

# **PLANNING COMMITTEE AGENDA**

**Tuesday, 21 January 2020 at 7.15pm**

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

**THIS MEETING IS OPEN TO THE PUBLIC**  
*(Please note this meeting will be webcast and audio recorded)*  
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**Members of the Planning Committee are requested to attend this meeting to transact the business set out in the Agenda.**

**Membership:-**

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

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

A WRIGHT  
Chief Executive

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**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 Meetings**

To approve as a correct record the Minutes of the meetings of the Planning Committee held on 17th December 2019 (copy previously circulated) and 7th January 2020 (copy to follow).

**4 Public Question Time**

(See paragraph above)

**5 Planning Applications**

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

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

**PART A****Planning Applications**

<b>5a</b>	<b>Application No. 18 01318 OUT - Land East of Broad Road, BRAINTREE</b>	<b>6 - 108</b>
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<b>5b</b>	<b>Application No. 18 02304 FUL - Former Bramston Sports Centre, Bridge Street, WITHAM</b>	<b>109 - 160</b>
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**PART B****Minor Planning Applications**

There are no applications under 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**

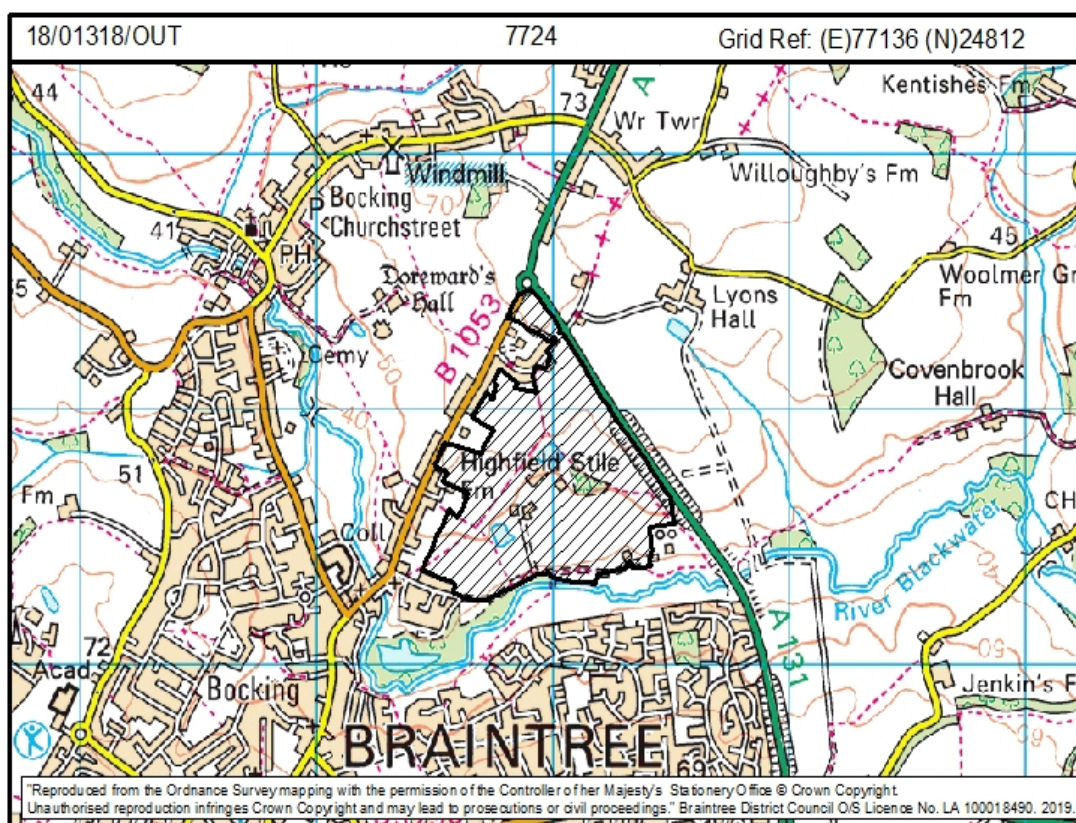
To consider any matter which, in the opinion of the Chairman, should be considered in private by reason of special circumstances (to be specified) as a matter of urgency.

## PART A

## AGENDA ITEM NUMBER 5a

APPLICATION NO: 18/01318/OUT DATE: 13.07.18  
VALID:  
APPLICANT: Gallagher Estates Ltd  
AGENT: Mr Gareth Wilson  
St Andrews House, St Andrews Road, Cambridge, CB4 1DL  
DESCRIPTION: Outline application with all matters reserved except access for up to 1000 residential dwellings, including affordable and market housing; land for new primary school and early years/childcare facilities; a local centre including A1-A5 retail uses; land for the provision of employment use (B1/B2 use class); creation of two vehicular access points from the A131/Broad Road; a network of cycle and pedestrian routes, improvements to the River Walk to South of the Site; provision of sustainable drainage systems and other associated infrastructure; open space and landscaping. This application has been submitted with an Environmental Impact Assessment.  
LOCATION: Land East Of, Broad Road, Braintree, Essex

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



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PC02C5BF0/G00>

## SITE HISTORY

04/02026/COU	Retrospective application for change of use of land and buildings to B2 and B8 uses to regularise existing unauthorised development	Granted	08.06.05
76/00861/	Erection of new office Building.		09.09.76
78/01492/	Erection of a covered block making unit.		13.02.79
84/01179/	Proposed chemical store.		01.11.84
88/02481/P	Extension Of Time Condition Bte/1254/83 Refers (Reinstate- Ment To Agricultural Land By Filling & Levelling)		17.01.89
89/00921/P	Reinstatement To Agricultural Land By Filling And Levelling Per Original Permission But With Alteration To Time Limit	Granted	26.05.89
91/00344/E	Proposed Extension To Sewage Treatment Plant		
92/01459/ELD	Application for Certificate of Lawfulness for an existing use: Use of site for general industrial use	Granted	19.02.93
06/01335/PLD	Application for a certificate of Lawfulness for a proposed use or development - Use of the site for the production of ready mixed concrete (wet batch plant, skid mounted)	Refused	28.11.06
06/02243/FUL	Bank to be formed alongside the roadway to the water treatment works and extend the height of the bank adjacent to the entrance to the industrial area	Refused	11.01.08
07/01355/PLD	Application for a Certificate of Lawfulness for a	Refused	23.11.07

	proposed use or development - Use of the site for the production of ready mixed concrete including the provision of a concrete batching plant and cement silo		
07/01505/AGR	Determination for Prior Notification - De-water pond, clear the waste and rubbish, place no more than 2m of clean subsoil over the area, cover with top soil and plant trees	Permission Required	13.08.07
12/01474/FUL	Change of use of office building from office to use as a dog grooming business	Granted	06.12.12
17/00005/SCO	Town & Country Planning Act 1990 (as amended), Town & Country Planning (Environmental Impact Assessment) Regulations 2011 - Scoping Opinion Request - 1,000 residential dwellings, including affordable and market housing, a new primary school and early years and childcare facilities, provision of community and sports facilities, new local centre including A1-A5 retail uses, land for the provision of employment uses B1/B2, creation of two new vehicular access points, indicatively from A131 and Broad Lane, network of segregated cycle and pedestrian routes including improvements to the River Walk to the south of the site, provision of Sustainable Drainage Systems (SUDs) and other associated infrastructure and associated open space and landscaping.	Screening/ Scoping Opinion Adopted	31.01.18



## POLICY CONSIDERATIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### National Planning Guidance

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

### Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP7	Housing and Mixed Use Sites
RLP8	House Types
RLP9	Design and Layout of Housing and Mixed Use Areas
RLP10	Residential Density
RLP22	Accessible Housing and Lifetime Housing
RLP27	Location of Employment Land
RLP30	Diversity of Industrial and Commercial Premises

RLP31	Design and Layout of Business Parks
RLP32	Workplace Nurseries
RLP34	Buffer Areas between Industry and Housing
RLP35	Non-Conforming and Un-Neighbourly Industry
RLP36	Industrial and Environmental Standards
RLP49	Pedestrian Networks
RLP50	Cycleways
RLP51	Cycle Parking
RLP52	Public Transport
RLP53	Generators of Travel Demand
RLP54	Transport Assessments
RLP55	Travel Plans
RLP56	Vehicle Parking
RLP62	Development Likely to Give Rise to Pollution or the Risk of Pollution
RLP63	Air Quality
RLP64	Contaminated Land
RLP65	External Lighting
RLP67	Flood Risk in Undeveloped Areas
RLP69	Sustainable Urban Drainage
RLP70	Water Efficiency
RLP71	Water Supply, Sewerage & Drainage
RLP72	Water Quality
RLP74	Provision of Space for Recycling
RLP77	Energy Efficiency
RLP80	Landscape Features and Habitats
RLP81	Trees, Woodland Grasslands and Hedgerows
RLP83	Local Nature Reserves, Wildlife Sites, Sites of Local Nature Conservation Importance and Regionally Important Geological / Geomorphological Sites.
RLP84	Protected Species
RLP86	River Corridors
RLP90	Layout and Design of Development
RLP91	Site Appraisal
RLP92	Accessibility
RLP93	Public Realm
RLP94	Public Art
RLP95	Preservation and Enhancement of Conservation Areas
RLP105	Archaeological Evaluation
RLP106	Archaeological Excavation and Monitoring
RLP138	Provision of Open Space in New Housing Developments
RLP140	River Walks/Linear Parks and Disused Railway Lines
RLP164	Environmental Impact Assessment

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

CS1	Housing Provision and Delivery
CS2	Affordable Housing
CS3	Gypsies and Travellers and Travelling Showpersons
CS4	Provision of Employment

CS5	The Countryside
CS6	Retailing and Town Centre Regeneration
CS7	Promoting Accessibility for All
CS8	Natural Environment and Biodiversity
CS9	Built and Historic Environment
CS10	Provision for Open Space, Sport and Recreation
CS11	Infrastructure Services and Facilities

#### Braintree District Publication Draft Local Plan 2017

SP1	Presumption in Favour of Sustainable Development
SP2	Spatial Strategy for North Essex
SP3	Meeting Housing Needs
SP4	Providing for Employment and Retail
SP5	Infrastructure & Connectivity
SP6	Place Shaping Principles
LPP1	Development Boundaries
LPP2	Location of Employment Land
LPP7	Design and Layout of Employment Policy Areas and Business Uses
LPP17	Housing Provision and Delivery
LPP19	Strategic Growth Location - Land East of Broad Road, Braintree
LPP33	Affordable Housing
LPP36	Gypsy and Traveller and Travelling Showpersons' Accommodation
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
LPP56	Conservation Areas
LPP63	Archaeological Evaluation, Excavation and Recording
LPP64	Educational Establishments
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
LPP72	Green Buffers
LPP73	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP74	Climate Change
LPP75	Energy Efficiency
LPP77	Renewable Energy within New Developments
LPP78	Flooding Risk and Surface Water Drainage

LPP79	Surface Water Management Plan
LPP80	Sustainable Urban Drainage Systems
LPP81	External Lighting
LPP82	Infrastructure Delivery and Impact Mitigation

#### Neighbourhood Plan

None

#### Supplementary Planning Guidance

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

#### Other Guidance

Landscape Character Assessment 2006  
Braintree District Settlement Fringes – Evaluation of Landscape Analysis June 2015  
Site Allocations and Development Management Plan  
National Design Guide

#### Essex Minerals Local Plan (2014)

Policy S8 Safeguarding Mineral Resources and Mineral Reserves

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

This application is being reported to the Planning Committee in accordance with the Council's scheme of delegation as the application is considered to be of significant public interest and represents a departure from the current Development Plan. It is therefore an application which has significant policy implications.

#### NOTATION

The application site is located outside the Braintree Town Development Boundary as designated in the Braintree District Local Plan Review 2005.

The application site is proposed for allocation for a residential-led mixed use development (1000 dwellings) in the Publication Draft Local Plan and is identified as one of the Council's proposed Strategic Growth Locations.

The application has been advertised as a departure from the Council's adopted Development Plan. The application is also accompanied by an

Environmental Impact Assessment Statement and has therefore been advertised as Environmental Impact Assessment development.

## SITE DESCRIPTION

The application site is located outside but immediately adjacent to the Town Development Boundary of Braintree, sitting to the north of the existing settlement.

It measures approximately 66 hectares and consists of the following key components:

- A number of agricultural fields of varying sizes;
- Several areas of woodland;
- A run down Industrial area and former gravel pit site with associated access road;
- Two large ponds (both former gravel pits);
- A number of Public Rights of Way which cross the site;
- A large number of trees and hedgerows.

The site is triangular in shape and is bounded to the east by the A131. To the west Broad Road runs parallel to the site boundary with existing residential development directly abutting the site itself. The River Brain with its associated river corridor lies to the south of the site with an established Sewerage Treatment works being positioned adjacent to the site's South Eastern boundary.

In terms of the wider context, further countryside is located to the north-east beyond the A131 and to the north-west beyond Broad Road. The main town of Braintree lies beyond the River Brain to the south whilst to the north the A131 leads to the north-east from the application site towards High Garrett.

Vehicular access to the site is currently taken from Broad Road via Convent Lane which leads into the application site before splitting in two and serving both the sewerage treatment works to the south-east of the site and the Industrial area in the centre of the site. There is also an informal access from the site's north-eastern boundary with the A131 which currently serves an agricultural field.

In terms of gradient, the site falls broadly from the north to the south with a difference in levels of approximately 32m. The topography of the site is varied with the area around the old quarry consisting of the steepest gradients with a fall of approximately 12m between the top and bottom of the quarry bank. Other areas are significantly flatter with more gentle gradients.

## PROPOSAL

The applicant seeks outline planning permission with all matters reserved except access for the erection of:

*up to 1000 residential dwellings, including affordable and market housing; land for new primary school and early years/childcare facilities; a local centre including A1-A5 retail uses; land for the provision of employment use (B1/B2 use class); creation of two vehicular access points from the A131/Broad Road; a network of cycle and pedestrian routes, improvements to the River Walk to South of the Site; provision of sustainable drainage systems and other associated infrastructure; open space and landscaping.*

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

The scheme proposes two detailed vehicular access points to the site with a primary roundabout access from the A131 and a secondary junction access from Broad Road. Appearance; landscaping; layout and scale are Reserved Matters.

The applicant has, in addition to the site location plan and Parameter Plans, submitted an illustrative Masterplan to demonstrate one way in which the site might accommodate the quantum of development proposed.

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

- Planning Statement
- Design Code
- Design and Access Statement
- Education Strategy
- Statement of Community Involvement
- Mineral Resource Assessment
- Environmental Impact Assessment Statement containing:
  - Transport Assessment
  - Flood Risk Assessment and Drainage Strategy
  - Noise Report
- Agricultural Land Classification Report
- Air Quality Report
- Arboricultural Impact Assessment
- Heritage Assessment
- Ecology Report
- Landscape and Visual Impact Assessment
- Contaminated Land Assessment

## CONSULTATIONS

Two consultations were carried out, the second following revisions to the scheme following constructive dialogue with Officers and the issue of a Regulation 22 letter by the Council under the EIA Regulations requesting further information in relation to the submitted Environmental Statement. An addendum to the Environmental Statement was subsequently submitted along

with revised documentation including revised drawings and a revised Design Code and Design and Access Statement. A second consultation was subsequently undertaken.

An overall summary of the consultation responses received is set out below.

### ECC Archaeology

No objection subject to the standard archaeological investigation conditions.

As part of pre-application planning advice a desk-based assessment and partial geophysical survey have been carried out across most but not all of the development site. This has provided part of the evidence required to enable a reasonable assessment of the potential for damage or destruction of the potential below ground archaeological remains. This has identified the survival of archaeological features within the development area which may have local or regional significance and demonstrated the level of survival of the archaeological horizons.

However the reliability and effectiveness of the non-intrusive method of geophysics across the site upon varying geological strata has not been field-tested and the development area has, so far, received no field assessment which is required by condition.

### Essex Wildlife Trust

Applicant's survey protocols are in accordance with CIEEM guidelines and the mitigation proposals for nesting birds, reptiles and bats are appropriate.

Welcome the proposals to create 2.63ha of wetland habitat, 10.11ha wildflower meadow, 3.98ha of new woodland/tree planting and 0.28ha of pond habitat.

Further surveys for otters and water voles will be required prior to the upgrades to outfalls on the River Blackwater. Outfalls should be set back from the river bank to minimise visual intrusion.

The proposed development provides an opportunity to remove two outdated weir structures at Straits Mill which currently pose an obstruction to the passage of fish and eels.

Endorse the Environment Agency's recommendation for buffer planting along the riverbank and the in-channel incorporation of woody debris to create additional habitat for fish.

The development should result in a measurable net gain in biodiversity and retain existing woodland and hedgerows as integral features of the development. A Landscape and Ecology Management Plan should be required by condition.



Management of the semi-natural green open spaces should be secured in perpetuity through a service charge or capital endowment.

### CPRE Essex

We would prefer that only the brownfield part of the site is developed at this stage.

Consideration should be given to the combined impact of this and other substantial development totalling around 2,800 houses in the area with BDC taking an integrated approach to transport impact and facilitating non car use.

No access to the site should be allowed from Broad Road which is unsuitable and will result in increased congestion and air pollution.

Pleased that the scheme proposes an employment area with associated jobs on the site. Question whether there will be enough jobs for all new residents, to avoid them needing to leave the site and travel by car with associated traffic impact.

The affordable housing must be constructed and should in part be social housing to meet local need.

At the detailed design stage BDC should push for energy conservation and renewables such as triple glazing, photovoltaic cells and shared energy projects.

Substantial contributions should be secured towards health and education infrastructure.

Overall we believe that consent should only be given if the above matters are adequately dealt with.

### ECC Historic Buildings Consultant

No listed buildings are located within the application site or immediately adjacent to it.

The 'Hollow Way' runs through the centre of the application site and is considered a non-designated heritage asset. The setting of this feature will be harmed by the development and as such paragraph 197 of the NPPF is considered relevant. Should the application be permitted it is recommended that planning conditions ensure the 'Hollow Way' is not directly impacted by the development. It is further recommended that a management plan is required, by condition, to ensure the feature is sustainably incorporated into the development and the significance of this heritage asset is preserved and enhanced.

### BDC Waste Services

In order to assess the feasibility of waste collections, we will need a detailed plan showing 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.

### Environment Agency

No objection subject to conditions relating to ground water and contaminated land being attached to any permission granted as follows:

- Condition to cover any unexpected contamination
- Condition requiring long-term monitoring and maintenance in respect of contamination
- Condition requiring approval of any surface water infiltration drainage systems by the LPA
- Condition requiring any piling/penetrative foundation methods to be approved by the LPA

No objection on flood risk grounds. The application may provide the opportunity to assist with the required improvement measures to ensure the River Chelmer waterbody achieves 'good potential status' by 2027 particularly with regard to the possible removal of the two existing weir structures at Straits Mill and in channel enhancements plus riparian tree planting upstream.

Would like to see an 8 metre buffer planted with native trees and shrub between the river's edge and the public open space to shade the water course and provide an enhanced wildlife corridor. Would also like to see outfalls into the river being set back to avoid the use for concrete headwalls which result in habitat loss for water voles/otters.

### Anglian Water

No objection subject to conditions.

#### *Assets Affected*

Anglian Water has assets close to or crossing the site which the site layout will need to take into account.

The development is within 15 meters of a sewage pumping station to which access must be maintained. Dwellings located within 14 metres of this pumping station would be at risk from noise, odour or disruption from maintenance work. The site layout should take this into account.

### *Wastewater Treatment*

The foul drainage from this development is in the catchment of Bocking Water Recycling Centre that will have available capacity for these flows.

Anglian Water notes the close proximity of this development to Bocking's STW water recycling centre (WRC) and would draw attention to the potential for nuisance, associated with the operation of this treatment works, to effect the proposed development.

We would advise therefore, that the proposed layout seeks to maintain an effective distance between the treatment works and sensitive accommodation. We would further recommend that a detailed odour risk assessment is undertaken to establish the range at which the amenity of neighbouring property is likely to be impaired.

### *Used Water Network*

Development will (currently) lead to an unacceptable risk of flooding downstream. Anglian Water will therefore need to plan effectively for the proposed development and work with the applicant to ensure any infrastructure improvements are delivered in line with the development.

We therefore request a condition requiring a phasing plan and an on-site drainage strategy.

### *Surface Water Disposal*

The Local Planning Authority should seek the advice of the Lead Local Flood Authority (ECC SUDs).

### *Required Conditions*

- a) Requirement for a phasing plan for the development to be submitted for approval
- b) Requirement for a scheme for on-site foul drainage works to be submitted for approval and to be implemented prior to occupation of each phase

### ECC Highways

No objection subject to the following being secured by way of s106 Agreement or planning conditions:

#### **Prior to occupation of the development:**

- 1) Completion by the developer of the proposed access points onto Broad Road and onto to the A131

- 2) Completion by the developer of the agreed upgrade works to Marks Farm roundabout and the A131/Broad Road roundabout
- 3) Financial contribution towards bus service provision at/in the vicinity of the site and between the site and Braintree town centre /railway station
- 4) Upgrading of existing bus stops in Broad Road/and or Convent Lane
- 5) Improvements to Public Right of Way Braintree and Bocking 52 located immediately to the south of the proposal site
- 6) Provision of pedestrian/cycle ramp at northern most end of the Blackwater Way
- 7) Provision of a toucan crossing in Courtauld Road in the vicinity of its junction with Julien Court Road
- 8) Improvements to existing north-south route through the Park between Courtauld Road and Coggeshall Road to provide a shared footpath/cycleway
- 9) Provision of a Toucan Crossing in Coggeshall Road in the vicinity of its junction with The Avenue
- 10) Requirement for a Travel Plan

**Other Requirements:**

- a) Submission of Construction Traffic Management Plan for each phase of the development
- b) Submission of details of proposed bus stops prior to each phase of development with provision of agreed stops prior to occupation of relevant phase
- c) Proposed spine road carriageway to be a minimum of 6.75m wide

Natural England

The development falls within the Zone of Influence of one or more of the European designated sites scoped into the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS).

An Appropriate Assessment has been completed and submitted to Natural England for review. No objection subject to appropriate mitigation being secured as set out within the Habitat Regulations Appropriate Assessment.

Natural England would expect the Local Planning Authority (LPA) to consider the impacts of the proposal upon local (biodiversity and geodiversity) sites; local landscape character and priority habitats and species.

### Soils and Land Quality:

The development comprises approximately 53ha of best and most versatile agricultural land. It is important that the proportion of this land which will remain undeveloped (e.g. landscaping, public open space) has its long term potential retained as a soil resource and to maintain as many of its ecosystem services as possible through careful soil management. We therefore advise that the developer uses an experienced soil specialist to advise on soil handling.

### Biodiversity Enhancements:

The LPA should consider securing measures for the biodiversity enhancement of the site such as bat and bird boxes.

### Highways England

No objection. Recommend that conditions should be attached to any permission granted.

We have been reviewing the technical information provided in support of this planning application for some time. Following detailed scrutiny of the traffic modelling and of its design compliance, the improvement proposed for the A120/A131 Marks Farm roundabout has been agreed and we can formally recommend planning conditions relating to the following:

- 1) The completion by the developer of the proposed A120/A131 Marks Farm roundabout of the upgrade scheme which has been agreed in principle prior to first occupation of the new dwellings or first beneficial use of the new school/employment/community or retail buildings.
- 2) Full technical and construction details and a Stage 1 Safety Audit of all highway works to be submitted and approved by the LPA prior to commencement of development.
- 3) Travel plan to be implemented prior to first occupation of the new dwellings or first beneficial use of the new school/employment/community or retail buildings.

### BDC Ecology

No objection subject to the securing of visitor management mitigation measures at the Blackwater Estuary SPA and RAMSAR site and the securing of biodiversity mitigation and enhancement measures at the application site.

We have reviewed Chapter 8 of the Environment Statement - Ecology and Nature Conservation (Barton Willmore, July 2018) and the Ecological Baseline Report (Applied Ecology Ltd, May 2018), provided by the applicant, relating to the likely impacts of development on designated sites, Protected & Priority species/habitats.

In addition, we have also reviewed Chapter 7.9 of the Environment Statement - Landscape and Biodiversity Management Strategy (Barton Willmore, July 2018).

We are satisfied that there is sufficient ecological information available for determination.

Require the following to be secured by way of S106 Agreement or planning condition:

- Submission of a copy of any required Bat license prior to demolition or any works to Willow Tree AEL3 (bat roost present)
- Construction Environmental Management Plan
- Skylark Mitigation Strategy
- Otter and Water Vole Method Statement prior to any outfall works at the River Blackwater
- Badger Method Statement prior to commencement of vegetation clearance/development
- Habitat Regulations Mitigation on and off site in accordance with completed Appropriate Assessment
- Biodiversity Enhancement Strategy for the site
- Ecological Design Strategy for habitat created along site's southern Boundary
- Landscape and Ecological Management Plan required
- Wildlife sensitive lighting design scheme
- Time limit on validity of Ecology Surveys (updated surveys required after 2 years)

#### Police Architectural Liaison Officer

We have looked at the Design and Access Statement and note that very little relates to RLP90 and we can find no reference to safety and security. BDC RLP90 (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. We would welcome the opportunity to consult on this development to assist the developer with their obligation under this policy and to assist with compliance of Approved Document "Q" by achieving a Secured by design award.

#### Health and Safety Executive

Do not wish to make any specific comments.

#### NHS England

No objection subject to the required financial contribution being secured through a s106 Agreement. The development is likely to have an impact upon the services of 4 main surgeries (Church Lane Surgery, Mount Chambers Medical Practice, Blyth's Meadow Surgery and Blandford Medical Centre)

operating within the vicinity of the application site. These existing GP practices do not have the capacity to accommodate the additional growth from the proposed development.

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

The development would give rise to a need for improvements to capacity, in line with the emerging STP estates strategy, by way of internal reconfiguration for the benefit of the patients of the Church Lane Surgery; a proportion of the cost of which would need to be met by the developer.

A developer contribution will be required to mitigate the impacts of this proposal. NHS England calculates the level of contribution required, in this instance to be £378,580. Plans are already in place to accommodate growth so it is imperative that payment is made before construction commences.

### ECC Education

**Early Years and Childcare** – The proposed development is located within the Bocking North Ward and there is a lack of provision within this area. It is clear in this case that provision will be required on site and 2 new facilities will be required. The application makes such provision in the form of a co-located facility with the primary school, and an additional stand-alone facility. An indicative developer contribution of £2,488,618 to mitigate the development's impact upon Early Years and Childcare provision is required.

**Primary Education** – The proposed development is located within Braintree Planning Group 6. The provision of a new school on this site complies with the emerging Local Plan requirement with contributions to be made in respect of the proposed new school (in addition to the provision of the land for it to be built upon). The indicative developer contribution would therefore be £4,828,062 plus provision of the land for the school to be built upon).

**Secondary Education** – Due to the level of new housing proposed in Braintree District Council's emerging Local Plan, additional secondary school provision will be required. It is accepted however, that at this point in time there is sufficient capacity to accommodate 1,000 new homes. It is, thereby, a matter for the Local Planning Authority to decide whether or not this site should benefit from these school places or contribute pro rata to the additional provision set out in their Infrastructure Delivery Plan. (For information, the proposed development would result in a pupil product of 200 with an indicative cost of £4,584,300).

**Provision of School Site** – The application includes a site for a 2 form of entry primary school with a co-located early years and childcare facility, as well as a separate site for an early years and childcare facility (the latter being located in the vicinity of the proposed employment site). There are some issues which will need to be addressed in connection with the suitability of the school site, including in respect of contamination, stability of the land, removal of the

existing pond, and agreement on access points and there must be a commitment (via s106 Agreement) by the applicants to undertake the necessary preparatory works and provide evidence that the site is suitable for such a use.

### Sport England

Sport England object to the proposed development due to the quantity and form of the proposed on site outdoor sports provision which is insufficient in size and the lack of confirmation regarding financial contributions towards the provision of off-site indoor sports facilities. Sport England therefore recommend that either enlarged on site provision is made for outdoor sports or financial contributions towards off site provision are secured instead and that financial contributions are also secured towards off site indoor sports provision.

Provision should be made to secure community access to the primary school facilities via planning condition.

Football Foundation – Sport England advise that there is a need for a 3G football pitch to serve Braintree.

England and Wales Cricket Board – identify a need for a non-turf cricket pitch.

With regard to Indoor Sport, Sport England identify a requirement for formulae based financial contributions towards the offsite provision of Sports Halls (circa £400,000); Swimming Pools (circa £450,000) and Indoor Bowls (£67,000).

### BDC Environmental Health Officer

No objection. Due to the site's proximity to existing residential areas conditions are required relating to the following:

- Hours of working/vehicle movements
- No burning of waste
- Submission of Construction Management Plan (noise, dust and air quality)
- No piling without approval of a Piling Method Statement
- Completion of further contaminated land investigation in accordance with the applicant's Contaminate Land Report (specifically asbestos; ground gas and polycyclic aromatic hydrocarbons)
- Submission of a site remediation scheme prior to commencement of development
- Standard precautionary condition for unexpected contamination
- Long term monitoring of ground gases
- Submission of Noise Mitigation Report with validation report (to ensure new dwellings are protected from noise from the A131)



- Submission of noise assessment before any plant is installed at the proposed educational or commercial premises. Associated noise restriction level for such plant to be imposed.
- Restriction on HGV delivery hours to proposed commercial premises

#### ECC Flood and Water Management

No objection. Require standard conditions relating to the submission of a detailed surface water drainage strategy; the submission of a scheme to minimise the risk of offsite flooding during construction; the submission of a Maintenance Plan for the proposed SUDs system and a requirement for the keeping of a maintenance log of this system.

#### BDC Economic Development

The Economic Development Team are supportive of this application on the following grounds:

The existing site job losses will clearly be hugely outweighed by the new development with a dedicated employment area, local centre and a primary school all of which will generate far more jobs than are lost on site currently.

#### ECC Minerals and Waste

Initial holding objection removed and replaced with a formal 'no comment' following the submission of further detailed minerals and waste information by the applicant.

It is not considered, on balance, that it is economically viable to extract mineral present on the site. However, ECC Mineral and Waste would like to record that there are a number of inferences and interpretations contained within the applicant's Minerals Statement which it does not accept.

#### Essex County Fire and Rescue Service

There is insufficient detail to make comment regarding fire service vehicle access. Access for such vehicles should be in accordance with approved Building Regulations Document B5. More detailed observations can be provided at the Building Regulations consultation stage.

It is the responsibility of anyone carrying out building work to comply with building regulations. Additional water supplies for firefighting may be required. The use of sprinkler systems is strongly recommended.

#### BDC Housing

In accordance with Policy CS2 of the Adopted Core Strategy, the outline proposal for up to 1000 dwellings requires 30% to be provided as affordable housing which would equate to 300 affordable dwellings. The application recognises this in the submitted Planning Statement.

It is acknowledged that this application mainly seeks approval to the principle of development and that details concerning the mix of affordable dwellings would be brought forward as reserved matters in a number of parcels/phases. However, based on housing need there would be requirement for a 70/30 tenure mix of rented over shared ownership.

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

- Affordable dwellings should be deliverable without reliance on public subsidy
- Accessibility requirement for bungalow type homes to meet Building Regulations Part M (3b)
- Accessibility requirement for all affordable homes accessed at ground level to meet Building Regulations Part M (2)
- Affordable homes should be compatible with Nationally Described Space Standards
- Requirement for proportionate modest sized clustering of affordable units throughout the development

#### BDC Landscape

BDC Landscape Services consultation response is summarised as follows:

- Regrettable that the infrastructure and layout requirements for the development will require the removal of a significant number of Category A and B trees and removal of old field boundaries.
- However areas identified for replanting are significant and provide opportunity to secure a net gain in sustainable tree cover across the site.
- The interpretation of the Design Code will be key to successful re-planting.
- The detailed design stage will provide opportunities to avoid unnecessary tree removal and reduce the 'worst case' scenario which the applicant has currently identified and BDC Landscape Services consider is overstated and can be reduced at the detailed design (Reserved Matters) stages.
- A mature TPO Oak will need to be removed to allow access to the northern most development parcel.
- Existing canopy cover to sunken bridleway (PROW 68-133) has been left unattended for years and will need to be managed.
- Regrettable that the proposed spine road will need to cut across the sunken bridleway with removal of a number of category A trees. The detailed design must minimise tree loss here.
- The mature woodland on the higher ground (centre of site) makes a significant contribution to local landscape setting and the character of the area and public right of way which runs through it.
- It is clear that significant tree removal is required around the quarry edge due to the existing ground conditions requiring engineering works. If left unattended on an undeveloped site many of these trees would become

unstable and fail in any event. Current proposed tree removal here appears excessive and will need to be clarified at the detailed stage.

- Current worst case scenario requires clearance of most of established tree/hedge lines forming field boundaries in the north of the site. This includes sections of B2 Hedgerow which are collectively important to landscape setting and as wildlife corridors. The applicant identifies that at the detailed design stage these features may not need to be removed in their entirety.
- Trees north of the Blackwater Corridor will need to be removed to facilitate engineering and SUDs drainage basin works. These vary from Category C2 with significant deadwood to Category B2 of local landscape value. There is potential to reduce tree removal here at the detailed design stage. Re-planting will ensure visual impact is not significant in the medium term.

## REPRESENTATIONS

In total 56 objections were received to the original consultation. Two general comments were also received. At the time of writing a further 109 representations were received in response to re-consultation following the revision of the scheme and submission of the Environmental Statement Addendum.

All representations (other than the two general comments) received were objections. For the purposes of clarity none of the objectors stated that they withdrew their original objection following the revised scheme and therefore all objections have been treated as objections to both the original and revised scheme.

The representations received are summarised below:

- Broad Road access will cause loss of existing verge/front gardens/driveways and access to detriment of residents
- Increased traffic congestion and pollution
- Highway safety (vehicle and pedestrian)
- Highway safety/residents access impact upon occupants of Fern Lodge/Macintyre Care located on Broad Road
- Existing highway network has no capacity
- Should be no Broad Road access as not required and unsafe
- Draft Local Plan Policy LPP19 states Broad Road access to be a 'minor access' which is not what is proposed. Application should therefore be refused.
- NHS contribution is insufficient
- Lack of infrastructure to accommodate the development including:
  - Schools
  - Doctor's and Dental Surgeries
  - Rail service
  - Police/Ambulance/Fire Service
  - Hospitals

- Sewerage system
- Public amenities
- Loss of greenfield site which is used by the public recreationally
- Increased pollution from the development
- Noise pollution (during construction and in the long term)
- Car headlights from Broad Road exit will shine into existing drawings situated opposite on lower ground
- Loss of agricultural land
- Convent Lane should be a footpath access only. It should also not be used as an Anglian Water access
- Cumulative impact with other development around Braintree is too much for the town
- Site is adequately served by public transport. Rail upgrade required first.
- Impact on wildlife
- Impact on Blackwater Estuary
- Object to unprofessional way in which Officers have engaged with the applicant's representatives in correspondence
- Detrimental impact upon character of Broad Road
- Increased flood risk
- Landscape impact of the development
- Ecology Report is insufficient and ecological mitigation proposed is insufficient
- Housing mix does not reflect local need
- No evidence development would create jobs or have positive economic impact
- Loss of trees and hedgerows
- Off-site Ecology compensation should be secured
- Noise impact and traffic disruption from many years of construction
- No construction access should be allowed from Convent Lane or Thistley Green Road
- Crime impact from development
- Impact upon utilities in the locality
- Negative impact upon existing property values in Broad Road
- Loss of outlook to and impact upon adjacent existing residents
- Impact of construction process on existing residents
- Scale of development is too large
- Lack of local employment for residents of the development
- Concerns over historic contamination of the site
- Former landfill areas not suitable for development
- Site is located adjacent to a sewerage works
- Impact upon ground water and adjacent river
- Flood risk
- Risk to surrounding residents from airborne contamination during groundworks
- Affordable housing will not be affordable for local people

- Loss of privacy and impact upon existing residents
- Impact upon public rights of way which cross the site
- Visual impact of the development
- Insufficient protection of existing river corridor
- New Garden Communities should be used to provide required housing with associated infrastructure not large developments on the edge of an already overstretched town
- Decision should be delayed until new Local Plan has been adopted.
- Site only has a draft allocation for residential development in the new Local Plan and is still contrary to the Adopted Local Plan
- Development should have less housing and more recreational areas
- Application red line is incorrect and does not cover the two access points required for carrying out alterations within the public highway
- Brownfield sites should be considered instead of this greenfield site
- If permission is granted a safe crossing of the A131 at Thistley Green Road which is suitable for pedestrians, cyclist and horses should be created to connect the existing public rights of way
- Object that BDC is only allowing a 23 day consultation period
- Applicant's evidence base is skewed, inaccurate and does not stand up to scrutiny
- Transport Surveys were carried out at midday not peak hours
- BDC's housing quota may be met without this scheme given the level of recent 'off plan' developments. Garden Communities if approved will also provide significant numbers. No decision should be taken on this application until the situation is clearer.
- Can BDC advise how many houses have been granted permission that are not part of the Local Plan; how many are pending a decision; how many are awaiting a decision via the appeals process?
- Damage to historic buildings on Braford Street from increased vehicular traffic
- Lack of access for emergency services
- Will destroy the character of the area
- Overdevelopment of the site
- Highway mitigation measures are insufficient
- Loss of greenfield site.
- Will set precedent for development outside town boundaries
- Loss of trees and hedges
- Council should have engaged with Sport England
- Local Community have had no involvement with the application
- An accurate and detailed Construction Management Plan and Phasing Plan is required
- Convent Hill/Church Lane junction has been excluded from the Transport Assessment modelling despite the New Local Plan evidence base identifying that it will be operating very severely over capacity. The

Transport Assessment and ECC Highways consultation are therefore floored and unsound.

- Impossible to prevent a rat run through the site as the same route must provide an efficient bus route precluding most traffic calming measures. Contrary to Essex Design Guide and NPPF requirements to prevent inappropriate traffic flow through developments.

Representations were also received from the following:

#### Convent Land and Broad Road Action Group (CLABRAG)

CLABRAG submitted a copy of their newsletter which summarises a meeting held with the applicant. The newsletter is summarised as follows:

#### **Convent Lane**

Confirmed no access to the site from Convent Lane pre, during or after construction. Anglian Water to retain access. CLABRAG suggest Convent Lane is locked. Green space to be located behind existing gardens and request that tree planting occurs here. No houses higher than 2 storey along site perimeter. Applies to all green space.

#### **Thistley Green Road**

Request green space behind dwellings with shortest gardens. No vehicular access to the site at any time. Inadequate parking provision for the allotments. Turning point at the end of the road to be retained.

#### **Broad Road**

Strongly oppose second access onto Broad Road however no option as ECC Highways will not permit two access points onto the A131. Mini roundabout requested but not permitted by legislation. Concerns raised regarding sightlines. Request that back gardens of new houses back onto back gardens of existing. Land at Highfield Stile not included within applicant's site. No construction access will be taken from Broad Road.

#### **Bridleway and Footpaths**

Requested fallen trees cleared and bridleway then left as it is. Unsure over priority at crossings.

Footpaths to be left as they are. Improved access from the footpath to the new school proposed.

#### **Timeline**

Up to 2 years to prepare site for building. Construction access from A131 will be an early priority. Phase 1 (5 years) will see houses south of Larchwood,

behind Convent Lane and on the south-east of the site. Phase 2 covers the northern part of the site and could complete within 10 years.

### **General Points**

Develop will improve the Marks Farm roundabout. Site will contain 3 children's play areas. Site security will need to be addressed during construction. Internal speed limit of 20mph.

Overall, majority of residents accept the situation. Don't want to lose the countryside but BDC are compelled to meet housing need via the Local Plan and the site is (proposed for) allocation. Focus is therefore on minimising impact upon residents.

CLABRAG also submitted two further objections, one to the proposed access from Broad Road on the grounds of:

- Level of congestion already experienced on Broad Road and problems further traffic will create
- Impact of this traffic upon the character of Broad Road
- Threat to elderly residents from vehicle pollution
- Poor vehicle sightline from proposed access point
- Vehicles regularly speed on Broad Road, evidenced by Speedwatch
- Broad Road junction will have to take all new residential traffic for at least 5 years until phase 2 of the development is complete and the A131 access can be used

If solid arguments are provided and there is no alternative to the Broad Road access:

- Mini roundabout should be used instead of a junction
- Proper, effective warning signage required to slow drivers down when approaching it
- A131 access should be first construction project along with all estate roads so Phase 1 residents can access the bypass
- Broad Road access need not be constructed until the end of the Development

And a second objection letter covering the following:

- BDC need to issue statement detailing number of speculative houses granted planning permission in last 3 years; proposed developments still awaiting a decision; when will new Local Plan be approved; if Garden Communities go ahead how many houses will be built in the District and is provision made for this in the Local Plan.
- Straits Mill may no longer be required due to amount of approved speculative development
- Oppose Broad Road access (congestion/health)
- Highway safety impact on Broad Road (particularly speeding)

- Detrimental impact upon character of Broad Road
- Roundabout/traffic lights favoured as alternative Broad Road access
- Broad Road access should not be built first or serve development first, main A131 access should

#### Bocking and High Garrett Residents Action Group (BAHGRAG)

##### Objection.

- Revised plans now show an access onto Broad Road. This would have a major negative impact on the health and well-being of existing residents.
- At the Local Plan consultation stage ECC stated that there would be only one access and it would be from the A131 bypass. This minimised objections.
- Residents do not view this as a brownfield site but as grass/arable land
- Broad Road access would make an already very busy road even more dangerous
- Vehicle pollution is already unacceptable from long tailbacks and this will worsen
- Please reject the Broad Road junction and insist all vehicular access is via the A131 only

#### REPORT

#### PRINCIPLE OF DEVELOPMENT

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

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

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

Paragraph 12 of the NPPF sets out that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making. In addition, paragraph 47 of the NPPF states that planning law requires that applications



for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

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

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

#### The Development Plan

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

The application site is not allocated for residential development within the Adopted Local Plan and is located in the countryside outside the designated Town Development Boundary of Braintree.

The application is therefore contrary to and represents a departure from the Adopted Development Plan and the principle of development is contrary to Policy RLP2 of the Adopted Local Plan which states that new development will be confined to areas with Town Development Boundaries and Village Envelopes and Policy CS5 which seeks to limit development outside such boundaries to uses appropriate to the countryside.

The site is however proposed for allocation for residential-led mixed use development in the Publication Draft Local Plan.

#### The Application Site and the Publication Draft Local Plan

The application site is proposed for allocation as a Strategic Growth Location under Policy LPP19 of the Draft Local Plan which expects the site to provide for:

- 1,000 new homes
- Affordable housing in line with the Council's requirements
- Employment development
- A new primary school with co-located early years and childcare

- Local retail facilities and contributions to other community facilities including local health facilities
- Public open space including formal and informal recreation
- Improvements to the river walk and public right of way
- Provision of a gypsy and traveller site

Policy LPP19 of the Draft Local Plan also identifies that the main access to the site will be from the A131 with an additional minor vehicle access from Broad Road.

The applicant's proposal is therefore in broad accordance with Policy LPP19 of the Draft Local Plan with the exception of the on-site provision of a gypsy and traveller site which is addressed in more detail in the below report. The site access hierarchy is also discussed in detail under the Highways and Transport section of the below report.

The Publication Draft Local Plan is at a relatively advanced stage having been submitted for Examination with the Examination for Part 1 of the Publication Draft Local Plan (the strategic policies) commencing on 16<sup>th</sup> January 2018. At the time of writing the Examination is due to continue on 14<sup>th</sup> January 2020. As such limited weight can be given to its policies.

### 5 Year Housing Land Supply

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

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

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

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

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

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

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

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

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

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

## SITE ASSESSMENT

### Location and Access to Services and Facilities

The application site is located immediately adjacent to but outside the Town Development Boundary of Braintree as identified in the Adopted Local Plan. Braintree sits at the top of the settlement hierarchy within the District, being identified in the Adopted Core Strategy as the largest main town, with Witham and Halstead sitting below it in the top tier of the settlement hierarchy. Key Service Villages (of which there are six) form the next settlement tier with 'other villages' sitting below.

The designation of Braintree as a main town has been carried forward into the Publication Draft Local Plan. The overall settlement hierarchy is altered and expanded from 'towns; key service villages and other villages' to 'towns; key service villages; second tier villages and third tier villages'.

It is therefore accepted that at the strategic level the town of Braintree is identified as being the District's main centre and is one of the most sustainable locations within the District, acting as the main centre for its surrounding areas.

The site itself is located immediately adjacent to the town boundary. The applicant proposes to provide links to the existing footpath network within the town. The proposed site access onto Broad Road would be located approximately 1.9km from the northern end of the town centre. The eastern part of the site would be approximately 3.5km walking distance from the same and the northern part of the site approximately 2.9km.

The railway station is located approximately 2.5km walking distance from the site's Broad Road Access.

It would be approximately 980m walking distance from the southern site boundary to the closest primary school (Great Bradfords Junior School) with a second primary school at a distance of approximately 1.3km (Lyons Hall Primary School) and a third at 1.7km (St Francis), although a new primary school would be constructed on site.

In terms of secondary school access, the site is positioned at its closest point approximately 635m from The College and 2.2km from Tabor Academy.

Distances to local facilities vary from approximately 530m from the site's southern boundary to a small neighbourhood centre containing a pub and local co-op shop; 880m to another pub on Bradford Street and 1.1km to a small neighbourhood centre on Queens Road containing a One Stop Shop, barbers and takeaway.

There are therefore, a variety of services and facilities within the local area as would be expected from a site positioned on the edge of the District's main town.

However, given the size of the development and the fact that some of the above distances are longer the 800m walking distance set out in the CLG Department for Transport's Manual for Streets which is commonly accepted as defining a 'walkable neighbourhood', the proposed on site facilities and services are also critical to the sustainability of the proposal. These would include the following:

- Primary School and Early Years/Childcare facilities
- Employment Area (B1 Business and B2 General Industry uses)
- Local Centre including A1 to A5 uses (retail, financial professional services; restaurants/café's; drinking establishments and takeaways)

In addition, provision would be made for bus stops throughout the site providing the ability for easily accessible public transport for future residents to access both the town centre and the wider area. This would be in addition to a number of existing bus stops located along Broad Road and also along Marlborough Road and Mountbatten Road to the south of the site which provide regular services to the town centre and the wider District.

Overall, the physical location of the site is considered to be sustainable and when combined with the proposed on site facilities and additional bus services would ensure that future residents would have access to the both local services and facilities and to the wider area.

### Design, Appearance and Layout

Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Draft Local Plan require a high standard of design and layout in all developments. Policy CS9 of the Adopted Core Strategy requires 'the highest possible standards of design and layout in all new development'. At the national level, the NPPF is also clear in its assertion (para 124) that 'good design is a key aspect of sustainable development' and that (para 127) developments should 'function well and add to the overall quality of the area... are visually attractive as a result of good architecture and effective landscaping... establish or maintain a strong sense of place...'

The current application is an outline application with all matters reserved except access. However, the applicant has submitted, in addition to a Site Location Plan the following documents in support of their application, which would fix a number of development parameters and provide significantly more certainty around the details and quality of development proposed. These documents would be for formal approval:

- Land Use and Access Parameter Plan
- Building Heights Parameter Plan
- Green Infrastructure Parameter Plan

- Site Wide Design Code

An illustrative masterplan has also been submitted which would not be for formal approval but demonstrates one way in which the application site could accommodate the proposed quantum of development whilst complying with the above documents.

The above plans were produced following an extensive pre-application process involving significant engagement with Officers from Planning; Landscaping, Ecology, Highways and Design specialisms. This included detailed Design Workshops, a number of pre-application meetings, design and layout critique's and regular discussions between the Local Planning Authority and the Applicant's Design Team.

Consequently, the level of detail submitted and the proposed quality of the proposal is considered by Officers to be very high and is underpinned by a carefully considered and detailed Design Code which future developers of land parcels on the site must adhere to. This will ensure both continuity and quality across the development and provides the Council with significantly greater certainty over what is being proposed than could otherwise be achieved.

Overall the applicant proposes a residential-led mixed use development with the following key components:

- Up to 1000 dwellings (policy compliant 30% affordable)
- Land for new primary school and early years facilities
- A local centre including A1 to A5 uses
- Land for the provision of Employment Use (B1/B2 uses)
- Vehicular access points from A131 and Broad Road
- Network of cycle and pedestrian routes
- Informal and formal open space
- Sustainable Urban Drainage Systems
- Landscaping

The proposed layout is centred around the primary school and local centre. A broadly circular spine road would provide access around the site and would facilitate the retention of the majority of the extensive area of well-established woodland which runs across the site from south-west to north-east.

In addition to the local centre, four local squares would be positioned around the spine road each providing a focal point for the surrounding parcel of development. The northern most part of the site would form an additional parcel with the focus being on creating an appropriate gateway to Braintree. To achieve this development would be set back from Broad Road/A131 to allow a softer edge to the Town to be created whilst ensuring that the development was still visible enough to announce the beginning of the District's main town.

The employment area would be located in the south-eastern part of the site, immediately adjacent to the new main access from the A131. A smaller secondary access would be created from Broad Road.

The southern periphery of the site sits adjacent to the River Blackwater and would contain the site's substantial SUDs features. This would allow the enhancement of the existing river corridor and the creation of an expansive tract of new habitat in this sensitive ecological area.

Overall, the site measures approximately 66 hectares, giving a gross density of approximately 15 dwellings per hectare and a net density of approximately 30 dwellings per hectare based on an approximate residential developable area of 33 hectares.

The illustrative masterplan, which directly informs both the Design Code and the Land Use, Building Heights and Green Infrastructure Parameter Plans (all of which would be for formal approval) demonstrates how both the Essex Parking Standards and the Essex Design Guide Criteria (including garden sizes and back to back distances) could be met.

In terms of appearance, the submitted Design Code provides significant detail regarding proposed character areas, public realm and landscape details, details of the proposed local centre and employment area and details of road, cycleway and footpath typologies. This includes factors such as proposed building materials and design types/principles, location and types of planting, street layouts and dwelling heights and typologies.

It also details Identity Areas which form the building blocks for the site's proposed design and layout. These are briefly summarised below:

### **Central Spine**

The areas either side of the main spine road including the 4 local squares. This Identity Area would contain higher density development (35 to 45dph) with 2.5 to 3 storey buildings located predominately around the local squares.

### **Local Centre**

Includes the primary school, local centre and market square with the latter forming a formal, focal point for the development. Up to 3 storey building heights around the market square allowing for the highest density area of the site at 45 – 60dph .

### **A131 Frontage**

Linear residential development along the site's A131 frontage which will form a tight knit block structure to assist with noise mitigation. Dwellings will overlook public open space and be set back from the A131 with glimpsed views of a high quality frontage being possible from the A131. Density of 35 - 40dph.

## **Open Space Frontage**

Lower density development (25 - 30dph) to reflect the transition between housing and the adjacent open space. Informal and permeable building lines with larger dwellings fronting on to open space.

## **Core**

The Core areas would act as a transition zone between the Central Spine Area and the Open Space Frontage Area described above. Lower to medium density with an informal layout and 25 - 35dph.

## **Employment Area**

This would form the primary eastern gateway to the site with high quality commercial buildings of up to 12m in height, active frontages to the A131 and the spine road and pleasant landscape areas for employees.

## **Landscape (Riverside)**

Soft landscaped attenuation basins would form a substantial wetland habitat area and an extension and enhancement to the existing Blackwater River Corridor. Footpaths and cycleways would allow managed public access to this area to ensure its usability whilst retaining its substantial ecological benefits.

## **Landscape (Central Woodland)**

Existing established woodland would be retained along with the ancient hollow way which crosses this area of the site. The natural environment of this area of the site would be retained with the minimum possible intervention and appropriate enhancement.

Overall, Officers consider that the proposed design, appearance and layout of the proposal is at a particularly detailed stage for an outline planning application and would result in a high quality development at the Reserved Matters stage.

## **Impact Upon Neighbour Amenity**

There are existing dwellings located adjacent to the site's western and southern boundaries. The precise detail of the relationship between new and existing dwellings and compliance with the Essex Design Guide criteria relates to the final detailed design and layout of the relevant land parcels and would be a matter for the reserved matters stage. This would include ensuring that the development would not have an unacceptable impact upon existing resident's privacy, outlook, sunlight or daylight.



However, the illustrative masterplan demonstrates the general principles of how proposed dwellings could be located adjacent to existing dwellings whilst ensuring that the amenity of existing residents was protected.

Potential noise impact from the construction phase of the development is discussed in more detail under the Construction Activity section of the below report. Conditions are also proposed to protect existing and future residents from plant noise from the proposed commercial buildings.

In relation to air quality, the applicant submitted an Air Quality Assessment in support of their application which is discussed in more detail under the Air Quality and Odour section of the below report. It is not considered that the development would be likely to have any significant impact upon air quality in the locality and the Council's Environmental Health Officer has no objection to the proposal on air quality grounds. The Air Quality Report also covers Odour from the Anglian Water Treatment Plant located adjacent to the site. The Parameter Plans have been specifically designed to allow a cordon sanitaire between this and the nearest new dwellings and this would be further assessed at the detailed design and layout stage (Reserved Matters).

In relation to the proposed Broad Road access, residents have raised objection on the grounds that the access would require land currently utilised as front garden land along Broad Road and that headlights from vehicles could shine into existing dwellings opposite the access point. In terms of the former, road widening could only take place on ECC Highway land and there would be no ability for the applicant to carry out any works on privately owned third party land.

With regard to headlights, the proposed access road would need to be graded to ensure that a gentle transition from the application site to Broad Road was achieved, to allow for the levels difference of approximately 1 to 1.5m. Cars exiting the site onto Broad Road would not therefore be at an unusually high level.

Overall, Officers do not consider that there are any grounds to recommend the application is refused in relation to impact upon existing neighbour amenity.

### Landscape

Policy CS8 of the Adopted Core Strategy states that *'development must have regard to the character of the landscape and its sensitivity to change and where development is permitted it will need to enhance the locally distinctive character of the landscape in accordance with the Landscape Character Assessment'*. Policy LPP71 of the Draft Local Plan also states that development must be suitable for its landscape context and should be informed by and sympathetic to the character of the landscape as identified in the Council's Landscape Character Assessment.

The Council's Landscape Capacity Analysis (Braintree District Settlement Fringes) June 2015 identifies the application site as the majority of Land

Parcel B15 with a low-medium capacity to accommodate development (sites ranging from low to low-medium to medium to medium-high capacity).

Land Parcel B15 is then further subdivided into multiple parcels. The majority of the site remains as medium-low capacity. The area immediately adjacent to the River Blackwater is identified as having low capacity and the western portion of the site adjacent to Broad Road is identified as having medium capacity and medium-high capacity.

Overall therefore, the site is identified as having mixed landscape capacity to absorb development and in order to minimise landscape harm the site would need to be developed in a sensitive manner.

No development is proposed adjacent to the River Blackwater, other than the SUD's basins which would actively expand the existing wetland habitat.

The development parcels would have their heights limited to 2 storey with occasional 2.5 storey and 3 storey around key spaces. Combined with the retention of the majority of the large area of established woodland located within the site's centre and a new landscape planting scheme across the site, including extensive tree planting, this would help to minimise the development's landscape impact.

The applicant has submitted a Landscape and Visual Impact Assessment (LVIA) in support of their application which assessed the landscape effects of the development during the construction phase; at year 1 after completion and at year 15 after completion. An assessment of the impact of the development upon the night sky was also undertaken.

At Year 1 it is identified in particular that views from the existing public open space to the south of the River Blackwater will be impacted upon due to the proximity of the site and that partially filtered views across the river valley will also be affected due to the rising land of the development. At Year 15, the Assessment identifies that there will be a loss of openness resulting from the introduction of new built form to the site but that planting will have become established and will start to filter short-distance views and to break up the mass of the development within medium and long-distance views. No significant residual effects were identified.

With regard to lighting, the primary impact upon the night sky is identified as glow from houses and potential spill, glow and glare from street lighting. Despite this no likely significant effects are identified however the report recommends a requirement for a site wide lighting strategy to ensure that lighting effects are controlled and minimised.

The Council's Landscape Officer has assessed the application and has identified a degree of local landscape impact. The central woodland is identified as providing a significant contribution to the local landscape setting and the removal of trees around the quarry edge would have an impact upon this, albeit the majority of the woodland would remain untouched. The removal

of old field boundary hedgerows which are collectively important to the local landscape setting would also have an impact, as would the removal of a linear group of trees located in the north-west of the site. Tree removal to the north of the Blackwater Corridor would also have a local landscape impact.

Tree removal on the site is discussed in more detail below, however in general landscape terms the impact of the proposal is limited for a scheme of this size. As with all such major residential developments there would be a degree of landscape harm and this must be assessed in the overall planning balance.

Overall, and following a detailed landscape assessment of the application, Officers consider that the degree of landscape harm is considered to be relatively low with regard to the wider local setting for a strategic development of this scale.

### Ecology

Policy RLP80 of the Adopted Local Plan requires new development to include an assessment of its impact on wildlife and states that it should not be detrimental to the distinctive landscape features of the area. Policy RLP81 of the Adopted Local Plan and Policy LPP69 of the Draft Local Plan encourage landowners to retain, maintain and plant native trees, hedges and woodlands. Policy RLP84 of the Adopted Local Plan states that planning permission will not be granted for development which would have an adverse impact upon protected species. Policy LPP68 of the Adopted Local Plan also requires the impact of new development upon protected species to be considered.

The site currently consists of a variety of different habitat types including a large number of agricultural fields with associated boundary trees and hedges; a large area of established woodland and two small lakes.

The applicant submitted an extensive Ecology Report in support of their application which includes a Phase 1 Habitat Survey; Bat Surveys; Breeding Bird Surveys; Great Crested Newt Survey; Reptile Survey; Water Vole and Otter Survey and Badger Survey.

The Surveys found 46 bird species either confirmed or thought likely to be nesting within the site or to occupy on site territory immediately adjoining an off-site nesting location. Of these, one Schedule 1 species; 6 amber listed species and 7 red listed species were identified. Flocks of Starling (red listed) were also found to be using the site as a foraging resource. Calling Tawny Owl were noted by on site surveyors and it is identified that this amber listed species breeds on the site.

With regard to bats, one building on the site, a large portal-framed warehouse was identified as containing a suspected small maternity roost of brown long-eared bat, together with a single soprano pipistrelle day roost. A total of 34 trees proposed for removal were considered to have some potential for roosting bats. A ground survey indicated 29 of these as having low suitability,

4 as moderate suitability and 1 as high suitability. An updated survey would be required once the precise trees proposed for removal were identified during each relevant phase of the development.

As a whole, the bat surveys identified that the majority of bat activity across the site consisted of individual foraging pipistrelle bats associated with woodland edges and linear hedgerows. It was also noted that up to 10 individual bats (pipistrelle and Myotis species) were seen regularly feeding over and around the southern quarry lake with the highest level of bat activity on the site being recorded at the two lakes.

Great Crested Newts were found to be absent from the site. With regard to reptiles, it was concluded that the site supports a small but widely distributed population.

No habitat suitable for water vole or otter was found on the site. Otters were confirmed as being present in the River Blackwater adjacent to but outside the site boundary. An Otter and Water Vole Method Statement would be required prior to any outfall works along the riverside.

A subsidiary badger sett with 6 well used holes, 3 single hole outlying setts (one active and two disused) were recorded within the site. A number of mammal path crossings were also noted along the site's eastern boundary fence.

In terms of the impact of the development, the Report identifies that in relation to breeding birds habitat loss would be largely confined to areas of open grassland, tall ruderal vegetation and existing buildings that are of limited value to nesting birds although 3 pairs of red-listed skylark would lose their nesting territory. A Skylark compensation strategy is therefore required to secure off site nesting plots.

The loss of open habitat would also adversely affect notable species such as mistle thrush, kestrel and starling. The loss of some hedgerows, some areas of woodland and scrub and the northern lake would impact upon song thrush, linnet, bullfinch and mallard. Overall the impact of construction related habitat loss and disturbance on the breeding bird assemblage at local value is likely to be medium and the impact at the neighbourhood scale significant. Overall this level of impact is classed as being an effect of 'negligible' significance and does not constitute a reason to recommend the refusal of planning permission.

With regard to bats, the development would result in the loss of the warehouse building which supports a small bat maternity roost, the loss of some trees suitable for bat roosting, the loss of a hedgerow which provides a commuting route for bats and the infilling of the northern pond which was identified as an area of higher bat activity. However, overall the extent of these impacts is considered to be of minor significance. The impact of lighting from the development upon bat fly ways would however need to be managed with a wildlife sensitive lighting scheme requirement.

The highest status badger sett on the site would be retained and off-set with a minimum no development buffer of 10m. The worst case scenario of the loss of the other 3 low status sets would have negligible significance. A Badger Method Statement would be required prior to any vegetation clearance.

The infilling of the northern lake and loss of marginal habitats more generally would reduce the availability of suitable habitat for grass snakes but again this is considered to be a negligible effect.

The Applicant's Ecology Report also sets out proposed mitigation measures to address the identified likely ecology impacts of the development.

During the construction phase these centre on avoidance measures including the timing of sensitive works to avoid harm to biodiversity features; identifying the times when specialists need to be present during construction and regulating construction activities and locations to minimise ecological impact.

In the long term, a site wide Landscape and Biodiversity Management Strategy would be used to manage and improve habitat across the entire site. Specific aims would include specialist management of wetland habitats; the enhancement of retained woodland areas; the protection of wildlife habitat from inappropriate recreational activity and the encouragement of educational use of wildlife areas. Specific measures such as wildlife friendly lighting strategies and the extensive use of bat and bird boxes could also be incorporated.

The Council's Ecology Officer has reviewed the application in detail and has no objection to the proposal subject to a number of conditions. The Essex Wildlife Trust, the Environment Agency and Natural England have also reviewed the application and have raised no objection.

Essex Wildlife Trust and the Environment Agency have advised that the application could present an opportunity to remove two outdated weirs which currently obstruct the passage of fish and eels. However, this is not actually identified as a necessary mitigation measure in the applicant's Ecology Report and Officers do not consider that there are therefore grounds to require it. An Ecological Design Strategy specifically for the habitat to be created along the site's southern river corridor boundary is however required.

The Council's Ecology Officer also requires a number of planning conditions to secure relevant ecology mitigation and precautionary measures as set out above. Natural England have requested that enhancement measures such as bat and bird boxes are secured. An updated Bat Tree Roost Survey will also be required.

Overall, subject to the required planning conditions Officers do not consider that there are any ecological grounds to recommend that planning permission is refused.

## Trees

In terms of trees, the applicant's Arboricultural Report identifies a total of 58 groups of trees (including large woodlands); 73 individual trees and 4 hedgerows on the existing site. The latter number is identified as being low due to former hedgerows having lapsed with a lack of management.

A number of the trees located within the site are the subject of Tree Preservation Orders, mainly group orders.

Overall the site supports a high number of trees growing within linear boundary features and within woodland groups. There are a range of tree species with the majority being broad leaf specimens including Common Ash, Willow, Alder, Common Oak, Cherry, Field Maple and Hazel.

When assessing proposed tree loss it is necessary to consider whether tree loss is proposed for justifiable reasons, if it is being kept to a reasonable minimum and where it is essential if appropriate replanting is secured.

To facilitate the development it is identified that due to the high number of trees located on the existing site a notable number of trees and parts of tree groups and some hedgerow sections would need to be removed to facilitate the development. These would include Category A, B, C and U trees. The precise detail of which trees would need to be removed would be considered under the various Reserved Matters applications for the site when the exact position of roads and development plots would be considered and tree loss minimised.

However, the submitted information correctly presents the 'worst case' scenario where trees in developable areas are all marked as being removed. In reality some of these will be able to be retained when the detailed layout is established. The Council's Landscape Officer has reviewed the application and provided comment on the proposed tree removal.

It is identified that significant tree removal will be required and that this will include Category A and Category B trees. The main spine road would unavoidably need to cross the existing central tree belt to link the proposed development parcels. A secondary link road would also need to link to the northern most development parcel. These crossings would be designed to be of the minimum width possible in highway terms but it is already identified that 3 Category A trees would need to be removed to facilitate them, one of which is a TPO tree. A number of hedgerows forming old field boundaries are identified in the worst case scenario for removal and significant tree removal is required around the quarry edge. Trees north of the Blackwater Corridor would also need to be removed to facilitate engineering and SUDs works.

The proposed site access points would also require tree removal. For Broad Road this would consist of the removal of 4 no. Category B TPO trees and for the A131 a section of the existing tree belt.

However, although the development would require such tree removal, this has been carefully considered and importantly the majority of the existing tree cover on the site would be retained. The scheme has, from the outset been designed around the expansive central woodland located on the site and the Parameter Plans, Design Code and illustrative Masterplan are specifically set out to incorporate this into the development framework where it would occupy a comparatively large portion of the site, forming a central green spine which would branch out to the north, east, west and south-east.

The proposed tree removal around the quarry areas, which form part of the central woodland is necessary because the identified trees for removal are located on unstable and steeply sloping ground. It is essential that this is re-profiled and made safe and it is also identified that due to the unstable nature of this steep slope these trees would anyway be at risk of failing, as some already are.

The TPO trees identified for removal to facilitate the access onto Broad Road cannot be retained. There is no alternative access point onto Broad Road from the site which would be acceptable in highway and masterplanning terms.

Where the spine road would cross the existing central woodland, the road would be narrowed to the minimum width acceptable for an adopted highway and specialist construction techniques used to keep tree loss to the bare minimum. The spine road is an essential part of the development and bringing it to a dead end at this tree line would not be an acceptable outcome in masterplanning terms.

The removal of the TPO tree to allow the secondary road to link the northern most development parcel to the remainder of the site is also unavoidable. Whilst in theory this part of the site could be used for open space with a pedestrian/cycle only link this would be a very poor location for this, with public amenity space being positioned in an isolated corner of the site which would not be acceptable in masterplanning terms.

The areas of hedgerow and trees identified in the worst case scenario for removal in the western part of the site and north of the River Blackwater could be reduced at the detailed layout stage and a condition is recommended to require each Reserved Matters submission to demonstrate that tree loss has actively been kept to a minimum.

Officers therefore consider that whilst the identified tree loss must be weighed as harm in the planning balance, tree loss can be minimised as far as possible and mitigated through replacement planting, moreover there are clear reasons for the losses identified and importantly the majority of existing tree cover on the site would be retained.

In terms of tree planting, the scheme makes significant proposals. A commitment to target net gain has been made across the site meaning that the aim would be to plant more trees than are lost. Substantial areas are

identified on the green infrastructure plan for such tree planting and run across the entire site. Both these new planting areas and existing retained areas would be actively managed under Landscape and Ecology Management Plans with tree stock being professionally managed.

The southern part of the site, where the SUDs basin would be located is specifically identified as being an extensive area of wildlife habitat with new tree planting playing a major part.

In addition to green infrastructure identified above, the spine road itself would contain a very large number of substantial new trees, spaced in close proximity around the entire spine road loop as formal avenue trees. Finally, the individual development parcels would also contain significant additional tree planting and this is written into the Design Code for each character area as is all of the above re-planting.

Overall therefore, the proposed loss of trees and hedgerows on the site must be balanced against the high number of existing trees which would be retained, the large number of trees which would be planted across the development with an overall net gain being achieved and the public benefit of delivering a well-planned and laid out residential-led mixed use scheme of this size in this location.

### Habitat Regulations

In terms of the wider ecological context, the application site sits within the Zone of Influence (as identified by Natural England) of the Blackwater Estuary Special Protection Area and Ramsar site. It is therefore necessary for the Council to complete an Appropriate Assessment under the Habitat Regulations to establish whether mitigation measures can be secured to prevent the development causing a likely significant adverse effect upon the integrity of this site.

At the time of writing the Appropriate Assessment has been completed in accordance with Natural England's standard guidance and submitted to Natural England for review. Natural England issued a formal response on 1 March 2019 stating that they have no objection subject to the proposed mitigation measures set out in the Council's Habitat Regulations Assessment being secured and that these mitigation measures would rule out the proposed development causing an adverse effect on the integrity of the European designated site.

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

- Recreational opportunities for a 2.7km daily walking route around the site for new residents
- Promotion of this walking route by way of leaflets to first occupiers and permanent notice boards erected on the site
- Connections to the existing public rights of way network



- A long term management plan to cover all open space on the site
- Financial contribution of £122.30 per dwelling erected towards offsite visitor management measures for the Blackwater estuary SPA & Ramsar site

These mitigation measures would be secured by way of S106 Legal Agreement and planning conditions.

### Highways and Transport

The applicant seeks outline planning permission with all matters reserved, except access for which detailed permission is sought. Two vehicular access points to the site are proposed, one from the A131 on the site's eastern boundary and the other on the site's western boundary from Broad Road. The existing vehicular site access from Convent Lane would be closed and would remain open for pedestrians and cyclists only. There is also a legal right of access to the sewerage treatment plant located adjacent to the site's south-eastern boundary which the applicant is required to make provision for from Convent Lane.

The proposed access from the A131 would consist of a new roundabout. This would be located where an existing layby is positioned on the A131, on the application site's eastern boundary. It would provide the primary vehicular access into the application site with residential use located to its north and the proposed employment area to its south.

The site's secondary vehicular access would consist of a priority junction onto Broad Road. This would be positioned on the site's western boundary.

Policy LPP19 of the Draft Local Plan states that with regard to access the main access to the site will be from the A131 with an additional minor vehicle access from Broad Road. The term 'minor vehicle access' is not defined, however the Draft Policy goes on to state that 'all access points will have to be agreed to the satisfaction of Essex County Council Highways'.

The applicant proposes the main vehicular access to the site from the A131 and it is identified as such in the submitted Transport Assessment. The access would consist of the construction of a new roundabout onto the A131 with a two lane exit from the application site feeding traffic to the north and south respectively and two lanes on the other two approaches from the A131. The A131 is classed as a Strategic Route by Essex County Council Highways where new access points will be prohibited unless there is an overriding need to provide such an access which will occur only in limited circumstances. The proposed development is of such a scale that a new access onto this Strategic Route has been deemed appropriate by Essex County Highways. This access point is therefore considered acceptable and would clearly provide the main access into the site, being taken from a Strategic Route and serving the employment area which would be located immediately adjacent to it to the south; the new dwellings within the site and being located in close proximity to the proposed school and local centre.

The site's secondary access is proposed from Broad Road which is classed as a Secondary Distributor Road. This would consist of a priority junction and would include the creation of a ghost right hand turn lane on Broad Road. The Draft Local Plan identifies the need for a secondary vehicle access point to the site and refers to a 'minor vehicle access' from Broad Road. No definition of this term is given, however the Draft Policy states that details will need to be agreed with Essex County Council Highways. The proposed Broad Road access has been designed to meet the required Essex County Council Highways standards and meets the Draft Policy Requirements for a secondary vehicular access point into the site from Broad Road with the specification being agreed by Essex County Council Highways. This access point could not be made any more minor unless it were to serve only a small part of the development which would not meet the requirements of the Draft Policy and would not be acceptable in masterplanning terms for a scheme of this scale.

The design and layout of the site has also been specifically designed (in consultation with ECC Highways) to accommodate a number of measures to reduce the opportunity for through traffic across the site. These are designed to ensure that there would not be a quick, driver friendly cut through across the site and would include the following:

- Raised tables at junctions;
- Changes in surface materials;
- Proposed 20mph speed limits;
- Pedestrian priority crossings;
- A circuitous route through the site including having to pass through principal/garden squares.

A Transport Assessment has been submitted in support of the application which has been assessed in detail by both Highways England and Essex County Council Highways and is based on a development of 1,000 dwellings and 12,000m<sup>2</sup> of B1 Office/Employment floorspace.

The assessment finds that both the proposed primary access point onto the A131 and the proposed secondary access point onto Broad Road are appropriate from a junction capacity perspective.

In terms of wider impact, the assessment states that when completed, the proposed development would generate approximately 286 arrivals and 399 departures during the AM peak (0800 – 0900) and 339 arrivals and 320 departures in the PM peak (1700 – 1800). The impact of this increase has been modelled by Essex County Council using their VISSUM Modelling Software (strategic traffic assignment modelling software) which allows the impact of a forecast increase in traffic movements upon the existing highway network to be accurately modelled.

The largest impact is identified on Broad Road, south of the development access where there could potentially be a traffic increase of up to 16% in an

area which is identified as being of high sensitivity. The highest impact would be during the AM peak when up to 348 additional (total two way movements) vehicle movements would result. This would equate to one additional vehicle every 10 seconds in each direction. This is further analysed against existing conditions where currently there are a total of approximately 1,049 two-way vehicle movements on Broad Road which would rise to up to 1,396 with the completed development. This equates to a current situation of on average one vehicle every 3 seconds in each direction and a proposed situation of one vehicle in each direction just under every 3 seconds.

However, the assessment has identified that there are unlikely to be any effects classed as 'significant' and that specific mitigation is not required.

The impact upon 5 junctions within the wider area has also been modelled and assessed, in accordance with the requirements of Essex County Council and Highways England. The modelling provided future predictions for 2023, with and without the proposed development as follows:

<b>Junction</b>	<b>Outcome</b>
A131/Broad Road Roundabout	Broad Road arm will be over capacity even without the development in PM peak. Additional impact of the development traffic will require mitigation.
Marks Farm Roundabout	Junction will be severely congested even without the development. Development will have a noticeable impact upon this junction. Mitigation required.
Galleys Corner Roundabout	Development impact not considered to be significant.
Panners Interchange	Junction will operate over capacity without the development. Development impact is such that mitigation is not identified as being required.
Courtauld Road/Coggeshall Road/Railway Street Roundabout	Junction will operate over capacity with and without the development. Impact of the development is considered to be negligible.

The Transport Assessment identifies that mitigation is required at the Marks Farm Roundabout due to the impact of the proposed development. The impact also requires mitigation at the A131/Broad Road roundabout. Both Highways England and Essex County Council Highways have been heavily involved in assessing the highways impact of the development from the outset and as stated above the County Council carried out the modelling scenarios.

Highways England have no objection to the proposal subject to the completion of agreed upgrade works to the Marks Farm roundabout stating the following:

*'We have been reviewing the technical information provided in support of this planning application for some time. Following detailed scrutiny of the traffic modelling and of its design compliance, the improvement proposed for the A120/A131 Marks Farm roundabout has been agreed and we can formally recommend planning conditions'.*

Essex County Highways have no objection to the proposal, also subject to the completion of the agreed upgrade works to the Marks Farm roundabout and A131/Broad Road roundabout subject to the securing of a number of other mitigation measures stating:

*'From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to' (s106/condition requirements).*

Two key mitigation measures are proposed which have been required by Highways England and Essex County Council Highways to mitigate the development's impact upon the existing highway network.

Firstly, the applicant would be required to carry out the agreed physical junction improvements at the A131/A120 junction to the south-east of the site known as 'Marks Farm Roundabout'. These improvements would improve the junction's capacity with the most significant improvements being to the left-turn filter lane on the A120 East arm and provision of two full lanes approaching the roundabout from the north (A131).

Secondly, the applicant would be required to carry out the agreed physical junction improvements at the Broad Road/A131 roundabout located immediately to the north of the site. This would consist of the widening of the carriageway and improved crossing facilities at one or more arms, the detail of which would be agreed prior to commencement of development.

In addition, a number of other highway works are required. During the construction phase the highway impact of the proposed development would need to be carefully managed. The applicant would be required to submit a Construction Traffic Management Plan to cover each phase of the development which would include details of construction traffic routing and haulage routes. Convent Lane would not be used for construction access and the long term construction route would be taken from the A131.

However, the access from the A131 will need to be constructed before it can be used and the applicant will therefore need to access the site from Convent Lane (it being the only existing site access point) for an initial 3 month period only, to allow the A131 access to be constructed for use. The Broad Road access would also need to be constructed and the developer would require construction access from Broad Road to complete the s278 works for this and also for an initial period to carry out initial infrastructure construction on this part of the site, together for a period of 6 months. Again this would be a temporary period only and would need to be carefully managed and the Developer has already made a commitment to prohibit construction vehicles

accessing the site from this temporary Broad Road access during peak morning and evening rush hours.

Following the completion of the earliest phases of the development, the first residents would then use the secondary access from Broad Road to access their houses with the Construction Access continuing to be taken from the A131. Following completion of 100 units the A131 access would be fully completed and would then operate as the main access point to the development, being shared both by new residents and construction traffic. The timescales and trigger for this have been agreed by Essex County Council Highways.

The applicant has also given consideration to provision for electric vehicles. A condition is proposed requiring every Reserved Matters application relating to residential development; employment development or development of the Local Centre to be accompanied by an Electric Vehicle Charging Strategy. This would need to demonstrate how such charging points were to be incorporated into the development including provision of a minimum of one charging point per dwelling wherever practical.

In terms of pedestrian and cycle provision, the site specifically caters for both within the Design Code and associated Parameter Plans. The spine road, which provides the principle circular route around the site would provide dedicated pedestrian and cycleway access which would be completely segregated from the vehicular road to ensure it was both usable and safe. Existing public rights of way which cross the site would be maintained and new pedestrian routes created to ensure the permeability of the site. Multiple connection points from the site to external footpaths and cycle routes would also be established to provide direct links to the wider area.

The applicant would be required to provide a series of upgrades requested by ECC Highways to the existing pedestrian network to improve current pedestrian and cycle access from the site to the town centre. These would consist of improvements to Public Right of Way 52 located to the south of the application site (where it crosses the River Blackwater); the provision of a footpath/cycle ramp at the northern end of Blackwater Way; a new Toucan Crossing in Courtauld Road; upgrading the existing route through the park between Courtauld Road and Coggeshall Road to provide a shared footpath/cycleway and the provision of a new Toucan Crossing in Coggeshall Road.

There are a number of existing bus stops located along Broad Road and also along Marlborough Road and Mountbatten Road to the south of the site which provide regular services to the town centre and the wider District.

Braintree Railway Station is also located approximately 2km from the application site and is accessible by foot, bicycle or bus. It provides a mainline railway service to London Liverpool Street with an off peak service of 1 train per hour.

The applicant would be required to upgrade existing bus stops; provide bus stops within the new development and make a financial contribution towards public transport facilities and/or bus service provision in the town. A Travel Plan would also be required.

Overall, in terms of highway impact, having regard to consultation responses from Highways England and ECC Highways which raise no objection, Officers do not consider that the development would be contrary to Paragraph 109 of the revised NPPF (February 2019) which states that *'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe'*.

Subject to the required conditions/planning obligations being secured Officers do not therefore consider that there are any highway grounds upon which to recommend the refusal of planning permission.

### Heritage

The application site is not located within a Conservation Area nor does it contain any listed buildings. The Conservation Area boundary is positioned approximately 80m to the south-west of the site boundary at the closest point although there are existing buildings positioned in-between.

The closest listed building is located approximately 125m away, also within the Conservation Area. The Essex County Council Historic Buildings Advisor has been consulted and has confirmed that the proposed development would not have any impact upon either the Conservation Area or the closest listed building.

There is a public right of way which runs across the centre of the site from south-east to north-east. This is identified as an ancient 'Hollow Way' and is a non-designated heritage asset. The Historic Buildings Consultant advises that the setting of this asset will be harmed by the development and that Paragraph 197 of the NPPF therefore applies. It is also recommended that measures are taken to ensure that the development does not impact upon the Hollow Way and that a Management Plan is required to ensure that the Hollow Way is incorporated into the development and preserved and enhanced.

Paragraph 197 of the NPPF states that *'the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that 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 Hollow Way was recognised by the applicant's masterplanning team as a key feature of the existing site and a major constraint to development from the earliest stage of their site assessment. The parameter plans, design code and

illustrative masterplan have all been developed specifically to minimise the impact of the development upon The Holloway, to successfully incorporate it within the layout and to cater for its long term management and preservation. The Council's Landscape Team have also provided detailed advice to the applicant's masterplanning team specifically with regard to the above.

Overall, whilst it is recognised that the setting of The Hollow Way will be harmed, this harm has been kept to a minimum. The Hollow Way sits within an established linear woodland belt which will remain within the development. The exception is two crossing points where the spine road would have to cut through the woodland and cross The Holloway. This is unavoidable but would impact upon only two very short stretches of The Holloway. The harm to this non designated heritage asset must be balanced against the very significant public benefit which a development of this size will make in terms of housing and employment provision and the importance of making sure that the site's layout provides a high quality and accessible environment for future residents.

In terms of the heritage balance, Officers therefore consider that these substantial benefits outweigh the limited harm to the identified non-designated heritage asset. The Parameter Plans would secure the Hollow Way and the surrounding woodland as being non-developable areas and the wider Landscape and Ecological Management Plan for the site would cover the long term maintenance and preservation of this public right of way.

#### Gypsy and Traveller Provision

Policy LPP19 of the Draft Local Plan expects the application site to provide for a number of criteria, including Gypsy and Traveller provision. This would equate to approximately 5 plots.

Following lengthy discussions with Officers on this the applicant's position is that they cannot make on site provision and will instead make a financial contribution toward off-site provision in the District. Policy LPP19 is a Draft Policy and as such can be given limited weight. Whilst this element of the applicant's proposal does not accord with the Draft Policy this must be weighed against the benefits of the proposal as a whole, which are very substantial.

Therefore, Officers do not consider that this departure from Draft Policy is sufficient to outweigh the benefits of the proposed development nor that it constitutes a valid reason to recommend that planning permission is refused. A financial contribution towards off site Gypsy and Traveller Plot provision is however required. This is set out within the list of recommended s106 Heads of Terms.

#### Archaeology

The applicant submitted a Desk Based Archaeological Report and partial geophysical survey in support of their application.

The report identified that the Essex Heritage Environment Record indicates the presence of a non-designated heritage asset on the site consisting of undated sub-surface crop marks and upstanding earthworks. The site is also identified as having a modest potential for prehistoric, Roman and localised post-medieval sub surface features associated with contemporary exploitation of the immediate landscape and the early development of the Straits Mill complex.

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. More specifically they require the undertaking of a programme of archaeological work on the site in accordance with a written scheme of investigation to be approved by the Local Planning Authority prior to the commencement of any development. This would include fieldwork in areas containing archaeological deposits with the completion of a post-excavation assessment and site archive for deposition at the local museum.

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.

#### Minerals and Waste

The application site is located in the Essex Mineral Safeguarding Area and is therefore subject to Policy S8 of the Essex Minerals Local Plan (2014) which seeks to safeguard Mineral Resources for extraction in the County.

The application was accompanied by a Minerals Resource Assessment which was assessed by Essex County Council as the Minerals and Waste Authority.

Following the submission of additional information a holding objection was removed by the Minerals and Waste Authority who do not consider that it would be economically viable to extract minerals from the site.

Officers therefore do not consider that there are any grounds in relation to Mineral extraction to recommend that the application is refused.

#### Construction Activity

In order to safeguard the amenity of existing residents in the locality a condition is recommended requiring the applicant to submit for approval a comprehensive Construction Management Plan 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.

#### Agricultural Land



Paragraph 170 of the NPPF requires that the economic and other benefits of the best and most versatile agricultural land be taken into consideration when determining planning applications which would result in the loss of such land. Footnote 53 to paragraph 171 states that (for Local Plan allocations) where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality.

Although this footnote relates specifically to plan making and not the determination of planning applications it is still considered relevant insofar as it identifies the importance of the loss of agricultural land as a material planning consideration in the overall planning process.

Best and most versatile agricultural land is classed as land within Grades 1; 2 and 3a of the Agricultural Land Classification. The application site consists of 14 agricultural fields of different sizes totalling approximately 53 hectares. The applicant has submitted an Agricultural Land Classification Report which states that approximately 18ha of the site is likely to be Grade 2 (very good quality) and 14ha Grade 3a (good quality) giving a likely total of 32ha of best and most versatile agricultural land from a 66ha total site area.

Although the loss of 32ha of such land is not insubstantial in its own right, it is less significant when viewed against the size of the District as a whole. Furthermore, the site has a draft allocation in the Council's Publication Draft Local Plan and it is recognised that this site has been identified as being both suitable and necessary for a residential-led development to assist with meeting the District's housing and employment needs.

Therefore, Officers consider that the detrimental economic impact and loss of other benefits associated with the identified loss of best and most versatile agricultural land which the development would cause would be firmly outweighed by the economic and social benefits of a residential-led development of this size adjacent to the District's main town.

#### Flood Risk and Surface Water Drainage

Almost the entire application site is located within Flood Zone 1 (low probability risk of flooding). The southern boundary of the site encroaches slightly into Flood Zones 2 and 3 where it runs adjacent to the River Blackwater.

The applicant has submitted a Flood Risk Assessment and Outline Drainage Strategy in support of their application. They propose to utilise a sustainable urban drainage system incorporating conventional pipework discharging into swales or other open channel features within the landscaped areas of the development. These would convey run-off to storage areas located along the southern boundary of the site.

The SUDs system would also manage groundwater flows originating from the site, including from a spring which is located on the application site at the head of the existing watercourse on the eastern side of the site.

The storage areas located along the site's southern boundary would be divided into two sections, east and west. The western storage area would discharge into the eastern storage area which in turn would discharge into the River Blackwater.

These storage areas would form an important habitat area and would be accessible via a network of pathways which would all link to the riverside walk.

Both the Environment Agency and Essex County Council as the Lead Local Flood Authority have assessed the application in detail and have no objection subject to conditions relating to the requirement for a detailed surface water drainage strategy at the reserved matters stage; the submission of a construction surface water management plan to control run off during the build phase and two conditions relating to long term SUDs maintenance and management plans and logs.

In terms of Foul Drainage, Anglian Water were consulted and have advised that Bocking Water Recycling Centre has available capacity for the development flows of wastewater requiring treatment. However, with regard to the used water network the development would, if unmitigated lead to an unacceptable risk of flooding downstream. Anglian Water would therefore work with the applicant to ensure any required infrastructure improvements would be delivered in line with the development. They therefore require a condition requiring a Phasing Plan and the submission of a scheme for on-site foul drainage works to accord with this.

#### Building Research Establishment Environmental Assessment Method (BREAAM)

The applicant has made a commitment to ensure that the employment development on the site will meet the BREAAM 'very good' rating and has accepted a planning condition to ensure that this is certified. This is over and above any Adopted or Draft Policy requirement and would help to ensure the sustainability credentials of this aspect of the development.

#### Reserved Matters Timescales

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

#### Site Assessment Conclusion

There are no objections to the application from any statutory consultees with the exception of Sport England. Officers consider that their concerns have been addressed by way of the securing of s106 contributions towards off site sports provision. Overall Officers are of the opinion that the site is capable of accommodating the proposed quantum of development in a sustainable manner.

## **ENVIRONMENTAL ISSUES**

### **Introduction**

Officers have taken environmental information into consideration in the assessment of this application in accordance with the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 (as amended). The Environmental Statement (ES) has been prepared to comply with the requirements of Schedule 4, Part 1 of the Regulations.

The Environmental Statement (ES) has been assessed against the 2011 EIA Regulations (as amended) as the Applicant submitted a scoping opinion request before 16 May 2017 when the 2017 EIA Regulations (implementing the 2014 EIA Directive, 2014/52/EU) came into effect.

The applicant undertook formal scoping for the EIA and subsequently sought a Scoping Opinion from the Local Planning Authority. A Scoping Report was submitted on 3<sup>rd</sup> April 2017 and a formal Scoping Opinion was issued on 23<sup>rd</sup> June 2017.

The submitted ES has been prepared by Barton Willmore LLP on behalf of the applicant, Gallagher Estates. The ES comprises of the following documents:

- Non-Technical Summary
- Volume 1 – Main Text and Figures
- Volume 2 – Technical Appendices
- Volume 3 – Transport Assessment and Travel Plan

The following topics were assessed in the ES:

- Socio-Economics;
- Landscape and Visual Effects;
- Ecology and Nature Conservation;
- Cultural Heritage;
- Land Contamination;
- Water Resources and Flood Risk;
- Transport and Access;
- Air Quality and Odour;
- Noise and Vibration;
- Agricultural Land.

The Council commissioned Land Use Consultants (LUC) to undertake a review on behalf of the Council of the Environmental Impact Assessment Scoping Review submitted by the applicant and Arup to undertake an independent technical review of the ES, again on behalf of the Local Planning Authority. Both reviews were carried out in accordance with the requirements of the Regulations. LUC's review of the Scoping Review was incorporated within the Council's Scoping letter. Arup's independent ES review was incorporated into the Council's Regulation 22 Request Letter and issued to the applicant to allow the applicant to address any perceived gaps in the ES.

Following assessment of the submitted Environmental Statement, the Local Planning Authority issued a Request under Regulation 22 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended) to provide further information in respect of the Environmental Statement submitted in support of the application.

Issues where further information and clarification was requested included the following ES Chapters:

- Chapter 2: EIA Methodology
- Chapter 5: Construction Methodology and Phasing
- Chapter 6: Socio-economics
- Chapter 7: Landscape and Visual Effects
- Chapter 8: Ecology and Nature Conservation
- Chapter 9: Cultural Heritage
- Chapter 11: Water Resources and Flood Risk
- Chapter 12: Transport and Access
- Chapter 14: Noise and Vibration
- Chapter 15: Agricultural Land
- Chapter 16: Summary and Residual Effects

In response to the above requests for further information, the applicant submitted an addendum to the ES in November 2019.

#### **Schedule 4 Information**

Schedule 4 of the EIA Regulations specifies the information that should be included within an ES. A summary of the required information and where it is located in the applicant's ES is set out below confirming that the minimum requirements have been met:

<b>Summary of Information to be Included in ES</b>		<b>ES Reference</b>
1.	Description of development	Vol 1, Chapter 3 & 5; 6 – 15 subsection 'Operational Phase'; Chapter 16.
2.	Outline of main alternatives and indication of main reasons for choice made	Vol 1, Chapter 4.
3.	Description of aspects of environment likely to be significantly affected by the development	Vol 1, Chapter 6 – 15 subsection 'Likely Significant Effects' and Chapter 16 subsection 'Interactive Effects'.
4.	Description of likely effects of development on the environment (direct; indirect; secondary; cumulative; short; medium; long-term; permanent and temporary; positive and negative.	Vol 1, Chapter 2; Chapter 6 – 15 subsection 'Likely significant effects' & 'Assessment Methodology'; Chapter 5 subsection 'Material and Resource Use'; Chapter 3; Chapter 13 & 14 subsection 'Likely Significant Effects';
5.	Description of measures envisaged to prevent, reduce and where possible offset any significant adverse effects on environment.	Vol 1, Chapter 6 – 15 subsection 'Mitigation Measures'
6.	Non-technical Summary	Non-technical Summary
7.	Indication of any difficulties in compiling the required information.	Vol 1, Chapter 2 and Chapter 6 – 15 subsection 'Assumptions and Limitations'

### **Compliance with Scoping Opinion**

It is best practise (although not a requirement) to produce an ES that fully aligns with the Scoping Opinion. Most but not all of the Scoping Opinion recommendations (Volume 2 Appendix 2.2 of the ES) have been applied. Recommendations that were not adopted in the ES are summarised below:

It was requested that:

- estimates of demolition waste; waste re-use and waste processing be provided
- the ES demonstrate that the site layout had followed the required standards for planning for daylight and sunlight
- that Billericay and District Angling Club be consulted

- the impacts of dredging and restoration works to the large pond be considered in terms of potential groundwater contamination
- the cumulative impact from permitted developments are taken into consideration when considering the impact of the proposed development on traffic and transport network capacity
- reference was made to the NHS London Healthy Urban Development Unit checklist and the Rapid Health Impact Assessment tool
- reference was made to the Guiding Principles for Land Contamination to demonstrate compliance with this
- the Traffic and Transport chapter demonstrated how model calibration and validation was undertaken and whether demolition traffic has been included in the assessment of construction phase effects.
- the Ecology and nature Chapter explore and make commitment to enhancement of river ecology and the effect of improvements to the river on the ecological functioning of the river corridor
- a Framework CEMP was included in the ES

These matters were identified in the Council's Regulation 22 Letter and appropriately responded to by the Applicant in their Regulation 22 response. Officers are satisfied that the ES and the applicant's Regulation 22 response together ensure compliance with the ES Scoping Opinion.

## **Review Criteria**

The technical review of the ES has been based on the European Commission's 'Guidance on EIA: EIS Review' and the associated checklist. The ES checklist provides an overall review of the robustness of an ES by asking key questions against specific subject areas. In its totality, the ES checklist not only ascertains whether the ES includes all the information required within Schedule 4 of the EIA Regulations, but also identifies whether the ES conforms to best practice with respect to presentation, readability and technical robustness. The checklist is comprised of 145 review questions divided into seven sections:

- Description of the project;
- Alternatives;
- Description of the environment likely to be affected by the project;
- Description of the likely significant effects of the project;
- Description of mitigating measures;
- Non-Technical Summary; and
- Quality of presentation.

The ES review concluded that the ES was lacking in key information specifically relating to:

- The description of the project;
- The baseline; and
- The assessment methodology.

Corrective actions were required to ensure that the ES is robust and allows all relevant environmental information to be considered as part of the planning application process. These corrective actions constituted the request for further information under Regulation 22 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended).

A brief summary of the ES topics and chapters is set out below with reference to Regulation 22 where applicable.

## **EIA Methodology**

Chapter 2 of the ES sets out the methods used to prepare each chapter of the ES, a description of the ES structure and content, generic significance criteria, a description of the ES scoping exercise and details of consultation carried out.

### Regulation 22 Matters – Further Information

The applicant's response to the Regulation 22 Request is considered to be satisfactory.

### EIA Methodology: Conclusion

Officers are satisfied that the Methodology chapter of the ES along with the additional information contained within the addendum to the ES submitted in response to the Regulation 22 Request is sound with regards to the requirements of the EIA Regulations.

## **Site and Development Description**

Chapter 3 of the ES sets out a detailed description of the site and of the details of the development. It also sets out a summary of the effects with regard to climate change, energy and sustainability.

### Site and Development Description: Conclusion

Officers are satisfied that the site and development descriptions are adequate and no further information was required by way of Regulation 22 Request.

## **Alternatives and Design Evolution**

Chapter 4 identifies the main alternatives considered by the applicant. Schedule 4 of the EIA Regulations require an applicant to provide an outline of the main alternatives studied and an indication of the main reasons for the choice made, taking into account the environmental effects. This chapter reviews the principal land use siting options explored and the reasoning for the selection of the current design of the development.

The 'do nothing' alternative would result in the beneficial and adverse effects outlined in the ES not occurring as the site would remain in its current form

and the development would not be delivered. In terms of alternative locations and uses, the site has been identified in the Council's Publication Draft Local Plan for the type of development proposed by the applicant. The evolution of the proposed development design is also described, including its response to consultation undertaken and input from the Local Planning Authority.

#### Alternatives and Design Evolution: Conclusion

Officers are satisfied that adequate consideration and justification is given for consideration of alternatives and the evolution of the design. No further information was required by way of Regulation 22 Request.

### **Construction Methodology and Phasing**

Chapter 5 sets out details of the anticipated programme for development and the anticipated construction methodology and phasing of the development with an anticipated build out period of approximately 10 years. It also identifies controls to protect the environment such as the requirement for a Construction Environmental Management Plan and Construction Traffic Management Plan (required by way of condition).

#### Regulation 22 Matters – Further Information

The applicant's response to the Regulation 22 Request is considered to be satisfactory.

#### Construction Methodology and Phasing: Conclusion

Officers are satisfied that the construction methodology and phasing chapter along with the additional information contained within the addendum to the ES submitted in response to the Regulation 22 Request are adequate.

### **Socio-Economics**

Chapter 6 assesses the likely significant effects of the Development on the environment in respect of socio-economic effects. The assessment has considered the construction and operational phase employment effects together with operational effects on population and housing; local expenditure; primary healthcare, education and crime.

#### Regulation 22 Matters – Further Information

The applicant's response to the Regulation 22 Request is considered to be satisfactory.

#### Mitigation

A financial contribution is identified as being required to mitigate the development's impact upon primary healthcare. This has been requested by



the NHS as a statutory consultee and would form part of the s106 obligations for the development.

### Socio-economic: Conclusion

Officers are satisfied that the socio-economic chapter of the ES along with the additional information contained within the addendum to the ES presents a sound assessment of the likely impacts of the development.

### **Landscape and Visual Effects**

Chapter 7 identifies the likely significant effects of the development upon the environment in respect of landscape and visual amenity. Consideration of night time light spillage effects is also undertaken.

The landscape character of the site and its surroundings has been assessed and the site's landscape and visual qualities considered. Its function in the landscape and views and its contribution to the wider landscape has also been assessed and this work has informed the design evolution of the Development.

### Regulation 22 Matters – Further Information

The applicant's response to the Regulation 22 Request is considered to be satisfactory.

### Mitigation

Mitigation measures during the construction phase are identified including the control of lighting; careful location of stockpiles and machinery into visually less sensitive areas and the protection of existing vegetation to be retained. These measures would be secured by way of planning conditions relating to the need for a Construction Management Plan and tree/hedge protection measures.

Primary mitigation measures for the operational phase of the development are enshrined within the Parameter Plans and include the retention of and protection of existing green infrastructure within the site and a maximum building height of 3 storeys (and only in select locations). Secondary mitigation measures include the proposed landscape strategy for the site; with the creation of a wetland corridor adjacent to the River Blackwater and substantial native tree and hedgerow planting.

These mitigation measures would be secured by a combination of adherence to approved Parameter Plans and planning conditions requiring details of the landscaping and sustainable urban drainage schemes for the site.

### Landscape and Visual Effects: Conclusion

Officers are satisfied that the Landscape and Visual Effects chapter of the ES along with the additional information contained within the addendum to the ES presents a sound assessment of the likely impacts of the development.

### **Ecology and Nature Conservation**

Chapter 8 assesses the likely significant effects of the Development in respect of Ecology and Nature Conservation. The chapter is supported by a full range of ecological survey work. It also specifically considers the potential impact of the development upon the Natura 2000 sites located on the Essex coast.

The nature conservation and biodiversity interests of the site have been incorporated into the project from the outset and key design principles have been aimed at retaining and enhancing main features such as for example the bulk of the core woodland area.

The chapter assesses the potential impact upon protected and priority species, and relevant habitats and cumulative as well as individual impact.

### Regulation 22 Matters – Further Information

The applicant's response to the Regulation 22 Request is considered to be satisfactory.

### Mitigation

A range of mitigation measures were identified including the implementation of general best practice construction works to avoid/reduce impacts on habitats and species through a Construction Environmental Management Plan (required by way of condition). Extensive habitat creation (enshrined in the Green Infrastructure Parameter Plan and Design Code) including creation of a large wetland area and wildflower grassland adjoining the existing river corridor habitat; targeted enhancements such as bat boxes (required by way of condition); financial contribution (secured by s106 Agreement) towards off site mitigation at the Essex Coast Natura 2000 sites; adoption of measures set out in the submitted Landscape and Biodiversity Management Strategy (required by condition) and preparation of a Landscape and Ecology Management Plan and wildlife friendly lighting strategy (both required by way of condition).

### Ecology and Nature Conservation: Conclusion

Officers are satisfied that the Ecology and Nature Conservation chapter of the ES along with the additional information contained within the addendum to the ES presents a sound assessment of the likely impacts of the development.

## **Cultural Heritage**

Chapter 9 assesses the likely significant effects of the development in respect of cultural heritage, both in terms of above and below ground heritage assets. The chapter is supported by a Cultural Heritage Desk-Based Assessment and a geophysical survey.

The chapter concludes that following successful implementation of a programme of archaeological evaluation and mitigation and the retention of the hollow way (footpath) which crosses the site that no residual effects are anticipated in relation to heritage assets following completion of Development.

### Mitigation

A programme of archaeological evaluation and where required excavation and recording is identified as being necessary and required by way of condition. The Hollow Way would be retained.

### Regulation 22 Matters – Further Information

The applicant's response to the Regulation 22 Request is considered to be satisfactory.

### Cultural Heritage: Conclusion

Officers are satisfied that the Cultural Heritage chapter of the ES along with the additional information contained within the addendum to the ES presents a sound assessment of the likely impacts of the development.

## **Land Contamination**

Chapter 10 assesses the likely significant effects of the Development on the environment in respect of land contamination. An assessment of the effects associated with any existing sources of contamination on future occupants of the site is undertaken along with an assessment of the potential for effects to arise from contamination as a result of the proposed development and any necessary remediation.

### Mitigation

During the construction phase a number of mitigation measures have been identified including the following:

- appropriate protection for and briefing of construction workers;
- adherence to Construction Environmental Management Plan (required by way of condition);
- use of piling to be controlled (by way of condition);
- avoidance or remediation of contaminated ground.

During the occupation phase of the development the following mitigation is required:

- landfill material located under an appropriate cover layer;
- gas protection measures for properties located on top of former landfill;
- remediation or removal of any unexpected contamination;
- monitoring of groundwater/surface water to ensure water quality is not impacted by the development;
- Placement of appropriate thickness of good quality topsoil on areas to be landscaped.

Where these matters are not covered by separate legislation conditions relating to contamination are required.

#### Regulation 22 Matters – Further Information

The applicant's response to the Regulation 22 Request is considered to be satisfactory.

#### Land Contamination: Conclusion

Officers are satisfied that the Land Contamination Chapter of the ES along with the additional information contained within the addendum to the ES presents a sound assessment of the likely impacts of the development.

### **Water Resources and Flood Risk**

Chapter 11 assesses the likely significant effects of the Development on the environment in respect of Water Resources and Flood Risk due to the potential for the Site to have a physical, chemical and biological effect on the water environment. The chapter covers the effects on water quality, including effects relating to drainage and flood risk.

#### Regulation 22 Matters – Further Information

The applicant's response to the Regulation 22 Request is considered to be satisfactory.

#### Mitigation

Planning of the construction sequence and intentional diversion of overland flow paths will mitigate the impact on surface water flood risk. Accurate locating of and then protection of existing foul water raising mains along the site's southern boundary is required. Measures to avoid construction-related pollutants entering the environment and contaminating groundwater are also required such as defined refuelling areas for plant. This could be covered off by way of a Construction Environmental Management Plan condition. There is also a need to safeguard against impacts upon water levels within underlying aquifers caused by de-watering activities and compaction of the ground by

construction plant. Permitting infiltration where possible will enable ground water to be recharged.

During the occupation phase of the development, the effect of the development on surface water flood risk would be partially mitigated by the proposed surface water drainage system and partially by designing finished floor levels to direct run-off away from buildings and towards defined corridors for surface water management.

The proposed sustainable urban drainage system for the site will also need to include a water treatment capability to ensure pollutants from the additional vehicular traffic on the site does not enter the water environment.

To mitigate the impact upon the water supply network reinforcement works will be required by Anglian Water (as part of their statutory duties) and the promotion of water consumption reduction methods (building regulations) across the site.

#### Water Resources and Flood Risk: Conclusion

Officers are satisfied that the Land Contamination chapter of the ES along with the additional information contained within the addendum to the ES presents a sound assessment of the likely impacts of the development.

#### **Traffic and Transport**

Chapter 12 assesses the potential transport impacts and considers the likely significant effects of the Development in respect of transport and access. Effects relating to driver severance and delay, pedestrian severance and delay, pedestrian amenity, accidents and safety, hazardous and dangerous loads, dust and dirt are considered.

The assessment encompasses the vehicular, pedestrian, cycling and public transport infrastructure in the vicinity of the Site, with the study area broadly encompassing: the Site, Broad Road, the A131, the A120, and Coggeshall Road. It considers the potential transport impacts of the operation of the Development, as set out in the supporting Transport, Assessment (TA), as well as the construction phase of the Development.

#### Regulation 22 Matters – Further Information

The applicant's response to the Regulation 22 Request is considered to be satisfactory.

#### Mitigation

During the construction phase a Construction Traffic Management Plan would be required by way of planning condition.

To mitigate the operational phase of the development physical junction improvements have been identified for the Marks Farm Roundabout and the A131/Broad Road Roundabout as set out in the Highways section of the above report and would be secured under the s106 Agreement. A Travel Plan is also required, by way of planning condition.

It is also considered that there is a clear opportunity to either re-route an existing bus service or provide a new bus service to directly serve the development. New bus stops will be provided within the development and the applicant will be required under the s106 Agreement to upgrade existing bus stops in the locality and make a financial contribution toward bus service provision from the town centre.

#### Traffic and Transport: Conclusion

Officers are satisfied that the Traffic and Transport chapter of the ES along with the additional information contained within the addendum to the ES presents a sound assessment of the likely impacts of the development.

#### **Air Quality and Odour**

Chapter 13 assesses the likely significant effects of the development in respect of air quality and odour. Air Quality may be subject to effects from the Development during both the construction and operational phases. During construction, dust and particulate matter may be generated by dust-raising activities. Once complete and operational, there may be changes in emissions from traffic using the nearby roads travelling to and from the Site.

The key air pollutants that are addressed in this assessment are nitrogen dioxide (NO<sub>2</sub>) and fine particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>), as these pollutants are the most likely to be present at concentrations close to or above air quality criteria in an urban environment.

In addition, the assessment has considered the potential risk of impacts on the development from odour emissions arising from the Bocking Wastewater Treatment Works (WWTW) to the south east of the Site.

#### Regulation 22 Matters – Further Information

The applicant's response to the Regulation 22 Request is considered to be satisfactory.

#### Mitigation

During the Construction Phase the Construction Environmental Management Plan would need to include measures to control the impact of construction upon air quality such as dust control measures.

The applicant's document assessment has shown that there is the potential for complaint within the site at locations closest to the Sewerage Treatment

Works although it is noted that no complaints have to date been received by the Council from existing dwellings to the south. It is identified that discussions with Anglian Water may be required to ensure potential odour risk to future sensitive receptors in the development is minimised.

#### Air Quality and Odour: Conclusion

Officers are satisfied that the Air Quality and Odour chapter of the ES along with the additional information contained within the addendum to the ES presents a sound assessment of the likely impacts of the development.

#### **Noise and Vibration**

Chapter 14 assesses the likely significant effects of noise and vibration on the environment as a result of the construction and operation of the Development.

An assessment has been undertaken of airborne noise and vibration on noise sensitive receptors. The assessment looks at the both the construction and operation of the Development and cumulative effects of other nearby developments.

#### Regulation 22 Matters – Further Information

The applicant's response to the Regulation 22 Request is considered to be satisfactory.

#### Mitigation

During the construction phase the noise impact upon the closest existing dwellings to the site boundary would need to be controlled using temporary noise barriers and best practice measures such as restrictions on working hours; adoption of quiet working methods and using rubber linings for chutes. A Construction Environmental Management Plan, required by planning condition would cover this.

In the operational phase of the development the closest dwellings to the A131 and B1053 would need to be designed so that the permitted maximum internal and external noise levels under the World Health Organisation and other relevant criteria are not exceeded. This would be a matter for the detailed design stage. The same applies to plant noise from external plant fitted to the school and other commercial buildings. Commercial deliveries would also need to be regulated in terms of their timings.

#### Noise and Vibration: Conclusion

Officers are satisfied that the Noise and Vibration chapter of the ES along with the additional information contained within the addendum to the ES presents a sound assessment of the likely impacts of the development.

## **Agricultural Land**

Chapter 15 assesses the likely significant effects of the Development on the environment in respect of soils and agricultural land.

The key points considered relate to the effects of the Development on agricultural land, particularly best and most versatile (Grades 1, 2 and Subgrade 3a) agricultural land, the effects on the soil resource and the effects on the farm businesses occupying the Site.

### Regulation 22 Matters – Further Information

The applicant's response to the Regulation 22 Request is considered to be satisfactory.

### Mitigation

There are no universally applicable measures to mitigate the direct loss of agricultural land and the loss of such land is assessed in the overall planning balance. The primary mitigation measures to mitigate impacts upon soil resources during site preparation, earthworks and construction activities relate to identifying the most appropriate re-use for different types of soil and following good practice guidance on handling, storing and replacing soils on-site. A contamination condition would safeguard against unexpected contamination and also ensure that appropriate remediation is carried out where required.

### Agricultural Land: Conclusion

Officers are satisfied that the Agricultural Land chapter of the ES along with the additional information contained within the addendum to the ES presents a sound assessment of the likely impacts of the development.

### **Officer Conclusion: Environmental Issues**

Officers are satisfied that the ES along with the additional information contained within the addendum to the ES presents a sound assessment of the likely impacts of the development. Officers recommend that the mitigation measures identified within the assessment of the ES are secured through appropriate Conditions/Section 106 obligations.

### PLANNING OBLIGATIONS

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



## **Affordable Housing**

Policy CS2 of the Adopted Core Strategy requires developers to provide affordable housing on site with a target of 30% affordable housing on sites in the urban ward of Braintree. The application site is located directly adjacent to Braintree and the provision of 30% affordable housing is therefore required.

The applicant submitted an Affordable Housing Statement (contained within their Planning Statement) in support of the application confirming that 30% of the proposed dwellings would be affordable housing; that is housing that is affordable rented and intermediate housing provided to eligible households whose needs are not met by the market. Based on a development of 1,000 dwellings this would equate to 300 affordable dwellings.

The benefits of this aspect of the scheme in terms of social sustainability are clear and due weight must be given to this in the overall planning balance.

The Council's Strategic Housing Team have reviewed the application and would require the following:

- A tenure mix comprising 70% Affordable rent and 30% shared ownership
- Affordable dwellings should be deliverable without reliance on public subsidy
- Accessibility requirement for bungalow type homes to meet Building Regulations Part M (3b)
- Accessibility requirement for all affordable homes accessed at ground level to meet Building Regulations Part M (2)
- Affordable homes should be compatible with Nationally Described Space Standards
- Requirement for proportionate modest sized clustering of affordable units throughout the development

## **Public Open Space**

Policy CS10 of the Adopted Core Strategy requires new development to make appropriate provision for publically accessible green space or improvement of existing accessible green space in accordance with the following adopted standards (all figures are calculated per thousand population); parks and gardens at 1.2 hectares; outdoor sports provision at 2.0 hectares; amenity greenspaces at 0.8 hectares; provision for children and young people at 0.2 hectares. Allotments are also required at 0.23 hectares.

The Council's Open Space SPD sets out further details on how these standards will be applied. A development of this size would be normally be expected to make provision for all categories (informal open space; formal sports; children's playspace and allotments) of open space on site.

The submitted plans make provision for all of the above categories of open space on site with the exception of formal sports provision which is limited.

Informal open space is provided at a level well in excess of the minimum requirement. Children's playspace and allotment provision falls slightly short of the requirements but the shortfall is not significant. The s106 would require a Management Plan to be approved for all open space on the site to ensure its upkeep and maintenance.

Due to the topography of the site there is however a significant deficit in on site formal sports provision. A total of 4.72ha is required with 1.12ha being provided leaving a 3.6ha deficit. Officers accept that the topography of the site makes it unsuitable for large scale formal sports pitch provision. Two junior pitches, a Multi-Use Games Area and a Wheeled Play Area (i.e. BMX/Mountain bike type track) will be provided with a financial contribution towards offsite formal sports provision also being required. This contribution would be calculated in accordance with the Councils standard formulae but could equate to around £728,000.

This contribution would be secured through the S106 Agreement and the actual payment would be calculated on the number and size of the dwellings constructed.

The Council also require open space contributions for commercial developments, again in accordance with the adopted Open Space SPD. For the proposed development a contribution of approximately £74,208 would be required towards the off-site provision of informal open space and formal sports provision.

## **Education**

Essex County Council has advised that the following contributions are required:

Early Years and Childcare – the proposed development is located within the Bocking North Ward and there is a lack of provision within this area. Provision will be required on site and 2 new facilities will be required. The application makes such provision in the form of a co-located facility with the proposed primary school and an additional stand-alone facility. The cost per pupil, based on the provision of 2 new facilities and including the anticipated 30.5 spaces from the employment area will be £19,924.88 per place. A Developer contribution of approximately £2,488,618 is therefore required plus provision of serviced land for the stand-alone facility and a requirement for a marketing strategy for this.

Primary Education – the development is located within Braintree Planning Group 6. The provision of a new primary school on the site complies with the emerging Local Plan requirement. Financial contributions of £15,327.18 per pupil are also required resulting in a Developer contribution of approximately £4,828,062 in addition to provision of the land for the school by the Developer.

Secondary Education – sufficient capacity exists to accommodate the proposed development. Future strategic developments will be required to

make financial contributions towards secondary provision however this cannot be required on a 'pro rata' basis and no secondary contribution is required for the current development.

## **NHS**

NHS England advise that the development would give rise to a need for additional primary healthcare provision to mitigate impacts arising from the development. Additional healthcare provision would be created by way of internal reconfiguration of Church Lane Surgery. Plans are already in place to accommodate growth so it is imperative that payment is made before construction commences. A financial contribution of approximately £378,580 is required with payment being made before development commences with an alternative option for this money to be re-directed toward the provision of a NHS healthcare facility in the town centre if the NHS deem this necessary.

## **Transport**

Highways England and Essex County Highways Authority require the following to be secured by way of a Section 106 Agreement:

- a) Completion by the developer of the proposed access onto the A131 (Broad Road access to be secured by planning condition)
- b) Completion by developer of the agreed upgrade scheme to Marks Farm roundabout
- c) Completion by the developer of the agreed upgrade scheme to the Broad Road/A131 roundabout
- d) Financial contribution towards public transport facilities, and/or bus service provision at/in the vicinity of the site and between the site and Braintree town centre /railway station
- e) Upgrading of existing bus stops in Broad Road/and or Convent Lane
- f) Improvements to Public Right of Way Braintree and Bocking 52 located immediately to the south of the proposal site (including works on BDC land if required)
- g) Provision of pedestrian/cycle ramp at the northern-most end of Blackwater Way (including works on BDC land if required)
- h) Provision of a toucan crossing in Courtauld Road in the vicinity of its junction with Julien Court Road
- i) Improvements to the existing north-south route through the Park between Courtauld Road and Coggeshall Road to provide a shared footpath/cycleway
- j) Provision of a Toucan Crossing in Coggeshall Road in the vicinity of its junction with the avenue

## **Habitat Regulations**

A mitigation package to mitigate the development's impact upon the Natura 2000 sites. This will include a financial contribution towards off site mitigation at the Natura 2000 sites on the coast and on site mitigation measures which

have been agreed with Natural England as part of the Appropriate Assessment process.

### **Sport England**

A developer contribution towards indoor sports provision in accordance with Sport England's standard calculator. Sport England advise that based on a development of 1000 dwellings this would approximately equate to the following:

- £416,055 towards Sports Hall provision;
- £449,677 towards indoor swimming pool provision; and
- £67,473 towards indoor bowls provision.

### **Recycling Facilities**

Provision of facilities on site for recycling of household waste such as bottle banks.

### **Community Project**

A financial contribution towards a new extension, upgrades and alterations (including a new roof and internal works) to Glebe Community Hall, CM7 5RB.

### **Gypsy and Traveller Provision**

A developer contribution towards the off-site provision of Gypsy and Traveller pitches.

### **Requirements for Proposed Neighbourhood Centre**

To safeguard the provision of the proposed Neighbourhood Centre including size, location and uses. To include requirement for marketing strategy, provision of serviced site, location and uses.

### **Housing Phasing; Infrastructure Phasing and Open Space Strategy**

Requiring provision of a site wide phasing strategy to identify the order of construction of the development including:

- Indicative housing mix for each phase
- Details of delivery of spine road
- Details of open space in each phase
- Location of items such as allotments; equipped play areas; public art.

### **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 as such is located on land designated as countryside in the Adopted Local Plan and the Adopted Core Strategy. The application site is proposed for allocation for residential development in the Publication Draft Local Plan. However, as the application site is located outside of a designated Village Envelope/Town Development Boundary, the proposed development is currently contrary to the provisions of the Adopted Development Plan.

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

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

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).

The proposed development would bring very significant and clearly demonstrable social and economic benefits with a total of up to 1,000 new dwellings to help meet housing need within the District, providing up to 300 affordable dwellings and 700 market dwellings. This is an important material consideration in the planning balance and weighs heavily in favour of the proposal.

Furthermore, the applicant has agreed to a foreshortening of the period for the submission of the first reserved matters application from 3 years to 2 years leading to earlier delivery of the site. Again, this weighs in favour of the proposal providing greater certainty around earlier delivery of the development.

The construction phase of the development is predicted to last for approximately 10 years, generating a wide range of construction jobs over a prolonged period of time with associated economic benefits.

In terms of the development proposal itself, the proposal is for a residential-led mixed use scheme and the non-residential elements of a scheme this size are substantial. The proposed employment area would provide approximately 11,400sqm of B1/B2 use (business; general industry) and the local centre would provide approximately 1,050sqm of A1 to A5 uses (shops; financial and professional services; restaurants and cafes; drinking establishments; hot food takeaways). The development also provides land for a new (2FE) primary school with associated early years and childcare facilities.

There are clear economic benefits associated with the provision of the above both in terms of job creation and in terms of the wider economic impact of bringing new businesses into the District. In addition there are clear social benefits and the fact that this is a strategic scale mixed use scheme will allow a local community to develop. Again these factors weigh in favour of the planning balance.

Environmentally, the site is located in a sustainable position within the context of the District, being immediately adjacent to the District's main town which sits at the top of the settlement hierarchy with its associated services and facilities. Whilst the site would contain a wide range of its own facilities and services, its links to and integration with the existing town would be equally important.

New bus stops within the site and upgrades to existing bus stops adjacent to the site are proposed to facilitate accessible public transport links from the application site into the town centre and also beyond to the wider District. Pedestrian and cycle links are also proposed, ensuring direct connectivity from the site into the town centre and provision is made for electric vehicle

charging points across the development. The applicant's commitment to achieve a BREEAM 'very good' rating on all employment development on the site also weighs in its favour in the planning balance.

In terms of green infrastructure; the applicant proposes to enhance the existing river corridor, enlarging it on the development side of the river and creating substantial new habitat areas with carefully planned public access points for both existing and future residents in the area. This would complement the existing river walk on the opposite side of the river. Extensive new tree planting is also proposed across the site including along the entire spine road; adjacent to the existing central woodland; in many areas of green infrastructure and across the site in areas of open space and within development parcels.

The application is also accompanied by an Environmental Statement and associated appendix and addendum which has been assessed by the Council. Officers are satisfied that the likely significant adverse environmental effects of the development have been identified and that mitigation measures can be secured to limit, remove or mitigate such effects.

Other benefits which weigh in favour of the development would include highway works with wider benefit, in particular to Marks Farm roundabout and financial contributions towards off site sports facilities and a community project.

The applicant has submitted a suite of detailed documents, including an Environmental Statement which demonstrate to Officers that the site is free of any constraints to residential development which cannot be resolved by way of conditions, the submission of further information at the Reserved Matters stage and a S106 Agreement.

There are also adverse impacts of the proposal which weigh against it in the planning balance. The development is located in the countryside and is contrary to the provisions of the Adopted Development Plan. The loss of approximately 32ha of best and most versatile agricultural land cannot be mitigated against and is not insubstantial in its own right. However, it is less significant when viewed against the size of the District as a whole and the Council are actively seeking to allocate the site for development having identified it as being both necessary and suitable to meet the District's housing and employment need under the Publication Draft Local Plan.

The majority of the site is also greenfield land, however the degree of ecological harm is limited and mitigation and enhancement measures have been identified which could be achieved by way of condition. The remediation of the more heavily contaminated areas of the site is also beneficial in this regard.

The development would result in the loss of a notable number of trees, including Category A and B trees and some hedges, however tree loss would be minimised to that which was unavoidable with the majority of existing tree

cover still being retained and a significant number of new trees being planted across the site with an overall net gain secured.

The existing employment on the site would also be lost, although this loss would be far outweighed by the number of jobs created in the new employment area; school and neighbourhood centre.

The site is located in a Mineral Safeguarding Area however the Minerals and Waste Authority are satisfied that it would not be economically viable to extract minerals from the site.

The landscape impact of the proposal is not severe for a development of this size and limiting the heights of proposed buildings combined with the retention of the large area of established woodland located within the site's centre and a new landscape planting scheme across the site would help to minimise the development's impact in this regard. Existing footpaths would remain open with new pathways added to the network. The character of the area would however change from its current rural setting to an urban setting and there would be a negative social and environmental impact identified with this for current users of the footpath network who value the rural environment of the site.

In terms of highways, the development would result in increased vehicular movements in the area. Both Highways England and Essex County Highways have been heavily involved in the highways assessment of the application. With the required mitigation measures secured by way of condition and/or S106 Agreement, neither of the statutory Highway Authorities consider that the impact of the development would be unacceptable upon the highway network.

Objections have been raised from local residents covering a wide range of topics including highway impact; environmental impact and the impact upon existing infrastructure and services. However, there are no objections from the relevant statutory consultees, subject to the required mitigation being secured through planning conditions or the S106 Agreement.

In terms of impact upon existing neighbour amenity, the applicant's illustrative masterplan demonstrates one way in which the site could be developed without an undue impact being caused upon the privacy or outlook of existing residents and the Design Code and associated Parameter Plans already provide a degree of certainty in relation to site layout. The precise layout is a matter for the reserved matters design and layout stage, however Officers do not consider that there are any grounds to recommend refusal of planning permission at the outline stage.

Overall, although there are identified detrimental impacts which must be factored into the planning balance, Officers consider that the benefits of this substantial proposal, in this location clearly outweigh the identified harm. When considering the planning balance and having regard to the benefits as identified above, and having regard to the requirements of the NPPF as a



whole, Officers have concluded that the benefits of this proposal outweigh the identified harm and the conflict with the Adopted Development Plan to which more than moderate but less than significant weight is afforded. The application site is allocated for the use proposed in the Council's Publication Draft Local Plan and Officers consider that the proposed development would constitute sustainable development and therefore recommend that planning permission is granted.

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

### RECOMMENDATION

It is therefore RECOMMENDED that subject to:

- 1) The applicant entering into a suitable legal agreement pursuant to S106 of the Town and Country Planning Act 1990 (as amended) to cover the following Heads of Terms:
  - **Affordable Housing** (30% provision; 70/30 tenure split (affordable rent over shared ownership); modest sized clustering; compatible with Nationally Described Space Standards; delivered without reliance on public subsidy; delivered proportionately; accessibility requirement for bungalow type homes to meet Building Regulations Part M (3b); Accessibility requirement for all affordable homes accessed at ground level to meet Building Regulations Part M (2).
  - **Public Open Space** (financial contribution toward outdoor sports provision to be calculated in accordance with Policy CS10 and the Council's Open Spaces SPD. Financial contributions to be calculated based on the final dwelling mix using the Council's standard Open Spaces Contributions formula. Specific projects to be identified by Officers. Open space specification, plan and management plan required for approval by the Council in relation to on-site public open space. Also a financial contribution towards informal open space and formal sports provision dependent upon the amount of employment floorspace).
  - **Education** (financial contribution towards Early Years and Childcare and Primary Education. Provision of land for new primary school on the site. Provision of land for stand-alone Early Years and Childcare facility with requirement for marketing strategy).
  - **Healthcare Provision** (financial contribution to create additional healthcare provision. Trigger point for payment being prior to commencement of development).
  - **Highway/Transport** (construction of site access from A131; completion of upgrade schemes to Marks Farm and A131/Broad Road roundabouts; financial contribution towards public transport facilities, and/or bus service

provision; upgrading of existing bus stops; improvements to Public Right of Way 52 (including works on BDC land if required); provision of pedestrian/cycle ramp at northern end of Blackwater Way (including works on BDC land if required); provision of pedestrian crossing in Courtauld Road; improvements to north-south route through park between Colchester and Coggeshall Road to provided shared foot/cycleway; provision of pedestrian crossing in Coggeshall Road. Specific triggers to be agreed by Officers however completion of A131 roundabout access set at 100 units and upgrade works to Marks Farm roundabout and A131/Broad Road roundabout set at pre-occupation).

- **Habitat Regulations** (a mitigation package to mitigate the development's impact upon the Natura 2000 sites. This will include a financial contribution towards off site mitigation at the Natura 2000 sites and on site mitigation measures).
- **Sport England** (financial contributions towards indoor sport provision calculated in accordance with Sport England's development calculator. Specific projects to be identified by Officers).
- **Recycling Facilities** (provision of facilities on site for recycling of household waste such as bottle banks)
- **Community Project** (financial contribution towards upgrades and alterations to Glebe Community Hall including a new extension, new roof and internal/external works).
- **Gypsy and Traveller Provision** (a developer contribution towards the off-site provision of Gypsy and Traveller pitches).
- **Requirements for Proposed Neighbourhood Centre** (to safeguard the provision of the proposed Neighbourhood Centre including size, location and uses. Requirement for marketing strategy and serviced site).
- **Housing Phasing; Infrastructure Phasing and Open Space Strategy** (requiring provision of a site wide phasing strategy to identify the order of construction of the development including; indicative housing mix for each phase; details of delivery of spine road; details of open space in each phase; location of items such as allotments; equipped play areas; public art).

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

Alternatively, in the event that a suitable planning obligation is not agreed within 3 calendar months of the date of the resolution to approve the application by the Planning Committee the Development Manager may use his delegated authority to refuse the application.

## RECOMMENDATION

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

## APPROVED PLANS

Location Plan	Plan Ref: (Barton Willmore Drawing) 9000 REV B Version: 03.10.2017
Other Willmore)	Plan Ref: Straits Mill Outline Design Code (Barton Version: August 2019
Access Details drg no. BROAD-SK-D-0003 REV P1.2	Plan Ref: (Atkins Drawing) Proposed Roundabout Version: 17.10.2019
Access Details Junction Broad Road, Braintree rg no. BROAD-DR-D-0003 REV P5	Plan Ref: (Atkins Drawing) Proposed Priority Version: 06.09.2017
Parameter Drawing Plan Land Use and Access 9600 REV M	Plan Ref: (Barton Willmore Drawing) Parameter Version: 26.07.2017
Parameter Drawing Plan Building Heights 9601 REV K	Plan Ref: (Barton Willmore Drawing) Parameter Version: 26.09.2017
Parameter Drawing Plan Green Infrastructure 9602 REV L	Plan Ref: (Barton Willmore Drawing) Parameter Version: 26.09. 2017

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## 1 Time Limit

Details of the:-

- (a) scale;
  - (b) appearance;
  - (c) layout of the building(s); and
  - (d) landscaping of the site
- (hereinafter referred to as "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any

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

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

Each phase of the development shall be commenced not later than 2 years from the date of approval of the last reserved matters approval for that phase.

All Reserved Matters applications shall be made to the Local Planning Authority not later than 10 years from the date of this permission.

#### Reason

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

### 2 Scope of Development

The submission of reserved matter applications pursuant to this outline planning permission shall together provide for no more than 1000 residential dwellings, including affordable and market housing; land for a new primary school and early years/childcare facilities; a local centre including A1-A5 retail uses; land for the provision of employment use (B1/B2 use class); creation of two vehicular access points from the A131 and Broad Road; a network of cycle and pedestrian routes, improvements to the River Walk on the site; provision of sustainable drainage systems and other associated infrastructure; open space and landscaping and shall demonstrate compliance with the approved plans and the Design Code listed above.

#### Reason

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

### 3 Phasing Plan

On or before the submission of the first reserved matters application for the site the applicant shall submit a phasing plan to the Local Planning Authority for approval. The development shall be carried out in accordance with the approved phasing plan unless a subsequent phasing plan is submitted to and approved by the Local Planning Authority in which case the development shall from that point be carried out in accordance with the updated phasing plan.

#### Reason

To ensure that the Local Planning Authority and statutory consultees are aware of the order in which the site is proposed to be built out and the predicted timescales for this.

#### 4 Site Levels

Any Reserved Matters application relating to scale or layout shall be accompanied by full details of the finished levels, above ordnance datum, of the ground floor(s) of any proposed building(s), in relation to proposed ground levels and shall also be accompanied by drawings showing proposed and existing site ground 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 un-neighbourly development with problems of overlooking and loss of privacy.

#### 5 Landscaping

Each Reserved Matters application relating to landscaping shall be accompanied by a landscaping scheme incorporating a detailed specification of hard and soft landscaping works. This shall include plant/tree types and sizes, plant numbers and distances, soil specification, seeding and turfing treatment, colour and type of material for all hard surface areas and method of laying, refuse storage and signs.

Each landscaping scheme shall demonstrate that the expertise of a soil specialist has been sought to advise on soil handling to ensure that the soil retains as many of its ecosystem services and functions as possible through careful soil management.

All areas of hardstanding shall be constructed using porous materials laid on a permeable base where it is demonstrated that this is required under a surface water drainage scheme which has been approved by the Local Planning Authority.

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

All relevant hard surface areas (i.e. those which are reasonably required to allow pedestrian and vehicle access to the building in question) agreed as part of the scheme shall be carried out before the first occupation of the buildings to which it relates or upon the completion of the development whichever is the earlier.

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

##### Reason

To enhance the appearance of the development and in the interests of

amenity and privacy.

## 6 Broadband

Any Reserved Matters application shall be accompanied by a strategy for the following for the phase(s) of development to which the Reserved Matters relate:

- Details of a strategy for fibre broadband provision to the new dwellings

The Development shall be carried out in accordance with the approved strategy.

### Reason

To ensure that an acceptable level of broadband provision is made to each of the new dwellings.

## 7 Electric Vehicle Charging Points

Applications for Reserved Matters for the development of the Residential Development Area, Local Centre and Employment Area as defined on drawing 9600 Rev M shall be accompanied by a strategy demonstrating how Electric Vehicle Charging Points will be incorporated in the development. As a minimum each new dwelling shall provide one charging point wherever practical and details to be submitted in the strategy shall include:

- Location of the electric vehicle charging points; and
- Specification of the charging points.

### Reason

To ensure that the development makes adequate provision for electric vehicle charging in the interests of creating a sustainable development.

## 8 Construction Environmental Management Plan

A construction environmental management plan (CEMP: Biodiversity) shall be submitted with each application for Reserved Matters 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.
- i) Containment, control and removal of any Invasive non-native species present on site.

The approved CEMP shall be adhered to and implemented throughout the relevant construction period strictly in accordance with the approved details.

#### Reason

To protect protected and priority species/habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

### 9 Biodiversity Enhancement Plan

Each phase of the development shall be the subject of a Biodiversity Enhancement Strategy for Protected and Priority species. This Strategy shall be submitted with each Reserved Matters application 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 for the relevant phase of the development;
- b) detailed designs to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and plans for the relevant phase of the development;
- d) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- e) persons responsible for implementing the enhancement measures for the relevant phase of the development;
- f) details of initial aftercare and long-term maintenance (where relevant) for the relevant phase of the development.

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).

### 10 Refuse/Recycling Facilities

Each Reserved Matters application that seeks approval of the appearance, layout or scale of any building(s) hereby permitted, shall be



accompanied by full details, for approval by the Local Planning Authority, of the location and design of the refuse bins and recycling materials separation, storage areas and collection points for individual dwellings and commercial properties.

The relevant refuse storage and collection facilities shall be provided prior to the first occupation of each of the building(s) to which the Reserved Matters application relates and shall be retained in the approved form thereafter.

**Reason**

To ensure adequate provision is made for refuse storage, collection and recycling on the site.

## 11 Tree Surveys

Each Reserved Matters application relating to layout and/or landscaping shall be accompanied by a Tree Survey which shall be submitted to and approved by the Local Planning Authority and shall include:

- A detailed survey plan drawn to an adequate scale indicating the height, girth, spread, species and exact location of all existing trees, shrubs and hedges on the Reserved Matters site and on land adjacent to the Reserved Matters site (including street trees) that could influence or be affected by the development, indicating which trees are to be removed in accordance with BS5837: Trees in relation to design, demolition and construction - Recommendations) (or in an equivalent British Standard if replaced);
- A schedule in relation to every tree or group of trees identified listing details of any proposed pruning, felling or other work;
- Details of any proposed alterations to existing ground levels, and of the position of any proposed excavation, that might affect the root protection area.

The survey shall also demonstrate to the satisfaction of the Local Planning Authority that measures have been taken to keep proposed tree and hedgerow removal to an absolute minimum and that, where achievable a net gain via new tree and hedge planting will be achieved for the relevant part or phase of the site.

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

**Reason**

To ensure the appropriate protection and retention of existing trees, shrubs and hedges and to ensure that tree/hedge/shrub removal only takes place where it is properly justified.

## 12 Ecology Survey Updates

If specific phases of the development hereby approved do not commence within 2 years from the date of the outline planning consent then the following shall be undertaken by the applicant and submitted to the Local Planning Authority for approval:

The approved ecological mitigation measures secured through condition shall be reviewed and, where necessary, amended and updated.

The review shall be informed by further ecological surveys commissioned to:

- i. Establish if there have been any changes in the presence and/or abundance of Protected species and;
- ii. identify any likely new ecological impacts that might arise from any changes.

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

Works will then be carried out in accordance with the proposed new approved ecological measures and timetable.

### Reason

To 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).

## 13 Construction Method Statement

No development (including any demolition) shall take place on the site as a whole or in each and any phase of the development until a Construction Method Statement (CMS) has been submitted to, and approved in writing by the local planning authority for the relevant phase of the development. The Statement shall be specific to each phase of the development and 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;
- Hours of working for site clearance; demolition and construction work including for starting of machinery and delivery of materials;
- Noise safeguarding - the developer shall have regard to BS:5228-Part 1

Code of Practice for noise and vibration control on construction and open sites

- 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 display and facilities for public viewing, where appropriate;
- Wheel washing facilities;
- Measures to manage air quality and control the emission of dust; particle matter and dirt during construction (the Developer shall have regard to BS: 5228 Part 2 Code of practice for noise and vibration control on construction and open sites;
- A scheme for recycling/disposing of waste resulting from demolition and construction works;
- Details of how the approved CMS will be implemented and adhered to, including contact details (daytime and 24 hour) for specifically appointed individuals responsible for ensuring compliance.
- Details of the keeping of a log book on site to record all complaints received from the public and the action taken in response. The log book shall be available for inspection by the Council and shall include information on the action taken in response to the complaint.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development and for each relevant phase of the development to which it refers.

#### Reason

To protect the amenities of the occupiers of nearby residential properties and the surrounding area and in the interests of highway safety.

#### 14 Archaeology 1 (Site Evaluation)

No development or preliminary groundworks in a phase shall commence until a programme of archaeological evaluation for that phase has been secured and undertaken in accordance with a written scheme of investigation which has been submitted by the applicant, and approved by the planning authority.

#### Reason

To enable full investigation and recording of this site of archaeological importance. The implementation of the agreed programme of archaeological evaluation is required prior to the commencement of development to ensure that the evaluation is carried out before construction works start which could damage any archaeology on the site.

#### 15 Archaeology 2 (Fieldwork)

No development or preliminary groundworks can commence within each respective phase on those areas containing archaeological deposits until

the satisfactory completion of fieldwork, as detailed in a mitigation strategy, and which has been signed off by the local planning authority through its historic environment advisors.

#### Reason

To enable full investigation and recording of this site of archaeological importance. The implementation of the agreed programme of archaeological evaluation is required prior to the commencement of development to ensure that the evaluation is carried out before construction works start which could damage any archaeology on the site.

#### 16 SUDS 1 (Detailed SUDS Scheme)

No development shall take place within a specific development phase until a detailed surface water drainage scheme for that phase, 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:

- Limiting discharge rates from the site to be as close as reasonably practicable to the greenfield run-off rate from the development of the same rainfall event for the 1 in 1-year and 1 in 100-year rainfall events.
- Provide sufficient surface water storage so that the run-off volume is discharged at a rate that does not adversely affect flood risk and that, unless designated to flood, that no part of the site floods for a 1 in 30-year event, and for a 1 in 100-year event no flooding shall occur within the development affecting any part of a building or utility plant susceptible to water.
- Provide sufficient storage to ensure no off-site flooding occurs as a result of the development during all storm events up to and including the 1 in 100-year plus climate change event.
- Final modelling and calculations for the specific development phase demonstrating compliance with the approved surface water drainage strategy covering the whole development.
- The appropriate level of treatment for all run-off leaving the site, in line with the CIRIA SUDs Manual C753.
- Detailed engineering drawings of each component of the drainage system included within the specific development phase.
- A final drainage plan which details exceedance and conveyance routes, finished floor and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy for the specific development phase and highlighting any minor changes to the approved strategy.

The scheme for each development phase shall subsequently be implemented prior to occupation of that phase. Regard must also be had to the requirements of Condition 52 of this planning permission when seeking to discharge the above condition.

#### Reason

To prevent flooding by ensuring the satisfactory storage/disposal of surface water from the site; to provide mitigation of any environmental harm which may be caused to the local water environment and to ensure that the detailed surface water drainage strategy and landscape strategy for the site take into account the full existing baseline conditions on the site. The details of the surface water drainage scheme are required prior to the commencement of development to ensure that a system is not installed that is not sufficient to deal with surface water occurring during rainfall events leading to increased flood risk and pollution hazard from the site.

#### 17 SUDS 2 (Contamination)

No drainage systems for the infiltration of surface water drainage into the ground are permitted other than with the approval of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approved details.

#### Reason

To ensure that risks from the infiltration of surface water through contaminated land which has the potential to impact upon groundwater quality is mitigated.

#### 18 SUDS 3 (Maintenance Plan)

No development shall take place within a specific development phase 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.

The Maintenance Plan must include a requirement that annual maintenance logs must be maintained and that these should be available for inspection upon request by the Local Planning Authority. Should any part be maintenance by a maintenance company, details of long-term funding arrangements should be provided.

#### Reason

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

#### 19 SUDS 4 (Construction Phase Flood Risk)

No development, including engineering works shall take place until a scheme to minimise the risk of off-site flooding and pollution caused by surface water run-off during construction works associated with a specific phase has been submitted to, and approved in writing by, the Local

Planning Authority.

Reason

To ensure that the development does not increase flood risk or contribute to water pollution during the construction phase.

20 Contamination 1 (Further Investigation)

Prior to the commencement of development except for demolition further investigation shall be undertaken to provide better characterisation of the site and to assess the nature and extent of any contamination on the site with a particular focus on the former landfill on the site and in relation to Asbestos, Ground gas and PAH. This investigation shall be carried out in accordance with the recommendations contained within the suite of documents which informed Chapter 10 'Land Contamination' of the submitted Environmental Statement and are contained at Appendix 10.1 to 10.6 inclusive of this Statement. The results shall be submitted to the Local Planning Authority for approval.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

21 Contamination 2 (Remediation)

Prior to the commencement of development except for demolition in each phase the applicant shall submit to the Local Planning Authority for approval a remediation scheme to bring the site to a suitable condition in that it represents an acceptable risk to the Local Planning Authority. Formulation and implementation of the remediation scheme shall be undertaken by competent persons and in accordance with 'Model Procedures for the Management of Land Contamination, CLR 11'. Further advice is available in the 'Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

22 Contamination 3 (Remediation 2)

The developer shall give one-month's advanced notice in writing to the Local Planning Authority of the impending completion of the remediation

works required under Condition 21. Within four weeks of completion of the remediation works a validation report undertaken by competent person or persons and in accordance with the 'Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers' and the agreed remediation measures shall be submitted to the Local Planning Authority for approval. There shall be no residential occupation of the site (or beneficial occupation of the school or commercial buildings hereby permitted) until the Local Planning Authority has approved the validation report in writing.

Furthermore, prior to occupation of any residential or commercial property or the school 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 the residential properties hereby permitted.

### 23 Contamination 4 (Long Term Monitoring)

No development of each phase shall take place until a long-term monitoring and maintenance plan as set out in the remediation strategy in respect of contamination (including the monitoring of the long-term effectiveness of the proposed remediation of ground gases) including a timetable of monitoring and the submission of reports to the Local Planning Authority, shall be submitted to and approved in writing by the Local Planning Authority.

Reports as specified in the approved plan, including details of any necessary contingency action arising from the monitoring, shall be submitted to and approved in writing by the Local Planning Authority. Any necessary contingency measures shall be carried out in accordance with the details in the approved reports.

On completion of the monitoring for each phase specified in the plan a final report demonstrating that all long-term remediation works have been carried out and confirming that remedial targets have been achieved shall be submitted to and approved in writing by the Local Planning Authority.

#### Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

### 24 Contamination 5 (Asbestos)

Prior to the demolition of any existing buildings on the site the applicant shall submit an asbestos survey to the Local Planning Authority in relation to these buildings. Should any asbestos be identified within the buildings then the Survey shall include details of how the demolition process will be managed to ensure that the asbestos is safely removed from the buildings and from the site.

**Reason**

To ensure that the risks from asbestos contamination to existing residents in the locality and to future users/occupiers of the land are safely managed. The survey is required prior to the demolition of any existing buildings to ensure that safeguarding measures are in place from the outset, where required.

**25 Noise (New Dwellings)**

Prior to commencement of development in any relevant phase, (i.e. where it has been identified at the Reserved Matters Stage that noise mitigation to protect the occupiers of new dwellings from noise from the A131 will be required) the applicant must submit to the Local Planning Authority for approval a detailed noise mitigation report. The Report shall detail measures that will be incorporated into the development to ensure that proposed residential development affected by noise from the A131 is adequately protected from such noise. The assessment must be completed in line with BS8233. The relevant phase of the development shall only be carried out in accordance with the approved details and shall be retained as such thereafter.

**Reason**

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

**26 Skylark Mitigation**

Prior to the commencement of development a Skylark Mitigation Strategy shall be submitted to and approved by the local planning authority, to mitigate the loss of any Skylark territories on the site. This shall include provision of the evidenced number of Skylark nest plots in nearby agricultural land and the timing for such provision.

The content of the Skylark Mitigation Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed Skylark nest plots;
- b) detailed methodology for the Skylark nest plots following Agri-Environment Scheme option: 'AB4 Skylark Plots';
- c) locations of the Skylark plots by appropriate maps and/or plans;
- d) persons responsible for implementing the mitigation measure.

The Skylark Mitigation Strategy shall be implemented in accordance with



the approved details and all features shall be retained for a minimum period of 10 years.

Reason

To allow the LPA to discharge its duties under the NERC Act 2006 (Priority habitats & species).

27 Badger Method Statement

A Badger Method Statement shall be submitted to and approved in writing by the local planning authority prior to commencement of each phase of the development including any vegetation clearance works. The method statement shall determine the need for badger sett closures or additional mitigation measures, and shall be supported by an up to date survey to identify if changes of badger activity have occurred on the site. Any measures and/works shall be carried out strictly in accordance with the approved details.

Reason

To conserve Protected species and allow the LPA to discharge its duties under the Wildlife & Countryside Act 1981 as amended, the Badger Protection Act 1992 and s17 Crime & Disorder Act 1998.

28 Bus Stops (Within Site)

Prior to commencement of each phase of the development details shall be submitted to and approved in writing by the Local Planning Authority to show the locations and specification of bus stops within the proposal site and any required on site bus turn round and/or layover facilities (temporary and/or permanent) within that phase.

No occupation of that phase of the development shall take place until the agreed details have been provided in full.

Reason

To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.

29 Tree Protection

Development in any phase of the development and under any Reserved Matters approval shall not be commenced until details of the means of protecting all of the existing trees, shrubs and hedges to be retained on the site, as per the approved details required under Condition 11 above, from damage during the carrying out of the development have been submitted to the local planning authority for approval. The approved means of protection shall be installed prior to the commencement of any building, engineering works or other activities on the relevant part of the site and shall remain in place until after the completion of the relevant part

of the development to the complete satisfaction of the local planning authority.

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

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

**Reason**

To ensure the protection and retention of existing/remaining trees, shrubs and hedges identified as being retained. These details are required prior to the commencement of the development as they relate to measures that need to be put in place prior to construction activities commencing which could damage roots.

**30 Public Right of Way Temporary Diversion/Closure**

Prior to the commencement of any phase of development which would affects the use of the existing Bridleway and/or public footpaths which cross the site the applicant shall submit to the Local Planning Authority for approval details of any necessary diversions to these public rights of way, including:

- The maximum time of any temporary diversion or closure;
- Justification for such temporary diversion or closure;
- Details of any temporary diversion or closure;
- Details of engagement with relevant stakeholders including Essex County Council Highways who are the Authority responsible for approving any requested public right of way diversions or closures.

Any temporary diversions or closures of these public rights of way shall only be carried out in accordance with the approved details.

**Reason**

To ensure that the impact of the development upon the existing public rights of way which cross the site are kept to a minimum.

**31 Archaeology 3 (Post Excavation Assessment)**

The applicant will submit to the local planning authority a post-excavation (archaeology) assessment for each phase (to be submitted within six months of the completion of fieldwork, unless otherwise agreed in advance with the Planning Authority). This will result in the completion of

post-excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

**Reason**

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

**32 Foul Drainage**

Prior to any construction above damp proof course on each phase, a scheme for on-site foul water drainage works for that phase, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of any phase, the foul water drainage works relating to that phase shall be completed in full in complete accordance with the approved scheme.

**Reason**

To prevent environmental and amenity problems arising from flooding. The strategy is required prior to the commencement of development to ensure that the development is carried out in accordance with the approved strategy from the outset.

**33 Means of Enclosure**

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

**Reason**

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

**34 Piling**

No piling or any other foundation designs using penetrative methods shall be undertaken on the site during the construction of any phase of the development unless and until:

a) a system of piling and resultant noise and vibration levels has been submitted to and agreed in writing by the Local Planning Authority in consultation with the Head of Environmental Services for the relevant development phase. The approved system shall be adhered to throughout the construction process and the development shall be carried out in accordance with the approved details; and

b) The applicant has demonstrated to the satisfaction of and received approval in writing from the Local Planning Authority that the area of the site where piling or any other penetrative foundation designs are proposed does not present an unacceptable risk to groundwater resulting from the construction methods proposed.

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

#### Reason

To protect the amenity of existing residents in the locality and because piling or any other foundation designs using penetrative methods can result in risks to potable supplies from, for example, pollution / turbidity, risk of mobilising contamination, drilling through different aquifers and creating preferential pathways. Thus it should be demonstrated that any proposed piling will not result in contamination of groundwater.

#### 35 Contamination 6 (Unexpected Contamination)

If during development, contamination not previously identified is found to be present at the site then it must be reported in writing immediately to the Local Planning Authority. No further development shall be carried out until an investigation and a risk assessment has been undertaken and the developer has submitted a remediation strategy to the local planning authority for approval detailing how this contamination shall be dealt with. The remediation strategy shall then be implemented as approved and the development shall only continue in accordance with it. The long term monitoring and maintenance plan for the site in respect of contamination as required by Condition 23 shall be updated to reflect the unexpected contamination found and shall be re-submitted to the Local Planning Authority for approval.

#### Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

#### 36 Contamination 7 (Unexpected Remediation)

If applicable the developer shall give one-month's advanced notice in writing to the Local Planning Authority of the impending completion of the remediation works required under Condition 35. Within four weeks of completion of the remediation works a validation report undertaken by competent person or persons and in accordance with the 'Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers' and the agreed remediation measures shall be submitted to the Local Planning Authority

for approval. There shall be no residential occupation of the site (or beneficial occupation of the school or commercial buildings hereby permitted) until the Local Planning Authority has approved the validation report in writing.

Furthermore, prior to occupation of any residential or commercial property or the school hereby permitted, the developer shall submit to the Local Planning Authority a signed and dated certificate to confirm that the remediation works have been completed in strict accordance with the documents and plans comprising the remediation scheme agreed in writing with the Local Planning Authority.

#### Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

#### 37 Noise (Noise Reports - Plant on New Buildings)

Prior to the installation of any plant at any educational or commercial premises on the site the applicant must submit a noise level assessment in accordance with BS4142:2014 for approval by the Local Planning Authority. The proposed plant shall only be installed in accordance with the approved details and retained as such thereafter.

#### Reason

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

#### 38 Landscape and Ecological Management Plan

A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to the first occupation of the each phase of the development.

The LEMP documents shall be interlinked and the content of each LEMP shall include the following:

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

h) Ongoing monitoring and remedial measures.

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

Reason

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

39 BREEAM

Development for employment uses as defined on drawing 9600 Rev M shall meet BREEAM 'Very Good' rating. Post-construction certification demonstrating how the employment development has met BREEAM 'Very Good' as a minimum shall be submitted to and approved in writing by the Local Planning Authority within six months of completion.

Reason

To ensure that the employment buildings are constructed to the highest standards in terms of sustainable development.

40 Bat Licence

The works to demolish 'building 4' as defined in Chapter 8 of the Barton Willmore Environmental Statement Volume 1 (July 2018) and associated Environmental Statement Addendum (October 2019) shall not in in any circumstances commence unless the local planning authority has been provided with either:

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

b) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence.

These are to be submitted to the Local Planning Authority for approval prior to the demolition of 'building 4'.

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 and s17 Crime & Disorder Act 1998.

#### 41 Water Vole and Otter Method Statement

A Water Vole and Otter Method Statement shall be submitted to and approved in writing by the local planning authority prior to commencement of any outfall works occurring at the River Blackwater.

The method statement shall provide additional mitigation measures and/or works if required and shall be supported by an up to date survey to identify if changes of activity from Otter and Water Vole activity have occurred at the site.

Any measures and/works shall be carried out strictly in accordance with the approved details.

#### Reason

To conserve Protected species and allow the LPA to discharge its duties under the Wildlife & Countryside Act 1981 as amended, the Badger Protection Act 1992 and s17 Crime & Disorder Act 1998.

#### 42 Ecological Design Strategy (Landscape Riverside Area)

Prior to the completion of the earthworks required to construct the SUDs basins located in the Landscape Riverside area located in the south of the application site as shown on the Key Identity Areas Plan on p55 of the Outline Design Code, an Ecological Design Strategy (EDS) shall be submitted to and approved in writing by the local planning authority for the entire biodiversity area located in the southern part of the application site. This area is shown on the above Key Identity Areas Plan as an area of green infrastructure identified as 'Landscape: Riverside'.

The EDS shall include the following:

- a) Purpose and conservation objectives for the proposed works.
- b) Review of site potential and constraints.
- c) Detailed design(s) and/or working method(s) to achieve stated objectives.
- d) Extent and location/area of proposed works on appropriate scale maps and plans.
- e) Type and source of materials to be used where appropriate, e.g. native species of local provenance.
- f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
- g) Persons responsible for implementing the works.
- h) Details of initial aftercare and long-term maintenance.
- i) Details for monitoring and remedial measures.

j) Details for disposal of any wastes arising from works.

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

#### Reason

To 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).

### 43 Lighting Scheme

Prior to the occupation of each phase of the development a lighting design scheme for biodiversity for that phase of the development shall be submitted to and approved in writing by the local planning authority.

The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed, including on all new buildings (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and retained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

#### Reason

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

### 44 Travel Plan

Prior to the first occupation of the first phase of the development an overall Travel Plan (in accordance with Essex County Council guidance) for the site shall be submitted for approval by the Local Planning Authority.

#### Reason

To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.

### 45 Materials Samples

Construction of any buildings above ground level shall not be commenced 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 a high quality palette of materials is used to help produce a high-quality development, consistent with the Council's Planning policies.

**46 Hours of Work**

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.

**47 Vehicle Movements**

With the exception of those specified within any approved Construction Method Statement there shall be no vehicular movements to, from or within the site outside the following times:-

Monday to Friday - 0800 hours-1800 hours

Saturday - 0800 hours-1300 hours

Sundays and Bank Holidays - no vehicular movements

**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.

**48 Noise (Upper Limit for Plant on New Buildings)**

The rating level of noise emitted from any plant at the educational and commercial premises on the development shall not exceed the background level (determined by measuring LA90 for any 15 minute period when the premises is not operating, but which should be similar as possible to conditions that prevail during the operation of the premises) by more than 5dB(A) measured as LAeq (15 minutes). The noise levels shall be determined at any noise sensitive dwelling, in accordance with measurement procedures laid down in BS 4142: 2014.

Reason

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

49 Spine Road Width

The proposal site's spine road(s) (spine road as defined in the approved Outline Design Code) carriageway shall be a minimum 6.75 metres wide.

Reason

To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.

50 Broad Road Access

No occupation of the development shall take place until the following has been provided and completed:

A priority junction with right turn lane off Broad Road to provide access to the proposal site as shown in principle on the planning application drawings.

Reason

To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.

51 Permitted Development Rights (Parking)

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 alteration or enclosure of covered parking areas or conversion of any garages to habitable accommodation as permitted by Class A of Part 1 of Schedule 2 of that Order shall be carried out without first obtaining planning permission from the Local Planning Authority.

Reason

To ensure that such parking areas and garages remain available for their intended use of car parking so that the development will continue to make an acceptable level of parking provision.

52 SUDS 5 (Baseline Information)

Prior to the commencement of development the applicant shall collect hydrogeological and hydrological baseline information on the site to the written satisfaction of the Local Planning Authority and relating to the ponds; springs; watercourses and gravel pits on the site and this information will inform the details of the detailed surface water drainage

strategy for each phase of the site as required under Condition 16 above and the landscape strategy for the site. The baseline information shall include the following:

- volume (ponds & gravel pits)
- flow direction
- channel type (heavily vegetated, narrow, steep, flat, shallow etc)
- maximum flow
- maximum water level during extreme events
- minimum flow
- minimum water level (for water quality, habitat etc)
- water sources specific to each feature
- inputs (any other springs, off site inputs that might affect the watercourses and ponds at various times)
- abstractions
- existing management regime (including but not limited to, any pumping systems, weedcutting regimes or gauges onsite, upstream or downstream of the site)
- catchment description (including wider catchment if potential to influence onsite catchments)
- description of downstream receptors.
- any existing structures onsite or adjacent to it, e.g. bridges, culverts that could impact flow conveyance.

#### Reason

To prevent flooding by ensuring the satisfactory storage/disposal of surface water from the site; to provide mitigation of any environmental harm which may be caused to the local water environment and to ensure that the detailed surface water drainage strategy and landscape strategy for the site take into account the full existing baseline conditions on the site. The details are required prior to the commencement of development to ensure that a system is not installed that is not sufficient to deal with surface water occurring during rainfall events leading to increased flood risk and pollution hazard from the site.

#### INFORMATION TO APPLICANT

1 Your attention is drawn to the Essex County Council SUDs consultation response dated 15 August 2018 which includes a number of informatives to which you should have regard.

2 Your attention is drawn to the Environment Agency consultation response dated 30 August 2018 which includes a number of informatives to which you should have regard.

3 Your attention is drawn to the Anglian Water consultation response dated 15 November 2019 which includes a number of informatives to which you should have regard.

4 Your attention is drawn to the Essex County Council Highways consultation response dated 22 November 2019 which includes a number of informatives to which you should have regard.

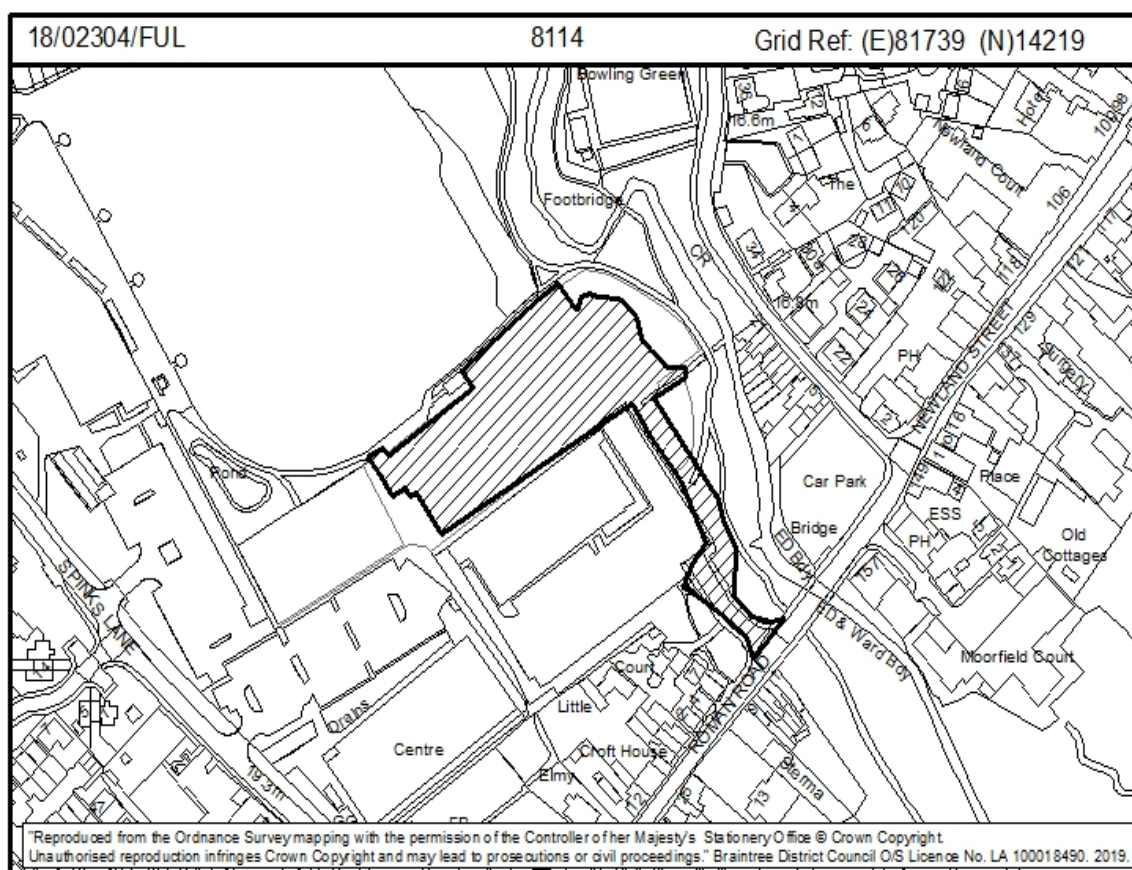
CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

PART A

AGENDA ITEM NUMBER 5b

APPLICATION NO: 18/02304/FUL DATE: 25.01.19  
 VALID:  
 APPLICANT: Churchill Retirement Living  
 Millstream House, Parkside, Ringwood, BH24 3SG  
 AGENT: Mr Simon Cater  
 Churchill House, Parkside, Ringwood, BH24 3SG  
 DESCRIPTION: Redevelopment of the site involving the erection of a part four storey, part three storey building to provide 39 one bedroom flats and 19 two bedroom flats (total 58 residential units) together with communal facilities, access, car parking and landscaping.  
 LOCATION: Former Bramston Sports Centre, Bridge Street, Witham, Essex, CM8 1BT

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



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PK389SBFLXQ00>

## SITE HISTORY

17/00097/NONDET	Redevelopment to form 60 retirement living apartments, including lodge manager's accommodation, communal facilities, access, car parking and landscaping	Appeal Dismissed	23.07.18
85/00784/	Proposed playground for handicapped children together with shelter and toilet facilities.	Granted	31.10.85
92/00064/ 92/00585/BDC	Proposed structures and wall apertures, external erection of a aquaflume and reconstruction of external fire escape	Deemed Permitted	22.06.92
93/00660/BDC	Change of use to car park	Granted	04.08.93
96/00048/BDC	Proposed alterations to foyer	Granted	20.02.96
97/01048/FUL	Construction of overflow car park	Granted	10.12.97
99/00901/BDC	Installation of car park lighting		16.07.99
05/00371/FUL	Proposed new lift	Granted	14.04.05
05/01415/FUL	Proposed new lift – application not proceeded with		
05/01849/FUL	Minor amendment to approved plans 05/00371/FUL - Lift installation	Granted	31.10.05
14/00489/PDEM	Application for prior notification for proposed demolition of sports centre	Permission not Required	07.05.14
15/00447/FUL	Erection of new office building on part of the site of the old Bramston Sports Centre	Withdrawn	31.12.15
17/01145/FUL	Redevelopment to form 60 retirement living apartments, including lodge manager's accommodation, communal facilities, access,		03.10.17

17/01918/FUL	car parking and landscaping Erection of a foodstore and associated parking	Granted	17.12.18
19/00296/DAC	Application for approval of details reserved by conditions 9, 11 and 12 of approval 17/01918/FUL - Erection of a foodstore and associated parking.	Pending Consideration	
19/00323/DAC	Application for approval of details reserved by condition 5, 15 and 17 of approval 17/01918/FUL - Erection of a foodstore and associated parking.	Granted	10.05.19
19/00406/DAC	Application for approval of details reserved by condition 3, 20 and 21 of approval 17/01918/FUL	Pending Consideration	
19/00477/DAC	Application for approval of details reserved by condition nos. 8 and 18 of approval 17/01918/FUL	Granted	04.06.19
19/00934/ADV	3 no. wall mounted illuminated billboard panels; 1 no. small wall mounted sign; 2 no. wall mounted billboard frames; 1 no. free-standing poster display unit; 1 no. square wall mounted sign; 3 no. Lidl directional signs, 1 no. free-standing externally illuminated billboard and 1 no. illuminated free-standing totem sign.	Pending Consideration	

## POLICY CONSIDERATIONS

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

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

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

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

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

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

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

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

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

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

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



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

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

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

#### National Planning Guidance

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

#### Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP3	Development within 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

## Braintree District Local Development Framework Core Strategy 2011

CS2	Affordable Housing
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
LPP32	Residential Allocation Area - Gimson's, Witham
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

## Other Material Considerations

### Essex Design Guide

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

### Essex Parking Standards/Urban Space Supplement

### Village Design Statement

### Open Space SPD

## INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is being reported to the Planning Committee in accordance with the Council's scheme of delegation as the application is considered to be of considerable public interest. In addition, Witham Town Council has objected to the proposal contrary to Officer recommendation.

## SITE DESCRIPTION

The site comprises an area of land that was previously occupied by the Bramston Sports Centre and car park. The designated Witham River Walk abuts the eastern boundary of the site. The west of the site is occupied by outdoor tennis courts and the Witham Leisure Centre car park. The northern boundary of the site abuts the Maltings Academy school playing fields. To the south of the site is the recently constructed Lidl store and then properties on Bridge Court further afield.

The Witham Town Conservation Area is within close proximity to the eastern and southern boundaries of the site and passes through the existing access with Bridge Street. More than half of the site is within Flood Zones 2, 3a and is also partially located within Flood Zone 3b which is the functional floodplain where water has to flow and be stored in times of flood.

## HISTORY

Previous application 17/01145/FUL proposed to re-develop the site to erect 60 retirement living apartments with associated communal facilities, access, car parking and landscaping. The building would have been three storey with false pitch roofs.

Due to the Council raising a number of issues with the developer, application 17/01145/FUL was appealed for non-determination. At appeal, the Council set out its issues which included poor design, impact on the Conservation Area, flood risk, poor quality of accommodation in respect to outlook, and a lack of affordable housing contribution.

The Planning Inspector dismissed the appeal due to the lack of an affordable housing contribution, and the poor quality of living accommodation with reference to outlook for future occupiers. The other issues raised by the Council including the quality of design, impact on the Conservation Area and flood risk were all disregarded by the Inspector. As the current application submission is similar to that of dismissed appeal 17/01145/FUL, the comments made by the Planning Inspector are highly material to the determination of this application. The Inspector's findings are summarised in the report under the relevant sections. A copy of the Inspector's decision is appended to the Committee Report.

## PROPOSAL

The application proposes to redevelop the site with the erection of a part four storey, part three storey building to provide 39 one bedroom flats and 19 two bedroom flats (total 58 residential units) together with communal facilities including shared amenity spaces, 25 parking spaces and landscaping on boundary edges where appropriate. The 'wetland area' shown on the plans has already been completed and will be managed by the Council (as land owner).

The application initially proposed 54 units in a three storey building with a central corridor providing rooms on both the northern elevation facing the academy playing fields, and rooms facing onto the recently built Lidl supermarket. The revised proposals remove the accommodation with a single aspect facing onto the Lidl supermarket. To compensate for the loss in units, the wing closest to the access road would be four stories instead of three. The appearance of the building has also changed to propose flat roofs and incorporating more visual interest through greater building articulation.

## CONSULTATIONS

### ECC SUDS

No objection following the provision of further information/clarification, subject to conditions.

### Environment Agency

Initially objected due to lack of a Flood Risk assessment. This was subsequently provided. Further comments are yet to be received by the Environment Agency and Members will be updated where necessary at Committee. For more details see 'Flood risk' section in the report.

### Anglian Water

No objection – capacity for flows in area.

### ECC Education

No contribution required as the accommodation proposed would be for retirement accommodation.

### Essex Police

Raise a couple of points in respect to the security of the communal garden area. However required more detail before could comment further (*details could be secured via condition*).

### ECC Archaeology

No objection subject to archaeological conditions.

### ECC Highways

No objection subject to conditions.

#### ECC Historic Buildings Consultant

Identifies potentially limited harm to the Conservation Area. Recommends conditions if application approved.

#### NHS England

No objection; require contribution of £21,919 to go towards providing a new surgery for Witham.

#### BDC Environmental Health

Required more information to explore any potential noise impact from the adjacent Lidl store. This information requirement has been explained in the report (see Contamination & Noise section).

#### BDC Economic Development

No comment.

#### BDC Housing Officer

Require affordable housing contribution of £763,146 to be utilised on other sites across the district.

#### BDC Waste Services

Identify possible collection concerns should the road not be adopted.

#### BDC Ecology

No objection subject to conditions.

#### BDC Landscape Services

No objection – the majority of tree works have taken place in connection with the Lidl development. Suggest landscape conditions for full planting specifications.

#### PARISH / TOWN COUNCIL

##### Witham Town Council

Objected to the development for the following summarised reasons

- Parking provision inadequate
- T12 being felled should be replaced with a better tree
- Refuse collection may be difficult
- Insufficient evidence in relation to flooding and the Riparian Meadow

These comments remained unchanged with the revised plans, other than to ask more questions about the Riparian Meadow:

- Will it be fenced off?
- How will it be maintained?
- Will it be following into town council ditches?

## REPRESENTATIONS

Three objection comments were received on the initial consultation period (including Witham and Countryside Society), and a further two objections were received from different addresses for the second round of consultation (following revised plans) – setting out the following:

- Access close to public footpath – not safe
- Should be no loss of trees
- Lighting should be at low level
- Impact on birds and ecology
- Impact on views
- Lidl landscaping not sufficient
- Four stories would increase visual impact
- New access increase flood risk
- Riparian meadow not provide adequate flood protection

## REPORT

### PRINCIPLE OF DEVELOPMENT

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

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

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

Paragraph 12 of the NPPF sets out that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making. In addition, paragraph 47 of the NPPF states that planning law requires that applications

for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

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

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

### The Development Plan

Currently the Council's statutory Development Plan consists of the Braintree District Local Plan Review (2005) and the Braintree District Core Strategy (2011). The application site is located within a designated town development boundary. The general principle of development is therefore supported by Policy RLP2 of the Adopted Local Plan.

Policy RLP3 of the Adopted Local Plan and Policy LPP1 of the Draft Local Plan however state that development within Town Boundaries will only be permitted where it satisfies amenity, design, environmental and highway criteria and where it can take place without material detriment to the existing character of the settlement. In order for any proposal to be considered acceptable it must therefore provide an acceptable level of amenity for future occupiers and existing adjacent neighbours, be of a high standard of design, make acceptable parking and access arrangements and not have an unacceptably detrimental impact in terms of neighbours, landscape and protected trees.

The site in this case is not allocated for any use within the Adopted Local Plan and Draft Local Plan. As such, the proposed residential development of the site in principle would accord with the above policies. The overall acceptability of the proposal is therefore dependent on site specific considerations which are explored within the report below.

### 5 Year Land Supply

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

take into account this revised version of national policy by s.70(2)(C) Town and Country Planning Act 1990.

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

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

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

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

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

Although the Council considers that the supply indicated above represents a robust assessment of the Council's Housing Land Supply position, the Council's latest 5 year supply figure of 5.15 years, as at 6th August 2019 must be considered in the context of the emerging Publication Draft Local Plan. The Publication Draft Local Plan which currently sits with the Inspector must be



able to demonstrate a 5 Year Housing Land Supply in order for it to be found sound and adopted. Unlike the current methodology for calculating 5 year supply which takes account of housing undersupply in the standard methodology formula, the methodology for calculating 5 year supply under a new Local Plan must add on the backlog from previous years. This will result in a higher 5 year supply requirement.

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

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

#### Location and Access to Services and Facilities

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

Witham is identified as a 'Main Town' which is the most accessible location in the Settlement Hierarchy in the Adopted Core Strategy for accessing services and facilities. This designation also carries through as part of the Draft Local Plan. The site in this case is centrally located within the Witham development boundary; it is within walking distance of the town centre containing shops, services and facilities meeting day-to-day needs and the railway station, it is therefore highly accessible. A recently constructed Lidl store is also adjacent to the site. The sites accessible location can be given substantial weight in considering the planning balance at the end of the report.

#### Heritage

Paragraph 193 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 196 of the NPPF 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.

Policy RLP95 of the Adopted Local Plan and Policy LLP56 of the of the Draft Local Plan states that the Council will preserve, and encourage the enhancement of, the character and appearance of the designated

Conservation Areas and their settings, including inter alia the buildings and historic features and views into and within the constituent parts of designated areas. Proposals within/adjoining Conservation Areas will be permitted where the proposal does not detract from the character, appearance and essential features of the Conservation Area.

Policy RLP100 of the Adopted Local Plan supported by Policy CS9 of the Adopted Core Strategy and Policy LPP60 of the Draft Local Plan states inter alia that works will be permitted where they do not harm the setting, character, structural stability and fabric of the building (or structure); and will not result in the loss of, or significant damage to the building or structure's historic and architectural elements of special importance, and include the use of appropriate materials and finishes.

The site in this case is located outside of the Conservation Area; however the Conservation Area boundary is in relatively close proximity to the southern and eastern boundaries of the site. The existing site access for the Lidl store with Bridge Street would be within the Conservation Area. The application site would utilise this access.

The Council for previous application 17/01145/FUL identified less than substantial harm to the Conservation Area from the development of a three storey flat block on the site. The Planning Inspector considered the impact on the Conservation Area in some depth in Paragraphs 8-19 of the Appeal Decision. To summarise the Inspectors findings:

### **Previous Application 17/01145/FUL Appeal Findings**

The Inspector firstly considered that the site as existing would make a limited heritage contribution to the Conservation Area. This is because it comprises hard standing left over from the demolition of the former sports centre.

The Inspector considered that any development of this site would have an impact on the amount of openness in the vicinity. However, in any case, the Inspector considered that increasing the amount of openness at the site would not add to the appreciation or understanding of Witham's historic evolution as a settlement. As such the principle of developing the site would not be harmful to the Conservation Area.

In terms of layout, the Inspector considered that the proposed garden and meadows close to the river would enable a more verdant and undeveloped appearance, to assist in mitigating the visual impact of the development in the wider area. He also considered that the building would not be visible from any of the identified 'good views' within the Conservation Area Appraisal, and other limited views elsewhere in the Conservation Area, including the road bridge. The substantial intervening tree planting which would heavily filter views from the Conservation Area even in winter was a significant consideration in this. As such, the Inspector considered that the development due to its layout, location and screening would not be highly visible within the Conservation Area.

In terms of design, the Inspector considered that the building would be of sufficient distance away not to need to mirror the historic appearance of the Conservation Area, stating that the site could accommodate a building of differing scale, form and appearance. Furthermore, the Inspector considered that while the design was uninspiring, it was modern and not out of keeping with its context (academy and new leisure centre). Overall, the Inspector concluded that the proposed development would not harm the significance of the Conservation Area, or be of an inappropriate design. Thus the Inspector disagreed with the Council that there would be harm.

### **Current Application Proposal**

The proposal in this case would share a large number of similarities with the previous proposal; the wetland area (also referred to as the Riparian Meadow in representations) mentioned by the Inspector remains in situ, and has since been put in place. The proposal also includes an amenity area at the side, very similar to that of the previous proposal. The proximity of the building is also of a similar distance away from the site boundary; 15m at the shortest point to the edge of the wetland area. The design of the building is now however much improved to secure a contemporary appearance (flat roof, greater articulation etc).

The main difference in relation to the impact on the Conservation Area is that the proposal now comprises a part four storey flat roof block, opposed to a solely three storey flat block with a pitched roof. The ridge height of the previous proposed flat block would have been 9.5m, while at the highest point, the four storey element would be 11.9m high, and an average of 11.4m high. The height difference is within different sections to provide better articulation to break up the elevations of the flat building to provide visual interest.

As such, by virtue of its increased height, the proposed building would have a greater impact on the Conservation Area compared to the previous scheme. The Historic Buildings Consultant considered the revised plans and identified that the proposal would cause less than substantial harm on the Conservation Area, albeit at the lower end.

The Inspectors comments above however cannot be ignored, identifying no harm on the Conservation Area for a three storey building. It is considered a 2.4m height increase would not significantly alter the conclusions reached by the Planning Inspector. At worst, the harm as set out by the Historic Buildings Consultant is at the lower end of less than substantial.

The proposal must therefore be considered in the heritage and planning balance. In the heritage balance, it is considered that the less than substantial harm on the Conservation Area would be outweighed by the significant benefits of the proposal. These factors are fully set out at the end of the report in the overall planning balance.

### Quality of Accommodation, Layout, Scale & Appearance

Paragraph 124 of the National Planning Policy Framework (NPPF) states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. It also states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 127 of the NPPF states, amongst other things, that developments should function well and add to the overall quality of the area; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. The Governments 'National Design Guide' echoes the above.

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

The Council has adopted the Essex Design Guide as a Supplementary Planning Document. This indicates that each flat should provide 25sq.m of private shared amenity space. Furthermore, Policy RLP56 of the Adopted Local Plan requires that sufficient vehicle parking should be provided for all new development in accordance with the Essex County Council Vehicle Parking Standards 2009.

The Council for previous application 17/01145/FUL identified significant harm to the quality of residential environment which would be afforded to future occupiers with particular reference to outlook to the north (palisade fence) and south (Lidl site). Other concerns were also made in respect to day light/sunlight, garden usability and parking standards not being met.

The Planning Inspector for application 17/01145/FUL largely agreed with the Council on these issues. His summarised comments on this section are below (Paragraphs 30-45 of the Appeal Decision):

#### **Previous Application 17/01145/FUL Appeal Findings**

The Appellants at the time of the appeal submitted a sunlight and daylight study which showed that the flats would receive adequate light. The Inspector considered this evidence and did not dispute it. The Inspector however agreed with the Council that the outlook for ground floor flats onto the palisade fence to the north of the site (with the academy) would be harsh, with limited

opportunity for meaningful landscape to soften the impact. To the south, the Inspector considered residents would have a harmful single aspect outlook onto the car park and also a likely impact looking out onto the supermarket development in close proximity.

The Inspector however considered that all garden space sizes and forms were acceptable, and even highlighted that there may be a benefit to view the wetland area without an eye level enclosure. Finally, the Inspector considered that the parking level, although below standard, would be appropriate for this type of accommodation (55+ years old) and did not disadvantage any person with a protected characteristic.

Overall, while not all of the Council's concerns were shared by the Inspector at appeal, it was concluded that the development would cause a significant harm to the quality of living accommodation that would be afforded to some occupiers of the proposed flats.

### **Current Application Proposal**

The current application seeks to resolve all of the Inspector's issues. The first iteration of this application still proposed single aspect units facing onto palisade fencing or the now constructed Lidl store. However, in negotiation with Officers, the scheme has been revised. The building shape and internal arrangement has been substantially reworked to provide an acceptable level of outlook for future residents. This has been achieved by removing all single aspect accommodation facing in a southerly direction towards the Lidl store. The elevation that faces the back of the supermarket therefore now mostly comprises the internal access corridor. Any flat which is at the most compromised ends of the building, which is primarily at the corners, would be dual aspect, with a primary outlook away from any harsh receptors. This is particularly evident on the ground floor flats which face onto the palisade fencing on the north elevation, but would have their primary outlook towards open space to the east and west. The northern boundary palisade fencing would also be mitigated to some extent by strategic landscaping.

The remainder of the layout still provides mostly single aspect apartments facing in the northerly direction; however these would all have a suitable outlook over the shared amenity space, and be provided with adequate sunlight and daylight as the previous study showed. The external amenity spaces are also now well considered with a functional arrangement of siting out areas amongst varied soft and hard landscape features. There are a large balconies provided for some of the apartments on upper floors.

Boundary treatments are also considered to be acceptable, either retaining or improving existing treatments, creating adequate security and protection whilst not appearing harsh. The northern boundary with the school will remain but will be landscaped appropriately to mitigate any impacts. Only the riverside edge appears to have a lower boundary, however this was previously considered acceptable by the inspector.

Taking into account the above changes, it is considered that the proposals would now provide a suitable quality of accommodation for future occupiers, and thus overcome the concerns previously raised by the inspector.

In terms of other changes, as previously noted the design of the building has changed, so that the wing adjacent to the river has been raised to four storeys with a flat roof. However, the increase in accommodation in this location is not considered detrimental given that there is suitably wide spaces to accommodate the height. The proposal features a flat roof, unlike the previous shallow pitched roof design, which adds to the contemporary appearance and goes a long way to reducing the visual impact. Furthermore, although previously the Inspector concluded that the design was acceptable on the previous application, the Applicant proactively worked with Officers to secure significant improvements to the design. The design is now more elemental, with sections broken into differing wall treatments of brick, and render. The two colours of brick and the render provide a monochrome appearance that is augmented by grey windows and details. The contemporary appearance of the building is therefore as a result of Officers direction to the Applicants in order to improve the overall design.

Overall it is considered that the contemporary building now proposed is a satisfactory approach for the location in which the building has a free standing presence, whilst sharing limited views with the new supermarket and Witham Leisure Centre (but not simultaneously). It is considered that the proposal would have a complementary relationship with the modern leisure centre, Lidl and three storey academy building in the area.

Taking into account the above, it is also considered that the proposal is acceptable from a design and appearance perspective.

#### Impact on Neighbour Amenities

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

Impact on neighbouring residential amenity has not historically been a concern at the site, given the proximity of other commercial/leisure buildings, and the large distance towards residential properties. The properties on Bridge Street would be at least 90m away from the building, with the Lidl store in between, while there would be over 65m, significant vegetation and a more oblique angle towards properties on Mill Lane. As such, it is considered the addition of a fourth storey to one of the wings of the development would not have a detrimental impact on residential amenity. The proposal is considered acceptable in this regard.

### Highway, Parking & Refuse

Access to the site was not considered a concern as part of the previous appeal at the site (application reference 17/01145/FUL). Since the appeal has been determined, the access arrangements with Bridge Street have been formalised and landscaped as part of the Lidl development. The proposed development in this case would not affect this now completed configuration. Any access works would only be to access the site from the existing access (with Lidl on the left). Essex Highways have considered the proposals and have no objection in this regard.

In terms of parking, the scheme would provide 25 parking spaces. The arrangement and number is relatively unchanged comparatively to the appeal scheme. The Inspector considered this provision to be acceptable, and thus the Council must also consider the provision to be acceptable (now with a slightly lower number of units). There is also provision made for mobility scooters and some outdoor covered provision for cycle parking. It is considered that the proposal is also acceptable in this regard.

In respect to refuse, the site is over 20m from the adopted highway. As it is a private road which would serve the site (and also serves Lidl), the Councils waste collection team would not traverse over it due to liability concerns. In any case, the end of the access at the site would be very difficult for a waste collection vehicle to turn. As such, as part of the legal agreement a refuse collection strategy will be required to be agreed. This collection strategy will likely hire a management company to collect and dispose of the waste in accordance with the appropriate legislation. There would not be sufficient space, nor would it be visually desirable, to have a collection point next to the road, as such the management company disposing of the waste is the only realistic option for this site. With a refuse management plan agreed, it is considered these particulars are acceptable.

### Ecology, Trees & Landscaping

Policy RLP84 of the Adopted Local Plan states that planning permission will not be granted for development which would have an adverse impact on badgers, or species protected under various UK and European legislation, or on the objectives and proposals in National or County Biodiversity Action Plans as amended. Where development is proposed that may have an impact on these species, the District Council will require the applicant to carry out a full ecological assessment. This is echoed by Policy LPP68 of the Draft Local Plan.

The application was supported by an Ecological Assessment which reviewed the potential impact of the development on Designated Sites, Protected and Priority Species & Habitats. The report identified that there were no identifiable protected species at the various times of survey. It also makes recommendations about biodiversity enhancement opportunities. The Council's Ecological Officer has reviewed the documentation and has no

objection to the development, subject to the imposition of conditions relating to securing the mitigation measures identified in the report.

The application was also supported by an arboricultural report dating back to 2017. Since the report was completed, a Lidl store has been built on the adjacent site and the trees shown for removal on the split access into the site from Bridge Street were either removed as part of the landscaping for that scheme - or in the case of T16 (Crack Willow) on the boundary with the Council land facing on to the Riverside Walk, removed because of concerns about its condition and the prevalence of honey fungus in the locality which had made a number of other neighbouring trees unsafe in a public space.

Taking into account the above, the Landscape Officer does not raise any objections to the tree works shown, and in any case most of these works have already been carried out. As such, it is considered the proposal is acceptable in this regard.

In terms of the soft landscaping, the landscape strategy masterplan and planting palette are considered to provide reasonable proposals for the landscape treatment of the site after construction. The masterplan identifies some new tree planting which will help provide some much needed amenity particularly along the north western boundary where it would be complimented by a native hedge. The choice of trees would still need to reflect the quality and scale of the spaces available within a confined site. It is considered these details can be finalised via appropriate landscaping conditions.

The Town Council raised a number of questions in their representation in relation to the wetland area; will it be fenced off? How will it be maintained? Will it be flowing into town council ditches? The wetland area would not be fenced off. It will need relatively little maintenance however it would be retained within the Councils ownership, thus management responsibility would be passed to the Council. In terms of flowing into ditches, it is understood that the purpose of the wetland area is to be used as additional flood plain storage; it would not flow into the ditches but vice versa that in the event of low order flood events affecting the River Brain, it would allow the river to flow into the wetland area. The wetland area is not therefore to accommodate the surface water attenuation from the site. This is via other means which are set out later in the report. Notwithstanding the above, the wetland area has been graded and landscaped and some additional tree planting already installed, as it already exists.

### Archaeology

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



It is reported that the proposed development lies within close proximity to archaeological remains from the Bronze Age and Middle Iron Age periods and lies within a wider setting of significant Iron Age and later settlement. Accordingly, the imposition of a condition covering groundworks, mitigation strategy for excavating/preservation, mitigation for fieldwork and a post excavation assessment is recommended. Subject to this condition, it is considered the proposal is acceptable in this regard.

### Flood Risk

The site in this case is located within Flood Zones 2, 3b and 3a. A new dwelling is classified as a more vulnerable use. Consequently, Policy CS8 of the Adopted Core Strategy states that, "The Council will minimise exposure of people and property to the risks of flooding by following the national guidance laid out in PPS25".

The NPPF has replaced PPS25. Paragraphs 155-165 of the NPPF relate to planning and flood risk. Paragraph 155 states that *"Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere"*.

Paragraph 157 of the NPPF states that a sequential approach should be used in areas known to be at risk from any form of flooding.' The sequential test should be applied to guide development to Flood Zone 1, then Zone 2, and Zone 3. The Planning Practice Guidance (PPG) which supports the NPPF states that, "This general approach is designed to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. The aim should be to keep development out of medium and high flood risk areas (Flood Zones 2 and 3) and other areas affected by other sources of flooding where possible".

Paragraph 159 of the NPPF states that the Exception test may need to be applied, while Paragraph 160 sets out that this should be informed by a site specific flood risk assessment. For the exception test to be passed, it needs to be demonstrated inter alia that the development would provide wider sustainability benefits to the community that outweigh the flood risk.

### **Previous Application 17/01145/FUL Appeal Findings**

The issue of flood risk was heavily discussed by the Inspector in the planning appeal of application 17/01145/FUL (Paragraphs 20-29 of the decision). The Council were of the view at the time that the proposal would lead to an unacceptable flood risk, and that instead there were other suitable sites in the area. A point was also made that there was insufficient land to secure the flood mitigation.

The Inspector considered these issues and stated that the site passed the sequential test; no other suitable sites within 0.5 miles were identified. Furthermore, due to age of proposed residents (55+), easy access to public transport, services and facilities would be essential for future occupiers, which justifies the lower radius (0.5 miles). The Inspector concluded by saying that the wider benefits of the proposal would outweigh the flood risk, and thus considered the proposal would pass the exception test. The Inspector also set out that the areas at the highest risk of flooding were car parking and landscaping, however identified that there was a suitable means of escape if needed towards the playing fields at the rear if required.

Overall, the Inspector concluded that the sequential and exception tests were passed, and that the development would not be at undue risk of flooding, nor would it increase the risk of flooding elsewhere.

### **Current Application Proposal**

For this application, the sequential test document was updated, and yet again found no other suitable sites for this type of development in the area. Furthermore, the scheme remains relatively unchanged in terms of location of car parking/amenity space. As such, it is considered the Inspectors comments about the location of the highest risk of flooding remain true, that this would be primarily car parking and garden/landscaping. In addition, the associated benefits of the development also remain very similar to that of the Appeal scheme, where the Inspector concluded that the exception test was passed (benefits outweighing flood risk). Therefore, in light of the minimal changes to the proposed development with regard to flood risk, it is concluded that the exception test can again be passed for this development.

An updated flood risk assessment was submitted with the application, however there has not been any changes to flood modelling which should affect the recommendation of the Environment Agency at this site. The Environment Agency are yet to comment on the application, however comments should be received by the night of Committee and they will be circulated for Members attention. It is likely that there will be additional conditions to ensure that the development is built with recommendations contained within the Flood Risk Assessment.

Taking into account all of the above, it is considered the proposal is acceptable in this regard.

### **SUDS, Sewerage and Drainage**

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

Government Policy as set out in Paragraph 163 of the NPPF strongly encourages a sustainable drainage system (SuDs) approach to achieve these objectives. SuDs offer significant advantages over conventional piped

drainage systems in reducing flood risk by reducing the quantity of surface water run-off from a site and the speed at which it reaches water courses, promoting groundwater recharge, and improving water quality and amenity.

The application was supported by a surface water drainage strategy document. In terms of surface water, it is proposed that the access road within the site would consist of permeable paving which would discharge through piles into adjoining ditches and/or straight into the River Brain. Essex SUDS, Anglian Water raised no objection to the development, subject to the imposition of conditions to secure the exact surface water arrangements once these have been finalised through a detailed scheme. Overall, it is considered the development is acceptable in this regard.

### Lighting

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

Subject to an appropriate lighting scheme being secured via Conditions, it is considered there would not be a detrimental impact on the area by any future proposed lighting on the scheme. Lighting controls would also extend to protecting biodiversity in the area.

### Contamination & Noise

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

The application was not supported by a phase 1 contamination survey. As the site area has remained undeveloped, and this was not previously raised as an issue by the Planning Inspector, it is considered that a contamination survey can be conditioned prior to any development commencing on the site. This would be supported by the Environmental Health Officer.

The Environmental Health Officer also required further information on noise to those flats closest to the Lidl store. This information would usually be required up front as the Council needs to be satisfied that the quality of accommodation would be suitable. However, in this case, most flats have been moved away from facing the Lidl store, while others do not have their primary outlook over it. As such, any possible noise issues have been reduced considerably. Furthermore, noise was not previously considered to

be a concern at the Appeal stage. As such, it is considered that the noise survey can also reasonably be conditioned, which may then inform the glazing specification to be used on those windows. It is considered the proposal is acceptable in this regard.

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

In terms of the wider ecological context, the application site sits within the Zone of Influence (as identified by Natural England) of the Blackwater Estuary Special Protection Area and Ramsar site. It is therefore necessary for the Council to complete an Appropriate Assessment under the Habitat Regulations to establish whether mitigation measures can be secured to prevent the development causing a likely significant adverse effect upon the integrity of this site.

At the time of writing the Appropriate Assessment has not been completed however there are a number of schemes in need of funding. The appropriate assessment would primarily include a financial contribution of £122.30 per dwelling erected towards offsite visitor management measures for the Blackwater estuary SPA & Ramsar site.

These mitigation measures would be secured by way of S106 Legal Agreement and planning conditions.

#### PLANNING OBLIGATIONS

Paragraph 96 of the NPPF states that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision. The assessments should identify specific needs and quantitative and qualitative deficits or surpluses of open space, sports and recreational facilities in the local area. Information gained from the assessments should be used to determine what open space, sports and recreation provision is required.

Policies CS10 and CS11 of the Adopted Core Strategy indicates that a financial contribution will be required to ensure that infrastructure services and facilities required to provide for the future needs of the community including, inter alia, open space, sport and recreation provision are delivered.

Notwithstanding the above, open space in Braintree District is calculated in accordance with the standards set out in the Open Spaces SPD and the Core Strategy. Open space will be provided on site in numerous areas. Due to the scale of this development, there would not be a requirement for provision for formal sports or allotments on the site, but instead these aspects could be secured via financial contribution to identified schemes in Witham. It is considered a financial contribution towards this park would be sufficient to satisfy the Open Spaces SPD. The payment of the contributions will be secured through the S106 legal agreement.

## **Previous Application 17/01145/FUL Appeal Findings**

One of the other contentious issues within the previous Appeal 17/01145/FUL was the lack of affordable housing secured as part of the proposal. The Appellants at the time argued that it was not viable to provide an affordable housing contribution. The Inspector considered various viability appraisals and determined that it was indeed viable for the developer to provide an affordable housing contribution. As such, the Appeal was also dismissed on the basis that an Affordable Housing Contribution had not been secured (Paragraphs 46-55).

## **Current Application Proposal**

For this application, the Applicant has accepted that a contribution for affordable housing would need to be secured. The Councils Housing Officer has calculated this amount to be £763,146. This money would be put into a pot with other money to provide affordable housing on other sites in the district. It should be noted that usually an on-site provision of affordable housing is sought, however given the nature of the application (residents over 55+ only), providing affordable housing on the site would not be practical. A condition has however been attached to limit the occupancy of the accommodation to ensure that this does not change unreasonably in future.

At the Appeal, the Inspector also concluded that a contribution towards equipped play would not be necessary, taking into account the elderly nature of future occupants of the development. However, contributions to open space amenity, sport and allotments would still be required.

In terms of the sport contribution; £34,846.92 would be allocated for refurbishment and improvements of the pavilion at Rickstones Play Ground Pavilion.

In terms of the amenity greenspace contribution; £14,404.75 would go to improvements to the river walk at Witham.

In terms of the allotment contribution, £1105.83 would go towards general allotment improvement funding to be utilised anywhere within Witham.

In terms of management of the private amenity areas at the site, this would be covered by a management company.

The development would also have healthcare implications. The NHS have required a financial contribution of £21,919 to be paid by the developer. It is understood this money would be put towards providing Witham with a new health centre.

In terms of waste collection, a refuse management strategy is to be submitted for the collection and disposal of refuse at the site.

In terms of HRA, the proposal would secure £7093.4 towards off site mitigation (scheme to be confirmed).

## PLANNING BALANCE & 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 within a town development boundary where the principle of development is acceptable. However, as identified above, the application site is identified as Visually Important Space in the Adopted Local Plan, the proposed residential development of the site is contrary to the Development Plan.

Although the Council now considers that the supply indicated within the 2018 Annual Monitoring Report represents a robust assessment of the Council's Housing Land Supply position, the Council's latest 5 year supply figure of 5.15 years, as at 6th August 2019 (recalculated utilising the 2014 based household projections and takes into account the 2018 Housing Delivery Test results), must be considered in the context of the emerging Publication Draft Local Plan. The Publication Draft Local Plan which currently sits with the Inspector must be able to demonstrate a 5 Year Housing Land Supply in order for it to be found sound and adopted. Unlike the current methodology for calculating 5 year supply which takes account of housing undersupply in the standard methodology formula, the methodology for calculating 5 year supply under a new Local Plan must add on the backlog from previous years. This results in a higher 5 year supply requirement.

The Government's policy objective of significantly boosting the supply of homes as highlighted in Paragraph 59 of the NPPF is an important material consideration in this case, however this in itself is not considered to be sufficient to outweigh any conflict with the Adopted Development Plan. In contrast, the above factor in relation to the Publication Draft Local Plan is considered to be an important material consideration. Furthermore, and as identified above, the application site has a draft allocation (in part) within the Publication Draft Local Plan for residential development which is an important material consideration and should be afforded some weight.

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).

### **Previous Application 17/01145/FUL Appeal Findings**

The Inspector considered the overall planning balance of the previous proposal (Paragraphs 56-59 of the Appeal Decision).

In accordance with the findings above, the Inspector identified a number of benefits of the scheme including; provision of specialist housing for older people (and potentially freeing up other housing stock), and some benefit of increasing flood capacity at the site. The Inspector also highlighted a number of harms, mainly in respect to the overall quality of accommodation proposed with particular reference to outlook, but also a lack of Affordable Housing contribution.

The Inspector concluded that the adverse impacts in that case would significantly and demonstrably outweigh the benefits, and that planning permission should be refused and the appeal dismissed.

### **Current Application Proposal**

This application shares many of the same benefits as the previous application; the provision of 58 specialist housing units for older people, which would contribute towards the Council's 5 year housing land supply. The site is also in a highly accessible location, with easy access to the day-to-day services and facilities required to support living without reliance on the private motor car. The development would also remove some hardstanding and provide amenity areas and a SUDS system, which would only increase the flood capacity at the site (compared to existing). The development also now provides a good standard of amenity to future occupiers, and a high quality modern articulated design which positively responds to its context. Garden and parking are also acceptable. The site would also provide contributions towards Affordable Housing Provision, open space and to healthcare.

In terms of harms, the enlargement to four stories has brought about a higher level of harm on the Conservation Area, to which the Historic Buildings Consultant attributes less than substantial harm at the lower end. However, taking into account the Inspector's findings on the previous application 17/01145/FUL, coupled with the modest increase in height and superior design, would limit this harm.

Taking into account all of the above, there are a number of economic and social factors weighing heavily in favour of the proposed development, while there are also environmental factors weighing against the proposed

development primarily related to heritage impacts. When considering the planning balance and having regard to the benefits as identified above, and having regard to the requirements of the NPPF as a whole, Officers have concluded that the aforementioned significant benefits would outweigh the heritage harm. The proposed development would constitute sustainable development and it is therefore recommended that planning permission is granted.

## RECOMMENDATION

It is therefore recommended that the application is GRANTED subject to the applicant entering into a suitable S106 agreement to assist in mitigating the impacts of the development:

- Healthcare – £21,919
- Affordable Housing – £763,146
- Open Space
  - Sport £34,846.92 for refurbishment and improvements of the pavilion at Rickstones Play Ground Pavilion
  - Allotments £1105.83 General allotment improvement funding to be utilised anywhere within Witham
  - Amenity Greenspace £14,404.75 – improvements to the river walk at Witham
  - Management Company for amenity areas
- Waste Collection – refuse management strategy to be submitted for the collection and disposal of refuse at the site
- In terms of HRA, the proposal would secure £7093.4 towards off site mitigation (scheme to be confirmed).

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

Alternatively, in the event that a suitable planning obligation is not agreed within 3 calendar months of the date of the resolution to approve the application by the Planning Committee the Planning Development Manager may use his delegated authority to refuse the application.

## APPROVED PLANS

Location Plan	Plan Ref: 40027WT/PA11	
Landscaping	Plan Ref: JBA 17-058_SK01	
Floor Plan	Plan Ref: 40027WT/PA13	RevC
Site Plan	Plan Ref: 40027WT/PA12	RevD
Floor Plan	Plan Ref: 40027WT/PA14	RevC
Elevations	Plan Ref: 40027WT/PA16	RevC
Elevations	Plan Ref: 40027WT/PA17	RevC
Roof Plan	Plan Ref: 40027WT/PA18	RevD
Floor Plan	Plan Ref: 40027WT/PA30	



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

Reason

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

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

Reason

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

- 3 No development shall commence, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and underbody washing facilities to minimise dust and mud

Reason

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 and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

- 4 No development shall commence until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority, following the recommendations contained within the Ecological Assessment (ECOSA Ltd, December 2018).

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.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority

#### Reason

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

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

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

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

#### Reason

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

- 6 Development shall not be commenced until an investigation and risk assessment, in addition to any assessment provided with the planning application, have been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme shall be submitted to and approved in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- o human health,
- o property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- o adjoining land,
- o groundwaters and surface waters,
- o ecological systems,
- o archeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

#### Reason

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

- 7 Development shall not be commenced until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment, has been prepared, and submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of the first part of this condition, and where remediation is necessary a remediation scheme must be prepared which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in any approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

#### Reason

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

- 8 Development shall not be commenced until details of the means of protecting all of the existing trees, shrubs and hedges to be retained on the site from damage during the carrying out of the development have been submitted to the local planning authority for approval. The approved means of protection shall be installed prior to the commencement of any building, engineering works or other activities on the site and shall remain in place until after the completion of the development to the complete satisfaction of the local planning authority.

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

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

#### Reason

To ensure the protection and retention of existing/remaining trees, shrubs and hedges.

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

- Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753.o Limiting discharge rates to 25l/s for all storm events up to an including the 1 in 100 year rate plus 40% allowance for climate change.

- Final modelling and calculations for all areas of the drainage system.

- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.

- Detailed engineering drawings of each component of the drainage scheme.

- A final drainage plan which details exceedance and conveyance routes,

FFL and ground levels, and location and sizing of any drainage features.

- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

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

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

**Reason**

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

- 11 No above ground development shall commence unless and until a lighting design scheme to protect biodiversity for the whole site has been submitted to and approved in writing by the local planning authority. The scheme shall identify those features on, or immediately adjoining the site, that are sensitive for bats, including those areas where lighting could cause disturbance along important bat foraging routes; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that any areas of the development that are to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the approved scheme and retained thereafter in accordance with the approved scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

**Reason**

To ensure there is no harm or disturbance to a protected species.

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

Reason

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

- 13 No above ground development shall commence until a Biodiversity Enhancement Strategy for Protected and Priority species 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) 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).

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

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

Reason

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

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

- 15 The proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans, has been hard surfaced, sealed and marked out in parking bays. The vehicle parking area and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development.

Reason

To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- 16 Prior to any above ground works, details of secure, covered and convenient cycle parking shall be submitted to and agreed in writing by the Local Planning Authority. The approved cycle parking shall be provided prior to the occupation of the development and permanently retained as such.

Reason

To ensure appropriate cycle / powered two wheeler parking is provided in the interest of highway safety and amenity in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- 17 Prior to any above ground works, details of secure, covered and convenient motorised scooter/buggy storage/parking shall be submitted to and agreed in writing by the Local Planning Authority. The approved facilities shall be provided prior to the occupation of the development and permanently retained as such.

Reason

To ensure an appropriate level of parking facility for motorised scooters is provided in the interest of highway safety and amenity in accordance with Policy DM8.

- 18 Prior to the 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 areas of hardstanding shall be constructed using porous materials laid on a permeable base.

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

seasons after the commencement of the development.

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

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

**Reason**

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

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

Monday to Friday 0800 hours - 1800 hours  
Saturday 0800 hours - 1300 hours  
Sundays, Public and Bank Holidays - no work

**Reason**

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

- 20 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 in the surrounding area.

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

**Reason**

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

- 22 The residential units hereby approved shall only be resided in by persons aged 55 year or more.

**Reason**

Should the building be occupied full time by persons below the age of 55, the Council would require additional forms of financial contribution to



mitigate the impacts of the development (which have not been secured as part of this application due to the intended occupancy of 55+ years of age).

- 23 Development shall not be commenced until a scheme for protecting the proposed (noise sensitive development) from noise from environmental noise has been submitted to and approved in writing by the local planning authority. All works which form part of the approved scheme shall be completed before (any part of) the (noise sensitive development) is occupied.

Reason

To protect the amenities of future occupiers of the development as appropriate.

INFORMATION TO APPLICANT

- 1 An archaeological contractor should undertake any archaeological investigation. An archaeological brief detailing the requirements can be produced from this office. The District Council should inform the applicant of the recommendation and its financial implications.

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER



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## Appeal Decision

Inquiry held on 3-6 and 10 July 2018

Site visit made on 10 July 2018

**by Michael Boniface MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 23 July 2018**

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**Appeal Ref: APP/Z1510/W/17/3188192**

**Former Bramston Sports Centre, Bridge Street, Witham, CM8 1BT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Churchill Retirement Living against Braintree District Council.
  - The application Ref 17/01145/FUL, is dated 22 June 2017.
  - The development proposed is redevelopment to form 60 retirement living apartments, communal facilities, access, car parking and landscaping.
- 

### Decision

1. The appeal is dismissed and planning permission is refused.

### Preliminary Matters

2. I have removed the appellant's reference to 'lodge manager's accommodation' from the description of development set out above, as this did not form part of the proposal by the time of the Inquiry.
3. During the course of the appeal, the appellant submitted amended drawings in an effort to resolve some of the Council's concerns. The amendments included revisions to the levels of the car park, the introduction of an additional lift along with attendant internal rearrangement, alterations to the proposed balconies and the introduction of a new front entrance feature. The appellant undertook consultation with all interested parties and consultees, allowing opportunity for comments to be made. The proposed amendments are relatively minor alterations that do not alter the substance of the proposal and the Council confirmed at the Inquiry that it did not object to their submission. I am satisfied that no party is prejudiced by the amendments and the appeal proceeded on the basis of the amended scheme.

### Main Issues

4. No formal decision was made by the Council in this case but it has since confirmed that, had it been empowered to do so, it would have refused planning permission for the following reasons:
  - i) *The development will involve the provision of a large scale residential development on a site, substantial parts of which fall within Flood Zone 3a and Flood Zone 3b. In such locations, and in accordance with the Sequential Test, development within the "more vulnerable" category of flood risk is either inappropriate (Zone 3b) or only appropriate where it can meet the Exception Test (Zone 3a).*

*As the proposed development is one that could be accommodated on other sites at lower flood risk (within Witham's Town Boundary and elsewhere within development boundaries across the District) and as the development provides no wider sustainability benefits to the community that outweigh flood risk, the proposed development would be contrary to both national and local plan policy concerning flood risk as set out in Policy CS8 of the adopted Core Strategy, Policies LPP78 and LPP80 of the Publication Draft Local Plan, Section 10 (Meeting the Challenge of climate change, flooding and coastal change) of the National Planning Policy Framework (NPPF) and the Technical Guidance to the National Planning Policy Framework.*

- ii) *The Council considers that the application of restrictive policies involving land at risk of flooding indicate that development should be refused here, in accordance with footnote 9 of the National Planning Policy Framework (NPPF), as set out in the reason for refusal above.*

*Further, or alternatively, even if a tilted balance were to apply under paragraph 14 of the NPPF, whilst the Council acknowledge that it cannot currently demonstrate a 5 year supply of housing land, the Council considers that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF taken as a whole.*

*In this case, the Council recognises the benefits of allowing development but concludes that the adverse impacts, as set out below, significantly and demonstrably outweigh the benefits:*

- The poor quality of the residential environment that would be enjoyed by prospective residents, as a consequence of the limited aspect to many of the flats; the deficiency in the amount of useable and private amenity space; the limited parking provision and the poor relationship with existing and planned neighbouring uses, all of which are indicative of an over-development of the site, contrary to policies RLP 10, RLP19, RLP56, RLP90 of the adopted Local Plan, policies SP6, LPP45, LPP50, LPP51, LPP55 of the Publication Draft Local Plan and Section 7 (Requiring Good Design) of the NPPF.*
- The poor quality of the design of the proposed building due to the enormity of its footprint, the monotony and lack of architectural interest or identity to its elevational treatment and its unresponsiveness to the form, grain, scale and character of existing development, all to the detriment of the character of the local area, failing to preserve or enhance the character of the Witham Conservation Area, contrary to policies RLP 90, RLP95 of the adopted Local Plan, policy CS9 of the adopted Core Strategy, policies LPP50, LPP55, LPP56 of the Publication Draft Local Plan and Sections 7 (Requiring Good Design) and 12 (Conserving and Enhancing the Historic Environment) of the NPPF.*
- The inability, due to the scale of built development and associated hard surfacing, to make provision for any effective landscaping, resulting in a development which presents a harsh new built edge to this part of the town, detracting from the appearance and amenity value of the River Walk which abuts the site to the east, contrary to policies RLP86 of the adopted Local Plan and policy LPP53 of the Publication Draft Local Plan and Section 8 (Promoting Healthy Communities) of the NPPF.*
- The inability to secure sufficient flood risk mitigation without relying on land beyond the application site and/or outside the applicant's control, contrary to Policy CS8 of the adopted Core Strategy, Policies LPP78 and LPP80 of the Publication Draft Local Plan, Section 10 (Meeting the Challenge of climate change, flooding and coastal*

*change) of the NPPF and the Technical Guidance to the National Planning Policy Framework.*

- *The failure of the proposal to secure the required contribution towards affordable housing and public open space/enhancement, contrary to CS2, CS10 of the Braintree District Core Strategy and Policy RLP138 of the Braintree District Local Plan Review.*

*iii) Policy CS2 of the Braintree District Core Strategy states that affordable housing (or where appropriate, a financial contribution in lieu of such provision) shall be provided by the developer as part of major residential schemes. In addition, Policies CS10 of the Core Strategy and Policy RLP 138 of the Local Plan require proposals for new residential development to make provision for publicly accessible green space or improvements to existing accessible green space. The Council has adopted an Open Space Supplementary Planning Document which sets out the process and mechanisms for the delivery and improvement of open space in the District. In this case, the contributions sought would be £789,462 in lieu of affordable housing provision and £49,320 in relation open space provision/enhancement.*

*These contributions would need to be secured through a Section 106 Agreement. It has not been demonstrated that the scheme would become unviable were these contributions to be made and, accordingly, in the absence of a Section 106 Agreement to secure them, the proposed development would be contrary to the policies referred to above.*

5. Having regard to these putative reasons, the main issues in this appeal are the effect on the character and appearance of the area, including the Witham Town Centre Newland Street Conservation Area; whether the Sequential and Exception Tests are met in the context of flood risk; whether suitable living conditions would be created for future occupants of the development; and whether necessary planning obligations would be secured, having regard to financial viability.

## **Reasons**

6. There is no dispute between the parties that the site is, in principle, appropriate for residential development of the type proposed in the application, being a brownfield site within the town boundary.
7. It is common ground that the Council cannot currently demonstrate a deliverable five year housing land supply and so relevant policies for the supply of housing should not be considered up to date. However, the Council argues that specific policies in the National Planning Policy Framework (the Framework) indicate that development should be restricted. I consider these matters in turn, before dealing with the remaining main issues and other matters.

### *Character and appearance*

8. A small part of the site, where the proposed vehicular access to the development would be situated, falls within the Witham Town Centre Newland Street Conservation Area. The Council raises no concerns in respect of this part of the proposal and there is no suggestion that the development within the conservation area itself would fail to preserve or enhance the character or appearance of it. The remainder of the site is directly adjoining the conservation area and it is the contribution of the wider site to the significance of the conservation area as a part of its setting that remains in dispute.

9. Witham has evolved from a medieval settlement and has developed along the route of Newland Street, a long straight road of Roman origin. The medieval origins of the town remain evident in the traditional market place, some remaining timber framed buildings and the linear settlement pattern with long narrow plots. However, strong Victorian and Georgian influences are now apparent in the architecture of the town. Historically, the river corridor remained open and largely unbuilt upon, having been used for agriculture and traditional industry. The Conservation Area Appraisal and Management Plan (2007) (CAA) identifies that the river and its green margins provide open views and visual contrast with the closely built-up Newland Street.
10. A verdant riverside walk is now in situ and an undeveloped corridor remains apparent. Demolition of the former Bramston Leisure Centre and site clearance works have created a greater amount of openness in the vicinity, though the large hard standing that remains and tall site hoardings limit any heritage contribution in my view. The proposed development would undoubtedly have an effect on the openness of the site but gardens and a 'riparian meadow' are proposed in the part of the site closest to the river and these would be landscaped so as to maintain a verdant and undeveloped appearance, adding to the generosity of the river corridor despite the more constrained space for landscaping on the remainder of the site.
11. During the inquiry, Mr Broadhead suggested on behalf of the Council that the harm arising from development would be less than substantial, and at the lower end of the spectrum. For the reasons that I have set out, I consider that even this level of harm is an overstatement. The medieval origins of the town would remain apparent regardless of the development, particularly its layout along Newland Street with a green corridor along the river. So far as the open river corridor contributes to the setting of the conservation area, this aspect of significance would remain. In my view, increasing the amount of openness would not add to appreciation or understanding of the town's evolution.
12. Figure 27 within the CAA identifies good views within the conservation area, none of which would be affected by the appeal proposal. It also notes that the (now demolished) Bramston Sports Centre was fairly well landscaped and planted, set back within the site so that that the large 1970's building was not prominent in the historic streetscape. I see no reason why the same would not apply to the appeal proposal, particularly as some landscaping could be secured by condition.
13. Much emphasis is placed by the Council on the failure of the proposed building to reflect the characteristics of character zone 5, identified in the CAA. This area is said to include important trees and river views with small scale buildings in short, broken rows, built-up to the street edge. They are generally more domestic, of varied detailing and age with small plots. This reflects the medieval grain and design of the settlement along the main street.
14. The proposed development would not reflect these characteristics, being a large building within a large site some distance from the route of the historic road. Zone 5 is a small area, identified as incorporating traditional buildings with similar characteristics. The site stands apart from it, being more reflective of the large Academy site and leisure centre to the west, which now accommodate large contemporary buildings. The proposed building would not be seen as part of character zone 5 or the wider conservation area and to

attempt to mimic elements of it in a large modern building would do it no credit. The proposed building would be sufficiently removed from the built form of the historic settlement that it could accommodate a building of differing scale, form and appearance.

15. The proposed building would not be visible from any of the identified 'good views' within the CAA and very limited visibility would be available from elsewhere in the conservation area, including from the road bridge. This is particularly so given the substantial intervening tree planting which would heavily filter views from the conservation area even in winter. The Council is in the process of selling the site in front of the appeal site for development and this would be likely to further reduce any spatial or visual relationship with the conservation area. I do not consider there to be any good reason why development on the site should reflect characteristics that are simply not characteristics of the appeal site, its size and situation, and where the building would be seen as an entirely separate entity.
16. The Council suggest that the CAA did not identify any 'good views' or otherwise positive contribution from the site to the significance of the conservation area because the former sports centre was seen as a detractor. This position is not supported by the CAA, as I have already mentioned. This building has now been demolished but the CAA has not been updated and for the reasons I have set out I do not agree that the site, in its current form, adds to the significance of the conservation area.
17. Criticism of the proposed building's detailed design was also made by the Council, noting that it would be a large three storey building of significant scale and mass. I have already determined that the scale of the building is reflective of the large buildings adjacent to the appeal site and that its setback position means that it would not be viewed as part of the conservation area. In this context, I do not share the Council's concerns that the building would be large or modern in appearance. It would be a modern building within a large site and would not be dissimilar in size to other flatted developments within or close to the conservation area, such as Moorfield Court.
18. The building would incorporate a shallower roof pitch than more traditional buildings within the conservation area, would have a more horizontal emphasis and modern fenestration and materials. The building would be large but the various projecting elements and variations in roof height would serve to break up its scale and mass, whilst providing a degree of visual interest. I do not consider it necessary for the building to seek to replicate traditional features of the conservation area in this case, albeit that it is often appropriate for development to reflect local distinctiveness. In this case, the proposal is a modern building of a modern design and whilst there is nothing architecturally outstanding about the proposal, it would not be inappropriate to its context, nor would it compete with or detract from the positive characteristics of the conservation area.
19. For all of these reasons, I do not consider that the proposed development would harm the significance of the conservation area. The proposed development is suitable in both design and heritage terms and so there are no restrictive policies within the Framework engaged in these respects. I find no conflict with policies RLP 86, RLP 90 or RLP 95 of the Braintree District Local Plan Review (2005) (LPR); or policy CS9 of the Core Strategy (2011) (CS)



which seek, amongst other things, to conserve heritage assets, require a high standard of design and the maintenance of river corridors. Furthermore, I find no conflict with policies LPP 50, LPP 53, LPP 55 or LPP 56 of the Publication Draft Local Plan (2017) (DLP), which have similar objectives.

### *Flood risk*

20. The site is located with Flood Zones 1, 2, 3a and 3b (as defined within Planning Practice Guidance (PPG)), meaning that there is a high probability of flooding in some parts of the site and the site performs a function for the storage of water during times of flood. The PPG classifies the proposed type of residential use as 'more vulnerable' and so the proposal should be considered against the Sequential Test and, if necessary, Exception Test before being granted planning permission.
21. The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. The appellant undertook its own Sequential Test in support of the planning application and a further Sequential Test (June 2018) was submitted in support of the appeal. A number of potential alternative sites were identified but were discounted as not being reasonably available or appropriate for the proposed development.
22. The appellant undertook its assessment on the basis that it was seeking to accommodate a need for this type of accommodation within Witham. There is an evidenced need for specialist accommodation for the elderly in the Housing Market Area<sup>1</sup> and the need for such accommodation in Witham was not disputed by the Council. The assessment area was further refined to sites within 0.5 miles of the town centre having regard to the appellant's experience in the sector and the suggested benefits to prospective residents of being close to a town centre with its associated services and facilities. Reference was made to the benefits of this criterion within a research document before the Inquiry, which the appellant published alongside other organisations<sup>2</sup>.
23. I consider that the 0.5 mile radius assessment area is a reasonable one for the type of accommodation proposed. Occupants would need to be at least 60 years old (or 55 for partners) to live within the development and the appellant explained that the typical age of its residents in other schemes is 78. It is a fair assumption that many residents would be likely to have reduced mobility and that walking long distances would be likely to prevent or at least dissuade use of local amenities. The Transport Statement (June 2017) (TS) accompanying the application also suggests that residents are less likely to own vehicles. As such, easy access to public transport, services and facilities is essential and has a very real prospect of improving the quality of life of the likely residents and ensuring their ongoing independence and social cohesion.
24. The Council identified a number of potential alternative sites within 0.5 miles of the town centre during the Inquiry but subsequently accepted that they were not reasonably available or appropriate for the proposed development. It did not provide any evidence to dispute the appellant's reasons for discounting the sites it considered. Consequently, I consider that the Sequential Test is passed.

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<sup>1</sup> Strategic Housing Market Assessment, Update 2015

<sup>2</sup> Retirement Living Explained, A Guide for Planning & Design Professionals (April 2017)

25. The development would provide wider sustainability benefits to the community in providing specialist accommodation for the elderly in an area where there is a demonstrable need. Provision of such accommodation would also be likely to release other housing stock to the market which would assist in meeting the wider housing need in the area, noting that the Council cannot currently demonstrate a sufficient supply of housing land.
26. The application is accompanied by a Flood Risk Assessment (June 2017) and Drainage Strategy Report (June 2017) which demonstrate that, subject to appropriate mitigation, the development would be safe for its lifetime and would not increase flood risk elsewhere. In fact, the proposed scheme would improve flood storage capacity within the site, though the extent of such benefit to the wider area is unquantifiable. Both the Council and the Environment Agency accept this evidence and I have no reason to take a different view. In light of this, the wider sustainability benefits of the scheme clearly outweigh the flood risk in this case. As such, I conclude that the Exception Test is passed.
27. Flood risk within the site itself has been minimised as far as possible by locating the proposed building in the part of the site at lowest flood risk, with car parking and landscaping in the highest risk areas. The mitigation measures proposed, including raising the level of the building, mean that it would not be susceptible to flooding and an appropriate drainage strategy is identified. Finally, although in times of flood the access road would become flooded, it is accepted by the Council that an escape route would remain available through the adjacent Academy site should residents wish to leave the building during infrequent flooding events.
28. It has not been demonstrated that all of the land required for flood mitigation or storage would be within the ownership of the appellant, for example, it was suggested that the riparian meadow may remain within the ownership of the Council. However, it was expected that rights for the purposes of drainage and flood mitigation would be available to the appellant and the Council did not suggest otherwise. Subject to an appropriate condition being imposed preventing development in the absence of the required mitigation, I am satisfied that the scheme is achievable.
29. I conclude that the Sequential and Exception Tests are passed in this case and that the development would not be at undue risk of flooding, nor would it increase the risk of flooding elsewhere. The site is suitable for the proposed development and there are no restrictive policies of the Framework engaged that indicate development should be restricted with respect to flooding. I find no conflict with policies CS8 of the CS; or LPP 78 and LPP 80 of the DLP which require a sequential approach to site selection in areas at risk of flooding and generally seek to prevent flooding, amongst other things.

#### *Living conditions*

30. The Framework seeks a high standard of amenity for all existing and future occupants of land and buildings. The proposed development would involve 60 dwellings within a single building, all of which would be served by internal corridors with flats either side. This results in the majority of the flats being single aspect. Whilst it is desirable to have a greater variety of views and light sources, the appellant refers to the practical advantage in such an arrangement for the prospective occupiers, allowing movement between apartments and



communal facilities whilst remaining indoors. I am not persuaded that the arrangement proposed is the only option for facilitating such a benefit, though there would clearly be advantages during inclement weather for example.

31. Despite the proposed arrangement, and the Council's concern about internal room dimensions and layout, the submitted Daylight and Sunlight Study (June 2018) demonstrates that all of the proposed flats would receive adequate light in accordance with BRE Guidelines<sup>3</sup> and so a reasonable amount of natural light would be available.
32. The fact that views will only be available in one direction for many residents makes outlook particularly important. In this case, the building would fill a large proportion of the site with relatively narrow strips of land surrounding. Those flats facing north would be as close as 4.2m to the boundary of the site, beyond which is a tall palisade style fence surrounding the Academy grounds. The fence would stand at an elevated level compared to many of the proposed ground floor flats and its harsh industrial appearance would be an overbearing and imposing feature for future occupiers looking out of the window or using the proposed patios. This is notwithstanding the open field beyond the fence. Some potential for landscaping exists along the site boundary but the scope for meaningful landscaping would be very restricted given the proximity to the proposed flats and the proposed earth bund.
33. To the south, residents would have an outlook towards the proposed car park, where vehicles would be parked or manoeuvring in extremely close proximity to the proposed flats. The proposed car park would be visually intrusive in such close proximity to ground floor flats in particular. Again, this would be harmful to outlook from both windows and the proposed patios.
34. Beyond the car park would be an intermittent strip of landscaping marking the boundary with a further development site. I also have significant reservations about the proximity of the adjacent site, which is subject of a planning application for a supermarket. The evidence before me suggests that this would involve a large building built up to the boundary with the appeal site, with likely further implications for outlook, as well as noise and disturbance. However, at the time of the Inquiry this application remained undetermined and there is no certainty that the scheme will be granted planning permission; this would become a matter for the Council if the appeal succeeded.
35. Having identified that the proposed patios surrounding the building would have a poor outlook, I consider that this is likely to discourage their use and so I agree with the Council that the narrow strips to the north and south of the building should be discounted from the calculation of usable garden space. However, the larger areas of communal garden proposed would themselves exceed the quantitative requirements of the Essex Design Guide (2005), based on a requirement for 25sq.m per 2 bed flat.
36. Similar provision is encouraged for 1 bed flats but the guide notes that this will not always be necessary close to a town centre, where proximity to existing open spaces, services and facilities are also available. Given that the site is within easy walking distance of the town centre, as well as a pleasant riverside walk, such flexibility is appropriate in this case. In addition, many residents would have access to private balconies which would be usable in my view,

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<sup>3</sup> Building Research Establishment, Site Layout Planning for Daylight and Sunlight: a good practice guide (2011)

despite being slightly smaller than the 5sq.m dimension sought by the Essex Design Guide (2005).

37. The largest area of communal open space would not be screened by above-eye-level walls or hedges as envisaged by the design guide, instead a 1.1m tall railing is proposed. Whilst not providing the same level of privacy as a wall or hedge, the railing would allow views beyond the site to the riparian meadow and river corridor. This seems to me to offer a benefit to prospective residents, particularly as the graded levels of the meadow would be such that it would not be frequently used by members of the public. More private garden areas would also be available within the site as an alternative.
38. Car parking would be provided on site, though the number of spaces would not accord with the Council's Parking Standards (2009) of 1 per dwelling. Instead, 28 spaces are proposed and the TS demonstrates that this exceeds the level of provision found to be necessary at other similar schemes built by the appellant. The Council does not dispute the evidence contained in the TS, nor does it raise any objection on highway safety grounds. The Local Highway Authority (LHA) accepts that this level of provision is appropriate. The proposed bay size meets the minimum required size contained in the Parking Standards, which is said to be sufficient for parking and getting in or out of a vehicle. Again, no objection if raised by the LHA in this respect, notwithstanding that the minimum bay size used is said to be an exception to the larger preferred size. Having considered all of the above, I can see no reason for the proposed development to slavishly adhere to the Parking Standards. It has been demonstrated that the parking provision is adequate in terms of both quantity and usability.
39. No cycle parking has been proposed and the Council considers the proposed mobility scooter store to be inadequate. The appellant accepts that further detail could be provided in these respects and a condition could readily be used to secure the provision.
40. The proposed bin store is some distance from the furthest flats and is in excess of the guidance supporting the Building Regulations. This is a matter for the Building Regulations process. However, I see no reason why the store should not be usable and convenient, being located close to the communal facilities and the main entrance to the building so that future residents could drop refuse in passing.
41. Overall, whilst I do not share all of the Council's concerns, I have identified significant harm that would unacceptably compromise the living conditions of future occupants, particularly with regard to outlook. Consequently, the proposed development would not meet the high standards of design and amenity required by the Framework. In addition, the proposal conflicts with policies RLP 56 and RLP 90 of the LPR, which require the provision of parking in accordance with adopted standards (though I have determined this is unnecessary) and a high standard of design.
42. I attach limited weight to the policies of the DLP given its stage of preparation and the presence of unresolved objections. However, I have also found conflict with policies SP 6, LPP 45, LPP 50, LPP 55 of the DLP which have similar objectives to the adopted policies above. I have found no conflict with policies RLP 10 or RLP 19 of the LPR which relate to residential density and detailed criteria for sheltered housing.

43. I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Since the appeal is made for retirement apartments with an age restriction in place, future residents are persons who share a protected characteristic for the purposes of the PSED, that is age.
44. It does not follow from the PSED that the appeal should automatically succeed or fail. However, there is a shortage of specialist housing sites for older people in the housing market area and this may indicate inequality of housing opportunity for the proposed age group, though there is also a shortage of sites for general market housing. The equality implications add weight in favour of the development since the proposal seeks to specifically address the identified shortfall and has been designed to address the specific needs of the age group in question (60 years old or above, or 55 for partners).
45. I do not share the Council's concern that the failure to meet adopted standards of parking would disadvantage people sharing a protected characteristic, since the evidence in this case demonstrates a reduced need for this age group. The development would meet the needs of the intended occupants and so it follows that they would not be disadvantaged. Other aspects relevant to the living conditions of future occupants described as deficient by the Council are also matters of planning judgement that, with the exception of outlook, I have found to be acceptable. I have reached this conclusion on the merits of the case, which is not influenced by imposing any reduction in standards simply as a result of the age of intended occupants, and having had regard to the PSED.

#### *Planning obligations*

46. Policy CS10 of the CS and Policy RLP 138 of the LPR require proposals for new residential development to make provision for publicly accessible green space or improvements to existing accessible green space. The Council has also adopted an Open Space Supplementary Planning Document (2009) which sets out the methodology for calculating contributions and the process for the delivery and improvement of open space in the District. The open space contribution, having regard to the open space typologies relevant to the scheme, is calculated to be £49,320 which would be used towards improvements to the riverside walk. The appellant accepts that this contribution is necessary and otherwise accords with CIL Regulations 122 and 123. I have no reason to take a different view.
47. Policy CS2 of the CS states that affordable housing (or where appropriate, a financial contribution in lieu of such provision) shall be provided for residential schemes above a threshold of 15 dwellings or sites of 0.5ha. The parties agree that the specialist nature of the proposed housing is such that on-site provision would be impractical and that a financial contribution towards off-site provision would be more appropriate. In this case, the contribution sought is £789,462 and the appellant does not dispute the need for this amount. However, it is claimed that making any contribution towards affordable housing would make the development financially unviable, such that it would threaten delivery. This is in contrast to the Council's position that the full affordable housing contribution could viably be made.

48. Fundamental to these differing positions is the parties preferred methodology for calculating the Benchmark Land Value (BLV) of the site. The Council suggests that Existing Use Value Plus (EUV+) is the correct approach having regard to the PPG and emerging national policy and guidance, though the final version is yet to be published and cannot be relied upon at the present time. The appellant prefers the Alternative Use Value (AUV) approach in recognition that a willing land owner will not release a site for less than it might reasonably be able to obtain for other uses in the market.
49. At present, the PPG is not prescriptive and offers support to either approach under the right circumstances. The appeal is supported by a Valuation Report (March 2018) prepared by Chartered Surveyors and considers various alternative uses for the site, informed in part by reference to other schemes that are said to be comparable. The report includes valuations as high as £1,400,000, based upon a residential scheme (though this assumes no affordable housing contribution). Commercial and retail uses are also considered.
50. As a matter of principle, I accept that the AUV approach can be an appropriate method for identifying BLV. It is obvious that no landowner, willing of otherwise, will be likely to sell a site for less than is achievable. However, I have significant reservations that the alternative uses contemplated in this case meet the expectation of the PPG that they are realistic and comply with planning policy<sup>4</sup>.
51. The highest valuation assumes no affordable housing contribution despite there being a policy requirement for 30% (or financial equivalent) provision. There is no support in the CS for the appellant's interpretation that the site area threshold for the requirement relates to the developable area of the site. Once the affordable housing contribution is taken into account, the valuation reduces to £926,855. There is no evidence that the specific planning constraints affecting the site have been taken into account such as flooding, heritage and ground conditions (except an unjustified reference to flood mitigation), some of which were raised as potential issues by the Council during the Inquiry. They are issues that could have implications for obtaining planning permission and/or the costs associated with obtaining permission and constructing any subsequent development. Similar uncertainties relate to any potential office or retail use.
52. The report confirms that no formal planning enquiries were made of the Council in preparation of the report. There is no allocation for the site in the development plan albeit that the site is agreed to be suitable for development in principle. There is no planning permission in place, a matter noted in the Valuation Report, or even any informal pre-application advice from the Council in respect of the potential alternatives. It seems to me that there remains significant uncertainty as to whether the alternative uses could come forward and in what form. As such, I am not persuaded by the evidence before me that the AUV methodology is appropriate in this case.
53. I have had regard to the figure of £1,250,000 accepted by the Council for the appeal site in a conditional contract, having concluded that it represented best value for the site in accordance with its statutory obligation. However, this does not amount to the BLV of the site, it is simply the best bid that could

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<sup>4</sup> PPG Reference ID: 10-015-20140306

reasonably be obtained. There is no duty on the Council to verify that the purchaser has taken account of planning policy or that any hope value attached by the purchaser is well placed. The Council's Cabinet Report which contemplates disposal of the appeal site is informed by its own advice from Chartered Surveyors. Whilst this also indicates potential alternative uses I do not know the full details of this advice and I am similarly unpersuaded that it meets the requirements of the PPG.

54. Consequently, I prefer the Council's EUV+ approach which it was agreed between the parties, generates a BLV of around £100,000. Whilst I consider that the true BLV is likely to be higher than this, a higher alternative use value has simply not been demonstrated and cannot be relied upon. The viability appraisal at Appendix 12 of Damien Lynch's Proof demonstrates that the open space and affordable housing contribution could be supported if the EUV+ method is used to calculate BLV. This is regardless of the outcome of the numerous other points of dispute in respect of viability and so I need not consider these further.
55. I conclude that the development could support the necessary financial contributions sought by the Council without compromising the viability of the scheme or the likelihood of delivery. The submitted Unilateral Undertaking makes no provision for affordable housing and so the proposal is in conflict with Policy CS2 of the CS.

### **Planning Balance**

56. I have found no specific policies of the Framework that indicate development should be restricted. As the Council cannot currently demonstrate a deliverable five year supply of housing sites, its policies for the supply of housing should not be considered up to date and the Framework's tilted balance should be applied.
57. The appellant has identified a number of benefits that would arise from the development. These include the provision of specialist housing, specifically designed to meet the needs of older people, for which there is an identified need in the area. I have found support under the PSED in this respect. The provision of such housing would also be likely to free up other market housing that would assist in meeting other housing needs in the area. There would also be some wider benefits in increasing flood storage capacity within the site. I attach significant weight to these benefits.
58. Against this, I have found that the development would not provide acceptable living conditions for future residents, specifically with regards to outlook. This would be in conflict with policy RLP 90 of the LPR. In addition, the development would not make any contribution towards the provision of affordable housing, which is again needed in the area. This would be in conflict with Policy CS2.
59. Overall, I conclude that the adverse impacts of granting planning permission in this case would significantly and demonstrably outweigh the benefits. The proposal would be in conflict with important policies of the development plan and would not accord with it, taken as a whole. The material considerations in this case do not indicate a decision other than in accordance with the development plan.

## **Conclusion**

60. In light of the above, and having considered all other matters, the appeal is dismissed.

*Michael Boniface*

INSPECTOR

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Ashley Bowes, Counsel He called:	Instructed by Ian Hunt, Head of Governance
Charlotte Scales BSc (Hons)	Flood Risk Officer, Environment Agency
Richard Broadhead BA (Hons) MSc	Historic Buildings Consultant, ECC
Lee Smith-Evans BSc MA	Director, LSE Planning & Design Ltd
Andrew Golland BSc (Hons) PhD MRICS	Andrew Golland Associates
Natalie Banks BA (Hons) MSc	Senior Planner, BDC

### FOR THE APPELLANT:

Neil Cameron QC He called:	Instructed by Andrew Burgess, Planning Issues
Amy Hensler BEng (Hons) MSc C.WEM MCIWEM CEnv	Director of Flood Risk, Peter Brett Associates LLP
Gideon Lemberg BA (Hons) RIBA	Eastern Design Manager, Planning Issues Ltd
Paul White BA (Hons) MPhil MCIfA PIEMA	Head of Heritage, ECUS Ltd
Damien Lynch BSc (Hons)	Planning Issues Ltd
Andrew Burgess BA (Hons) MRTPI FRSA	Managing Director, Planning Issues Ltd & Group Land and Planning Director, Churchill Retirement Living

### INTERESTED PERSONS:

Paul Ryland, Local resident



## **DOCUMENTS SUBMITTED DURING THE INQUIRY**

- 1 Notification of Inquiry arrangements
- 2 Statement of Common Ground
- 3 Completed Unilateral Undertaking
- 4 Letters from Shoosmiths Solicitors regarding Planning Obligations dated 18 June 2018
- 5 Land Registry, Register of Title
- 6 Computer Generated Images of the proposal
- 7 Appellant's Opening Submissions
- 8 Council's Opening Submissions
- 9 Appeal decision (APP/Z1510/W/16/3156944)
- 10 Copies of consultation letter and documents relating to the amended plans
- 11 Viability Statement of Common Ground
- 12 Extract from adopted Parking Standards, P.24
- 13 List of housing allocations within the DLP and within 0.5 miles of the town centre
- 14 Extract from PPG dealing with viability
- 15 Copy of Viability Assessment (December 2017)
- 16 Plans showing allocated housing sites identified at ID13 above
- 17 Extract from DLP, P.178
- 18 Extract from PPG dealing with the sequential test
- 19 DLP delivery trajectory for sites identified at ID13 above
- 20 Agreed balcony measurements
- 21 Extract from SHMA, P.81
- 22 Brochure – 'Think Land...Think Churchill'
- 23 List of suggested conditions, amended by the appellant
- 24 Council's Closing Submissions (with associated Judgement)
- 25 Appellant's Closing Submissions (with associated Judgements)
- 26 Ecological Assessment (August 2017)
- 27 E-mail from Sarah Burder to Natalie Banks relating to public open space contribution dated 25 June 2018
- 28 List of agreed conditions (condition 20 remains in dispute)
- 29 Appeal site visit route agreed between the parties