speaker or by the Council's Governance and Member Services Officer immediately prior to the consideration of the applications.

Application No. 18/02010/FUL - Gimsos, Kings Chase, Witham

Application No. 20/00352/REM - Land rear of Tey Road, Earls Colne

Application No. 20/00785/FUL - 3 Coggeshall Road, Braintree

Application No. 20/01101/VAR - Appletree Farm, Polecat Road, Cressing

Application No. 20/01175/HH - 21 Constable Way, Black Notley

Principally, these Minutes record decisions taken only and, where appropriate, the reasons for the decisions.

74 **PLANNING APPLICATION APPROVED**

DECISION: That the undermentioned planning application be approved under the Town and Country Planning Act 1990, including Listed Building Consent where appropriate, subject to the conditions and reasons contained in the Planning Development Manager's report. Details of this planning application are contained in the Register of Planning Applications.

<u>Plan No.</u>	<u>Location</u>	<u>Applicant(s)</u>	<u>Proposed Development</u>
*20/01175/HH (APPROVED)	Black Notley	Mr James Douglas	Erection of a two-storey rear extension and single-storey front porch, 21 Constable Way.

SECTION 106 AGREEMENTS

<u>Plan No.</u>	<u>Location</u>	<u>Applicant(s)</u>	<u>Proposed Development</u>
*18/02010/FUL (APPROVED)	Witham	Mr Steve Read	Demolition of existing dwelling and construction of 78 dwellings including access, landscaping, parking and associated works, Gimsons, Kings Chase.

DECISION: That, subject to the applicant entering into a suitable legal agreement pursuant to Section 106 of the Town and County Planning Act 1990 (as amended) to cover the following amended Heads of Term:

- **Affordable Housing:** 23 units comprising tenure of 15 x Affordable Rent and 8 x Shared Ownership.
- **Public Open Space:** On-site provision of public open space. Management Company be appointed for the maintenance of the proposed on-site open space. Financial contribution in accordance with the Town Council and Open Spaces Action Plan for:
 - Equipped play: £48,693.65 - Upgrading and refurbishing Witham Town Park Play Area
 - Allotments: £2,300.63 - Allotments (Site 1), Cut Throat Lane, Witham for the installation of raised gardening beds for less physically able people and improvements to parking area.
 - Sports: £72,499.52 – For the provision and maintenance of practice cricket nets at Witham Hockey and Cricket Club, Sauls Bridge Sports Ground, Riverview, Maldon Road, Witham. The contribution could also be used for the provision of equipment including walking/running signage and kilometre markers and/or improvements to the outdoor sports facilities at Sauls Bridge Sports Ground, Riverview, Maldon Road, Witham.
 - The Public Open Space contributions to be paid prior to first occupation of the development as appropriate.
- **Footpath / Cycleway Improvements:** £48,500 to improve a section of the River Walk and £7,500 to improve a section of the footpath in Witham Town Park.
- **Education:** Financial contributions for Early Years and Child Care: £52,266, Primary education: £304,856.
- **NHS:** Financial contribution of £29,187 to improve Fern House Surgery.

- **Cricket Safety Netting:** Financial contribution of £21,155 for the provision and installation of ball stop netting and a further financial contribution of £15,000 to be paid to the Council to cover the cost of maintaining the ball stop netting for a period of 15 years.
- **Habitat Regulations Assessment (HRA):** Financial contribution of £125.58 per dwelling (£9,795.24).

the Planning Development Manager be authorised to grant planning permission for the above development in accordance with the approved plans and the conditions and reasons set out in the report, as amended below. Alternatively, in the event that a suitable planning obligation is not agreed within three calendar months of the Planning Committee's decision, the Planning Development Manager be authorised to refuse planning permission. Details of this planning application are contained in the Register of Planning Applications.

In discussing this application, Members of the Planning Committee considered an update report regarding the Habitat Regulations Assessment (HRA) and Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). An appropriate assessment had been completed and it was proposed that an HRA financial contribution should be secured to ensure that the proposed development would not have an unacceptable impact on the Blackwater Estuary Special Protection Area/Ramsar sites. This payment would amount to £125.58 per dwelling. The applicant had agreed to pay the HRA contribution and it was proposed that an additional Head of Term should be included within the Section 106 Agreement.

The Committee approved this application, subject to an additional Head of Term, three additional Conditions and an additional Information to Applicant as follows:-

Additional Head of Term

Habitat Regulations Assessment (HRA): Financial contribution of £125.58 per dwelling (£9,795.24).

Additional Conditions

26. Notwithstanding the boundary treatment shown on the site boundary adjoining Witham Town Park and Witham Cricket Club on approved plan 'PR135-01 C,' prior to first occupation of plots 50-53, 57-69, 70-78 details of the proposed means of boundary treatments to the extent of the above-mentioned boundaries shall be submitted to and approved in writing by the Local Planning Authority. Prior to first occupation of plots 50-53, 57-69, 70-78 the approved boundary treatments shall be installed in accordance with the approved details and thereafter retained as such.
27. No development shall commence unless written confirmation, from an Approved Inspector or Local Authority Building Control Service to certify that plots 33, 34,

35, 36, 37, 63, 67, 68, 69, (Flats 38, 40, 43, 57, 58, 61) as indicated on drawing number 857-PI-03ZJ have been designed to comply with Building Regulations 2015 Part M4 Category 2, has been submitted to and approved in writing by the Local Planning Authority.

28. Prior to occupation of each of the following plots - 33, 34, 35, 36, 37, 63, 67, 68, 69, Flats 38, 40, 43, 57, 58, 61 as indicated on drawing number 857-PI-03ZJ hereby approved, written confirmation from an Approved Inspector or Local Authority Building Control Service to certify that each respective plot (as indicated above) has been constructed in accordance with Building Regulations 2015 Part M4 Category 2 shall be submitted to and approved in writing by the Local Planning Authority.

Additional Information to Applicant

4. The applicant is advised in respect of Conditions 27 and 28 that evidence is required to be submitted to demonstrate compliance with the afore-mentioned standards as it is the responsibility of the person carrying out the development to let the Building Control body know about any conditions setting an optional requirement under the Building Regulations.

Witham Town Council submitted a written statement against this application, which was read to the Committee by Town Councillor M Lager prior to the consideration of the application.

<u>Plan No.</u>	<u>Location</u>	<u>Applicant(s)</u>	<u>Proposed Development</u>
*20/00352/REM (APPROVED)	Earls Colne	B D G Design (South) Ltd	Application for approval of reserved matters pursuant to the Section 73 variation application (application reference no. 20/00440/VAR) - Approval of Reserved Matters (appearance, landscaping and scale) for the erection of 23 No. detached and semi detached 1, 2, 3, 4 and 5 bedroom dwellings with associated garages, parking, amenity areas, public open space, estate roads, private drive, drainage infrastructure and landscaping, land rear of Tey Road.

DECISION: That the Reserved Matters application be granted, subject to:

- (1) The completion of a suitable legal agreement to secure a financial contribution of £8,754.48 for 'amenity greenspace', which may include the incorporation of this obligation within a Deed of Variation to the Section 106 Agreement attached to the Section 73 variation application (application reference no. 20/00440/VAR);
- (2) The decision on the non-material amendment application (application reference no. 20/00468/NMA) being issued;
- (3) The decision on the Section 73 variation application (application reference no. 20/00440/VAR) being issued;
- (4) The description of the development for this Reserved Matters application being amended so that the Reserved Matters are pursuant to the Section 73 variation application (application reference no. 20/00440/VAR) as opposed to the original outline planning permission (application reference no. 18/00214/OUT);
- (5) The approved plans and the condition and reason set out in the report, as amended below.

Details of this planning application are contained in the Register of Planning Applications.

The Committee approved this application, subject to the addition of an Information to Applicant as follows:-

Information to Applicant

The applicant is advised that security lighting should not be left on at the site outside of working hours in order to protect the amenities of neighbouring properties.

<u>Plan No.</u>	<u>Location</u>	<u>Applicant(s)</u>	<u>Proposed Development</u>
*20/01101/VAR (APPROVED)	Cressing	Inland Limited	Application for variation of Conditions 6, 9, 11, 17, 18 of application 18/00920/FUL granted 13/02/2020 for: Demolition of existing buildings on site and erection of 78 residential dwellings with associated open space,

landscaping, amenity space,
car and cycle parking and
other associated works,
Appletree Farm, Polecat Road.

DECISION: That the application be granted, subject to the completion of a Deed of Variation to ensure that the application is bound by the obligations within the original Section 106 Agreement pursuant to the extant planning permission for the site (application reference no. 18/00920/FUL), and to the inclusion of an additional Head of Term relating to the Habitat Regulations Assessment. Details of this planning application are contained in the Register of Planning Applications.

In discussing this application, Members of the Planning Committee considered an update report regarding the Habitat Regulations Assessment (HRA) and Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). An appropriate assessment had been completed and it was proposed that an HRA financial contribution should be secured to ensure that the proposed development would not have an unacceptable impact on the Blackwater Estuary Special Protection Area/Ramsar sites. This payment would amount to £125.58 per dwelling. The applicant had agreed to pay the HRA contribution and it was proposed that this should be secured through an additional Head of Term via a Deed of Variation to the Section 106 Agreement relating to application no. 18/00920/FUL.

The Committee approved this application, subject to an additional Head of Term, and to the amended Conditions and additional Condition as follows:-

Additional Head of Term

Habitat Regulations Assessment (HRA): Financial contribution of £125.58 per dwelling (£9,795.24).

Amended Conditions

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

Notwithstanding the above, should contamination be found that was not

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

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

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

The scheme shall subsequently be implemented prior to occupation.

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

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

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

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

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

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

18. (Various) No development shall commence until details pertaining to the list below have been submitted to and approved in writing by the Local Planning Authority. These details shall include:
- Earthworks showing existing and proposed finished levels or contours;
 - Proposed and existing functional services above and below ground [e.g. drainage, power, communications cables, pipelines etc. indicating alignments, levels, access points, supports as relevant];

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

Additional Condition

19. No above ground development shall commence until details pertaining to the list below have been submitted to and approved in writing by the Local Planning Authority. These details shall include:
- Means of enclosure and retaining structures;
 - Boundary treatment[s];
 - Other vehicle and pedestrian access and circulation areas;

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

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

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

76 **PLANNING APPLICATION REFUSED**

DECISION: That the undermentioned planning application be refused for the reasons contained in the Planning Development Manager's report. Details of this planning application are contained in the Register of Planning Applications.

<u>Plan No.</u>	<u>Location</u>	<u>Applicant(s)</u>	<u>Proposed Development</u>
*20/00785/FUL (REFUSED)	Braintree	Brand Builders & Developers Ltd	Conversion of building used for storage and distribution (Class B8) to 8 No. one bed Cottages (Class C3), 3 Coggeshall Road.

In a correction to the report, Members of the Planning Committee were advised that the application site had not been allocated for residential development in the draft Local Plan.

77 **SCHEME OF DELEGATION - REVIEW**

INFORMATION: Consideration was given to a report on the proposed review of the Council's Scheme of Delegation for the determination of planning applications.

The review was being undertaken to ensure that the Council's Planning Committee focussed on determining the most significant planning applications affecting the District and those with a higher level of public interest; to ensure that the Council was able to discharge its Development Management function in an efficient, cost effective and timely manner to meet Government and Council performance targets; and to introduce a mechanism to enable meaningful engagement to take place between applicants/agents and Members of the Planning Committee prior to the determination of planning applications. It was proposed that the Scheme of Delegation should be

more prescriptive and that it should provide greater clarity for applicants, agents and members of the public. A copy of the proposed Scheme was attached at Appendix 1 to the report.

The current Scheme of Delegation which had been approved in 2015 had sought to achieve efficiency savings and timely decision-making by widening delegated powers. However, the Scheme had not enabled the Planning Committee to concentrate on applications which had the greatest impact on the District and it was considered to be unduly complex. Analysis of delegation rates showed that the proportion of planning applications determined by the Council's Planning Development Manager was currently relatively low in comparison to other District Local Planning Authorities in Essex.

The revised Scheme of Delegation would set out how planning applications should be determined, namely those which would be referred to the Planning Committee; those which could be determined under delegated powers, but may be subject to referral to the Chairman's Briefing; and applications which could be determined under delegated powers. All 'major' applications would be reported to the Planning Committee including outline, full and reserved matters applications. 'Minor' applications which did not raise significant planning issues and 'other' applications would be determined under delegated powers. Applications would no longer be categorised on Planning Committee Agendas as 'Part A' or 'Part B' and all applications referred to the Committee would be debated by Councillors. It was proposed that the Councillor 'call-in' process should be monitored to ensure that applications were referred to the Planning Committee on planning merit; and that representations submitted by Parish/Town Councils which were contrary to the Planning Development Manager's recommendation should be assessed to determine if an application would be reported to the Committee for determination. The Chairman's Briefing process would be retained to enable the Chairman and Vice-Chairman of the Planning Committee to consider, subject to set criteria, if an application should be referred to the Committee for determination.

As part of the review of the Scheme of Delegation, it was proposed that a 'Members' Forum' should be introduced at which applicants and agents would be able to present their proposals to Members of the Planning Committee at the pre-application, pre-submission and application stages of the planning process. In accordance with the Localism Act 2011, Councillors would be able to attend meetings of the Forum to ask questions and express a view subject to maintaining an open mind. It was anticipated that Local Ward Councillors and representatives of Parish/Town Councils could also be invited to attend meetings of the Members' Forum and that meetings would take place in the evening, either in addition to, or in lieu of scheduled meetings of the Planning Committee. The meetings would be subject to clear governance arrangements and Minutes would be taken to record the proceedings. Developers would meet the costs associated with this process.

Public consultation on the proposed Scheme of Delegation and Member engagement would take place between 26th October 2020 and 13th November

2020. The proposals would also be considered by the Council's Developing Democracy Group on 20th October 2020 and by the Corporate Governance Group on 12th November 2020, following which they would be submitted to full Council on 7th December 2020 for approval.

In discussing the proposed Scheme of Delegation, Members of the Committee acknowledged that the Councillor 'call-in' process and the ability of Parish/Town Councils to contribute to the planning process were not being removed, but refined. However, some concern was expressed about the impact on Parish/Town Councils and whether their representations would be properly acknowledged. It was suggested that specific training could be provided to Parish/Town Councils and that they should be required to attend a meeting of the Planning Committee if a substantial objection had been submitted. It was also considered that the Planning Committee had not been responsible for any delay in the determination of planning applications under the current Scheme of Delegation and that, following the recruitment of Planning Officers to vacant posts within the Development Service, improvements had been made to the rate at which applications were determined. It was queried whether the time spent by Officers in preparing for the Chairman's Briefing could be reviewed and adjusted.

In discussing the proposed Members' Forum, Members of the Committee acknowledged that this represented a major change to the Council's planning procedures and it provided an opportunity for Councillors to question developers about important proposals affecting the District at an early stage in the planning process. The involvement of Ward Councillors and Parish/Town Council representatives in the Forum and that it would be subject to formal governance arrangements were also welcomed. However, some concern was expressed that Councillors could be perceived as pre-determining applications.

DECISION:

- (1) That the proposed revised Scheme of Delegation as set out within Appendix 1 to the report, and the proposals for Member engagement, be noted.
- (2) That the commencement of a 21 day period of consultation on the proposals with the public and stakeholders be noted.
- (3) That it be noted that the final proposed Scheme of Delegation, as set out in Appendix 1 to the report and as modified following consultation, will be submitted to full Council on 7th December 2020 for approval.

PLEASE NOTE: The full list of standard conditions and reasons can be viewed at the office of the Planning Development Manager, Council Offices, Causeway House, Bocking End, Braintree, Essex CM7 9HB.

(Where applications are marked with an * this denotes that representations were received and considered by the Committee).

During the course of their discussions, Members moved, seconded and agreed, as required by the Constitution, that the meeting be extended beyond 10.15pm to enable all business on the Agenda to be transacted.

The meeting closed at 10.28pm.

Councillor Mrs W Scattergood
(Chairman)

PART A

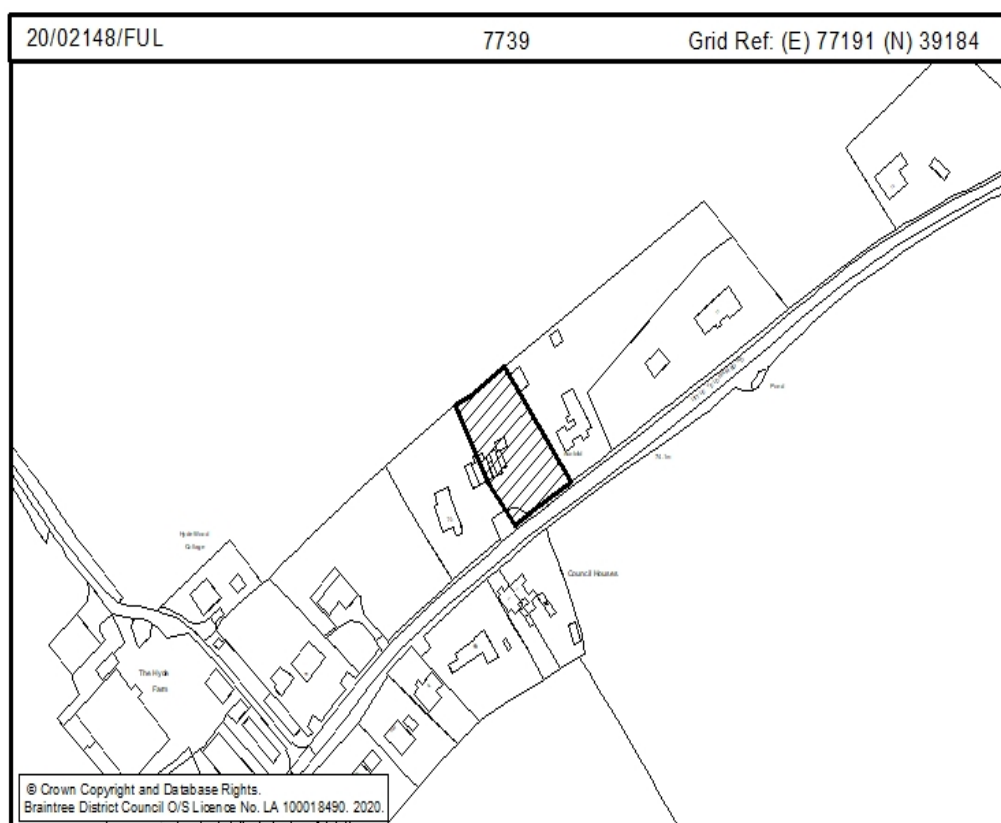
AGENDA ITEM NUMBER 5b

APPLICATION NO: 20/02148/FUL DATE: 24.07.20
VALID:
APPLICANT: Mr Colin Hart
Dyers Green Farm, Lavenham Road, Great Waldringfield,
Sudbury, Suffolk, CO10 0SF
AGENT: Mr Stuart Davis
Optimum Architecture Ltd, Nags Corner, Nayland, Nr
Colchester, CO6 4LT, United Kingdom
DESCRIPTION: Demolition of existing workshop, sheds and car port and
construction of new detached 1.5 storey dwelling and
separate garage (Redetermination of Application Reference
20/01142/FUL)
LOCATION: 70 Little Yeldham Road, Little Yeldham, Essex, CO9 4LN

For more information about this Application please contact:

Lisa Page on:- 01376 551414 Ext. 2516

or by e-mail to: lisa.page@braintree.gov.uk



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QLFONGBF0CY00>

SITE HISTORY

02/01865/FUL 76/01275/ 87/00565/	Erection of conservatory Extensions App. 26.11.76 Erection Of Extension App. 11.5.87	Granted	13.11.02
89/00488/P	Erection Of Ground Floor Extension	Granted	14.04.89
92/01158/FUL	Change of use to storage and distribution	Granted	11.12.92
94/00566/FUL	Proposed widening and lengthening of driveway	Granted	07.06.94
20/01142/FUL	Demolition of existing workshop, sheds and car port and construction of new detached 1.5 storey dwelling and separate garage	Granted	16.09.20

POLICY CONSIDERATIONS

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

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

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

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

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

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

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

Accordingly the Council affords some weight to the Section 2 Plan.

National Planning Guidance

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

Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP8	House Types
RLP10	Residential Density
RLP16	Hamlets and Small Groups of Dwellings
RLP51	Cycle Parking
RLP56	Vehicle Parking
RLP63	Air Quality
RLP64	Contaminated Land
RLP65	External Lighting
RLP74	Provision of Space for Recycling
RLP80	Landscape Features and Habitats
RLP81	Trees, Woodland Grasslands and Hedgerows
RLP84	Protected Species
RLP90	Layout and Design of Development

Braintree District Local Development Framework Core Strategy 2011

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

Braintree District Shared Strategic Section 1 Local Plan (2021)

SP1	Presumption in Favour of Sustainable Development
SP6	Infrastructure & Connectivity
SP7	Place Shaping Principles

Braintree District Draft Section 2 Local Plan (2017)

LPP1	Development Boundaries
LPP37	Housing Type and Density
LPP41	Infill Developments in Hamlets
LPP44	Sustainable Transport
LPP45	Parking Provision
LPP50	Built and Historic Environment
LPP55	Layout and Design of Development
LPP68	Protected Species, Priority Spaces and Priority Habitat
LPP69	Tree Protection
LPP71	Landscape Character and Features
LPP73	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP81	External Lighting

Neighbourhood Plan

N/A

Other Material Considerations

Site Allocations and Development Management Plan
Essex Design Guide
Essex Parking Standards/Urban Space Supplement

INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is being reported to Planning Committee in accordance with Part A of the Council's new Scheme of Delegation as the application is considered to be of significant public interest.

BACKGROUND TO THE APPLICATION

The application is being re-assessed, following the grant of planning permission (Application Reference 20/01142/FUL) for the same development, being quashed following the judgement of the High Court and a Consent Order sealed by the High Court accordingly. The effect of that, is that the decision has to be taken again by the Local Planning Authority.

In re-considering the proposed development, the application has been given a new reference number. However, the information on this new application number remains identical to that for the earlier application, with the exception of an additional supporting statement and ecological statement that has been provided by the agent.

Since the quashed decision to grant planning permission there has been a

material change to the housing land supply position for the District. The Council's current 5 year Housing Land Supply is 5.34 years, compared to 4.52 years on 16th December 2020 (the date of the delegated decision). This, together with the analysis of the applicable 'most important policies' set out below, means that the tilted balance does not apply to this application. The application is contrary to the Adopted Development Plan, which indicates that absent material considerations justifying a departure from the plan-led outcome, permission should be refused.

DESCRIPTION OF THE SITE AND SITE CONTEXT

The site is located between the villages of Little Yeldham and Great Yeldham, lying to the south-west of Little Yeldham at a distance of around 0.5 miles from its centre cross-road, and 0.5 miles to the settlement edge of Great Yeldham to the south-west.

The application site itself is a parcel of land located to the east of the residential property of 70 Little Yeldham Road, located on the northern side of Little Yeldham Road. The site currently constitutes part of the private garden area of the host dwelling and has a number of outbuildings and hard surfaces upon it. The site benefits from an existing access directly off Little Yeldham Road.

The site is located outside of any defined settlement boundary and has been advertised as a departure from the Development Plan.

PROPOSAL

This application seeks full permission to demolish the existing garage and outbuildings, (of which the principal building is a workshop), and to construct a 1 no. detached dwelling on the plot. A new detached double garage with lean-on log store would be provided to the east of the new dwelling.

Both the retained dwelling of 70 Little Yeldham Road and the proposed dwelling would utilise the existing point of access to the public highway, sharing the hard surface for a depth of 10m back from the carriageway edge. The proposed and existing dwelling would be allocated their own private parking provision with their respective residential curtilages.

SUMMARY OF CONSULTATION RESPONSES

ECC Highways

Comment that the impact of the proposal is acceptable from a highway perspective.

BDC Ecology

Comment that the submitted Preliminary Ecological Appraisal (PEA) provides sufficient ecological information is available for determination of the application. All of the mitigation measures identified in the PEA should be secured and

implemented in full (to be secured via condition). A further condition is required in regards to biodiversity enhancement.

BDC Landscape

No comments received.

BDC Environmental Health

No comments received.

PARISH / TOWN COUNCIL

Little Yeldham, Tilbury Juxta Clare and Ovington Parish Council

Little Yeldham, Tilbury Juxta Clare and Ovington Parish Council object to the application and raise the following comments:

- The site is located outside the village envelope and conflicts with Policies RLP2, LPP1 and CS5 which seek to direct housing within settlement boundaries to protect the landscape character and amenity of the countryside;
- This site is part of the former Land Settlement Association housing estate, which comprises nearly one hundred houses in Great and Little Yeldham and Tilbury Juxta Clare and proposed infill dwellings have always been refused and appeals dismissed. Policies RLP16, ADM13 and LPP41 protect groups of dwellings such as these from infill and the latter two state specifically that 'The former Land Settlement Estate between Great Yeldham, Little Yeldham and Tilbury Juxta Clare is not suitable for infill, in order to protect its historical character';
- The site is an unsustainable location with no safe pedestrian access and is remote from public transport facilities and key local amenities. Conflicts with policy CS7 which seeks to provide development in accessible locations to reduce the need to travel;
- The development will disturb the natural environment and wildlife habitat, and degrade the landscape character of the area and be contrary to policies CS5, RLP80 and LPP67;
- Will intensify the existing access. Parking provision would compound the intensification;
- A similar proposal at Mygunya, North End Road, Little Yeldham was rejected by BDC and dismissed by the Planning Inspectorate on Appeal. The planning policies considered then, are the same today;
- The application cites site at 66 Little Yeldham Road and Land Adjacent to 67 Little Yeldham Road as similar developments. However, the former was a

replacement dwelling, and the latter infill was achieved on a 'planning technicality';

- Would set an undesirable precedent. Results in ribbon development, effectively joining Great and Little Yeldham and Tilbury Juxta Clare in one urban sprawl and destroying the landscape and historical character of the area.

REPRESENTATIONS

The application has been advertised by way of site notice; neighbour letters; and a press notice.

When application 20/01142/FUL was advertised, 5 individual letters of objections were received, with a further letter written on behalf of 8 local addresses (1 of which also wrote separately) raising the following comments:

- Outside settlement boundary;
- Is within the former Land Settlement housing estate (defined by detached dwellings in generous plots with a strong sense of connection to the countryside). Proposal would harm these features, with harm to the character and appearance of the rural area;
- An unsustainable location away from services and facilities;
- No similar cases approved in the locality. Will set a precedent, accelerating change and changing the ribbon development character;
- Harm to local habitats and wildlife;
- Existing drainage system cannot cope, with rainwater flooding into ditches;
- Little Yeldham cannot support additional dwellings with further traffic movements;
- Country lanes are unable to carry extra traffic generated with few areas of pavement and no bus service.

Following the re-consultation, 1 additional letter has been received representing 11 local addresses, objecting and commenting with the following:

- The Local Plan, which has now been adopted states that the area of the former Land Settlement Association Estate is not suitable for infill. Council Policy does not permit this type of development except in exceptional circumstances;
- The infrastructure cannot support the development. The narrow country roads are not all in good condition, there are few pavement areas, no street lighting, no shops, no public houses, and no regular bus service, necessitating the use of a motor vehicle for travel;
- Could set a precedent;
- The reference to the former use of the land for livestock is irrelevant;
- The site is not sustainable and so won't allow the village to grow and thrive;
- Is not a hamlet - it is part of Little Yeldham which has a Church;
- Only four properties in Little Yeldham Road have annexes approved for the use of dependent relatives. (Three new builds, with one available as a holiday let, and the remaining annex is a conversion);

- The two properties will be sharing one entrance. Question whether this is acceptable in terms of safety;
- No bat survey undertaken (These are common in the locality and thus it is reasonable to assume the outbuildings planned for demolition might house them).

REPORT

PRINCIPLE OF DEVELOPMENT

National Planning Policy Framework (NPPF) 2021

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

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

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

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

In this regard, and in considering the overall planning balance as to whether the proposed development subject to this application constitutes sustainable development, an important material consideration in this case is whether the

Council can robustly demonstrate a 5 Year Housing Land Supply. This will affect whether Paragraph 11 of the NPPF is engaged and consequently the weight that can be attributed to the Development Plan.

The Development Plan

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

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

Policy RLP16 relating to 'Hamlets and Small Groups of Dwellings' is noted. This policy relates to situations where there is a 'defined nucleus' of at least ten dwellings and where it would not be detrimental to the character of the surroundings. In such a situation exceptions may be made to Policy RLP2 for the filling of a gap, for a single dwelling. The site is located within a stretch of ribbon development between Little Yeldham and Great Yeldham. It is not a small group of houses nor a hamlet, and is not considered to be a 'defined nucleus'. For this reason it does not fall to be considered in line with Policy RLP16.

The site is therefore located in an area of 'countryside', and the proposed development constitutes a departure from Policy RLP2 of the Adopted Local Plan and Policy CS5 of the Core Strategy. As a consequence, the proposal also represents a departure from the Development Plan as a whole.

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.

5 Year Housing Land Supply

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

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

housing need based on the Standard Methodology.

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

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

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

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

As the Council can demonstrate the required five Year Housing Land Supply the ‘tilted balance’ pursuant to Paragraph 11d) of the NPPF is not engaged due to a lack of housing land supply. The policies against which this application is to be judged are assessed for their consistency with the NPPF later in this Report. The conclusion is that there is no reason to apply the tilted balance notwithstanding the existence of a Five Year Housing Land Supply.

SITE ASSESSMENT

Sustainability of the Site / Location and Access to Services and Facilities

Policy RLP2 of the Adopted Local Plan states that ‘new development will be confined to areas within Town Development Boundaries and Village Envelopes. Outside of these areas countryside policies will apply’. As stated above, the site lies outside of a village / town boundary and is therefore within the countryside.

Policy CS5 of the Core Strategy states that ‘development outside town development boundaries, village envelopes and industrial development limits will be strictly controlled to uses appropriate to the countryside, in order to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside’. Policy CS7 of the Core Strategy states that the Council will work to improve accessibility, to reduce congestion and reduce the impact of development upon climate change.

The NPPF makes it clear that housing applications should be considered in the context of the presumption in favour of sustainable development. It identifies

three dimensions to sustainable development: environmental, social and economic. These roles should not be considered in isolation, because they are mutually dependent.

The development will bring some economic benefits during the construction stage and thereafter with additional residents supporting the services and facilities in the locality. However, given that the application proposes only a single dwelling, limited weight is assigned to this.

In terms of environmental sustainability, the development would remove a number of outbuildings that do not positively contribute to the character and appearance of the locality. Although these are single storey in scale and are not unduly prominent, the development would improve the visual amenity of the site and immediate locality and some limited positive is attributed to this.

In terms of social sustainability, the additional dwelling would contribute to the Council's five Year Housing Land Supply (5YHLS). However, as this application proposes only 1 dwelling, and as the Council can demonstrate a 5YHLS, any positive weight assigned is limited. Further, relevant to social sustainability is the proximity of the site to services. Little Yeldham only has a Church, whereas Great Yeldham benefits from a Public House, Hotel/PH/Restaurant premises, Doctors Surgery, Post-Office, Primary School, 2 take-away premises, and 2 local convenience stores, most of which are around 0.9 miles distance from the site (with the school at 1.2 miles). These facilities could assist in meeting with some of the day to day needs of occupiers, but due to the distances involved as they are mainly accessible via roads with no footpaths or street lighting, it would discourage occupiers from accessing these services on foot or bicycle. Further, the site does not benefit from reasonable public transport provision to provide realistic opportunities for future occupiers to access shops, service and employment opportunities. Overall, future occupiers would be reliant on the private vehicle and this weighs heavily against the proposal in sustainability terms.

Fall-back Position

The 'Addendum Planning Statement' now submitted as part of the application to be re-determined, raises questions in terms of the lawful use of the buildings and implications this may have in terms of any 'fall-back position'. The Statement details that the historic use of the site was as part of horticulture/agriculture use as part of the Land Settlement Estate and that the outbuildings on the application site were used in conjunction with that use. The Statement details that although in 1992 planning permission (Application Reference 92/01158/FUL) was granted for storage and distribution, this was a personal permission to Mr D J Auliffe and was restricted as such via condition, such that when that use ceased (stated to be around July 1999) it reverted back to the former use.

The Statement does however, also raise the prospect that the buildings could have a lawful commercial B8 storage use. It is outlined that after Mr Auliffe left in July 1999, a new tenant (Mr Schultz) was found for the house and

outbuildings, who occupied the site until December 2019. The Statement highlights that the B8 storage use may have become lawful through the passage of time.

The conclusion of the Addendum Planning Statement therefore is that the lawful use of the outbuildings is either as an agricultural/horticultural use or as a B8 commercial storage use, and that in either scenario, both benefit from the provisions of the Town & Country Planning (General Permitted Development) (England) Order 2015 (GPDO) under Schedule 2 Part 3 Class P or Class Q, which would permit the change of use to residential.

In terms of this position, and despite the site lying within a countryside position and not meeting with the sustainability objectives of the NPPF, the LPA need to consider whether there is a fall-back position on the site that forms a material consideration to the assessment of the application. Planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. Numerous appeal decisions and case law (e.g. Mansell v Tonbridge and Malling BC [2017] EWCA Civ 1314) have set out and established what weight is to be applied to any fall-back position.

In this instance, the Town & Country Planning (General Permitted Development) (England) Order 2015 under Schedule 2 Part 3 Class P permits development consisting of a change of use of a building and any land within its curtilage from a use falling within Class B8 (storage or distribution centre) of the Schedule to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of that Schedule. However, the criteria for Class P states that development is not permitted if 'the prior approval date falls on or after 10th June 2019'. In effect, Class P has now expired. There is therefore no fall-back position in respect of this prior approval process.

Turning to any fall-back position in terms of any agricultural use, the Town & Country Planning (General Permitted Development) (England) Order 2015 under Schedule 2 Part 3 Class Q, permits development consisting of a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order; and or development referred to in paragraph (a) together with building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule.

Officers have reviewed the planning history held for the site and note that although there was a personal permission for Mr Auliffe, his daughter operated the business on site from 1994. The use would have at that stage been in breach of the condition. Given that a B8 use is stated to have continued on the site until 2019, Officers consider that out of the uses suggested within the Planning Statement, a B8 use is the most likely lawful use of the buildings. However, for the development to be permitted development by Class Q, it

would need to be used solely for an agricultural use as part of an established agricultural unit on 20th March 2013. No evidence has been submitted with the application that this clause is met, and from the application submission and planning history, it is clear that Class Q could not be applicable.

Furthermore, and even were the use of the building agricultural on the key date (20th March 2013), Class Q of the GPDO requires a prior approval application process, and the development would need to comply with the relevant clauses and criteria. No formal prior approval application has been submitted or approved. Equally no evidence or detailed commentary has been submitted to suggest how such a change of use would comply with the criteria. The buildings consist of a workshop and sheds and there is nothing to suggest that these could be suitable of accommodating a conversion to a dwelling or that it would provide adequate residential accommodation. The fact that this has not been applied for or determined, further reduces the weight to be applied.

Overall Officers do not consider that there is a reasonably likely fall-back position in regards to the prior approval change of use, nor that it results in a significant material consideration to justify a departure from the Development Plan policies identified above.

As part of the fall-back position, Officers do also need to consider the implications of any possible lawful B8 use of the site, and if we do not grant planning permission, what use the site could be lawfully put to. In this regard, there has been limited evidence submitted to demonstrate a B8 use. Indeed, the Planning Statement itself, submitted with the application, does not conclude on this point. Furthermore, no lawful development certificate has been submitted. This considerably limits the weight to be applied to it. Even if the B8 use could be established as lawful, Officers do not consider that such a use would be more harmful than the proposed residential use, given the scale of the existing buildings (which would limit the scale of operations able to be undertaken), and as to visual impact the existing buildings are no more intrusive than the proposed dwelling. Furthermore, weighing against any fall-back position is the fact that the point relating to the poor sustainability of the location relates only to the proposed residential use, wherein future occupiers could not readily access shops and services but would rather be reliant on the private vehicle, whereas a B8 use is one which is expected to be accessed via vehicles. Overall, Officers do not consider that the potential lawful use of the building for a B8 use has been evidenced or justified to form a material consideration of any material weight.

Layout, Design and Appearance

The NPPF seeks a high quality design as a key aspect to achieving sustainable development. Policy RLP90 of the Adopted Local Plan and Policy CS9 of the Core Strategy seek to ensure a high quality design and layout in all developments. Furthermore, Policy LPP55 of the Section 2 Plan seeks to secure the highest possible standards of design and layout in all new development.

In terms of siting, the development would not be cramped or contrived within the plot. It would be provided with adequate space around it and an appropriately sized private garden area. Although it would result in the subdivision of the plot of the host dwelling, neither the resulting land parcel nor the proposed would be unduly small or restricted in space, with both dwellings provided with private garden space in accordance with the Essex Design Guide.

The proposal is for a 1.5-storey dwelling of a ridge height of about 7.2m, which is broadly comparable with the host property, 70 Little Yeldham Road. It would incorporate dormer windows within front and rear facing roofslopes, front and rear projections (with the higher roof ridges) and some single storey elements. Hipped roofs would be used across the development and, in the flanks, dormer windows would be set down within the eaves.

With the design characteristics described above, the proposal would be architecturally similar to other properties within the immediate locality. In terms of size, height, massing and proportion, the dwelling would be commensurate with the local vernacular and would not look out of place in the local built environment. The detached garage would be clearly subordinate in terms of height and scale and clad in materials typical of the area. Visually, the site would be in keeping with the character and appearance of the area. Acceptable amenity will be provided for future occupiers. Internally, the dwelling would be provided with accommodation in accordance with the Nationally Described Space Standards.

The proposal, through the removal of the workshop in particular, would open up a greater space in between the existing and proposed dwelling and tidy up the domestic paraphernalia; in this arrangement the proposal would not give the visual impression of an infill plot, but rather part of the organic development of the area.

It is acknowledged that the Land Settlements Association housing estate introduced a typical style and format for development in the local area, consisting of dwellings set within large generous garden plots. However, the proposed dwelling would not appear harmful to the grain of development in the immediate area. Within the immediate locality, a pair of semi-detached dwellings with narrow gardens are located directly opposite the application site and there is a cluster of built development in close proximity at Hydewood Road. The proposal therefore meets the design expectations of Policy RLP90 of the Adopted Local Plan.

Impact on Neighbouring Residential Amenities

One of the core principles set out in the NPPF is that planning should 'always seek to secure a high quality of design and a good standard of amenity for all existing and future occupants'. This is supported by Policy RLP90 of the Adopted Local Plan which states that 'there shall be no undue or unacceptable impact upon the amenity of any nearby residential properties'. The emerging plan has similar objectives.

The new dwelling would have a separation distance of over 42 metres to the dwelling of Asofold located to the East and over 30m to the host dwelling to the West. The first floor flank bedroom window proposed for bedroom 1 on the East elevation, is over 42m away from the habitable room windows on the flank elevation of Asofold, and would not result in unacceptable overlooking. The north/south orientation of the proposed dwelling's principal elevations would avoid any overlooking from occurring, whilst its alignment with the existing neighbouring dwellings would prevent overbearing and overshadowing effects from being adverse. The development would not therefore harmfully affect the amenity of nearby residential occupiers, in accordance with Policy RLP90.

Highway Considerations

The site benefits from an existing access from the highway. This is to be retained and would be utilised by the existing and proposed dwelling. Essex County Council as the Highway Authority have reviewed the application and raise no objection.

The existing dwelling would retain sufficient space for parking of 2 or more vehicles whilst the proposed dwelling would be served by a double garage. Although the proposed double garage does not comply with dimensions for parking set out within the Parking Standards document and thus cannot be counted towards parking provision, there is sufficient external driveway space for parking of 2 or more vehicles, together with turning provision. The proposal is therefore in line with the requirements of the Essex Parking Standards.

Landscape

The development would partially be sited to land already occupied by buildings and hard surfaces, and otherwise whereon there are no features of landscape importance. The existing tree and hedgerow boundaries to the north, east and south of the plot would be retained, maintaining the green and rural aesthetic to the locality. The introduction of a further hedgerow to subdivide the application site would enhance the existing landscape structure. Subject to a condition to ensure that protective measures are taken to prevent damage to trees and hedgerows for the duration of the construction period, the proposal would not be likely to have an adverse effect on the wider landscaper character. A further condition requiring the submission and implementation of a detailed hard and soft landscaping scheme would ensure that appropriate landscaping is incorporated into the scheme to enhance the appearance of the development within this rural setting, and to provide more visual buffer to both the existing residents and future occupants. The proposal would accord with Policies RLP80, RLP81 and RLP84 of the Adopted Local Plan.

Ecology

The application has been submitted with a Biodiversity Checklist and Preliminary Ecological Appraisal (Skilled Ecology, July 2021) relating to the likely impacts of development on Designated Sites, Protected and Priority Species & Habitats, particularly bats and nesting birds. Officers are content that

there is sufficient ecological information available for determination of this application. This provides certainty for the LPA of the likely impacts on Protected and Priority Species/Habitats.

All of the mitigation measures identified in the Preliminary Ecological Appraisal shall be carried out and implemented in full and could be secured via condition. This is necessary to conserve Protected and Priority Species. It is also recommended that bespoke ecological enhancements are implemented to secure measurable net gains for biodiversity, under Paragraph 174 and 180 of the NPPF. This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty.

Habitat Regulations Assessment (HRA / RAMS)

The site is situated outside the Zone of Influence (ZOI) for the Blackwater Estuary SPA/Ramsar site, therefore an appropriate assessment or otherwise is not required.

PLANNING BALANCE AND CONCLUSION

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

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

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

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

As the Council can demonstrate the required 5 Year Housing Land Supply, the 'tilted balance' pursuant to Paragraph 11d) of the NPPF is not engaged due to a

lack of housing land supply. It is therefore necessary to identify the most important policies for determining the application and to establish whether these are out-of-date. Paragraph 219 of the NPPF states that existing policies should not be considered out-of-date simply because they were adopted prior to the publication of the Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater weight that may be given).

In this case the basket of policies which are considered to be the most important for determining the application are Policies SP1 and SP3 of the Section 1 Plan, Policy RLP2 of the Adopted Local Plan and Policy CS5 of the Core Strategy.

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

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

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

Given that the Council can demonstrate a 5 Year Housing land Supply, and the basket of policies are not otherwise out-of-date, the 'flat' (or untitled) planning balance must still be undertaken which weighs the adverse impacts of the

proposed development, including the conflict with the Development Plan, against the public benefits of the proposal.

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

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

Summary of Adverse Impacts

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

Conflict with the Development Plan

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

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

Location and Access to Services and Facilities

The site lies adjacent to Little Yeldham which, with the exception of the Church, has no other services. Although Great Yeldham does have a wider of shops, services and facilities for some day to day needs, these are at a distance of between 0.9 and 1.2 miles. Due to the distances involved as they are mainly via roads with no footpaths or street lighting, it would heavily discourage occupiers from accessing these services on foot or bicycle. Further, the site does not benefit from reasonable public transport provision to provide realistic opportunities for future occupiers to access shops, service and employment opportunities. Overall, future occupiers would be reliant on the private vehicle and substantial harm is attached to this conflict.

Summary of Public Benefits

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

Delivery of Market and Affordance Housing

The additional dwelling would contribute to the Councils' five Year Housing Land Supply (5YHLS). However, as this application proposes only 1 dwelling, and as the Councils can demonstrate in a 5YHLS, any positive weight assigned is limited.

Economic Benefits

There would be some economic benefits during the construction of the dwelling and thereafter with the spending powers of future residents. However, given the scale of development very limited weight would be assigned to this.

Character and Appearance of the area / Environmental Benefits

Although the development would remove some outbuildings that do not positively contribute to the character of the locality, they are limited in scale and would be less prominent in the landscape than the proposed dwelling. This is a neutral impact. There would be some biodiversity net gain, but again, given the scale of development, only limited weight is assigned to this.

Planning Balance

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

RECOMMENDATION

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

- 1 The site is located in the countryside, outside of the defined village envelope as identified in the Adopted Local Plan and Adopted Core Strategy. The site is not in an accessible location, and is not considered to provide access to local services and facilities via pedestrian and cycle movements, or via reliable means of public transport, but rather the distances involved and the specific characteristics of surrounding routes, would encourage future occupiers to rely on the private vehicle, contrary to sustainable transport objectives. The proposed development would be contrary to Policies RLP9 and RLP90 of the Adopted Local Plan; Policies CS5 and CS7 of the Adopted Core Strategy; Policies SP1 and SP3 of the Adopted Section 1 Plan (2021); and Policies LPP50 and LPP55 of the Draft Section 2 Plan (2017), and as such to the Development Plan read as a whole; and to the National Planning Policy Framework. There are no material considerations sufficient to justify an outcome other than in accordance with the Development Plan.

SUBMITTED PLANS

Existing Elevations and Floor Plans	Plan Ref: 1226-01-01
Proposed Elevations and Floor Plans	Plan Ref: 1226-01-02
Proposed Block Plan	Plan Ref: 1226-01-03A
Proposed Block Plan	Plan Ref: 1226-01-03B
Access Details	Plan Ref: 1226-01-04

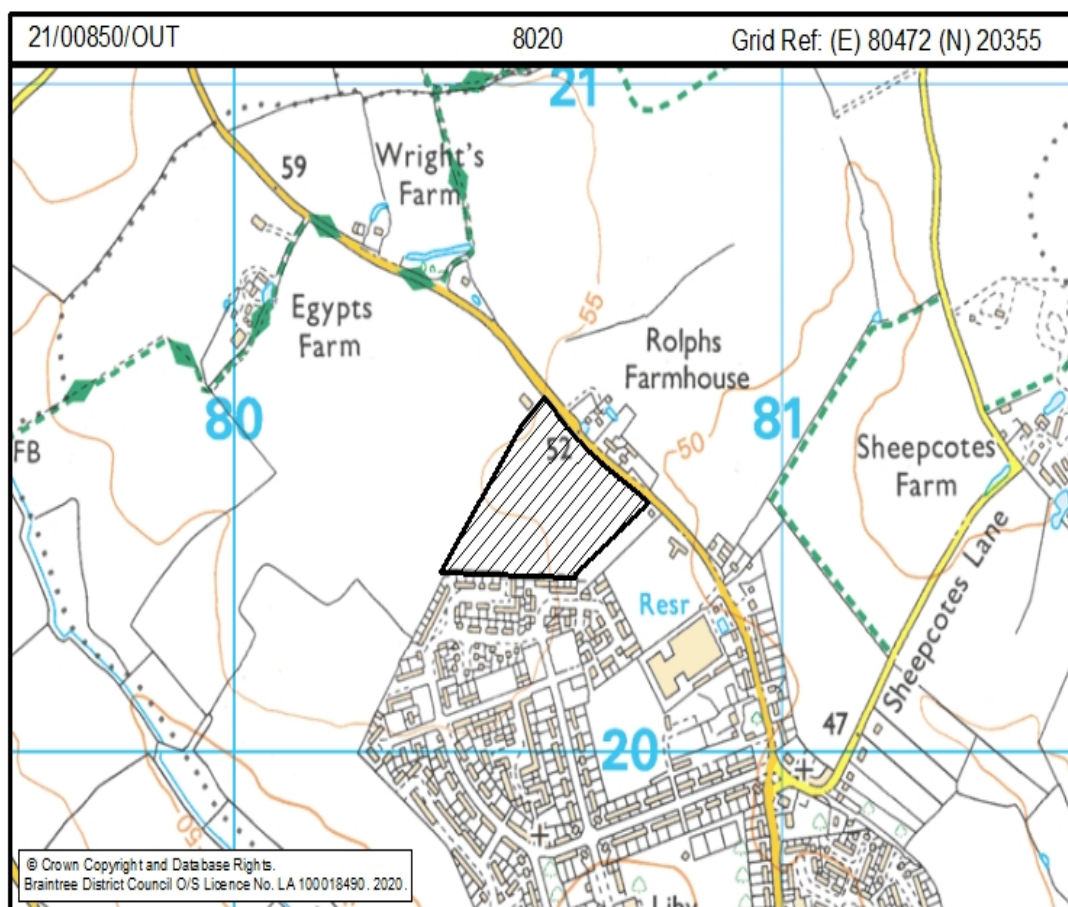
CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

PART A

AGENDA ITEM NUMBER 5c

APPLICATION NO: 21/00850/OUT DATE: 15.03.21
VALID:
APPLICANT: M Scott Properties Ltd
C/o Agent, Strutt & Parker, Chelmsford, England
AGENT: Strutt & Parker
Mrs Emma Gladwin, Coval Hall , Rainsford Road,
Chelmsford, CM1 2QF
DESCRIPTION: Outline planning permission with all matters reserved apart
from access, for up to 94 dwellings and new landscaping,
open space, access, land for allotments and associated
infrastructure.
LOCATION: Land West Of, Boars Tye Road, Silver End, Essex

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



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QQ0R3IBFK3N00>

SITE HISTORY

None

POLICY CONSIDERATIONS

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

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

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

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

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

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

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

Accordingly the Council affords some weight to the Section 2 Plan.

National Planning Guidance

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

Braintree District Local Plan Review 2005

RLP2 Town Development Boundaries and Village Envelopes

RLP8	House Types
RLP9	Design and Layout of Housing and Mixed Use Areas
RLP10	Residential Density
RLP53	Generators of Travel Demand
RLP56	Vehicle Parking
RLP65	External Lighting
RLP69	Sustainable Urban Drainage
RLP80	Landscape Features and Habitats
RLP84	Protected Species
RLP90	Layout and Design of Development
RLP95	Preservation and Enhancement of Conservation Areas
RLP100	Alterations and Extensions and Changes of Use to Listed Buildings and their settings
RLP138	Provision of Open Space in New Housing Developments

Braintree District Local Development Framework Core Strategy 2011

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

Braintree District Shared Strategic Section 1 Local Plan (2021)

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

Braintree District Draft Section 2 Local Plan (2017)

LPP1	Development Boundaries
LPP33	Affordable Housing
LPP37	Housing Type and Density
LPP44	Sustainable Transport
LPP45	Parking Provision
LPP50	Built and Historic Environment
LPP53	Provision of Open Space, Sport and Recreation
LPP55	Layout and Design of Development
LPP56	Conservation Areas
LPP60	Heritage Assets and their Settings
LPP63	Archaeological Evaluation, Excavation and Recording
LPP67	Natural Environment and Green Infrastructure
LPP68	Protected Species, Priority Spaces and Priority Habitat
LPP70	Protection, Enhancement, Management and Monitoring of Biodiversity

LPP71	Landscape Character and Features
LPP78	Flooding Risk and Surface Water Drainage
LPP79	Surface Water Management Plan
LPP80	Sustainable Urban Drainage Systems
LPP81	External Lighting
LPP82	Infrastructure Delivery and Impact Mitigation

Neighbourhood Plan

None

Other Material Considerations

Site Allocations and Development Management Plan
Affordable Housing Supplementary Planning Document (2006)
Essex Coast RAMS Supplementary Planning Document (2020)
Essex Design Guide for Mixed Use and Residential Areas (2005)
External Artificial Lighting Supplementary Document (2009)
Open Space Supplementary Planning Document (2009)
Parking Standards – Design and Good Practice (2009)
Urban Place Supplement Guidance (2007)

INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

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

DESCRIPTION OF THE SITE AND SITE CONTEXT

The application site is 5.32ha in size and is located to the north of the village of Silver End. Part of the site lies adjacent to the village boundary.

Directly opposite the site on Boars Tye Road is a Grade 2 listed building known as Rolphs Farmhouse. To the north east of the site is a Grade 2 listed building known as Egypts Farm and a public footpath (108-50).

To the east of the application is a residential development site currently under construction for 50no. dwellings.

PROPOSAL

The application seeks outline planning permission for up to 94no. residential units. Access is to be considered at the outline stage and layout, appearance, scale and landscaping are reserved matters for future consideration.

Access is proposed to be taken from Boars Tye Road at a central point along the frontage of the site and a 2m wide footway provided along the frontage of the site to the south east of the proposed access.

Applications for outline planning permission seek to establish whether the scale and nature of a proposed development would be acceptable to the Local Planning Authority, before a detailed proposal is put forward.

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

- Flood Risk Assessment
- Arboricultural Impact Assessment
- Ecological Assessment Report
- Transport Assessment
- Planning Statement
- Landscape and Visual Appraisal
- Design and Access Statement
- Framework Plan
- Land Contamination Assessment
- Heritage Statement
- Statement of Community Engagement
- Biodiversity Net Gain Assessment

CONSULTATIONS

Historic Buildings Consultant

(Note: This consultation was written pre changes to the NPPF thus refers to previous paragraph numbers).

The proposals will have an effect upon surrounding designated heritage assets. The site is located approximately 500m north of the Silver End Conservation Area boundary, within which there is a number of listed buildings, largely located on Silver Street at the centre of the village. Rolph's Farmhouse, a Grade II listed building, is directly north east of the site and overlooks it (list entry number: 1122601). Egypt Farmhouse, also Grade II, is north west of the site (list entry number: 1338232) and located on a public footpath, 'The Essex Way' from which wide views of the application site can be gained.

Developed in the 1920-30s by Francis Crittall, Silver End Model Village is nationally important as an example of Modern Movement architecture in Britain employed to facilitate Garden Village ideology. Prior to the development led by Crittall, the village was a small hamlet, largely consisting of sporadic farmsteads within a wider historic and agrarian landscape. Whilst the Conservation Area largely encompasses Crittall commissioned houses and public buildings and spaces, surviving examples of earlier farmsteads, including Boars Tye Farmhouse (Grade II listed, list entry number: 1338256) are within the Conservation Area boundary.

Rolph's Farmhouse and Egypt Farmhouse are both examples of early farmsteads which pre-date the Crittall development, part of a much earlier agrarian economy. Their distance from the site and surrounding buildings is

indicative of their former function, any development which encroaches upon their setting and reduces their sense of relative isolation will be harmful to their special interest. In particular, due to its proximity to the site, the significance of Rolph's Farmhouse will be negatively affected by the proposals, encroaching upon its setting, which, despite the development of Silver End, still appears largely rural. The site affected by this application provides an important green buffer between the village and the Farmhouse, affording views to and from Rolph's Farmhouse into agrarian land. There will certainly be harm to Rolph's farmhouse and many attributes which contributes to its setting and the experience of its significance. The harm is found fundamentally in the change of land use in the site which largely removes the agrarian setting of the historic farmhouse and to some extent convalesces it into a settlement, this harm will be irreversible and permanent.

At present, the undeveloped nature of the site provides a gradual introduction into the built form of Silver End and the Conservation Area, with the modern development along Boars Tye Road maintaining the grain and pattern of the Conservation Area beyond its boundary. The present ribbon development on Boars Tye Road features buildings which front the street, behind a formal front garden area, irrespective of the build date of the properties (and whether or not they are part of the 1920s Crittall development). In contrast, the submitted plans indicate that reinforced hedgerow and attenuation basins are proposed along Boars Tye Road, which would create a sense of separation and enclosure of the new houses. The proposed woodland buffer is also a cause for concern, introducing barriers and visual breaks in what is at present a relatively open, wide landscape which reinforces the agricultural setting of the Conservation Area.

If built, the proposals would result in considerable less than substantial harm to the significance of Rolph's Farmhouse, thus section 196 of the NPPF is relevant. The impact upon the local character, including the Conservation Area, mean sections 127C, 192C and 200 should also be considered, section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is also relevant.

ECC Archaeology

The Essex Historic Environment (HER) Record shows that the proposed development lies within an area of potential for below ground archaeological remains. A Desk Based Assessment has been submitted with the application which recognises the high potential of the site to contain prehistoric to medieval remains due to the proximity of the site to similar recorded heritage assets. Excavations to the east have revealed preservation of a multi-period landscape and cropmark features in the surrounding areas suggest archaeological activity extends across this area. The site lies along Boars Tye Road which is a historic route, likely medieval in origin and immediately adjacent to the 17th century Rolph's Farmhouse. Conditions are recommended regarding archaeological investigation.

BDC Environmental Health

No objection, a number of conditions requested regarding contamination, noise, air quality and construction controls.

BDC Waste Services

In order to assess the feasibility of waste collections, we will need a detailed plan showing highway adopted access roads and distances to bin collection points/ bin stores (if blocks of flats are to be built). Our operatives can only walk up to 20 metres to each property.

My initial observation is that the site appears to be very tight for a 26 tonne waste collection vehicles and with dead ends on the estate is there sufficient sized turning circles for the vehicles to access all areas.

BDC Landscape Services

Following the submission of additional information regarding the extent of hedgerow removal required to facilitate the access and the visibility splay, Landscape Services accept that a new hedgerow will provide a level of mitigation/redress for the removal of the existing roadside vegetation. However the Landscape Officer wishes to still make the point that the existing roadside frontage will need to be removed to facilitate the development.

BDC Ecology

Following the submission of additional information:

No objection subject to securing:

- a) A financial contribution to avoid adverse effects Area in combination with other plans and projects on site integrity on the Blackwater Special Protection Area and Ramsar site & Essex Estuaries Special Protection, in line with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy.
- b) Ecological mitigation and enhancement measures.

ECC Highways

All residential developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to the Advance Payments Code, Highways Act 1980. The developer will be served with an appropriate notice within 6 weeks of building regulations approval being granted and prior to commencement of the development must provide guaranteed deposits, which will ensure the new street is constructed in accordance with a specification sufficient to ensure future maintenance as highway by the Highway Authority.

From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to the imposition of conditions requiring the submission of a construction management plan and a travel plan. A further conditions is requested to cover the construction of the proposed access, the provision of two new footways, the upgrade of two bus stops and the provision of residential travel information packs for new occupiers.

Essex Police

BDC RPL90 (viii) states - Designs and layouts shall promote a safe and secure environment, crime reduction and prevention and shall encourage the related objective of enhancing personal safety. Whilst there are no apparent concerns with the layout to comment further we would require the finer detail such as the proposed lighting, boundary treatments and physical security measures. We would welcome the opportunity to consult on this development to assist the developer demonstrate their compliance with this policy by achieving a Secured by Design Homes award. From experience pre-planning consultation is always preferable in order that security, landscaping and lighting considerations for the benefit of the intended residents and those neighbouring the development are agreed prior to a planning application.

Anglian Water

Our records show that there are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.

The foul drainage from this development is in the catchment of Witham Water Recycling Centre that will have available capacity for these flows. No info provided as to the foul water strategy and a PPE dated July 2020 suggests that a pumped solution is required so condition requested based on this.

This response has been based on the following submitted documents: Flood Risk Assessment dated March 2021, Planning Statement dated March 2021 Development will lead to an unacceptable risk of flooding downstream. Anglian Water will need to plan effectively for the proposed development, if permission is granted. We will need to work with the applicant to ensure any infrastructure improvements are delivered in line with the development. A full assessment cannot be made due to lack of information. We therefore request a condition requiring on-site drainage strategy.

The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer. From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments in the suitability of the surface water management. The Local

Planning Authority should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse. Should the proposed method of surface water management change to include interaction with Anglian Water operated assets, we would wish to be re-consulted to ensure that an effective surface water drainage strategy is prepared and implemented. We note from the submitted documents that the applicant is proposing Anglian Water to be the adopting body for all/part of the SuDS scheme. The applicant has engaged with us regarding adoption, however, at this time we do not have sufficient information to confirm if the design meets our adaptable standards.

A number of conditions are recommended should planning permission be granted.

ECC Suds

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission and recommend a number of planning conditions.

BDC Housing Research and Development

In accordance with Policy CS2 of the Core Strategy, the outline proposal for up to 94 residential dwellings requires 40% to be provided as affordable housing which equates to 38 affordable dwellings. The application recognises this in the submitted Planning Statement and accommodation schedule.

It is acknowledged that this application mainly seeks approval to the principle of development and that details concerning the mix of affordable dwellings would usually be subject of reserved matters. However, an indicative site layout drawing has been provided and there has been dialogue both at pre-app stage and during the course of this application with the applicant who has agreed to our preferences for a suitable affordable unit and tenure mix. This mix is illustrated in the Table is considered appropriate to address housing need.

Type	No	Affordable Rent	Shared Ownership
2 bed 4 person bungalow	8	4	4
2 bed 4 person house	17	14	3
3 Bed 5 person house	11	7	4
3 bed 6 person house	2	2	0
Total	38	27	11

The applicant has also confirmed they would be happy to agree to the additional requirements below:

- Accessibility requirement for all affordable homes accessed at ground level to meet Building Regulations Part M Cat (2)

- Affordable homes should be compatible with Nationally Described Space Standards

From an affordable housing perspective we are comfortable in supporting this application.

NHS

Request a financial contribution of £34,500 towards the creation of additional floorspace at the Silver End Surgery.

Natural England

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

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

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

Essex Fire and Rescue

Access for Fire Service purposes has been considered in accordance with the Essex Act 1987 - Section 13 and appears acceptable provided that the arrangements are in accordance with the details contained in the Approved Document to Building Regulations B5. More detailed observations on access and facilities for the Fire Service will be considered at Building Regulation consultation stage.

Following a review of these documents I can advise that due to what would be considered an excessive distance to the nearest existing statutory fire hydrant, shown on the enclosed plan, it is considered necessary that additional fire hydrants are installed within the curtilage of the proposed site. Should the development proceed, once we receive the new water main design scheme for this development from the local Water Authority, we will liaise with them directly to ensure that all necessary fire hydrants are provided.

Environment Agency

No comments received.

ECC Education

The proposal has been assessed on the basis, of all 94 houses being 2 or more bedrooms.

A development of this size can be expected to generate the need for up to 8.4 early years & childcare places, 28.2 primary school places and 18.8 secondary school places.

Please note that any developer contribution figures referred to in this letter are calculations only, and that final payments will be based on the actual dwelling unit mix and the inclusion of indexation.

Early Years and Childcare

The proposed development is located within the Silver End and Cressing Ward. According to latest available childcare sufficiency data, there are 8 early years and childcare providers within the ward. Overall a total of 0 unfilled places were recorded for this area. Essex County Council has a statutory duty under the Childcare Act 2006 to ensure that there is sufficient and accessible high-quality early years and childcare provision to meet local demand. This includes provision of childcare places for children aged between 0-5 years as well as wrap around provision for school aged children (5-11 or 19 with additional needs). The data shows insufficient provision to meet the additional demand created by this development. It is therefore proposed that a financial contribution is made towards creating these additional places within the Silver End & Cressing Ward or within 3 miles of the development. An additional 8.4 places would be provided at an estimated total cost of £146,087, at January 2020 prices. This equates to £17,268 per place and so, based on demand generated by this proposal set out above, a developer contribution of £146,087 index linked to Q1 2020, is sought to mitigate its impact on local childcare provision.

Primary Education

This proposed development sits within the Priority Admissions Area of Silver End Academy, which offers up to 60 places per year. GP registration data received from the NHS suggests that the number of children for whom this is the closest school is rising. For the cohort that will be admitted in September 2022 there are already 61 such potential pupils. With a significant number of

new homes on the nearby Western Road development (BTE/15/280) being built, the demand for school places is expected to increase significantly. Forecasts for the area, which also includes Cressing Primary School, are set out in the Essex School Organisation Service's Ten Year Plan to meet demand for school places. These forecasts suggest that both local schools will be full by 2024/25. An additional 28.2 primary places would be provided at an estimated total cost of £486,958 at January 2020 prices. This equates to £17,268 per place and so, based on demand generated by this proposal set out above, a developer contribution of £486,958 index linked to January 2020, is sought to mitigate its impact on local primary school provision. In addition to the above, there is no safe walking/cycling to the nearest primary school, and therefore a contribution towards school transport is requested. The primary transport contribution based on 28.2 pupils would be £427,568.40 (£11.40 per pupil at 2020) x 28.2 (pupils) x 190 (academic year) x 7 (number of years). The above transport contributions will also be subject to indexation to April 2020.

Secondary Education

The Priority Admissions Area secondary school for Silver End is Alec Hunter. After some smaller than average year groups, demand for places in Braintree and at Alec Hunter is rising. The school has admitted slightly over its Published Admission Number into Year 7 (the first year group of secondary education) this year and provisional data for September 2021 suggests the school will again be full next year. According to the forecasts in the Ten Year Plan, the Braintree Town area (which also includes Notley High School and Tabor Academy) will require 44 additional places for the cohort due to be admitted in 2030/31. Significant further capacity is also likely to be needed to meet the longer term growth scenario set out in Braintree's emerging Local Plan. An additional 18.8 Secondary places would be provided at an estimated total cost of £446,970 at January 2020 prices. This equates to £23,775 per place and so, based on demand generated by this proposal set out above, a developer contribution of £446,970 index linked to Q1 2020, is sought to mitigate its impact on local secondary school provision. In addition to the above, there is no safe walking/cycling to the nearest secondary school, and therefore a contribution towards school transport is requested. The primary transport contribution based on 18.8 pupils would be £94,658 (£5.30 per pupil at 2020) x 18.8 (pupils) x 190 (academic year) x 5 (number of years). The above transport contributions will also be subject to indexation to April 2020.

Libraries

ECC may seek contributions to support the expansion of the library service to meet customer needs generated by residential developments of 20+ homes. The provision of a Library Service is a statutory duty under the 1964 Public Libraries and Museums Act and it's increasingly become a shared gateway for other services such as for accessing digital information and communications. In this case the suggested population increase brought about by the proposed development is expected to create additional usage of the local library. In accordance with the Essex County Council Developers' Guide to Infrastructure Contribution (Revised 2020), a contribution is therefore considered necessary to improve, enhance and extend the facilities and

services provided, at a cost of £77.80 per unit, respectively. Improvements could include, but is not limited to, additional facilities, additional furniture, provision of learning equipment / play equipment for younger children, improved access, external works such as parking and bike racks and IT. In this case, and taking the above into account, it is calculated that a contribution of £7,313.20 is requested towards local library enhancements.

In view of the above, I request on behalf of Essex County Council that if planning permission for this development is granted it should be subject to a section 106 agreement to mitigate its impact on childcare, Education and libraries. The contributions requested have been considered in connection with the CIL Regulations 2010 (as Amended) and are CIL compliant. Our standard formula s106 agreement clauses that ensure the contribution would be necessary and fairly and reasonably related in scale and kind to the development are available from Essex Legal Services.

If your council were minded to turn down the application, I would be grateful if the lack of surplus childcare, Education and library facilities in the area to accommodate the proposed new homes can be noted as an additional reason for refusal, and that we are automatically consulted on any appeal or further application relating to the site.

PARISH / TOWN COUNCIL

Silver End Parish Council

Objections:

- Silver End is becoming an urban suburb of Braintree and has had far more than its fair share of new development, whilst the brown field factory site remains derelict.
- The absence of a valid BDC Local Plan has allowed developers to build on greenfield sites of good agricultural land.
- The local infra structure cannot cope efficiently with the current approved developments, particularly the Doctors surgery. (The developers have offered £10,000 to help if the development goes ahead, but this will have little impact based on the amount that will be needed to expand).
- The mains water pressure is currently only one decimal point above the minimum. A new main was installed but there is no noticeable increase in pressure.
- Local roads cannot cope with the increase in traffic.
- Schools, both primary and secondary, are virtually full. As are pre-schools. It is unreasonable to expect primary age children (4 -11) to travel miles to Primary School. New developments in Silver End state primary age children can travel to Cressing if Silver End is full and applications in Cressing state that their children can travel to Silver End. It will take no time for them both to become full.
- The character of the original village is being swamped by new developments that have little or no relationship with the design and layout of the original.

- The proposed solitary access to the site is at the very point of a fatal accident approx. 22 years ago. A vehicle was leaving 3 Rolphs Cottages, directly opposite the proposed development. 2 years later there was a second fatal accident 20 yards down Boars Tye Road, as a vehicle entered 1 Rolphs Cottages. It is feared that a development of this size (equivalent to both Wood Grove and Francis Gate combined,) would necessitate so many vehicle movements on and off the development, that it would dramatically increase the chance of further accidents. This is especially likely as the entrance falls significantly before the 30mph limit, only just inside the 40mph limit. This is further compounded by the current unenforceable repeater 30mph signs that have been in place since completion of the Francis Gate development. Unfortunately, the application's Transport Assessment review Vol 1 (Section 2.8.1) only takes data during a 5 year period, 01/02/2016 to 31/01/2021, so it doesn't mention any serious/fatal accidents. In the Stage 1 Safety Audit, the Audit Team only visited the site once and that was on 15/06/20 between 10.00am and 11.00am, just when the traffic flow is low. Remembering of course that this date fell during a pandemic lockdown, when traffic movement was heavily reduced. Section 2.1.3 in this document also states, "At present, the road in question is subject to a 40mph speed limit, although observed speeds appeared to be higher than the posted limit". The prospect of between approx. 150 – 200 vehicles accessing/egressing from the completed site in any one day, suggests that there is a very real possibility of a serious accident occurring.
- The sewage system at Francis Gate fails repeatedly, causing noise and odour nuisance, suggesting a lack of capacity. A further 100 dwellings would surely over stretch it.
- Why is all land in this District stated as either low or medium quality land even if it is Grade 2? From an environmental aspect, Grade 2 farmland is being destroyed by greed from various sectors putting at risk the environment and causing the decrease of wildlife populations of birds, butterflies and small animals. Due to an increase in the country's population, we will be requiring all this valuable cereal land to help feed the nation.
- According to GEO's Biodiversity Net Gain Assessment it will take 10 years to just exceed the existing biodiversity units by 0.28 and another 17 years for these units to reach the proposed limit (a 14% increase).
- There are other factors such as quality of life and the devaluation of property, especially those who live adjacent to the proposed development, who have probably worked hard to achieve a good level of living just for it to be destroyed by the greed of farmers, developers and builders.

Cressing Parish Council

- Cressing Parish Council supports Silver End Parish Council and the residents of Silver End in objecting to yet another proposed development. Like Cressing Tye Green, Silver End is becoming an urban suburb of Braintree and has had far more than its fair share of new development. The absence of a valid BDC Local Plan has allowed developers to build on greenfield sites of good agricultural land in recent years.

- The local infrastructure does not provide for the current approved developments within the parishes of Cressing and Silver End. There is one Doctors surgery that is currently over-subscribed, meaning that the new residents of the developments in both parishes cannot be provided with accessible medical facilities in the area in which they live.
- Local roads cannot cope with the increase in traffic.
- We understand that local schools, both primary and secondary, are virtually full. As are pre-schools. New developments in Silver End state primary age children can travel to Cressing if Silver End is full and applications in Cressing state that their children can travel to Silver End. It will take no time for them both to become full. Both schools are already over-subscribed. It is unreasonable to expect primary age children (4 -11) to travel miles to school, resulting in safety issues and increased traffic movements.
- A development of this size on top of the other two large developments in Silver End and the (current) three in Cressing, will necessitate so many vehicle movements an increase in accidents is an inevitable result to both passengers and pedestrians. Before any further applications are considered an in-depth study, involving residents with personal knowledge of the areas, should be conducted and appropriate restrictions strongly enforced.
- From an environmental aspect, Grade 2 farmland is being destroyed by greed from various sectors putting at risk the environment and causing the decrease of wildlife populations of birds, butterflies and small animals. Due to an increase in the country's population, we will be requiring all this valuable cereal land to help feed the nation.
- This new site would be an over-development for the Cressing and Silver End environment.
- There is very little employment in Cressing or Silver End, so most people will use their private vehicles to travel to work. This clearly contradicts Braintree District Council's plans and those of the wider country's efforts to reduce our carbon footprint. Due to the lack of efficient public transport services, commuters will likely use their private vehicles to travel to Cressing Station – where parking availability is extremely limited and the roads unsuitable for this inevitable increase.
- The traffic flow through Silver End and Cressing has increased significantly over the years, with people using it as a rat run to avoid the A120 and A12. People travelling through the villages do not observe speed limits.
- With all the recent development on the surrounding arable land, wildlife habitat is being destroyed at an alarming rate.
- Cressing and Silver End have suffered a completely disproportionate amount of development in recent years and should cease immediately.
- We trust the Planning Committee will consider this object from a neighbouring Parish Council as evidence of concern in this part of the district to the amount of development that has been imposed that is not being suffered elsewhere.

REPRESENTATIONS

78 representations received making the following objections.

- Increased traffic along a busy road, which could result in accidents
- No pedestrian access, which will be dangerous
- Increased car use from the site
- Perhaps pedestrian access through the existing nearby development should be considered
- Increased pressures on local services
- Bus services are not frequent enough
- Some of the properties are too close to the existing houses
- No children's play area
- Loss of privacy to neighbour properties
- Village has been developed enough
- Loss of farmland to rear of house and the view of it
- Concern regarding local wildlife
- Properties priced at £400,000-£500,000 are not affordable for local residents
- No facilities for younger people in the village
- The site is outside the village envelope
- The proposal would increase noise, water and pollution in the area
- Silver End has been developed enough over recent years
- Concerns that the development would be accessed via Broadway, which will become a 'rat-run'
- Application documents do not include the impact of two previous applications nearby
- Concern about the additional access points close to each other on Boars Tye Road
- Old factory site should be developed prior to building on the green belt
- Countryside around the village will be destroyed
- This will be another 'close looped up' development with no connection to the village
- Loss of light to nearby homes and the development would be overbearing
- The proposed landscape buffers will take 15-20 years to mature
- The proposal will contribute to an increase in carbon emissions
- Concerns about when the traffic assessment was carried out
- Loss of high quality agricultural land
- Biodiversity net gain will take too long to establish
- Proposal would lower the water pressure further
- Concerns that the development will lead to further development along Boars Tye Road
- Concern about impact on archaeology remains that are likely to in the field
- Detrimental impact on heritage assets
- Harmful impact on mental and physical health of nearby residents
- Does not comply with the NPPF
- Loss of value of nearby properties

- No employment opportunities in Silver End
- Should permission should be approved, there should be conditions that require no trees or hedges to be removed, larger s106 contributions towards education and healthcare and solar panels should be installed on south facing roofs

REPORT

PRINCIPLE OF DEVELOPMENT

National Planning Policy Framework (NPPF) 2021

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

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

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

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

In this regard, and in considering the overall planning balance as to whether the proposed development subject to this application constitutes sustainable development, an important material consideration in this case is whether the

Council can robustly demonstrate a 5 Year Housing Land Supply. This will affect whether Paragraph 11 of the NPPF is engaged and consequently the weight that can be attributed to the Development Plan.

The Development Plan

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

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

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

5 Year Housing Land Supply

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

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

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

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

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

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

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

Location and Access to Services and Facilities

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

“That the broad spatial strategy for the District should concentrate development in Braintree, planned new garden communities, Witham and the A12 corridor, and Halstead”.

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

Policy RLP53 of the Adopted Local Plan states that major new development proposals that are likely to generate significant levels of travel demand will only be permitted where: direct public transport services exist, or there is potential for the development to be well served by public transport; and the layout of the development has been designed to ensure that access to existing or potential public transport lies within easy walking distance of the entire site.

Policy LPP44 of the Section 2 Plan states that sustainable modes of transport should be facilitated through new developments to promote accessibility and integration into the wider community and existing networks.

The site is located within the countryside, although part of the settlement boundary of Silver End runs along the southern end of the application site. Notwithstanding this it is necessary to consider the amenities/facilities that are available within close proximity to the site.

As a whole, Silver End is well equipped with a range of facilities including a Doctor’s Surgery, Primary School, Children’s Centre, garage, library, chemist,

co-op and Post Office, pub, takeaway, a range of groups and clubs and a village hall.

The submitted proposed site plan indicates that a footway would be introduced along the road front of the site between the proposed vehicular access and the eastern corner of the site, however beyond this on the southern side of Boars Tye Road, there is no pavement to connect to. The plan indicates that pedestrians would have to cross Boars Tye Road and use a new pavement to be installed for a new development permitted on northern side of the road, (Application Reference 16/01653/OUT).

The site is within a 40mph zone. Officers have visited the site on several occasions at different times of the day and the constant volume of traffic along Boars Tye Road in this location, makes for an uncomfortable pedestrian environment. In order to reach the centre of the village or bus services heading towards Halstead or Witham from the application site, it would be necessary to cross Boars Tye Road. In Officers' opinion, having experienced the pedestrian environment, this is unlikely to be attempted by residents or if it is, not without some difficulty. In addition there are no dedicated cycle lanes within the vicinity of the site and in Officer's opinion the busy nature of Boars Tye Road is unlikely to be considered as a favourable cycling environment.

The closest bus stops to the site are located on Boars Tye Road. The application proposes the introduction of a 2m footway along the frontage of the site between the proposed access and the eastern corner of the site, which would allow pedestrian access to the bus stop on the northern side of Boars Tye Road. Boars Tye Road at this point is served by the No.38 and No.38A which provides a twice hourly service Monday to Saturday between Witham and Halstead. There are no buses on a Sunday. There is therefore scope for residents to access fairly regular bus services. Notwithstanding this, although future residents of the development would be able to access bus services travelling north along Boars Tye Road, in order to access bus services travelling towards Halstead and Witham, it would be necessary to cross the road or walk along a grass verge. Given the heavy traffic along Boars Tye Road and no safe crossing point, it is considered that this would deter residents from utilising the bus services available.

As a consequence of the limited accessibility to other forms of transport to the private motor car, future residents are unlikely to be encouraged to utilise sustainable modes of transport and will largely rely on travel by private motor car. In Officer's opinion development in this location would undoubtedly place reliance on travel by car which conflicts with Policy CS7 of the Core Strategy, Policy RLP53 of the Adopted Local Plan, Policy LPP44 of the Section 2 Plan and the aspirations of the NPPF to locate development where the need for travel can be minimised and the use of sustainable transport modes can be maximised. This weighs against the proposal in the overall planning balance. The planning balance is concluded below.

Design, Appearance and Layout

Paragraph 126 the NPPF highlights that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable developments, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 130 states that planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting.

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

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

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

This is an outline application where appearance, scale, layout and landscaping are reserved matters. The application includes a number of indicative plans that indicate the key aspects of the design and layout, such as access, child's play area, allotments, landscape features and SuDs features. It is indicated that the density of the development of the whole site for up to 94no. dwellings would be 17.6 dwellings per hectare.

It is Officer's opinion that the illustrative plan contains a number of misleading statements, such as suggesting a pedestrian link to Broomfield, which is not proposed and pedestrian links along Boars Tye Road, which cannot be created safely, as set out above.

Notwithstanding that, Officers are of the view that the site could accommodate the quantum of development proposed.

Trees

The NPPF states in Paragraph 174 that planning policies and decisions should contribute to and enhance the natural and local environment recognising the intrinsic character and a beauty of the countryside.

Policy CS8 of the Core Strategy states that 'development must have regard to the character of the landscape and its sensitivity to change and where development is permitted it will need to enhance the locally distinctive

character of the landscape in accordance with the Landscape Character Assessment.

Policy RLP80 of the Adopted Local Plan states that new development should not be detrimental to the distinctive landscape features and development that would not successfully integrate in to the local landscape will not be permitted. This sentiment is reiterated in Policy LPP71 of the Section 2 Plan.

Development along the edge of settlement will add to the general accretion of the built form into the rural agricultural setting of the village and along this north-western boundary continue to diminish the degree of separation between Silver End and the neighbouring parish of Cressing.

There is a limited level of vegetation cover on the site and a large proportion of this is found along the frontage with Boars Tye Road. The arboricultural survey prepared by Geosphere Environmental provides a suitable analysis of the existing trees and hedgerows. The survey states that there are 13 trees across the site and 8 groups of hedgerows.

The report identifies that trees T1, T2 and T9 and hedgerows groups G4, G5 and G6 would be removed to facilitate the access for the development. A number of trees and hedgerows (T1, T2, T3, T4 and G1) are present along the south east edge of the application site and the report states that they could be removed to facilitate the development of the site.

The report states that the remaining trees and hedgerow groups on site (T5, T6, T7, T8, G2, G3, and G7) are located around the boundary of the site and are likely to be far enough from the development as to not cause an impact or be impacted upon. The report states that trees T10-T13 and hedgerow G8 are off site and that their root protection areas do not extend to the development zone and as such are unlikely to be impacted by the development.

The proposed access route will require a suitable visibility splay and the precise location of the access is shown the submitted plans including drawing W961_PL_SK202 rev D within the Transport Assessment. This drawing shows two visibility splays of 2.4m x 120m along Boars Tye Road. Due to the curvature of Boars Tye Road at this location much of the North West visibility splay crosses the road and only a small section of the hedgerow would need to be removed to facilitate the access.

Much of the visibility splay to the south east would cross over the existing vegetation along the site frontage. Drawing 19.1396.101 shows that a new pedestrian pavement along the road edge between the new access and the eastern of the site.

Following the submission of additional information regarding the extent of hedgerow removal required to facilitate the access and the visibility splay, although acknowledging the hedgerow would need to be removed in order to facilitate the development, Landscape Services accept that a new hedgerow will provide a level of mitigation/redress for the removal of the existing

roadside vegetation and that it could be more robust than that currently on site. Therefore no objection is raised by the BDC Landscape Team.

Landscape and Visual Impact

The NPPF states in Paragraph 174 that planning policies and decisions should contribute to and enhance the natural and local environment recognising the intrinsic character and a beauty of the countryside.

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

Policy RLP80 of the Adopted Local Plan states that new development should not be detrimental to the distinctive landscape features and development that would not successfully integrate in to the local landscape will not be permitted. This sentiment is reiterated in Policy LPP71 of the Section 2 Plan.

The planning application was supported by a Landscape and Visual Impact Assessment. Officers engaged an Independent Landscape Consultant (ILC) to assess the document and their observations form part of the following paragraphs.

The site is within the Natural England National Character Area 86: South Suffolk and North Essex Claylands. Essex County Council's landscape character assessment places the site within the Central Essex Farmlands (B1). Both reports are correctly referenced within the applicant's LVIA. Although the site is on the edge of an urban settlement, the published landscape character assessments offer a reasonably accurate description of the surrounding context. This was confirmed by observations in the field.

Development of the chosen site could be seen as a natural completion of the existing development pattern at the northern end of Silver End. The sloping nature of the site from north-west to south-east would also act to minimise long distance visual and character effects. There may also be some aspects of the scheme that could offer an improvement to the character of the settlement edge. The proposed woodland buffer along the northern boundary of the site would be a welcome addition. Nevertheless, the development would still represent a considerable change in character from an open arable field to a collection of 94 residential dwellings. However, as stated in the applicant's LVIA, from many viewpoints this will be viewed within the backdrop of existing development, therefore reducing the magnitude of change.

The receptors likely to receive the greatest effects would be residents along Broadway, Broomfield, and Boars Tye Road. Measures have been taken to reduce building height close to Broadway and Broomfield, as well as setting development back from Boars Tye Road. This will act to mitigate some visual effects, but residual effects may remain. According to the relevant guidance

(Guidelines for Visual Impact Assessment Version 3) LVIA's are not required to assess the significance of effects, however, in this case it is believed that this is necessary. It is recommended that a significance assessment of the predicted landscape and visual effects is submitted by the applicant so that the mitigation strategy for the southern boundary can be further considered. It is believed that there are opportunities for additional mitigation planting. Furthermore viewpoint 18 should be retaken from a position that fully considers the effects on receptors using the Essex Way footpath adjacent to Egypt's Farm, as the submitted photo is not representative.

During the life of the planning application a landscape briefing note was submitted by the applicant and has been assessed by the ILC, and further commentary is provided below under different headings.

Landscape Context

This section makes reference to the Braintree District Settlement Fringes Landscape Capacity Analysis for Silver End (Chris Blandford Associates November 2007) which was not previously considered within the initial LVIA. The Applicant's Landscape Consultant has reviewed the necessary section of the document, area S1. The narrative provided is acceptable and Officer's agree with the author's conclusion that some of the more sensitive aspects highlighted within the capacity analysis do not apply to the site. It is Officer's view that the Applicant has made the necessary consideration of the document.

Visual Receptors

This part of the document begins with a paragraph accepting that viewpoint 18 submitted with the original LVIA does not fully represent the view available to users of the Essex Way adjacent to Egypt's Farm. The consultant has returned to retake the photograph as advised and named this viewpoint 18A. Officers agree with the assessment offered for the updated viewpoint that there will be an initial adverse effect on views from the footpath, but over time the proposed mitigation may improve the appearance of the settlement edge.

The consultant also took an additional viewpoint to represent views from Grade II Listed Sheepcotes Farm, calling this viewpoint 19. Officers disagree with the assessment that the receptor is of low sensitivity, as it is a listed heritage asset and a private residence. However, Officers do agree that the new development under construction reduces the potential magnitude of change for the view, meaning that effects would be limited to a moderate level.

Assessment of Effects – Residents along Broomfield, Broadway and Boars Tye Road

In this section, the applicant's landscape consultant offers a response to previous comments about potential effects on existing residents in close proximity to the site. The document offers a detailed explanation of the

proposed boundary treatment and siting of new development along the boundary adjacent to Broomfield and Broadway. The assessment of a 'medium' magnitude of change, leading to 'major/moderate' effects during construction, reducing to 'moderate' after mitigation planting matures is agreed.

The document also assesses the potential significance of effects on residents along Boars Tye Road. Officers acknowledge the reasoning for setting development back from the road, despite it being a deviation from the existing settlement character, however disagree with the judgement of effects. The consultant suggests effects will be 'moderate' during construction, reducing to 'moderate/minor' over time. It is Officer's opinion that effects will be similar to those experienced by residents on Broomfield and Broadway - 'major/moderate' effects during construction, reducing to 'moderate' after mitigation planting matures becomes established.

Review of Mitigation Proposals

This part of the document responds to concerns raised about mitigation along the boundary with Broomfield and Broadway. The applicant's consultant acknowledges these concerns and has indicated an increase in proposed tree planting in the back gardens of new properties along this boundary.

In general, it is considered that the additional landscape note provided by the applicant offers a detailed response to the comments previously raised. It further confirms the Officer's view that the application should not be refused on landscape grounds. The correct baseline documents and viewpoints have now been considered and it is useful to have assessments for the significance of effects on residential receptors.

The existing topography and siting of the development would minimise long distance visual and character effects from the north and north-east. The proposed woodland buffer on the northern boundary may also improve the landscape setting of Silver End when viewed from The Essex Way footpath.

Impact on Heritage Assets

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that when considering applications for planning Permission there is a duty to have special regard to the desirability of preserving statutorily listed buildings or their settings or any features of special architectural or historic interest which they possess.

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

Paragraph 201 states that where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- a) The nature of the heritage asset prevents all reasonable uses of the site; and
- b) No viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- c) Conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
- d) The harm or loss is outweighed by the benefit of bringing the site back into use.

Paragraph 202 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Paragraph 203 states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

The site is located approximately 500m north of the Silver End Conservation Area boundary, within which there is a number of listed buildings, largely located on Silver Street at the centre of the village. Rolph's Farmhouse, a Grade II listed building, is directly north east of the site and overlooks it. Egypt Farmhouse, also Grade II listed, is North West of the site and located on a public footpath, 'The Essex Way', from which wide views of the application site can be gained.

Developed in the 1920-30s by Francis Crittall, Silver End Model Village is nationally important as an example of Modern Movement architecture in Britain employed to facilitate Garden Village ideology. Prior to the development led by Crittall, the village was a small hamlet, largely consisting of sporadic farmsteads within a wider historic and agrarian landscape. Whilst the Conservation Area largely encompasses Crittall commissioned houses and public buildings and spaces, surviving examples of earlier farmsteads, including Grade II listed Boars Tye Farmhouse are within the Conservation Area boundary.

Rolph's Farmhouse and Egypt Farmhouse are both examples of early farmsteads which pre-date the Crittall development, part of a much earlier agrarian economy. Their distance from the site and surrounding buildings is indicative of their former function, any development which encroaches upon

their setting and reduces their sense of relative isolation will be harmful to their special interest. In particular, due to its proximity to the site, the significance of Rolph's Farmhouse will be negatively affected by the proposals, encroaching upon its setting, which, despite the development of Silver End, still appears largely rural. The site affected by this application provides an important green buffer between the village and the Farmhouse, affording views to and from Rolph's Farmhouse into agrarian land. There will certainly be harm to Rolph's farmhouse and many attributes which contributes to its setting and the experience of its significance. The harm is found fundamentally in the change of land use in the site which largely removes the agrarian setting of the historic farmhouse and to some extent convalesces it into a settlement, this harm will be irreversible and permanent. The applicant's Heritage Statement has also failed to consider any functional or associative significance between the farmhouse and the proposal site which is important to understanding setting and contribution to significance.

Access to the proposed development will be located opposite Rolph's Cottages, a row of semi-detached dwellings to the south east of the Farmhouse. This will alter the traffic flow and the setting of the listed building, which will become a terminating view from the housing estate, altering how it is viewed and perceived. This change will bring an increased focus to the listed building and heightened public perception of the farmhouse, which could be mildly positive subject to how the entranceway is articulated. Some mitigation steps have been taken to prevent the outlook from Rolph's Farmhouse, such as slightly offsetting the access to south of the Farmhouse, a reinforcement of existing hedgerow and the set back of the new dwellings, as shown on the illustrative masterplan, however the entrance to the site remains a concern. Furthermore, the increased hedgerow and proposed landscape buffer will alter the setting of the listed building, through altering the appearance and aesthetic qualities of the landscape. More detailed analysis of the proposal's impact upon the setting of the listed buildings should have been provided within the heritage statement.

Silver End Conservation Area, despite being located some way from the site, could also be negatively impacted by the proposals by affecting the way in which it is experienced and by the introduction of inappropriate development within its wider setting.

At present, the undeveloped nature of the site provides a gradual introduction into the built form of Silver End and the Conservation Area, with the modern development along Boars Tye Road maintaining the grain and pattern of the Conservation Area beyond its boundary. The present ribbon development on Boars Tye Road features buildings which front the street, behind a formal front garden area, irrespective of the build date of the properties (and whether or not they are part of the 1920s Crittall development). In contrast, the submitted plans indicate that reinforced hedgerow and attenuation basins are proposed along Boars Tye Road, which would create a sense of separation and enclosure of the new houses. The proposed woodland buffer is also a cause for concern, introducing barriers and visual breaks in what is at present a

relatively open, wide landscape which reinforces the agricultural setting of the Conservation Area.

Although the application is for outline permission, the proposed layout will also undermine one of the key principles that dictated the design of Silver End – that communal spaces are placed at the core of the village, not on the periphery edges. As Egypt Farm directly overlooks the site, into the agrarian landscape, the change in land use will alter its setting. Its physical distance will nonetheless maintain a sense of separation from Silver End.

The development along Broomfield and Broadway does set a precedent for development on the edge of the Conservation Area and some development on the western edge of the site may be acceptable, dependent upon the number of units and street layout. However, the Historic Building's Consultant is unable to support the proposals due to the issues outlined above: the proximity to Rolph's Farmhouse, change in character of Boars Tye Road and impact upon the setting of the Conservation Area. The wider setting of Egypt Farmhouse will be impacted, however this would not result in harm to its overall significance.

The submitted heritage statement goes some way to describe the heritage assets and their relationship with the site, however no level of harm is attributed to significance of the heritage assets and limited details provided regarding how their setting contributes to their significance. As outlined in Historic England's document *The Setting of Heritage Assets* Historic Environment Good Practice Advice in Planning Note 3 (Second Edition), there are many elements of setting which can contribute to the significance of heritage assets, and removal or alterations to these can harm the special interest of a heritage asset. In particular, the change of land use, sense of seclusion, landscape character, noise, visibility, and diurnal and seasonal effects of the development will alter the setting of the heritage assets. A more detailed assessment of the site and the impacts of the proposals are necessary in order to fulfil the requirements of paragraph 194 of the NPPF.

During the life of the planning application, additional heritage impact information was submitted by the applicant. As part of the Historic Buildings Consultant previous consultation letter, they raised concerns regarding the level of assessment that taken place regarding heritage assets which neighbour the site. The revised statement has overcome this concern; therefore, they feel the submission now does meet the requirements of Section 194 of the NPPF (previously section 189, renumbered in the 2021 edition).

Nevertheless, the Historic Buildings Consultant disagrees with the conclusion of the report and feels that despite the submission of additional information, the proposals would result in considerable less than substantial harm to the significance of Rolph's Farmhouse.

If built, the proposals would result in considerable less than substantial harm to the significance of Rolph's Farmhouse, thus Paragraph 202 of the NPPF is

relevant. Officers consider that the public benefits arising from the development would not outweigh the considerable less than substantial harm identified to the heritage assets.

The impact upon the local character, including the Conservation Area, mean Paragraphs 130C, 197C and 206 should also be considered, section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is also relevant.

Impact on Neighbour Amenities

Paragraph 130 of the NPPF states that planning policies and decisions should ensure that developments create places with a high standard of amenity for existing and future users. Policy RLP90 of the Adopted Local Plan also states that development should not have an unacceptable impact upon neighbouring amenity. This sentiment is reiterated in Policy LPP55 of the Section 2 Plan.

Existing properties along Boars Tye Road, Broomfield and Broadway are those which would be closest to the development. Whilst their outlook would change as a result of the development, private views are not protected.

The proposed masterplan shows that a layout could come forward without unacceptable loss of amenity to neighbouring residential properties, satisfying the abovementioned policies.

Highway Issues

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 residential residual cumulative impacts on the road network would be severe.

The application proposes that access is considered at the outline stage. It is proposed the development be served by a single point of access off Boars Tye Road. The application is supported by a Transport Assessment which considers the existing local highway network, the proposed access and the impact of the development on the highway network. The Highway Authority has considered the Transport Statement and considers it acceptable for the scale of development proposed.

Having visited the site and experienced the volume of vehicular traffic, Officers acknowledge the two Parish Councils and local residents' concerns with regards to the proposed access off Boars Tye Road and can understand why it is felt that conflict would arise with the existing junctions. Officers have considered the submitted Transport Assessment and the comments made by the Highway Authority and would advise Members that withholding planning permission on highway grounds, without any evidence of a 'severe' highway impact in the terms of the NPPF and, notably, without support for this position from the Highway Authority, would prove difficult to justify and challenging to defend at appeal.

Ecology

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

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

These sentiments are reiterated in Policies LPP68 and LPP70 of the Section 2 Plan.

Initially the Council's Ecologist considered that the information submitted was insufficient with regards priority species, and therefore a holding objection was made on these grounds. However during the life of the application additional information was submitted, and the Council's Ecologist is now satisfied, as set out below.

The Council's Ecologist has reviewed the Preliminary Ecological Appraisal (Geosphere Environmental Ltd, March 2021) and the Biodiversity Net Gain Assessment (Geosphere Environmental Ltd, March 2021) and Breeding Bird Survey (Geosphere Environmental Ltd, July 2021), submitted by the applicant, which relates to the likely impacts of development on designated sites, protected and Priority species & habitats.

The Ecologist is satisfied that there is sufficient ecological information available for determination. This provides certainty for the LPA of the likely impacts on protected and Priority species/habitats and, with appropriate mitigation measures secured, the development can be made acceptable.

As a result, the Ecologist supports the results of the Breeding Bird Survey (Geosphere Environmental Ltd, July 2021). This has outlined the temporary impact upon nesting and foraging habitat for Priority bird species for the development (Yellowhammer and House Sparrow), which will be mitigated by the provision of post development hedgerow management. In addition, the Ecologist accept that no ground nesting birds (i.e. Skylark) were not identified during the survey visits and that no further measures are required for this development.

The mitigation measures identified in the Preliminary Ecological Appraisal (Geosphere Environmental Ltd, March 2021) and Breeding Bird Survey (Geosphere Environmental Ltd, July 2021) should be secured and implemented in full. This is necessary to conserve and enhance protected and priority species.

In addition, the Ecologist still supports the Biodiversity Net Gain Assessment (Geosphere Environmental Ltd, March 2021), which has identified that a Biodiversity net gain of 14.3 % will be achieved for this application. These calculations will demonstrate that measurable biodiversity net gains will be delivered for this application, in line with the paragraph as outlined under Paragraph 174[d] & 180 [d] of the National Planning Policy Framework 2021. However, the Ecologist also encourages the developer to provide a Biodiversity Net Gain Assessment at Reserved Matters stage, which should inform the Landscape Ecological and Management Plan for this application. Furthermore, a Biodiversity Enhancement Strategy should be secured as a condition of any consent, to secure the bespoke biodiversity enhancement measures for this application. This should include integrated bat and bird boxes (e.g. Swift bricks), as well as the provision of hedgehog friendly fencing (13 x 13cm at the base of close boarded fencing).

Archaeology

Essex County Council Archaeology recommends that a condition is placed on any grant of consent which requires a programme of archaeological trial trenching and excavation to be undertaken. A Desk Based Assessment has been submitted with the application which recognises the high potential of the site to contain prehistoric to medieval remains due to the proximity of the site to similar recorded heritage assets. Excavations to the east have revealed preservation of a multi-period landscape and cropmark features in the surrounding areas suggest archaeological activity extends across this area. The site lies along Boars Tye Road which is a historic route, likely medieval in origin and immediately adjacent to the 17th century Rolphs Farmhouse. Such a condition could reasonably be placed on any grant of consent.

Drainage and Flood Risk

Paragraph 166 of the NPPF states that when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere. It states that priority should be given to the use of sustainable drainage systems.

Paragraph 174 of the NPPF states that the planning policies and decisions should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability.

A Flood Risk Assessment (FRA) has been submitted with the application and identifies the site to be within Flood Zone 1 (low risk).

The FRA has considered the potential impact of the development on surface water runoff rates, given the increase in impermeable areas. The FRA states that it can be demonstrated that surface water can be managed, such that

flood risk to and from the site following development will not increase as a result of the development.

Essex County Council as Lead Local Flood Authority has considered that FRA and raise no objection, subject to a series of conditions being attached to any grant of permission. These conditions would require a detailed surface water drainage scheme to be provided, details of measures to be put in place to minimise the risk to offsite flooding and appropriate arrangements to be put in place for the maintenance of the drainage system.

Habitat Regulations Assessment (HRA / RAMS)

The site lies within the Zone of Influence (ZOI) for the Blackwater Estuary SPA/Ramsar site. Given the scale of the development, the developer would be required to pay a financial contribution towards offsite visitor management measures for the Blackwater Estuary SPA & Ramsar site, (£127.30 per dwelling) for delivery prior to occupation. Should the application have been recommended for approval this matter would have been dealt with via a Section 106 legal agreement.

Loss of Agricultural Land

The NPPF requires planning to protect and enhance valued soils. The agricultural land classification maps show the site to be grade 2 (very good). It is grades 1-3a that are considered to be best and most versatile agricultural land.

The NPPF requires local planning authorities to take in to account the economic and other benefits of the best and most versatile agricultural land. The site is a small area of agricultural land within the District and wider south eastern region and its loss would not have a significant impact on farming operations. It is inevitable that some development of such land will be necessary to meet the housing requirements.

PLANNING OBLIGATIONS

Paragraph 57 of the NPPF sets out that planning obligations should only be sought where they are necessary to make the development acceptable in planning terms; directly related to the development and fairly and reasonably related in scale and kind to the development. This is in accordance with Regulation 122 of the Community Infrastructure Levy (CIL) Regulations. The following identifies those matters that the District Council would seek to secure through a planning obligation, if it were to grant it permission.

Affordable Housing

Policy CS2 of the Core Strategy states that on development of this size affordable housing will be directly provided on site with a target of 40%. The Council's Housing Enabling Officer has advised on a mix of type and tenure of housing which would be sought.

Open Space

Policy CS10 of the Core Strategy states that the Council will ensure that there is good provision of high quality and accessible green space. New developments are required to make appropriate provision for publicly accessible green space or improvement of existing accessible green space in accordance with adopted standards. The Council's Open Space SPD sets out further details on how these standards will be applied. A development of this size would be expected to make provision for on-site amenity green space.

A financial contribution would be sought for outdoor sport, equipped play and allotments. The provision/ contribution is based upon a formula set out in the SPD and is currently not determined given the application is in outline form. There is also a requirement to secure the on-going maintenance of any public open space provided on site.

Education

ECC Education have confirmed that they would wish to seek financial contributions for additional early years, primary or secondary school places and local library improvements.

NHS

Financial contribution of £34,500 towards the creation of additional floorspace at the Silver End Surgery.

Habitat Regulations Assessment (HRA / RAMS)

The site lies within the Zone of Influence (ZOI) for the Blackwater Estuary SPA/Ramsar site. A financial contribution towards offsite visitor management measures for the Blackwater Estuary SPA & Ramsar site, (£127.30 per dwelling) for delivery prior to occupation would be required.

Subject to the above matters being incorporated in to a legal agreement to ensure their provision, the development would be made acceptable in these respects. However whilst the applicant has indicated that they would be prepared to enter in to an agreement to provide the appropriate infrastructure mitigation, no such agreement is in place at the present time. The development therefore fails to satisfactorily mitigate the impacts of the development on local infrastructure and is contrary to Policies CS2 and CS10 of the Core Strategy, Policy RLP138 of the Adopted Local Plan, Policy SP6 of the Section 1 Plan, and Policy LPP82 of the Section 2 Plan.

PLANNING BALANCE AND CONCLUSION

As set out within Paragraph 47 of the NPPF, planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In this

case the application site is located outside of a designated village envelope/town development boundary and is therefore located within the countryside, where new development is strictly controlled to uses appropriate within the countryside in order to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside. There is therefore a presumption that the application should be refused unless there are material reasons to grant planning permission.

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

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

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

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

In this case the basket of policies which are considered to be the most important for determining the application are Policies SP1, SP3 and SP7 of the Section 1 Plan, Policies RLP2, RLP53, RLP80, RLP84, RLP95 and RLP100 of the Adopted Local Plan and Policy CS5, CS7 and CS8 of the Core Strategy.

Policy SP1 of the Section 1 Plan states that when considering development proposals the Local Planning Authority will take a positive approach that reflects the presumption in favour of sustainable development contained within the NPPF, and will seek to approve proposals wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. Policy SP3 of the Section 1 Plan sets out the spatial strategy for North Essex, namely to accommodate development within or adjoining settlements according to their scale, sustainability and existing role

both within each individual Districts, and where relevant, across the wider strategic area. Further growth will be planned to ensure existing settlements maintain their distinctive character and role, to avoid coalescence between them and to conserve their setting. Policy SP7 of the Section 1 Plan relates to place shaping principles and states that all new development must meet high standards of urban design and architectural design. It specifically references that development should protect and enhance assets of historical or natural value.

As the Section 1 Plan has been found to be sound and recently adopted by the Council, it is considered that both policies are consistent with the NPPF and can be afforded full weight. None of them are out-of-date.

Whilst the primary purpose of Policy RLP2 of the Adopted Local Plan is to restrict development to development boundaries, and thus resist it in the countryside, it is considered that the policy remains broadly consistent with the Framework's approach of protecting the countryside from harmful development, and is not hindering the Council in delivering housing growth within the District. The policy is not out-of-date, and can be given moderate weight.

The aims of Policy CS5 of the Core Strategy are much wider as the policy seeks to amongst other things, protect and enhance the landscape character and amenity of the countryside. As it is effectively seeking to preserve the intrinsic character and beauty of the countryside – an objective contained within the NPPF – it is considered that this policy is not out-of-date and can be given significant weight.

Policy RLP95 seeks to preserve, and encourage the enhancement of, the character and appearance of designated Conservation Areas and their settings. Policy RLP100 inter alia seeks to preserve and enhance the settings of listed buildings by appropriate control over the development, design and use of adjoining land. In respect of conserving and enhancing the historic environment, the NPPF states at Paragraph 199 that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be), irrespective of whether this amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraphs 201 and 202 then set out the criteria for circumstances where a proposal would lead to substantial harm/total loss and less than substantial harm respectively. Policies RLP95 and RLP100 both pre-date the NPPF and both lack the balancing exercise contained in the Framework which requires that the identified harm in the less than substantial category should be weighed against the public benefits of the proposal. Both policies are considered to be partially consistent with the NPPF, and therefore not out-of-date and accordingly can only be afforded reduced weight. However, as set out above, the Council also have a statutory duty when assessing planning applications that affect Listed Buildings and Conservation Areas and although the Development Plan policies carry reduced weight it is

clear that significant weight must be attributed to fulfilling these statutory duties.

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

The purpose of Policy RLP53 of the Adopted Local Plan is to ensure that major development that would generate significant levels of travel demand should only be granted planning permission where they have access to existing public transport services or there is potential to be well served by public transport, and that this access should be within an easy walking distance of the entire site. As it is effectively seeking to ensure a site has access to sustainable transport services – an objective contained within the NPPF – it is considered that this policy is not out-of-date and can be given significant weight.

Policy RLP84 states that planning permission will not be granted for development, which would have an adverse impact on badgers, or species protected under various UK and European legislation, or on the objectives and proposals in National or County Biodiversity Action Plans as amended. The objectives of this policy is considered to be consistent with chapter 15 of the NPPF, and is therefore not out of date and can be given significant weight.

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

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

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

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

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

Summary of Adverse Impacts

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

Conflict with the Development Plan

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

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

Conflict with the Section 2 Plan

The proposed development would conflict with Policy LPP1 of the Section 2 Plan as it proposes development outside the defined development boundaries and within the countryside. There would be conflict with Policies LPP56 and

LPP60 of the Section 2 plan as the proposal would result in considerable 'less than substantial' harm to the nearby heritage assets.

However, until the Section 2 Plan is adopted, only limited weight can be attributed to the conflict with these policies.

Heritage Harm

If built, the proposals would result in considerable less than substantial harm to the significance of Ralph's Farmhouse, thus Paragraph 202 of the NPPF is relevant. The impact upon the local character, including the Conservation Area, mean Paragraph 130C, 197C and 206 should also be considered, Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is also relevant. The proposal is considered to conflict with Policy SP7 of the Section 1 Plan, Policy RLP95 and RLP100 of the Adopted Local Plan.

The resultant level of harm the proposals would weigh significantly against the development. Officers consider that the public benefits proposed by the development would not outweigh the considerable less than substantial harm to the heritage assets and this is afforded substantial weight.

Location and Access to Services and Facilities.

Although future residents of the development would be able to access bus services travelling in both directions along Boars Tye Road, in order to access bus services travelling towards Witham and Halstead, it would be necessary to cross the road or walk along a grass verge. Given the heavy traffic along Boars Tye Road and no safe crossing point, it is considered that this would deter residents from utilising the bus services available, contrary to Policy CS7 of the Core Strategy.

It is considered that the development of the site would increase reliance on travel by car. This weighs against the proposal and is afforded moderate weight.

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

Whilst replacement planting is proposed, the development would result in the loss of existing vegetation along Boars Tye Road to create the new vehicular access, harmful to the character and appearance of the local area contrary to Policy RLP80 of the Adopted Local Plan and Policy CS8 of the Core Strategy. This weighs against the proposal and is afforded moderate weight.

Summary of Public Benefits

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

Delivery of Market and Affordance Housing

The development would facilitate the provision of up to 94no. new dwellings, comprising 56no. market houses and 38no. affordable houses. This is afforded significant weight, given the scale of the development.

Economic and Social Benefits

The proposal would undoubtedly deliver economic benefits during the construction period and economic and social benefits following occupation of the development, in supporting local facilities. However this is no more than any development and therefore this is afforded no more than moderate weight.

Section 106 Obligations

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

The Section 106 benefits are afforded limited weight, as the obligations are mitigating the impacts of the development in accordance with planning policy.

Planning Balance

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

RECOMMENDATION

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

- 1 The site is located in the countryside and falls outside of the defined village envelope as identified in the Adopted Local Plan (2005) and Adopted Core Strategy (2011). The proposal would introduce up to 94no. dwellings in the countryside where facilities and amenities are beyond reasonable and safe walking distance of the site and alternative modes of transport are problematic to access. As a consequence, development in this location would undoubtedly place reliance upon travel by private motor car, conflicting with the aims of the NPPF to locate development where the need for travel can be minimised and the use of sustainable

transport modes can be maximised. The proposal is therefore contrary to the NPPF, Policy RLP53 of the Adopted Local Plan, and Policy CS7 of the Adopted Core Strategy.

- 2 Due to its proximity to the site, the significance of Rolph's Farmhouse will be negatively affected by the proposals, encroaching upon its setting. The site provides an important green buffer between the village and the Farmhouse, affording views to and from Rolph's Farmhouse into agrarian land. There will be harm to Rolph's farmhouse and many attributes which contributes to its setting and the experience of its significance.

Silver End Conservation Area, would also be negatively impacted by the proposals by affecting the way in which it is experienced and by the introduction of inappropriate development within its wider setting.

The proposals would result in considerable less than substantial harm to the significance of Rolph's Farmhouse and less than substantial harm to the Conservation Area and the public benefits of the proposal do not outweigh the harm identified to the designated heritage assets. The proposal is therefore contrary to the NPPF, Policies RLP95 and RLP100 of the Adopted Local Plan, Policy SP7 of the Section 1 Plan, and Policies LLP50 and LLP60 of the Draft Section 2 Plan.

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

- A financial contribution towards outdoor sport, equipped play and allotments
- Ongoing maintenance for on-site public open space
- On site affordable housing
- A financial contribution for additional early years, primary or secondary school places and local library improvements
- A financial contribution towards improvements for the local doctor's surgery
- A financial contribution towards off-site visitor management measures for the Blackwater Estuary SPA & Ramsar site and Essex Estuaries SAC

This requirement would be secured through a S106 Agreement. At the time of issuing this decision a S106 Agreement has not been prepared or completed. In the absence of securing such planning obligations the proposal is contrary to Policies CS2 and CS10 of the Core Strategy (2011), Policy RLP138 of the Adopted Local Plan (2005), Policy SP2 of the Section 1 Local Plan (2021) and the Open Space Supplementary Planning Document (2009).

SUBMITTED PLANS

Location Plan	Plan Ref: 19.1396.100
Site Layout	Plan Ref: 19.1396.101
Framework Plan	Plan Ref: 19.1396.010
Site Survey	Plan Ref: BBS-BB-EGL-SU-00

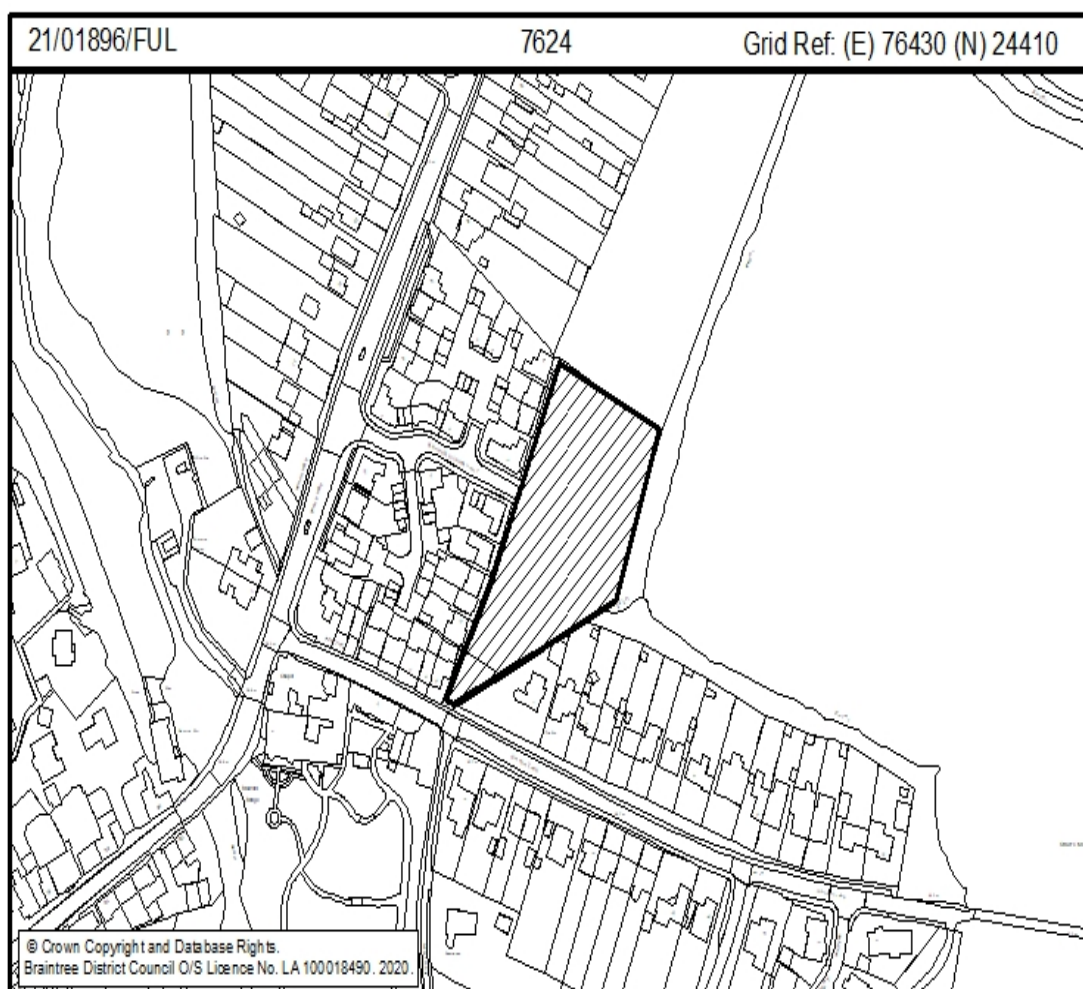
CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

PART A

AGENDA ITEM NUMBER 5d

APPLICATION NO: 21/01896/FUL DATE: 10.06.21
VALID:
APPLICANT: Mr Sean Marten
Stonebond Properties (Chelmsford) Ltd, C/O Strutt & Parker
AGENT: Mr Andy Butcher
Strutt & Parker, Coval Hall, Chelmsford, CM1 2QF,
DESCRIPTION: Erection of 9 dwellings with access from Elizabeth Lockhart
Way and associated landscaping and parking.
LOCATION: Land At Elizabeth Lockhart Way, Braintree, Essex,

For more information about this Application please contact:
Carol Wallis on:- 01376 551414 Ext. 2534
or by e-mail to: carol.wallis@braintree.gov.uk



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QUHR8QBF LXL00>

SITE HISTORY

04/00036/REF	Erection of new Day Nursery, play areas, car parking, construction of new vehicular access and foul and surface water drainage	Appeal Dismissed	13.01.05
03/01740/FUL	Erection of new Day Nursery, play areas, car parking, construction of new vehicular access and foul and surface water drainage	Refused then dismissed on appeal	15.06.04

POLICY CONSIDERATIONS

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

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

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

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

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

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

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

Accordingly the Council affords some weight to the Section 2 Plan.

National Planning Guidance

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

Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP7	Housing and Mixed Use Sites
RLP8	House Types
RLP10	Residential Density
RLP22	Accessible Housing and Lifetime Housing
RLP49	Pedestrian Networks
RLP50	Cycleways
RLP51	Cycle Parking
RLP56	Vehicle Parking
RLP74	Provision of Space for Recycling
RLP80	Landscape Features and Habitats
RLP81	Trees, Woodland Grasslands and Hedgerows
RLP84	Protected Species
RLP90	Layout and Design of Development
RLP92	Accessibility
RLP95	Preservation and Enhancement of Conservation Areas
RLP100	Alterations and Extensions and Changes of Use to Listed Buildings and their settings

Braintree District Local Development Framework Core Strategy 2011

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

Braintree District Shared Strategic Section 1 Local Plan (2021)

SP1	Presumption in Favour of Sustainable Development
SP2	Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
SP3	Spatial Strategy for North Essex
SP7	Place Shaping Principles

Braintree District Draft Section 2 Local Plan (2017)

LPP1	Development Boundaries
LPP17	Housing Provision and Delivery
LPP37	Housing Type and Density
LPP45	Parking Provision
LPP50	Built and Historic Environment
LPP51	An Inclusive Environment
LPP55	Layout and Design of Development

LPP56	Conservation Areas
LPP60	Heritage Assets and their Settings
LPP67	Natural Environment and Green Infrastructure
LPP68	Protected Species, Priority Spaces and Priority Habitat
LPP69	Tree Protection
LPP70	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP71	Landscape Character and Features

Neighbourhood Plan

None

Other Material Considerations

Essex Design Guide
Essex Parking Standards 2009

INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is being reported to Planning Committee in accordance with Part B of the Council's new Scheme of Delegation at the request of the Chair and Vice Chair of the Committee.

DESCRIPTION OF THE SITE AND SITE CONTEXT

The application site is located to the east of Elizabeth Lockhart Way and to the north of Convent Lane in Braintree. It is located outside but immediately adjacent to the Town Development Boundary of Braintree.

The site is a trapezium-shaped greenfield site approximately 0.49ha in size. It is largely a maintained grassland, and is enclosed by wooden and metal fences with shrubs and vegetation surrounding the site on 3 sides. There is a small triangular shaped concrete vehicular driveway available from the south via Convent Lane. Another vehicular entrance is made via Elizabeth Lockhart Way.

To the north of the site is another parcel of greenfield land with mature trees and vegetation, some are protected by a temporary Tree Preservation Order (TPO 8/20). There is a public footpath to the immediate east.

To the immediate west is a relatively new residential development. The residential estate in Elizabeth Lockhart Way consists of a mix of detached, semi-detached and terraced properties. To the east, beyond the footpath, are open agricultural fields. The fields form part of the Straits Mill strategic housing allocation and an outline planning application (Application Reference 18/01318/OUT) was granted planning permission with a Section 106 agreement in March 2021.

PROPOSAL

This application seeks full planning permission for the construction of 9no. dwellings with an associated access, parking, garaging and landscaping. There would be five bungalows and four 2-storey detached dwellings. Table 1 below provides the detailed dimensions of each of the properties and the outbuildings.

Table 1: Proposed dimensions

	Max. Width (m)	Max. Depth (m)	Ridge Height (m)	No. of Storey
Plot 1	5.82	9.60	9.15	2
Plot 2	5.82	9.60	9.15	2
Plot 3	9.25	9.95	9.15	2
Plot 4	10.97	6.93	9.25	2
Plot 5	9.87	12.33	5.60	1
Plot 6	10.85	6.85	5.50	1
Plot 7	10.85	6.85	5.50	1
Plot 8	10.58	12.33	5.60	1
Plot 9	14.15	13.36	5.70	1
Detached garage	3.20	7.30	4.50	1
Cycle store	2.10	1.10	1.85	1

There would be two 2-bed bungalows, three 3-bed bungalows, three 3-bed detached houses and one 4-bed detached house. The proposed dwellings would have a total floorspace ranging from 71sq.m to 121sq.m. Each of the dwellings would have a private garden ranging from 98sq.m to 190sq.m. in size. The detailed floorspace breakdown and garden areas are as follows:

Table 2: Floorspace and garden areas

	Type	No. of bed	Total Floorspace (m2)	Garden Area (m2)
Plot 1	Detached	3	93	140
Plot 2	Detached	3	93	139
Plot 3	Detached	3	113.5	165
Plot 4	Detached	4	121	172
Plot 5	Bungalow	3	93	190
Plot 6	Bungalow	2	71	98
Plot 7	Bungalow	2	71	99
Plot 8	Bungalow	3	93	131
Plot 9	Bungalow	3	88	181

The main access would be via Elizabeth Lockhart Way. Each of the dwellings would have 2 parking bays. A total of 3 visitor parking bays would also be provided.

Materials proposed include red facing brickwork, render and clay plain roof tiles. The internal access road would be block paved in Bunt Ochre colour in 45 degrees herringbone pattern, domestic parking would be block paved in 90 degrees herringbone pattern of the same material, whilst the visitor parking would be laid with grasscrete.

SUMMARY OF CONSULTATION RESPONSES

BDC Ecology

No objection, subject to securing biodiversity mitigation and enhancement measures.

BDC Environmental Health

No objection, subject to condition regarding demolition and construction hours.

BDC Landscape Services

No objection, however requests the submission of a landscape management plan via a planning condition, along with other landscape related conditions.

BDC Waste Services

No objection following revisions made to the Proposed Refuse Collection Plan.

ECC Archaeological Advice

No objection, subject to conditions on archaeological evaluation.

ECC Fire and Rescue

No objection, access for fire service purposes is considered acceptable, more detailed observations on access and facilities for the fire service will be considered Building Regulation consultation stage.

ECC Highways

No objection, suggests conditions regarding the submission of a Construction Management Plan, residential travel packs for new residents and no planting within 2m from the Public Right of Way.

ECC Historic Buildings Consultant

No objection subject to condition on materials.

ECC SuDS

No response received at the time of writing.

Anglian Water

No comments as the proposal is not a major proposals of 10 dwellings or more.

Ramblers Association

No comments received.

Natural England

No comments.

PARISH / TOWN COUNCIL

N/A

REPRESENTATIONS

A total of 6 public representations have been received, all objecting to the proposal. The main concerns are listed below:

- Existing traffic and parking problems, the development would worsen the situation, causing harm to all road users and unacceptable impact on the local amenity.
- Elizabeth Lockhart Way is too narrow for services and emergency vehicles.
- Access not fit for construction traffic.
- Parking restriction will force all parked cars onto nearby areas like Broad Road.
- 2 parking spaces are insufficient for large houses with multiple cars.
- The housing requirement is met by the recent approved development at Straits Mill.
- No affordable homes/contribution.
- Loss of open space/greenspace/wildlife corridor/green buffer treasured by the local residents with a detrimental effect to the landscape and a threat to wildlife.
- Not meeting minimum separation distance between plots as well as to neighbouring properties.
- Overlooking issue and imposing on the privacy of existing residents.

- Disturbance to existing local residents.
- No flood risk assessment.
- No noise and vibration assessment.
- No wildlife assessment.
- No Construction Method Statement.
- No Party Wall Agreement.
- No public consultation prior to submission.
- Not addressing public comments during application.
- Too high density.
- Destruction to the hedge along the public footpath.
- 1.1m high hedge is not sufficient to protect the privacy of footpath users.
- No clear provision for pedestrian and cyclists.
- No provision for open space and recreation.
- No evidence of securing 10% renewable energy.
- Proposed swales will cause subsidence and affect the stability of nearby properties.

REPORT

National Planning Policy Framework (NPPF)

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

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

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

The NPPF underlines the Government's objective of significantly boosting the supply of homes. In this regard, Paragraph 59 of the NPPF highlights the importance of ensuring that there is a sufficient amount and variety of land that can come forward where it is needed, that specific housing requirements

are met, and that land with permission is developed without unnecessary delay. Paragraph 73 of the NPPF outlines that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against (in the case of Braintree District) our 'local housing need' plus the relevant buffer.

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

The Development Plan

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

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

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

The application site is proposed for allocation for residential development in the Section 2 Plan. The proposed development therefore represents a departure from the adopted Development Plan but conforms to the Section 2 Plan, in particular with Policy LPP1.

5 Year Housing Land Supply

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

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

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

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

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

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

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

SITE ASSESSMENT

Location and Access to Services and Facilities

The NPPF makes it clear that housing applications should be considered in the context of the presumption in favour of sustainable development. It identifies three dimensions to sustainable development: environmental, social and economic. These roles should not be considered in isolation, because they are mutually dependent.

The strategy set out in the Section 1 Plan is to concentrate growth in the most sustainable locations - that is, by adopting a spatial strategy that promotes development in the most sustainable locations, where there are opportunities for walking, cycling and public transport links to nearby shops, services and employment opportunities. This means for the new Local Plan: “That the broad spatial strategy for the District should concentrate development in Braintree, Witham and the A12 corridor, and Halstead”.

The application site is located outside but adjoining the town development boundary, in a sustainable location within one of the District’s three main towns. The site has good access to services and facilities, as well as public transport. The location of the site weighs in favour of the proposal in the overall planning balance.

Design, Appearance and Layout

The surrounding residential area consists of a mix of terraced, semi-detached, and detached dwellings that are predominantly of 1 to 2.5-storey in height. The dwellings are of modest footprint and traditional proportions, providing a rhythmic scale and visual appearance to Broad Road, Elizabeth Lockhart Way and the nearby built environment. This creates a strong sense of place that is locally distinctive.

The proposed development would introduce 9 market dwellings onto the site. The proposed density is about 18 dwelling per hectare, given its location on the edge of town boundary, this is considered acceptable. The proposed dwelling footprint, height, individual plot size are considered to be generally in line with those in the immediate neighbourhood.

The design principle has been based on the local vernacular and continues the traditional theme, following the character of the adjacent housing estate at Elizabeth Lockhart Way. In response to the initial consultation responses, the applicant has amended the scheme to revise Plot 3, 4, 8 and 9 and altered the landscaping and boundary proposal. The proposed appearance and materials are also similar to those in the local area.

In addition, the Strategic Housing Market Assessment (SHMA, 2015) identifies that the District would require 75.72% of market dwellings to be 2 to 3 bedrooms properties. The proposed scheme would provide two 2-bed bungalows and six 3-bed properties, totaling about 89% of the development. Although slightly higher than the SHMA figures, it would help to contribute towards the District's identified housing need and therefore weights in favour in the planning balance.

The proposal complies with the NPPF, Policy RLP90 of the Adopted Local Plan, Policy SP7 of the Section 1 Plan, and Policy LPP55 of the Section 2 Plan.

Impact on Heritage Assets

Due to the location of the site, there would be a negligible visual impact on designated heritage assets resulting from the development.

The residential estate at Elizabeth Lockhart Way was constructed within the last 10 years and has established architectural vernacular by using a variety of traditional materials including bricks, render, slate, clay tile and timber sash windows. The continued use of this architectural pallet in the proposed development would be an appropriate approach to the distinctive local character.

The landscaping and boundary treatment drawing indicates that much of the existing hedgerows will be maintained and enhanced, particularly to the north and northeast of the site, visible in the approach along the public footpath

from the northeast. The hedgerow along the south eastern boundary would be opened up and replaced with a low hedge and estate fencing. The layout includes an open green area to the south of the site, reducing the density of the development to the south. The overuse of close-board fencing has been avoided as this is generally reserved for garden plot boundaries. The ECC Historic Buildings Consultant raised no objection to the proposal, subject to a condition on materials.

It is therefore concluded that the application would have a neutral impact on the character and appearance of the Conservation Area and that the development would result in no harm to this designated heritage asset. Furthermore, it is not considered that the proposal would be harmful to the setting of the adjacent listed buildings.

The proposal therefore complies with the NPPF, Policies RLP95 and RLP100 of the Adopted Local Plan, Policy SP7 of the Section 1 Plan, and Policy LPP56 of the Section 2 Plan.

Impact on Residential Amenity

Each of the dwellings would have a minimum gross internal floorspace that complies with the requirement of the Nationally Described Space Standards (2015). The proposed dwellings would be provided with sufficient private amenity space to meet the standards of the Essex Design Guide. Each of the habitable rooms are served with at least one window to allow for natural ventilation and access to natural daylight.

A minimum separation distance of 10m between opposing house-fronts is achieved between the proposed dwellings and the existing dwellings to the immediate west, which is in line with the requirement of Essex Design Guide to allow for adequate daylight in interiors.

Plot 1 is at least 15m away from those properties at Elizabeth Lockhart Way. The two proposed west-facing windows on the first floor are only serving the en-suite facility and bathroom. It is therefore unlikely that these would impact upon the privacy of existing residents. However, to protect the privacy of the adjacent occupants, and in the interests of the amenity of future users, the first floor west-facing windows of Plot 1, 2 and 4 are required to be obscurely glazed by way of a condition.

There is no back-to-back relationship between the proposed 2-storey dwellings with other 2 to 2.5-storey residence in the surrounding area. Therefore, the 25m building separation distance, as required by the Essex Design Guide, does not apply in this case.

In view of the single storey nature of proposed bungalows and the provision of 1.8m high closed-boarded fencing as boundary treatments, there would not be any unacceptable overlooking issues into the private amenity area of those residence along Convent Lane.

The side elevation of Plot 5, and the front elevation of Plot 4, are east-facing towards the strategic site. Based on the indicative layout of the strategic site, and the fact that the existing hedge along the shared boundary would be retained, the respective elevations would be over 10m away from the shared boundary line. Therefore, it is unlikely that there would be any direct overlooking issues arising with future residential properties on the strategic site.

The proposed 2-storey detached dwellings at Plots 1 to 4 are set back at least 15m from the northern site boundary line. It would allow a certain degree of protection to the privacy and amenity level of future users of these plots, even if residential development is coming forward on the site to the immediate north as part of the emerging housing allocation in the Section 2 Plan. Any future development proposal would need to take into account the design and layout of any adjoining consented scheme(s).

It is therefore considered that an acceptable level of amenity would be provided to future occupiers of the development and that the proposal would not have a detrimental impact upon the living conditions of existing neighbouring properties.

Highway Issues

Each of the proposed properties would be served by 2 parking spaces meeting the minimum bay size or internal garage measurement, therefore the residential parking provision is in line with the requirement of the Essex Parking Standards (2009). Secure cycle parking spaces are provided either in the garage or in the rear garden and therefore are acceptable.

The proposed site layout plan shows that 3 visitor parking spaces would be provided, which also satisfies the adopted requirement.

The proposal would take the vehicular access point via Elizabeth Lockhart Way. A 6m wide shared surface carriageway would be provided, narrowing to 4.8m in the southern section to serve Plots 8 and 9. A 1.2m wide footpath link would be provided to link up to Convent Lane via the existing access.

The Revised Transport Statement shows that the development would only generate about 4 to 5 trips during peak periods and therefore would have a negligible impact on the local highway network. It also indicates that each dwelling would be fitted with a standard external charging point for electric vehicles.

Residents have expressed concern about the existing traffic problems, increased vehicular traffic and access by larger vehicles such as lorries, refuse vehicles, and fire appliances.

The applicant has provided vehicle tracking plans for refuse vehicles and fire appliances. The Highway Authority raised no objection to the proposal. The

access for fire appliances is also considered acceptable to Essex Fire and Rescue Service.

During the life of the application, the Refuse Collection Plan has been revised to take into account of the maximum carrying distances and turning heads for refuse vehicles, which satisfies the comments made by BDC Waste Services.

The Highways Authority have requested conditions regarding the submission and approval of a Construction Management Plan (CMP), provision of residential travel information packs for new residents and a minimum 2m set back of planting from the public footpath.

It is recommended that the conditions for a CMP and travel packs are attached to any grant of consent. However, as there is existing mature hedgerow along the edge of the public footpath, it is not considered to be reasonable to require a replacement hedgerow to be set back 2m from the public footpath. The applicant has revised the landscaping proposal to maintain the proposed hedge at 1.1m high. This would allow a positive improvement as compared to the existing situation, a more inviting approach to the footpath to encourage use, as well as enabling natural surveillance.

Trees and Hedgerows

The site is currently bounded by trees and hedges except along the shared boundary with properties to the immediate west. A total of 10 trees/tree groups are identified in the Arboricultural Impact Assessment. Apart from the semi-mature rowan in the southern part of the site which is classified as a Category B tree with moderate quality and value, all the remaining trees are classified as Category C trees with low quality and value.

The applicant proposes to remove 6 trees, including the Category B Rowan to facilitate the development and to allow improve visibility of the public right of way. Due to the small size of the Rowan, this tree provides a low visual impact to the surroundings. The hawthorns along the eastern boundary will be pruned and reduced slightly to bring into active management. Together with the group on the northern boundary, these 2 groups will be retained and protected during construction. A total of 12 new trees are proposed along the new access road and near the turning heads as shown on the proposed Landscape Master Plan.

The Council's Landscape Officer has not raised any objection to the application. Conditions are required to comply with the submitted Arboricultural Impact Assessment, to provide a watering and maintenance regime of the landscaping scheme, and to implement the landscaping and boundary treatment as shown on the Landscape Masterplan prior to occupation, in the interests of the visual amenities of the area.

Ecology

The applicant has submitted a Preliminary Ecological Appraisal in support of the application.

The Council's Ecologist is satisfied that sufficient ecological information has been submitted to enable the application to be determined.

The report provides certainty for the LPA of the likely impacts on Protected and Priority species and, with appropriate mitigation measures secured, the development can be made acceptable. A condition is suggested with regards to Biodiversity Enhancement Strategy.

Flood Risk and Surface Water Drainage

The site is located within Flood Zone 1 and is less than 1ha in size. It is not identified to be at risk of surface water flooding. Therefore, a flood risk assessment is not required.

According to Essex County Council's database, the majority of the site falls within Critical Drainage Areas which will be prioritised for any improvement. The application is supported by a Surface and Foul Water Drainage Strategy. Essex County Council as Lead Local Flood Authority has not raised objection to the proposal.

The proposed drainage strategy would include an infiltration basin and an attenuation basin located to the western part of the site. The attenuation basin would discharge surface water to the infiltration basin at a restricted rate. Run-off from the private road would pass through permeable paving prior to infiltrating into the underlying soils.

Contamination and Noise

No land contamination issues have been identified. The applicant has provided a Phase 1 Land Contamination Report and demonstrate that a Phase 2 Report is not required.

No unacceptable adverse noise impact has been identified and a Noise Report is not required.

Construction Activity

In order to safeguard the amenity of existing residents in the locality, should the application be approved, a condition is recommended requiring the applicant to submit a comprehensive Construction Management Plan (CMP) for approach for each phase of the development covering for example construction access; hours of working; dust and mud control measures; contractor parking; points of contact for existing residents; construction noise control measures and details of any piling to be carried out on site.

While it is accepted that the development of the site will have some impact upon neighbouring residential amenity in the short term, these impacts are time limited and the CMP condition will ensure these impacts are mitigated as far as possible.

Archaeology

Essex County Council Place Services (Archaeology) have been consulted and have no objection to the application subject to planning conditions relating to further archaeological evaluation.

The Essex Heritage Environment Record shows that the development lies within the site of recorded cropmark evidence of ring ditches and linear features. The linear features are not recorded on the 1st edition OS maps and must predate c.1870, ring ditches can be indicative of prehistoric ritual monuments or latter settlement evidence. The proposed development also lies to the rear of properties along Broad Road which follows the route of the Chelmsford/Braintree/Long Melford Roman road.

A desk top assessment has been submitted which indicates the site has moderate potential for Roman and medieval remains due to the proximity to the Roman road and medieval settlement at Bradford Street, the site lies close to a watercourse and historic crossing point.

Due to the presence of known archaeological features within the development area, an archaeological evaluation will be required to determine the nature and significance of the recorded features.

Planning conditions relating to the securing of the above are therefore required to ensure that the impact of the development upon any archaeological non-designated heritage assets could be mitigated by way of archaeological excavation and recording.

Habitat Regulations Assessment (HRA / RAMS)

The application site is situated within the Zone of Influence (ZOI) for the Blackwater Estuary Special Protection Area (SPA)/Ramsar site and the Essex Estuaries Special Area of Conservation (SAC).

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

In accordance with the revised interim guidance, an appropriate assessment will need to be completed for this application by the Planning Authority, as it

falls within the threshold for residential development and is located within the updated Zones of Influence.

Any residential development for a net gain of one or more new dwellings located within the Zone of Influence must mitigate its impact on the areas of Protected Essex coastline. The proposed scheme will be required to make a financial contribution of £127.30 per dwelling towards the mitigation strategy.

This financial contribution has been secured by way of an up-front card payment made under Section 111 of the 1972 Local Government Act.

Affordable Housing

The application site area, at 0.49ha, and the number of houses proposed (9), falls below the threshold set out within Policy CS2 of the Core Strategy, which requires the provision of affordable housing where there is a threshold of 15 dwellings or 0.5ha in the urban areas comprising Braintree and Bocking, Witham and Halstead. As such, no affordable housing is required to be provided in this case.

PLANNING BALANCE AND CONCLUSION

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

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

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

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

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

In this case the basket of policies which are considered to be the most important for determining the application are Policies SP1 and SP3 of the Section 1 Plan, Policies RLP2 of the Adopted Local Plan and Policy CS5 of the Core Strategy.

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

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

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

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

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

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

Summary of Adverse Impacts

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

Conflict with the Development Plan

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

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

The application site is located outside but adjoining the town development boundary, in a sustainable location within one of the District's three main towns. It would therefore be in line with the strategy set out in the Section 1 Local Plan. Moreover, the site is proposed to be allocated as one of the housing sites in the Section 2 Plan, although limited weight could be afforded to the allocation as the Section 2 Plan has not been adopted yet. Given the above context, limited weight is therefore attached to this conflict with the Development Plan.

Loss of Hedgerow

The loss of the existing trees and hedgerow along the public right of way near to Convent Lane would result in a change to the appearance of the site. However, it would improve the visibility of the public right of way, allowing the development to have a positive approach with the surrounding area as viewed from Convent Lane and would encourage the use of the footpath. This harm is afforded limited weight and it is noted that the proposed new planting and boundary treatment would largely mitigate the loss of these features.

Summary of Public Benefits

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

Delivery of Market Housing

The development would facilitate the provision of 9no. new dwellings, comprising 89% of 2 to 3-bed properties. No affordable housing would be provided. As the SHMA (2015) has identified that there is a significant need for 2 to 3-bed market dwellings in the District, the proposal would contribute to meeting the identified housing needs. This is afforded moderate weight, given the scale of the development.

Economic and Social Benefits

The proposal would undoubtedly deliver economic benefits during the construction period and economic and social benefits following occupation of the development, in supporting local facilities. This is afforded moderate weight, given the scale of the development.

Location and Access to Services and Facilities

Given the site is near the edge of the town development boundary and the proximity to the public right of way and bus stop within walking distance, future residents are provided with alternative sustainable modes of transport and therefore it would reduce the need to travel by private cars to access services and facilities. This benefit is afforded moderate weight, given the scale of the development.

Biodiversity Net Gain

The proposal would provide bat boxes and swift boxes as part of the biodiversity enhancement measures. Together with the condition to require Biodiversity Enhancement Strategy, it would allow for a 10% biodiversity net gain as compared to the existing situation. This benefit is afforded moderate weight, given the scale of development.

Summary of Neutral Factors

Character and Appearance of the Area

It is recognised that the proposed development would be highly visible and would alter the existing greenfield character of the site. Given the planning consent to the adjoining Straits Mill development, the proposal would not insert an unchecked domestic sprawl onto the wider countryside, but rather provide a transitional approach between the urban area and the forthcoming strategic housing scheme.

It is considered that the proposed development would have a scale, appearance and layout that are compatible to the adjoining residential estate of Elizabeth Lockhart Way. It is therefore considered that the proposed development would have a neutral impact upon the character and appearance of the area.

Heritage Asset(s)

The application would have a neutral impact on the character and appearance of the Conservation Area as it would result in no harm to this designated heritage asset. There would also be no impact upon nearby Listed Buildings.

Archaeology

Subject to conditions on archaeology evaluation, the impact of the development upon any archaeological non-designated heritage assets could be mitigated by way of archaeological excavation and recording, therefore there would be a neutral impact.

Highways

The development would not generate an unacceptable level of traffic flow nor impose safety issues upon other highway users. Therefore it is considered to have neutral weight.

HRA

The associated recreational disturbance impacts on European designated sites has been mitigated through the upfront financial payment and therefore is considered to have neutral weight.

Planning Balance

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

RECOMMENDATION

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

APPROVED PLANS

Location Plan	Plan Ref: 20/08/01	
Proposed Plans	Plan Ref: 20/08/03	
Proposed Plans	Plan Ref: 20/08/06	
Proposed Plans	Plan Ref: 20/08/07	
Proposed Plans	Plan Ref: 20/08/09	
Height Parameters Plan	Plan Ref: 20/08/16	
Proposed Plans	Plan Ref: 20/08/05	Version: A
Proposed Site Plan	Plan Ref: 20/80/02	Version: B
Proposed Plans	Plan Ref: 20/08/04	Version: A
Proposed Plans	Plan Ref: 20/08/08	Version: A
Proposed Sections	Plan Ref: 20/08/10	Version: A
Amenity Space Details	Plan Ref: 20/08/11	Version: B
Car park plan	Plan Ref: 20/08/12	Version: A
Ownership Plan	Plan Ref: 20/08/13	Version: B
Landscape Masterplan	Plan Ref: PR2215-01 G	
Refuse Information	Plan Ref: 20/08/14	Version: B

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

Reason

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

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

Reason

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

- 3 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.

Reason

In the interests of preserving archaeological deposits of historical and cultural interest for future generations.

- 4 No development or preliminary groundworks of any kind shall take place until the completion of the programme of archaeological investigation identified in the written scheme of investigation.

Reason

In the interests of preserving archaeological deposits of historical and cultural interest for future generations.

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

Reason

In the interests of preserving archaeological deposits of historical and cultural interest for future generations.

- 6 No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to, and approved in writing by the Local Planning Authority. The Plan shall provide for: the parking of vehicles of site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials used in constructing the development; the erection and maintenance of any security hoarding; wheel washing facilities; measures to control the emission of dust and dirt during construction; a scheme for recycling/disposing of waste resulting from demolition and construction works; delivery, demolition and construction working hours. The approved Construction Management Plan shall be adhered to throughout the construction period for the development.

Reason

To protect the amenities of the occupiers of nearby residential properties and the surrounding area, to ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety in accordance with the Highway Authority's Development Management Policies February 2011.

- 7 No above ground development shall commence, until samples and an illustrated schedule of the types and colour of the materials to be used in

the external finishes, doors and windows, have been submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details.

Reason

To ensure an appropriate choice of materials to harmonise with the character of the surrounding development and having regard to the setting of the Conservation Area.

- 8 Prior to the implementation of the landscaping scheme hereby approved, a watering and maintenance regime shall be submitted to and approved in writing by the Local Planning Authority. Once approved the watering and maintenance of the landscaping scheme shall be carried out in accordance with these details. The approved landscaping scheme shall be carried out during the first available planting season after the commencement of the development. 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 with others of a similar size and species.

Reason

In the interests of the visual amenities of the area including preserving local landscape character.

- 9 No occupation of the development shall take place until the Developer responsible has provided and implemented of a Residential Travel Information Pack per dwelling, for sustainable transport, approved by Essex County Council.

Reason

To protect highway efficiency of movement, highway 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 policies DM1, DM9 and DM10 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- 10 Prior to first occupation of the development hereby permitted, 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).

- 11 All ecological mitigation measures and/or works shall be carried out in accordance with the details and timetables contained in the Preliminary Ecological Appraisal (SES, June 2021) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination. This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW,) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

Reason

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

- 12 Prior to the first occupation of the development hereby permitted, the measures detailed in the Surface & foul water drainage strategy by SWECO dated 25 May 2021 shall be implemented in full. The measures, as implemented, shall be retained as such thereafter.

Reason

To ensure the appropriate management of surface and foul water drainage in the locality so as to minimize risks of flooding to the site and surroundings.

- 13 The development shall not be occupied until the car parking area and parking spaces indicated on the approved plans have been hard surfaced, sealed and marked out in parking bays. The car parking area shall be used solely for the benefits of the occupants of the dwelling of which forms part, and their visitors, and for no other purpose and permanently retained as such thereafter.

Reason

To ensure adequate parking space is provided within the site in accordance with the standards adopted by the Local Planning Authority and in the interests of highway safety.

- 14 The external surfaces and finishes of the development hereby permitted shall be constructed using the materials listed within the Design and Access Statement reference 20/08/15 dated May 2021, and shall be retained as such thereafter unless otherwise agreed in writing with the Local Planning Authority.

Reason

To ensure the development is of a design and appearance commensurate with the site and surroundings, in accordance with the details of the application as approved.

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

Monday to Friday - 08:00-18:00 hours

Saturday - 08:00-13:00 hours

Sunday - No work

Bank Holidays - No work

Reason

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

- 16 The development hereby approved shall be carried out in accordance with the recommendations with the Arboricultural Impact Assessment prepare by Sharon Hosegood Associates dated April 2011.

Reason

To ensure existing trees, shrubs and hedges are retained as they are considered essential to enhance the character of the development.

- 17 The first floor window(s) on the west-facing elevation of Plots 1, 2 and 4 shall be glazed with obscure glass and shall be so maintained at all times.

Reason

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

- 18 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, or alteration of the dwelling-house, as permitted by Classes A, AA and 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

To ensure proper planning control over the development hereby permitted in the interests of protecting the visual amenities of the area as well as living conditions of both future and existing residential occupiers.

- 19 No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor(s) of the proposed building(s), in relation to existing ground levels have been submitted to and approved

in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.

Reason

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

INFORMATION TO APPLICANT

- 1 The applicant should refer to the advice of Essex County Fire and Rescue Service given in their consultation responses dated 24 June 2021 and 8 July 2021.
- 2 A professional archaeological contractor should undertake any archaeological investigation. An archaeological brief detailing the requirements can be produced from Place Services of Essex County Council. The applicant should take into account its financial implications.
- 3 The applicant should check for any Anglian Water assets which cross or are within close proximity to the site. Any encroachment zones should be reflected in site layout. They can do this by accessing Anglian Water infrastructure maps on Digdat. Please see the website for further information:

<https://www.anglianwater.co.uk/developers/development-services/locating-our-assets/>

Please note that if diverting or crossing over any of the Anglian Water assets, permission will be required. Please see the website for further information:

<https://www.anglianwater.co.uk/developers/drainage-services/building-over-or-near-our-assets/>

- 4 The applicant should refer to the advice of Essex Highways Authority given in their consultation response dated 8 July 2021.

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER