

PLANNING COMMITTEE AGENDA

Tuesday, 14 February 2017 at 07:15 PM

**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 K Bowers	Councillor Lady Newton
Councillor Mrs L Bowers-Flint	Councillor J O'Reilly-Cicconi (Vice Chairman)
Councillor T Cunningham	Councillor Mrs I Parker
Councillor P Horner	Councillor Mrs W Scattergood (Chairman)
Councillor H Johnson	Councillor P Schwier
Councillor S Kirby	Councillor Mrs G Spray
Councillor D Mann	

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

N BEACH
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

Anyone wishing to speak are requested to register by contacting the Governance and Members Team on 01376 552525 or email governance@braintree.gov.uk no later than 2 working days prior to the meeting. The Council reserves the right to decline any requests to register to speak if they are received after this time.

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

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

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

1 Apologies for Absence

2 Declarations of Interest

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

3 Minutes of the Previous Meeting

To approve as a correct record the Minutes of the meeting of the Planning Committee held on 31st January 2017 (copy to follow).

4 Public Question Time

(See paragraph above)

5 Planning Applications

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

Where it has been agreed that 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:-

5a	Variation to Section 106 Agreement and Decision - Application No. 15 01580 OUT Land South of Halstead Road, EARLS COLNE	5 - 12
5b	Application No. 16 00397 OUT - Land East of Mill Lane, CRESSING	13 - 61
5c	Application No. 16 01735 OUT - Land off Wethersfield Road, FINCHINGFIELD	62 - 101
5d	Application No. 16 02055 OUT - Land adjacent to Peacehaven, London Road, BLACK NOTLEY	102 - 115
5e	Application No. 16 02101 VAR - Land adjacent to Lodge Farm, Hatfield Road, WITHAM	116 - 137

5f	Application No. 16 02127 FUL - Land between The Wagon and Horses and Hollies, Pebmarsh Road, TWINSTEAD	138 - 156
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PART B

Minor Planning Applications:-

5g	Application No. 16 01774 FUL - Land between Magnolia and Ridgeways, Grange Hill, GREENSTEAD GREEN	157 - 162
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5h	Application No. 16 02138 LBC - Town Hall Centre, Fairfield Road, BRAINTREE	163 - 169
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6	Planning and Enforcement Appeal Decisions - January 2017	170 - 180
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7 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.

8 Exclusion of the Public and Press

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

At the time of compiling this Agenda there were none.

PRIVATE SESSION

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9 Urgent Business - Private Session

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

Variation to resolution to grant planning permission, Land South Of Halstead Road, Earls Colne – 15/01580/OUT		Agenda No: 5a
Portfolio	Planning and Housing	
Corporate Outcome:	A sustainable environment and a great place to live, work and play A well connected and growing district with high quality homes and infrastructure A prosperous district that attracts business growth and provides high quality employment opportunities Residents live well in healthy and resilient communities where residents feel supported	
Report presented by:	Neil Jones, Principal Planning Officer	
Report prepared by:	Neil Jones, Principal Planning Officer	
Background Papers:		Public Report
Planning Committee Report – Application Reference 15/01580/OUT		Key Decision: No
Planning Committee Minutes – 27.09.2016		
Executive Summary:		
<p>This report concerns a planning application for a residential development that the Planning Committee recently considered and resolved to grant subject to a planning obligation. The applicant seeks to vary one aspect of the Heads of Terms and the matter is duly brought back to Committee for consideration.</p> <p>When the application was previously reported to Planning Committee it had been proposed that the applicant would make land available within the application site for the car park at the Pump House Surgery. This was to be secured through the S106 legal agreement.</p> <p>After Planning Committee passed a resolution to grant planning permission, subject to completion of the S106 agreement, Officers and the Council's solicitor began the process of securing this land.</p> <p>During this process it came to light that there is a separate parcel of land owned by a third party, situated between the existing car park and land in the applicant's control. The requirement to obtain third party approval complicated the process for extending the car park and Officers have investigated further the likelihood of the car park being extended. Having discussed the situation with the Parish Council; the Surgery management / the owner of the Surgery site; and NHS England it is apparent that no-one is willing to fund the car park extension.</p> <p>As a result it is proposed that the Heads of Terms for the S106 are changed and the agreement should no longer secure land for a potential car park extension. This report seeks Members' approval to the revised Heads of Terms and a revised resolution to grant planning permission, subject to completion of the S106 legal agreement.</p>		

Recommended Decision:

Members amend the resolution to grant planning permission, omitting the reference to securing land for an extension to the Surgery car park.

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

- Affordable Housing (40% of units provided on-site)
- Pedestrian link to Nonancourt Way
- Provision of a minimum of 0.84ha of on-site Public Open Space including Equipped Play Area and suitable management arrangements for the On-Site Public Open Space within the site
- Financial contribution towards secondary school transport

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

Purpose of Decision:

To enable the Local Planning Authority to make suitable variations to the terms of the planning permission and associated legal agreement to reflect changes in circumstances regarding the provision of land to extend the car park serving the Pump House Surgery.

Corporate Implications

Financial:	None
Legal:	Any legal implications have been considered as part of the assessment.
Safeguarding:	None
Equalities/Diversity:	None
Customer Impact:	The provision of some of the planning obligations, which provide benefits for the whole of the local community, will be varied.
Environment and Climate Change:	None
Consultation/Community Engagement:	Earls Colne Parish Council was consulted to ascertain whether they were willing and able to take responsibility for the project to extend the Surgery Car Park. This included funding the project.
Risks:	None
Officer Contact:	Neil Jones
Designation:	Principal Planning Officer
Ext. No:	2523
E-mail:	nejjo@braintree.gov.uk

INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is brought before the Planning Committee as it is proposed that the Heads of Terms, that formed part of the Officers recommendation to grant planning permission, are varied and that these no longer include provision to secure land for a potential extension to the Doctor's Surgery Car Park.

As it is proposed that the Heads of Terms that formed part of the Planning Committee's reason for passing a resolution to grant planning permission 15/01580/OUT be varied, from those which the Planning Committee considered when they originally considered the application, this proposed change to the Heads of Terms must be reported back to Members to consider.

SITE DESCRIPTION

The site was described as follows in the Planning Committee report when the development of the site was considered in 2016.

'The application site is advised to cover 3.44 hectares and consists of an irregularly shaped area, located behind existing housing on the southern side of Halstead Road. The majority of the site is currently in use as agricultural land with arable crops. There are currently two gated accesses to the site – off the Halstead Road at the northern end of the site, between no.12 Halstead Road and Atlas Bungalows. The application states that this was the access to the former foundry works (Atlas Works) that used to exist to the east of the site (now redeveloped). A second gated access is located at the southern end of the site, leading off Thomas Bell Road.

The land is generally level with a gentle fall across the site to the south. Within the arable field, at the northern end of the site there is a large Oak tree which is the subject of a Tree Preservation Order.

To the east of the site is the Atlas Works development. There are a number of dwellings located along this boundary, with dwellings facing onto the application site; standing side-on; or backing on. In addition to the dwellings there is also the Doctors Surgery and car park adjoining the site and further to the south, at Nonancourt Way, a children's play area. To the north of the site there is a row of semi-detached properties fronting the Halstead Road. These dwellings have an unconventional arrangement with generous front gardens, which form their main amenity area, with only very small gardens or yards to the rear, adjacent to the application site.

To the southern and western boundaries there are hedgerows or tree belts that provide some visual enclosure of the site from the open countryside beyond.

A small portion of the site, around the northern site entrance, is located within the Earls Colne Conservation Area. Whilst the vast majority of the site is outside the Conservation Area it directly abuts the Conservation Area boundary which runs along the northern and eastern site boundary. In addition there are two Grade II listed buildings close to the site – South Lodge and no's 1 & 2 Thatched Cottages - which are located directly opposite the existing site entrance on Halstead Road. Further to the east, along Halstead Road, there are numerous other Grade II listed buildings'.

PROPOSAL

The Heads of Terms reported to Planning Committee included *'Land to be offered for the possible extension to the car park at The Pump House Doctors Surgery'*.

As reported below it has become apparent to Officers that there is no realistic prospect of the Surgery car park being extended. Officers therefore consider that it is no longer appropriate to secure the land for this purpose, or that it form part of the consideration of this application, and recommend that this item is omitted from the Heads of Terms / S106 legal agreement.

No other changes are proposed to the Heads of Terms that were originally reported to Planning Committee.

CONSULTATION / REPRESENTATIONS

Officers contacted the Parish Council when it became apparent that the extension of the Surgery Car Park would only be possible if third party land were also made available to form part of the car park extension and if the funds could be found to carry out the works.

The issue was discussed at the Parish Council's December meeting and their response to the District Council was: *'Members wish to point out that they were, from the outset, wishing an extension to the car park to be included in any plans for a housing development off Halstead Road. They had, however, always hoped that this would be provided by the developer via Section 106 or other funds and would I can confirm that they unanimously agreed that they would not be agreeable to the Parish Council contributing to the cost of the construction of additional parking bays.'*

Members continue to be disappointed at the decisions being made on the allocation of S106 monies in the Village and this is yet another case where they had hoped that support to the infrastructure of the Parish would be forthcoming when any housing was agreed'.

REPORT

When the application was originally reported to Planning Committee there were five items listed in the Heads of Terms –

- *Affordable Housing (40% of units provided on-site)*
- *Pedestrian link to Nonancourt Way*
- *Provision of a minimum of 0.84ha of on-site Public Open Space including Equipped Play Area and suitable management arrangements for the On-Site Public Open Space within the site*
- *Financial contribution towards secondary school transport*
- *Land to be offered for the possible extension to the car park at The Pump House Doctors Surgery*

Officers reported that it was intended that a parcel of land within the application site would be made available by the applicant to allow for the car park serving the Pump House Surgery to be extended, to create an additional 5 car parking spaces. Officers

were unaware of any reason why the car park extension could not be constructed, once the land was secured through the S106 legal agreement, when the application was originally reported to Planning Committee.

The offer of land to extend the Surgery Car Park was something that had been referred to by the applicant within the Planning application. It is understood that the Parish Council had highlighted problems with car parking at the Doctors Surgery when the site was first proposed for development, several years ago, in the Council's 'Call for Sites' for the Site Allocations and Development Management Policies Plan (ADMP).

The surgery has its own car park but the Parish Council reported that there were inadequate spaces to meet demand and that this led to issues with visitors to the surgery parking in residential streets near the surgery. This led the Parish Council to call for additional car parking to be provided for Surgery users.

Officers discussed the provision of land to allow for the car park to be extended with the agent, as part of their consideration of the application and it was agreed that land adjoining the existing car park should be included within the Heads of Terms.

In September 2016 Planning Committee passed a resolution to grant outline planning permission, subject to completion of the S106 agreement. Following this resolution Officers proceeded to negotiate the terms of the S106 and this included further consideration of how the land for the car park extension would be secured and how the work could be implemented.

The Pump House Surgery is the Doctor's surgery that serves the village of Earls Colne and the surrounding area. The Surgery premises are not owned by the NHS, or GP Practice. It is currently leased to the Practice by a property investment company.

Officers initially contacted the Practice Manager; NHS England and the owner of the freehold of the property to discuss the potential extension to the car park. Regrettably none of these parties were willing, or able, to commit to fund the cost of extending the car park, in the event that the land were to be made available at a later date through the S106 agreement.

In addition when the Council's solicitor investigated the title of the land they found that there was a narrow strip of land which runs along the site boundary, separating the existing Surgery Car Park and the application site / land owned by the applicant. This strip of land is owned by a third party and for the car park extension to be constructed and accessible the third party landowner would either need to agree to allow unencumbered access over their land, or agree to sell or transfer the land to either the Council or the Surgery. The involvement of a third party casts further doubt over whether it would ever be possible to extend the car park in the manner envisaged.

It should be noted that NHS England in their consultation response to the Outline Planning Application did not object to the proposed development. Neither did they request a financial contribution towards increasing capacity at the surgery, or an extension to the car park currently serving the Pump House Surgery. The existing

Surgery building has sufficient capacity to accommodate the additional patients that would be likely to want to join their practice as a result of this proposed development.

As it was the Parish Council who had first raised this as an issue Officers informed the Parish Council of the situation and asked whether they would be willing to take the project on and finance the cost of constructing the extension to the car park. As reported above the Parish Clerk reported that the Parish Council unanimously agreed that they would not be agreeable to the Parish Council contributing to the cost of the construction of additional parking bays.

The Parish Council went on to point out that they were, from the outset, wishing an extension to the car park to be included in any plans for a housing development off Halstead Road. They had, however, always hoped that this would be provided by the developer via Section 106 or other funds.

The Parish Council state that they are disappointed '*that is yet another case where they had hoped that support to the infrastructure of the Parish would be forthcoming when any housing was agreed*'.

As Members will be aware the Council can only require a developer to enter into a planning obligation where it meets the tests set out in Government legislation. Planning obligations should only be sought where they meet all of the following tests:

- *necessary to make the development acceptable in planning terms*
- *directly related to the development*
- *fairly and reasonably related in scale and kind to the development*

Whilst the existing Surgery Car Park may not always have sufficient appointment capacity to meet current demand the need for additional car parking spaces is not considered to be '*directly related to the development*'; indeed residents of the proposed development would be more likely to walk to the Surgery than the majority of existing patients. In addition Officers do not consider that the developer could be compelled to pay for the construction of the car park. Officers do not believe that this would be necessary to '*make the development acceptable in planning terms*'. If the car park is not provided then Officers do not consider this would constitute a reason for the planning application to be refused.

CONCLUSION

Whilst the applicant had agreed to make land available within the application site to extend the Surgery Car Park, it is now recommended that this land is not secured through the S106, as there is no realistic prospect of the car park being extended.

If the land was offered to extend the car park the legal agreement would need to contain a provision whereby the land would be returned to the applicant after a specified period of time if the car park had not been constructed. If there is no realistic prospect of the car park extended then there is little value in including it within the S106 agreement.

Officers still consider that the Outline Planning application should be approved. As set out in the original report to Planning Committee Officers have considered the proposal in light of the fact that the Council cannot currently demonstrate a 5-year

supply of housing land. In such circumstances, the local planning authority must undertake the 'planning balance' to consider whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or whether specific policies in the Framework indicate development should be restricted.

Members of the Local Plan Sub-Committee approved the inclusion of the site in the Draft Local Plan which was published last year for public consultation and had previously proposed that residential development be allocated at this site through work undertaken on the Site Allocations and Development Management Policies Plan (ADMP). Although identified as a possibility, it was not a requirement of the draft allocation that the site make provision for an extension to the surgery car park.

Whilst the fact this land is no longer being offered through the S106 legal agreement reduces the potential social benefits arising from the proposed development Officers consider that the legal agreement will ensure that the application complies with the relevant Council policies.

The proposed development is still considered to be a Sustainable form of development which will provide *economic benefits* (development will involve design and construction work), as well as helping to support local services, facilities and employment), *social benefits* (financial contributions towards improvements to health care and education; housing – which will contribute towards meeting the Council's supply of housing and the national requirement to have a 5-year supply of land). Other benefits include affordable housing, new Public Open Space and measures to promote the use of sustainable form of transport and *environmental benefits* (the potential to enhance the ecological value of the site; provision of open space of environmental benefit; additional planting).

The presumption in favour of sustainable development is at the heart of national planning policy, as articulated through the NPPF. Sustainable development is development that can demonstrate that it balances economic, social and environmental factors and in this case it is considered that the development can be considered to be a more sustainable form of development, subject to planning conditions and the S106 agreement. Having assessed the proposed development Officers consider that even without the offer of land to extend the Surgery Car Park, the benefits of the scheme outweigh the limited adverse impacts of granting planning permission and accordingly this application is still recommended for approval.

RECOMMENDATION

It is recommended that Members modify the resolution to grant planning permission, that subject to the applicant entering into a suitable legal agreement pursuant to S106 of the Town and Country Planning Act 1990 (as amended) to cover the following Heads of Terms:

- Affordable Housing (40% of units provided on-site)
- Pedestrian link to Nonancourt Way
- Provision of a minimum of 0.84ha of on-site Public Open Space including Equipped Play Area and suitable management arrangements for the On-Site Public Open Space within the site

- Financial contribution towards secondary school transport

the Development Manager be authorised to GRANT planning permission under delegated powers, subject to the conditions and reasons set out in the original Committee Report.

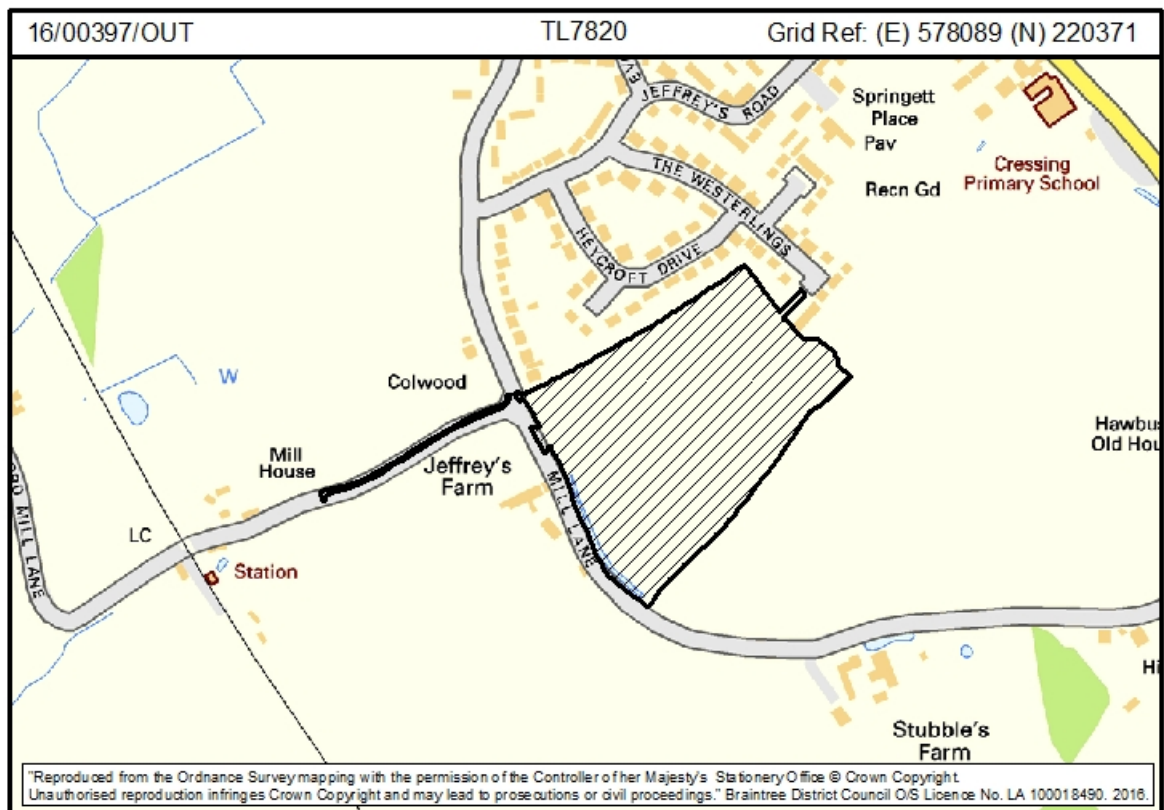
Alternatively, in the event that a suitable planning obligation is not agreed within one calendar month of the date of the resolution to approve the application by the Planning Committee the Development Manager may use her delegated authority to refuse the application.

TESSA LAMBERT
DEVELOPMENT MANAGER

PART A

APPLICATION NO: 16/00397/OUT DATE: 15.03.16
 VALID:
 APPLICANT: M Scott Properties Ltd
 Mr M Scott, Suite 5, Oyster House, Severalls Lane,
 Colchester, Essex, CO4 9PD
 AGENT: Pomery Planning Consultants Ltd
 Mr Robert Pomery, Pappus House, Tollgate West,
 Stanway, Colchester, Essex, CO2 7DF
 DESCRIPTION: Application for outline planning permission with all matters
 reserved except for access for residential development of
 up to 118 units and the creation of a pedestrian footway link
 to Cressing Station, via Bulford Mill Lane
 LOCATION: Land East Of, Mill Lane, Cressing, Essex

For more information about this Application please contact:
 Mr Neil Jones on:- 01376 551414 Ext. 2523
 or by e-mail to: neil.jones@braintree.gov.uk



SITE HISTORY

86/01242/OUT	Proposed residential development	Refused then dismissed on appeal	16.11.87
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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 20th June 2016 and was the subject of public consultation between the 27th June and 19th August 2016.

In accordance with paragraph 216 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 Draft Local Plan 2016.

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 216 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 Development Framework Core Strategy

CS1	Housing Provision and Delivery
CS2	Affordable Housing
CS5	The Countryside
CS7	Promoting Accessibility for All
CS8	Natural Environment and Biodiversity
CS9	Built and Historic Environment
CS10	Provision for Open Space, Sport and Recreation
CS11	Infrastructure Services and Facilities

Braintree District Local Plan Review

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
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
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
RLP84	Protected Species
RLP90	Layout and Design of Development
RLP91	Site Appraisal
RLP92	Accessibility
RLP93	Public Realm

RLP100	Alterations and Extensions and Changes of Use to Listed Buildings and their settings
RLP105	Archaeological Evaluation
RLP106	Archaeological Excavation and Monitoring
RLP138	Provision of Open Space in New Housing Developments

Draft Local Plan

SP1	Presumption in Favour of Sustainable Development
SP2	Meeting Housing Needs
SP4	Infrastructure and Connectivity
SP5	Place Shaping Principles
SP6	Spatial Strategy for North Essex
LPP24	Affordable Housing
LPP28	Housing Type and Density
LPP36	Sustainable Access for All
LPP37	Parking Provision
LPP38	Protected Lanes
LPP41	Broadband
LPP42	Built and Historic Environment
LPP43	Health and Wellbeing Impact Assessment
LPP44	Provision for open Space, Sport and Recreation
LPP46	Layout and Design of Development
LPP50	Alterations, Extensions and Changes of use to Heritage Assets and their Settings
LPP53	Archaeological Evaluation, Excavation and Recording
LPP56	Natural Environment
LPP57	Protected Species
LPP58	Enhancements, Management and Monitoring of Biodiversity
LPP59	Landscape Character and Features
LPP61	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP62	Energy Efficiency
LPP64	Renewable Energy within New Developments
LPP65	Surface Water Management Plan
LPP66	Sustainable Urban Drainage Systems
LPP68	External Lighting

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

INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is brought before the Planning Committee as the development is considered to be of significant public interest and represents a departure from the Development Plan. It is therefore an application which has significant policy implications.

Cressing Parish Council has also raised objection to the proposals.

NOTATION

The application site is located outside, but abuts, the Cressing/Tye Green Village Envelope, as designated in the Braintree District Local Plan Review 2005.

The application site is not currently allocated for development in the emerging Draft Local Plan.

SITE DESCRIPTION

This open undeveloped site has an area of approximately 4.7 hectares and is located on the southern edge of the village of Tye Green. It is immediately east of Mill Lane, directly opposite its junction with Bulford Mill Lane, which leads to Cressing railway station. It is currently laid to rough grass, and is considered to be agricultural land.

The land has a frontage to Mill Lane that is marked by an established, mostly continuous, indigenous hedgerow and a ditch that separates the site from the carriageway. Other boundaries are also screened to a greater or lesser extent by existing hedgerows which would be retained.

The north western and north eastern boundaries of the site for the most part adjoin the gardens of existing residential development. The exception to this is a short section towards the western end of the north western boundary where the site runs alongside the Public Right of Way 38 (PRoW) that leads from Mill Lane to Bulford Close and separates 94 Mill Lane from the site. The south eastern and the most easterly part of the north eastern boundaries adjoin cultivated agricultural land. This land is the subject of an as yet undetermined outline planning application for the erection of up to 300 residential dwellings; associated access (including provision of a new roundabout on Braintree Road); public open space; play space; pedestrian

and cycle links; landscaping; and provision of land for expansion of Cressing Primary School (ref.16/02144/OUT).

There are 3 no. Grade II listed buildings located along Mill Lane, including Jeffrey's Farmhouse which is directly opposite the site. The listed barn at Stubble's Farm is located across the adjoining field and to the south east of the application site approximately 200m away with Hawbush Old House, which is situated approximately 340m to the east, at the junction of Mill Lane with the B1018 (Witham Road).

The application site, as amended by the revisions received in November 2016, also includes a strip of land on the northern side of Bulford Mill Lane that is proposed to provide a footpath link to Cressing railway station.

PROPOSAL

The application seeks outline planning permission to develop the site for up to 118 dwellings. All matters of detail, with the exception of access, are reserved for subsequent approval, if outline planning permission is granted.

The revised illustrative site plan identifies a single vehicular access into the site, from a new T-junction onto Mill Lane, to be formed about 10m to the south east of the existing junction between Mill Lane and Bulford Mill Lane. This would be designed to the detailed requirements of the Highway Authority, with existing boundary vegetation/hedgerow and trees for the most part being retained and strengthened.

Whilst indicative, the access road could meander through the site, with spurs leading off into small cul-de-sacs and private drives. The predominant form of development could be of a 'frontage' type with some houses looking out over areas of public open space, including a significant landscape buffer where adjacent to Mill Lane. Illustrated as being between about 42m and 55m wide, the purpose of the buffer strip would be to mitigate the impact of the development on the setting of Jeffrey's Farmhouse and to protect the rural character of Mill Lane. It would also serve as a location for sustainable surface water attenuation.

The site plan identifies that the main access road for the development could terminate at an area of public open space, incorporating a play area, and which could provide a footpath/cycleway link into the turning head of The Westerings. Following discussions with the Local Highway Authority (LHA), the applicant has also agreed to connect the site into PRow 38; a pedestrian/cycle access to connect to The Westerings (to the east of the site); and facilitate improvements for pedestrians, from that direction, accessing the railway station as referred to in the Site Description above.

The illustrative layout also shows the potential to create other linkages to the east and south east of the site if development was to be proposed in those directions.

In addition to the amended illustrative layout and location plan drawings, the application is also supported by the following documents:

- Planning Statement;
- Design & Access Statement;
- Transport Assessment;
- Flood Risk Assessment;
- Contamination Assessment
- Surface Water Drainage Report;
- Sustainable Design & Construction Report;
- Arboricultural Survey;
- Heritage Statement
- Landscape & Visual Impact Assessment;
- Preliminary Ecological Appraisal;
- Bats, Badgers & Reptiles Survey;
- Botanical Survey.

Additional Revised Stage 1 Road Safety Audit & Designer's comments, along with engineering drawings of the Bulford Mill Lane pedestrian link to Crossing Station have also been submitted during the determination process of the application.

CONSULTATIONS

The application has been the subject of two public/external consultations, once when the application was originally submitted in April 2016 and, secondly, following receipt of the revisions in November 2016.

Anglian Water

No comments had been received at the time of writing the report; any comments received will be reported to Members at the meeting.

BDC Environmental Services

No adverse comments to make in respect of the application, but if there is a decision to grant permission then it is recommended that conditions are imposed in respect of hours of working at the time of construction, the provision of a dust and mud control scheme and provision of any details of any piling at the site. Any external lighting shall be approved prior to installation.

The contaminated land report does not indicate that there are significant concerns but does recommend that an intrusive survey should be carried out. It also may be the case that imported soil may be introduced into the site. Therefore as a precautionary approach a contaminated land condition should be included.

BDC Housing Research and Development

The proposal for up to 118 dwellings requires 40% affordable housing which would equate to 47 units. It is acknowledged that details of the mix would be subject to a reserved matters application, but the preferred affordable mix based on matching recorded housing need is as follows:

- 8 x 1 bedroom 2 person flats
- 12 x 2 bedroom 4 person flats
- 20 x 2 bedroom 4 person houses
- 7 x 3 bedroom 6 person houses

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

- The affordable homes are required to be clustered in two areas of the site;
- Affordable dwellings should be deliverable without reliance on public subsidy;
- All affordable units must be compliant with standards acceptable to the Homes and Communities Agency at the point of construction;
- Accessibility requirement for 25% of ground floor flats and all 3 bedroom houses to meet Lifetime Homes equivalent Part M 2 of Building Regulations; and
- 70/30 tenure mix (Affordable Rented Housing over Intermediate Affordable Housing)

ECC Education

On the basis of 118 houses, assuming that all units have 2 bedrooms or more, a development of this size can be expected to generate the need for up to 10.6 early years and childcare (EY&C) places, 35.4 primary school and 23.6 secondary school places.

There are currently sufficient EY&C and secondary school places in the locality to accommodate children generated by the development.

However, the proposed development is located within the priority admissions area for Cressing Primary School which has a current capacity of 151 places. The school is forecast to have a deficit of 25 places by the school year 2019-20, and as a consequence the Education Authority will need to expand the school. The proposed development would add further pressure on places at the school and the estimated cost of the project is £432,517 at April 2016 costs. This equates to £12,218 per place and therefore a developer contribution of £432,517 index linked to April 2016 is sought to mitigate the impact of the proposal upon local primary school provision.

ECC Flood & Water Management

No objections to the development based on the Flood Risk Assessment submitted, subject to any planning permission being granted with a number of recommended conditions and informatives.

ECC Highways

The Highways Authority has assessed the application and Transport Assessment (TA) with reference to the National Planning Policy Framework and in particular paragraph 32. The following were considered: access and safety; capacity; the opportunities for sustainable transport; and mitigation measures. Site visits were undertaken on a number of occasions.

In assessing the access on to Mill Lane the 85th percentile speed of the road was taken into account to inform the visibility splays and the proximity of the junction with Bulford Mill Lane was considered. Although the distance is relatively short there is good inter-visibility between the junction and the access and their relative positions mean there will not be any conflict between any potential queuing for right-turners. It is therefore not considered a safety or capacity issue.

The accessibility by all modes of transport was considered and the developer put forward a number of options to improve the access to the station for pedestrians and while it is not possible to segregate pedestrians from the traffic for the entire length of the road between the site and the station, providing a footway, preferably alongside the carriageway, and some minor alterations on the carriageway, provides an improved environment for pedestrians to access the station from the development. The schemes put forward have been subject to a safety audit however, they would go through a further detailed design and a safety audit process in the usual way.

In addition the train operator has been consulted and has provided information and costs for providing additional cycle parking at the station, which would form part of a S106 agreement if the application is approved. Other pedestrian links are to be provided into the village via PRoW 38 and The Westerings.

From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to the imposition of a number obligations and conditions, covering the following: Vehicular, cycle and pedestrian access; the provision of pedestrian access improvements to and cycle parking at Cressing Station; the provision of Real Time Passenger Information displays at the Claud Ince Avenue bus stops near Tye Green Post Office; the provision of Travel Information Packs to new residents and electric car charging points in all garages; the requirement for a Construction Management Plan to be formulated, along with the prevention of surface

water discharge to the public highway, as well as adherence to the Council's adopted parking standards.

ECC Historic Buildings & Conservation

No objections to the application, either as originally submitted or as revised. The main issue is the impact on the setting of the Grade II listed building opposite the site on the west side of Mill Lane. However, the concerns raised at pre-application stage in regard to the position of the access relative to the listed building and the proximity of the development generally to it have both been addressed satisfactorily under the application. The access has been moved further northwards and the development would be set back into the site, with a substantial landscaped buffer strip provided in front of it, which would satisfactorily protect the setting of the listed building.

ECC Historic Environment Officer

The Essex Historic Environment (HER) Record shows that the proposed development will affect a site of archaeological interest, lying within a site with recorded evidence for historic agricultural activity and potential prehistoric activity. It lies close to historic mills and farmsteads, and is within 1km of a scheduled monument. Mill Lane is a historic route along which listed buildings survive dating from the mediaeval period onwards. The site is undeveloped and has the potential for surviving archaeological remains, therefore a planning condition requiring the implementation of a programme of archaeological work in accordance with a written scheme of investigation is recommended to be imposed.

NHS England

The proposed development is likely to have an impact on the services of 1 GP practice operating within the vicinity of the application site (Silver End surgery). The GP practice does not have capacity for the additional growth resulting from the development (approximately 283 residents) which would likely have an impact on the NHS funding programme for the delivery of primary healthcare provision within the area and specifically within the health catchment of the development. NHS England therefore expects these impacts be fully assessed and mitigated by way of a developer contribution secured through a planning obligation.

The development would give rise to a need for improvements to capacity by way of extension, refurbishment, reconfiguration or relocation of the existing practice, a proportion of which would need to be met by the developer. A contribution of £38,820 has been calculated to mitigate the impacts of the proposal, assuming a development of 118 dwellings.

Cressing Parish Council

Object to the application with it being noted within BDC's Strategic Housing Land Availability Assessment (SHLAA) 2015 document that the site

(CRESS192) is deemed as not suitable for development. The Parish Council also deem the site to be unsuitable for a number of other reasons:

The Parish Council highlight that Mill Lane is an unclassified road which they consider to be completely unsuitable for the levels of traffic that the proposal would generate; with the width of the carriageway varying from approximately 4 – 5m. They are also concerned that the Transport Assessment is subjective when it states that only 4.4% of 93 peak hour car journeys per day would use Bulford Mill Lane. However, as a result of traffic issues at Galleys Corner roundabout, this road has seen an increase in traffic and incidents due to the nature of the road and the blind bend by the mill. Furthermore, the B1018 is inappropriate to support the development, due to the very high levels of traffic which would also have a knock-on effect on both the Wyevale and Galleys Corner roundabouts.

The lack of infrastructure and services to accommodate the proposed development is a concern with GP surgeries in Braintree and Silver End not accepting new patients and many residents of Cressing and Braintree are without a GP. Cressing Primary School has plans in place for a slight expansion, but this does not allow for the numbers of children who may require places should the development go ahead. There are also concerns about secondary school places and transportation since there is no safe walking route to any secondary school from Cressing. In addition, the train station is inadequate – there are no facilities there, there is no ticket machine, no safe pedestrian routes and very limited parking and it could not cope with the number of additional commuters that the housing development would attract.

The proposal would be a disproportionate increase to Tye Green and Cressing, as a whole, both in terms of size and character, with Cressing being a rural village and not a key service village or a town. The proposed development would be completely out of keeping with the existing dwellings in the locality.

The application falls outside the current village envelope and therefore is contrary to Policy RLP2 of the Braintree District Local Plan Review (2005) and Policy CS5 of the Braintree District Local Development Framework Core Strategy (2011).

Very low water pressure exists for the properties along the eastern end of Mill Lane and significant investment would be required to provide adequate pressure for a new housing development. Furthermore, a considerable number of residents in Tye Green have problems with the sewerage and drainage system and the road at the end of The Westerings is often flooded across the entire road in heavy rain. It is their belief that covering the field in additional housing would significantly increase the flooding problem in the area.

The visual impact of the development would be significant; with the site abutting a Special Landscape Area and being part of the open countryside it

would be a visual intrusion. This view was reinforced by the Inspector from 1987 when planning permission on this site was refused at appeal.

There are 3no. Grade II listed buildings along the eastern side of Mill Lane and they all have views onto the proposed site. At present, a quiet rural aspect is appropriate for buildings of this nature and their setting would be harmed if the proposal was to go ahead.

They are concerned that the Environmental / Bio-diversity study assessment might be flawed since they were informed that the grass had been mowed during the time of the assessment resulting in damage to the monitoring equipment.

Furthermore, they state that it is not true that the applicants have discussed the scheme with the Parish Council: the applicants attended two meetings of the Cressing Parish Council in August 2015 and January 2016, in order to present their plans during the public participation session. No discussions between these parties have been entered in to.

The Parish Council also has concerns about the way in which the applicants have conducted their application to date, by bypassing both the Local Development Plan and Neighbourhood Plan processes which are actively proceeding.

In response to the revised submissions, the Parish Council has stated that its original objections were maintained but, in addition, they object to the following:

- The three new 'potential linkage points' on the revised Site Plan into the adjacent site (CRESS 193) and the presumption that a development on this site is going ahead;
- Lack of thought to the potential footpath link shown on the Site Plan which does not provide safe access to the station.
- They state that the plans for Bulford Mill Lane are completely inappropriate for a rural country lane and unfeasible.
- Therefore, the revised / additional plans do nothing to address the Parish Council's previous objections.

Furthermore, they consider the way in which the proposals for CRESS192 and CRESS193 are being undertaken is a way of avoiding significant financial contribution to the community and it should be noted that since the original plans for the development were submitted, the District Council has excluded CRESS192 from the Draft Local Plan.

REPRESENTATIONS

155 letters of representation have been received from third parties objecting to the proposal; the objections raised centre upon the following issues:

Principle of Development

- There are better options available to the District Council to meet their housing obligations;
- The impact of the residential area will change the nature of the community at Tye Green, doubling the size of the village;
- There is not a demonstrated need for housing on such a scale within the village;
- Agricultural land will be lost, increasing the number of houses and population will reduce our ability to be as far as possible self-sufficient in food production;
- Cressing as a Parish has a housing need of around 7 units per annum;
- Cressing is classed as a “tertiary village”;
- Cressing is a lovely little village full of character with an amazing sense of community. Many residents volunteer to keep it clean and tidy and a happy and safe place to raise a family;
- A development of such a large scale is disproportional to the size of the existing village and it is feared that this would destroy the nature of the village and what everyone has worked so hard to accomplish;
- The proposal is contrary to the principle of the Localism Act 2011 – there is an active volunteer group who are preparing a Neighbourhood Plan which should be allowed to run its course. This will conclude with a Parish Referendum that will engage the whole community as to where and what type of development the community wants / needs;
- It would be a total waste of time and public funds if developments are allowed to go ahead without the Neighbourhood Plan being in place;
- Very few original concerns have been addressed.

Access

- Volume of traffic has increased significantly in recent years along Witham Road with resultant waiting times at the Mill Lane junction;
- Access to the site is dangerous by Mill Lane which is narrow and subject to flooding;
- Entry to Mill Lane from B1018 already obstructed by vehicles parking outside the “depot” causing traffic to drive on the wrong side of the road on a blind corner;
- The application has failed to address the safety issues for pedestrians walking to the Train Station, necessitating the use of grass bank and hedgerows as a path;
- The local Police have been informed of recent “road rage” incidents where pedestrians walking to the station have been victims of driver intimidation;
- Further safety concerns are raised relating to over-crowded trains associated with the poor and inadequate train service;
- The application has not addressed the lack of official parking at the station or storage solutions for bicycle users.
- Road safety concerns relate to no spaces or pick-up point for vehicles collecting commuters from the station.

- There are increased dangers of incidents at the level crossing by increased road traffic and introducing barriers across the road;
- The proposal would generate an impossible “bottle-neck” for traffic at Bulford Mill Lane;
- The number of construction vehicles during the construction period will cause massive disruption to Mill Lane;
- Concerns raised with regard to the proposed Bulford Mill Lane footpath being unlit behind a hedge;
- There is a national speed limit with blind bends that lead up to the Mill Lane / Bulford Mill Lane junction which does not have a footpath itself;
- Bulford Mill Lane is heavily used by pedestrians, but has no footpath and is heavily used by vehicles as a short-cut;
- In places there is not sufficient width to allow two vehicles to pass safely either on Mill Lane or Bulford Mill Lane;
- There is no street lighting down Bulford Mill Lane;
- There is no footpath along Bulford Mill Lane, with the addition of extra vehicles and pedestrians from the proposal; it would make the road more unsafe.

Layout, Design and Appearance

- There are concerns about the density and overdevelopment of the existing residential area;
- Density and height of some of the buildings will negatively impact the size and visual aspect of this rural village which in the main consists of bungalows and semi-detached houses surrounded by open countryside;

Landscape and Ecology

- The addition of the proposed residential development sites would cause a loss of Greenfield land;
- The proposal would impose urban sprawl on the rural environment;
- The proposal would impact on countryside views from across the valley at Black Notley and the Special Landscape Area;
- The loss of green land, hedgerows and ditches would damage wildlife;
- The proposed changes to Bulford Mill Lane would urbanise its character.

Heritage

- The proposal would seriously damage Grade II Listed Buildings on Mill Lane which would be subject to flooding and structural damage due to the increased volume of traffic;
- Concern over proximity of the site to Jeffrey's Farmhouse.

Living Conditions

- Concerns raised over loss of existing views, increased noise, overshadowing and loss of privacy to adjoining existing dwellings.

Flooding

- There are issues regarding the drainage, as the existing properties and roads are subject to significant flooding during heavy rainfall;
- The site is badly waterlogged in winter;
- The addition of the proposed residential development site will increase the risk of flooding to adjacent properties and roads.

Other matters

- The local school and GP Surgery do not have capacity to cope with additional residential development;
- The proposal would give rise to overburdening existing sewerage, gas, water, electricity, telephone and broadband services with regular electricity, power and telephone cuts experienced;
- Dog walkers for the past 25 years have walked their dogs around the fields; they would have a limited area to walk if the proposal is granted;
- The village does not have the services and infrastructure to accommodate so many new homes, people and vehicles.

REPORT

Principle of Development

Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Currently the Council's development plan consists of the Braintree District Local Plan Review (2005) and the Core Strategy (2011).

As set out at the beginning of this report, the Council is currently working on a new Local Plan, which was approved by the Council unanimously for consultation on the 20th June 2016 and was the subject of public consultation between the 27th June and 19th August 2016. In accordance with paragraph 216 of the NPPF, from the day of publication the Council can give weight to the emerging Local Plans 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 currently affords some, limited weight to the emerging Draft Local Plan 2016.

It should also be noted that the Council was working on a Site Allocation and Development Management Plan (the ADMP). This Plan was subject to extensive public consultation in 2013 and 2014. This document was not 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 216 of the NPPF, to afford more weight in decision making to the parts of the new Local Plan which have been rolled forward from the ADMP, due to the more advanced stage reached by those elements of the Local Plan.

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

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

The Growth Locations identified under the Core Strategy are also carried forward. These include the following:

- Land to the North-West of Braintree - off Panfield Lane;
- Land to the West of the A131 at Great Notley (entirely employment related);
- Land to the South-West of Witham - off Hatfield Road;
- Land to the North-East of Witham (in Rivenhall Parish) - off Forest Road.

Taken together, these initiatives amount to significant steps that are designed to increase the delivery of housing (and economic growth) in the District, in line with government policy as set-out in the NPPF.

As highlighted by a number of objectors the site was submitted for consideration through the draft Local Plan where it was identified as ‘CRESS192’.

In the current round of Local Plan drafting the site was originally discussed at the 9th May 2016 Local Plan Sub-Committee. Officers recommended that the site was not allocated for development. The Officer comment on the site in the Local Plan Sub Committee Report stated *‘The site has a medium landscape capacity (4a). The site has no overriding constraints identified on site. A grade II listed building is on the opposite side of the road, and a public right of way is*

on part of the northern boundary. Access would be from Mill Lane and it would be necessary to demonstrate that this could be achieved safely. The site is relatively well contained. Tye Green has the benefit of some local services such as the primary school, and local shop, but lacks the comprehensive range of services found in larger villages and the main time. The site could be allocated, if further sites were required, however at this time, sufficient sites are available in more sustainable locations’. The Local Plan Sub Committee accepted the Officer recommendation not to allocate the site.

The site was last discussed at the Local Plan Sub-Committee on the 15th December 2016 where comments that were received during the public consultation were considered. There were objections to the site not being allocated for development with reference made to the need to allocate the site as there is an undersupply of housing and that more development is needed within the District’s villages, including more small and medium sized sites to ensure a constant supply of homes.

The December Officer report again stated that no overriding constraints had been identified and that the site is relatively well contained, before concluding that the site still should not be allocated for the same reasons outlined in the May 2016 report. Members accepted the Officer recommendation and it is currently not proposed that the site is allocated, however because the Local Plan is still at a relatively early stage and there is an outstanding objection to the decision not to allocate the site the fact that the site is not proposed to be allocated for development can be given very little if any weight at this time.

5 Year Housing Land Supply

The Council acknowledges that in terms of what the NPPF requires, it cannot demonstrate that it has a deliverable 5 year supply of land for housing “...*that meets the full objectively assessed needs for market and affordable housing*”, together with an additional buffer of 5%, as required under paragraph 47 of the NPPF. The Council’s assessment as at December 2016 is that its forecast supply for the period 2017-2022 is 3.8 years.

The NPPF provides specific guidance in relation to the determination of planning applications in such circumstances, stating at paragraph 49 that “*Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites*”.

This does not mean that sites outside of existing development boundaries are automatically appropriate for new development , however, the above is reinforced at NPPF paragraph 14 which identifies the presumption in favour of sustainable development as sitting at the heart of the NPPF, and that for decision-taking this means “*where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework (NPPF) taken*

as a whole; or specific policies in this Framework indicate development should be restricted”.

It is therefore necessary, in accordance with the requirements of the NPPF to assess the specific merits of the application site in detail to allow an evaluation of it to be made in terms of its potential to accommodate the proposed development in a sustainable manner.

Neighbourhood Development Plan

On 9th August 2013, Braintree District Council received an application from Cressing Parish Council to designate a neighbourhood area to cover the whole of Cressing Parish, in order that work to develop a Neighbourhood Plan could be commenced.

At the Local Development Framework sub-committee meeting on 6th November, the Cressing Neighbourhood Plan Area was approved and formally designated in line with Section 61G of the Town and Country Planning Act 1990 (inserted by the Localism Act 2011).

However, the Neighbourhood Plan is at an early stage in its preparation, it has not been published and can therefore be given only very limited weight in the consideration of the current planning application, which must be assessed against the presumption in favour of sustainable development as set out at paragraph 14 of the NPPF. Objectors to the development have requested that the application is refused, or not determined, until the Neighbourhood Plan is produced. Officers do not consider that the application can be refused for being premature and if the application is not determined the applicant could appeal on grounds of non-determination.

Draft Local Plan

The application site is located immediately adjacent to but outside the Village Envelope of Cressing Tye Green, and is situated in the countryside for the purposes of the assessment of policy. It was not included within the Draft Local Plan (DLP) because it was not considered necessary due to the other housing allocations as set out therein. However the Council's Strategic Housing Land Availability Assessment (SHLAA) 2016 did not highlight any material constraints to the principle of its allocation for residential development. The SHLAA simply stated that the site was not included in the current strategy, but could be considered under the DLP.

The DLP was subject to public consultation last summer, responses to which will be reported to the Local Plan Sub Committee over the course of the coming months and the Pre Submission Plan is scheduled to be discussed by Full Council on 5th June 2017. A public consultation of the Pre Submission Draft Local Plan will take place afterwards, cumulating in an Independent public examination held on the Local Plan by a Planning Inspector. It is currently anticipated that the public examination will take place in late 2017 / mid 2018.

Within its hierarchy of settlements the DLP places Cressing within the 'Tertiary Villages' category, which sits below the Towns, Key Service Villages and secondary villages. The DLP highlights under its Spatial Strategy in paragraph 5.5 that development levels in each village will depend on its level of facilities and sustainability. Tertiary Villages have been defined '*as the smallest in the District and lack most of the facilities required to meet day-to-day needs. They often have very poor public transport lines and travel by private vehicle is usually required*'. It should also be noted, as outlined earlier, that only limited weight can be applied to the Draft Local Plan due to its stage of preparation.

However Tye Green is relatively well serviced, and enjoys, amongst other things, the provision of a Primary School, Post Office and convenience shop, petrol station, hairdressers, Sports & Social Club, recreation ground, as well as the railway station on the Braintree branch line. A number of objectors refer to a lack of facilities at Cressing Station and the frequency of service but the station is one of only eight in the Braintree District and provides direct services to Witham, Chelmsford and London, amongst others. The village is also in close proximity to Braintree town and Freeport with their full range of services, facilities and employment opportunities, which along with the other district towns of Halstead and Witham are accessible via the no. 38 and 38A bus routes which run regular services Monday to Saturday. Weekday services run between 5:46 and 18:55 at a half hourly frequency. The Saturday service is also half hourly, albeit only between 7:32 and 18:02. Whilst Cressing's Tertiary Village status would indicate it is relatively unsustainable location, and not suitable for significant development, Officers are mindful that Planning Inspectors have concluded other villages, with far fewer facilities than Tye Green, can be considered a suitable and sustainable location for development.

Therefore whilst not designated as a key service village it can nonetheless be considered to be one of the more sustainable and accessible villages within the District, and acts as a local centre for its surrounding rural area, in common with some of the key service villages.

On detailed planning matters, the policies of the DLP largely reflect the spirit of the NPPF, Core Strategy and Local Plan Review (where saved).

Site Assessment

Access

Part 4 of the NPPF indicates that all development that could generate significant amounts of movement should be supported by a Transport Assessment to ensure, amongst other things, that suitable access to the site can be achieved and that opportunities for sustainable transport modes are explored to reduce the need for major transport infrastructure. The NPPF is clear that '*Development should only be prevented where the residual cumulative impacts are likely to be severe*'. Saved Policy RLP54 and RLP55

require that a Transport Assessment is submitted with all proposals for major new development.

As with any new development, it is inevitable that road traffic would be generated; however the key is to provide other options, such that future residents are given the opportunity to travel by more sustainable means. Many objections were received from local residents on highway grounds. The Local Highway Authority (LHA) explains that the assessment of the application and Transport Assessment (TA) was undertaken with reference to NPPF paragraph 32. The following aspects were considered: access and safety; capacity; the opportunities for sustainable transport; and mitigation measures. Site visits were undertaken, the concerns of local residents were noted and safety records checked with the Essex Highways Road Safety Team.

In assessing the access on to Mill Lane the 85th percentile speed of the road was taken into account to inform the visibility splays and the proximity of the junction with Bulford Mill Lane was considered. They opine that although the distance is relatively short, there is good inter-visibility between the junction and the access and their relative positions mean there would not be any conflict between any potential queuing for right-turners. It is therefore not considered a safety or capacity issue.

The accessibility by all modes of transport was considered by the LHA and the developer put forward a number of options to improve the access to the railway station for pedestrians and while it is not possible to segregate pedestrians from the traffic for the entire length of Bulford Mill Lane between the site and the station, providing a footway, preferably alongside the carriageway, and some minor alterations on the carriageway, provides an improved environment for pedestrians to access the station from the development. As explained above, the schemes put forward have been subject to a safety audit, although they would go through a further detailed design and a safety audit process in the usual way. The Highway Authority is satisfied that a safe and suitably designed footway can be provided between Mill Lane and Mill House. The provision of the footway and associated highway works can be included within the S106 agreement, with the works carried out in accordance with a detailed design that will be agreed by the Highway Authority.

In addition the train operator has been consulted and has provided information and costs for providing additional cycle parking at the station, which would form part of the S106 agreement (see below) if Members are minded to approve the application. Other pedestrian links are to be provided into the village via PRow 38 which runs adjacent to the site's north western boundary and through the cul-de-sac of The Westerings, which would also facilitate cycle access into the village. Furthermore, the provision of Real Time Passenger Information displays at the Claud Ince Avenue bus stops near the Tye Green Post Office; Travel Information Packs to new residents; and electric car charging points in all garages would further promote sustainable accessibility.

Therefore, from a highway and transportation perspective the impact of the proposal is considered acceptable to the LHA subject to the imposition of a number of obligations and conditions as explained in the consultations section of this report. Whilst all matters raised by the Parish Council and third parties with regard to highways have been taken into account, in the absence of an objection to the proposal from the LHA, it is considered that the Council would not be able to substantiate a reason for refusal on the basis of highway safety grounds.

Overall, it is considered that the site is positioned in a relatively sustainable location with reasonably good public transport access to the services and facilities of the larger settlements of the District and beyond.

Finally on this issue, the Council's adopted parking standards state that a minimum of 1 space per dwelling should be provided for 1 bedroom dwellings and a minimum of 2 spaces per dwelling should be provided for 2 and more bedroom dwellings. Also 0.25 spaces per dwelling are required for visitor parking. Parking spaces should measure 5.5 metres by 2.9 metres and garages (to be counted towards parking provision) should measure 7 metres by 3 metres. Although this is only an outline application it has been shown that the development could be laid out in a manner that adheres to these standards and pays regard to the need to plan for sustainable access for all.

Layout, Design and Appearance

Paragraph 56 of the NPPF states that good design is a key aspect of sustainable development; is indivisible from good planning, and should contribute positively to making places better for people. Paragraph 58 states that developments should aim to 'establish a strong sense of place, using streetscapes and buildings to create attractive comfortable places to live, work and visit; and respond to local character and history and reflect the identity of local surroundings and materials'.

Policy CS9 of the Core Strategy states that 'the Council will promote and secure the highest possible standards of design and layout in all new development and the protection and enhancement of the historic environment'. This is supported by Policy RLP90 of the Local Plan Review and these sentiments are also reflected with DLP Policies SP5, LPP28, LPP42 and LPP46 which are concerned with place shaping principles, housing type and density, the built and historic environment and the layout and design of development respectively.

The current application is an outline application with all matters reserved except access. The applicant has submitted a site location plan and an illustrative Site Plan, the latter demonstrating, along with the Design and Access Statement one way in which the site might be developed. Detailed access drawings have also been submitted which identify the proposed main vehicular access onto Mill Lane, highlighting the junction layout and associated vehicle swept path analysis.

It is proposed that up to 118 dwellings would be erected on the site, giving rise to a density of approximately 25.1 dwellings per hectare (gross). The illustrative Site Plan provides further detail on how the site could accommodate such a quantum of development, whilst ensuring adequate areas of open space, parking structural landscaping and drainage features, in accordance with CS Policy CS10.

A revised illustrative layout was submitted during the application to address initial Officer's concerns, including the extent of landscape buffer on Mill Lane and how the development would relate to existing development adjoining the site. Officers are satisfied that the illustrative layout shows development could take place in an acceptable manor and which responds to the site constraints and character of the area.

The applicant in their Planning Statement states that it is intended that the proposal would take cues from the Essex Design Guide, and Officers consider that the proposal has the potential to respond positively to local character, provide buildings that exhibit individual architectural quality and a mix of densities and house-types with well-defined public and private spaces. The public realm through additional landscaping, street furniture and other distinctive features would assist in creating a sense of place, and provide streets and spaces that are overlooked and active, promoting natural surveillance and inclusive access, as well as including parking facilities that are well integrated as part of the overall design.

Although appearance, layout and scale are to be reserved matters, the general principle of this level of development on the site is considered acceptable; and is in keeping with both the site's location on the edge of the village and along with the need to facilitate on site strategic landscaping, open space and the retention of existing landscape features.

Agricultural Land

Policy CS8 of the Core Strategy states that 'Development should protect the best and most versatile agricultural land'. Natural England has published Agricultural Land Classification maps, showing the quality of agricultural land at a regional level. The map for the Eastern Region identifies the general area in which this site is located as being Grade 2 ('Very Good').

However as Members will be aware the majority of agricultural land within this part of Essex falls within grade 2 or grade 3 agricultural land, which means that the majority of the agricultural land in the District will fall within the definition of Best and Most Versatile Agricultural Land (Grade 1, 2 & 3a).

As such, it is inevitable that some development of such land will be necessary in order to meet the significant housing requirements. Paragraph 112 of the NPPF states that '*Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land*'. Given the position the Council is in with housing land supply Officers do not

consider that the use of land that may be classified as Best and Most Versatile Agricultural Land would constitute a reason for refusal.

Landscape

Part 11 of the NPPF indicates that development should contribute to and enhance the natural environment and that impacts on biodiversity should be minimised. Policy CS8 Natural Environment and Biodiversity 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 CS8 also states that 'the restoration and enhancement of the natural environment will be encouraged through a variety measures'. These aims are supported by Policies RLP80 and RLP84 of the Local Plan Review.

In terms of the adopted Local Plan, the site is not covered by any particular landscape designation. Some residents have identified the fact that the site was just outside the Brain Valley Special Landscape Area. This designation, which previously applied to large areas of land across the whole district, was superseded by CS Policy CS8 when it was adopted in 2011. Policy CS8 relies on the landscape character assessments set out in the 2006 Landscape Character Assessment and the Council's Landscape Capacity Analysis (Braintree District Settlement Fringes) June 2015 (LCAn). The latter is finely grained to the point where it deals with specific land parcels, in this case Land Parcel 4a which will be discussed below.

Before going further on this issue, the appeal decision that the Parish Council refers to was pursuant to the refusal of planning application P/BTE/1242/86/OT/B. This was concerned with an application for outline planning permission for residential development on the current application site. In his decision, the Inspector stated that he did not accept the argument that the site was contained by existing development and existing and proposed vegetation, as it was clearly part of the open countryside rather than the village. Nonetheless, within that appeal decision it was established that the Council at that time could demonstrate a five year housing land supply and it was acknowledged that there were no outstanding objections on drainage or highway grounds.

Whilst the site is still quite clearly within the countryside, and it is not possible to assess whether the existing hedgerows have matured or otherwise over the last 30 years, the policy context has changed substantially with the introduction of the presumption in favour of sustainable development within the NPPF. Unlike back in 1987, the Council cannot currently demonstrate a five year housing supply and therefore for decision-taking this means where relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or specific policies in the NPPF indicate development should be restricted.

As highlighted above, the LCAn produced on behalf of the Council by The Landscape Partnership in 2015 identifies the application site as falling under Parcel 4a, and is described as follows:

“4.7 A semi-circular Parcel of land extending from the south-east edge of Tye Green and bounded to the east by the B1018 and to the south and west by Mill Lane. The Parcel comprises a large- to medium scale pattern of fields with hedged boundaries, containing both arable and rough grass. The listed Hawbush Old House is located in the south-eastern corner. The Parcel is located on the higher plateau along with Tye Green. To the south-west, the land drops into the valley of the River Brain.

4.8 Public access is limited to a footpath along the settlement edge, and public views into the Parcel are limited. Neighbouring residential properties in Tye Green afford filtered views into the Parcel.

4.9 The Parcel’s relationship to Tye Green settlement edge and its limited visual influence on the surrounding landscape afford it some opportunities to accommodate development. Such development would need to respect the setting of Hawbush Old House and maintain a separation with the hamlet of Hawbush Green.

4.10 Any development should be sensitive in scale, style and layout to the southern edge of Tye Green, and where possible should incorporate the key characteristics of the settlement. Existing vegetation along Mill Lane should be preserved and enhanced in order to reinforce the distinction between Tye Green and the river valley landscape beyond. Opportunities should be explored to improve public access provision through the Parcel, in particular, there is potential for a green link along the northern edge that could continue out towards Cressing Station.”

The proposal has been made in this context and it is imperative that the reserved matters reflect the importance of ensuring the site can absorb new development in a suitable and sympathetic manner. There is quite clearly an opportunity for the development to provide some feature planting as part of a landscape scheme and the green buffer along the site’s frontage onto Mill Lane, which has been increased in depth as a result of amendments to the application, would add value and character to the proposed development whilst also providing a suitable ‘soft’ landscape buffer to the open countryside to the south and west of the site.

The landscape buffer would also provide for surface water mitigation, and with a limited level of ecology/biodiversity on the site (see below), the expectation is that this can be improved with a suitable landscape scheme at the reserved matters stage and a sympathetic approach to the design of the Sustainable Urban Drainage (SUDS) features. Consequently, the illustrative Site Plan demonstrates how the site could accommodate the proposed quantum of development whilst incorporating significant soft landscape features around the periphery of the site, and allowing the retention and bolstering of existing tree and hedge lines.

With respect to the proposed Bulford Mill Lane path, the lane has a slightly sunken character and is well enclosed by a mixture of semi-mature hedgerow trees, undergrowth and bramble that has been left unattended for many years; there is also a considerable amount of dead or dying material, mostly elm that occasionally falls out on to the roadway.

On the North West verge banking there is also a significant gap that runs for about 20% of the lane length from the Mill Lane Junction (to the station) where there is only some low shrub growth. The hedgerow trees on both sides are at various distances from the roadside verge and in some places they are somewhat elevated from the level of the road as the gradient of the banking fluctuates along its length. At many points along the length of the carriageway this would allow a pedestrian footway of up to 2metres to be installed without too much removal of the adjacent hedgerow, although neither verge could accommodate the full width of the footway without some tree and shrub removal.

The applicant has discussed options for providing a footway down to Mill House and this included a footway behind the hedge on the north-west side, or a footway adjacent to the highway.

On balance it is felt that the North West side of the road (right hand side as the visitor looks down the incline) would be best suited to accommodating the footway and that the better option would be for the footway to be adjacent to the carriageway. Where it is necessary for the removal of hedgerow material this could be offset by new planting where necessary on the adjacent field side boundary.

In totality, having made their own assessment of the site, and having considered both the applicant's Landscape and Visual Impact Assessment (LVIA) submitted in support of the application and the Council's own Landscape Capacity Analysis study of the site, Officers do not consider that there is an objection to the proposed residential development on the grounds of landscape impact.

Policy CS10 of the Core Strategy requires that the Council will ensure that there is good provision of high quality and accessible green space to meet a range of recreation, outdoor sport and amenity needs. New development should make appropriate provision for publicly accessible green space or the improvement of accessible green space to meet the future needs of residents. The development would include structural landscaping; amenity space and an equipped play area.

The detailed landscape design would be a Reserved Matter but Officers are satisfied it offers the opportunity to enhance local biodiversity and in accordance with Development Plan Policy, the planting of trees and hedges would enable new green (wildlife) corridors to be created through the site.

Ecology

Policy RLP80 states that proposals or new development will be required to include an assessment of their impact on wildlife and should not be detrimental to the distinctive landscape features and habitats of the area such as trees, hedges, woodlands, grasslands, ponds and rivers. Development that would not successfully integrate into the local landscape will not be permitted. Policy RLP84 states that planning permission will not be granted for development, which would have an adverse impact on protected species' and where appropriate, the Planning Authority will impose conditions to: facilitate the survival of individual members of the species; reduce disturbance to a minimum; and provide supplementary habitats.

The site predominantly comprises of semi-improved grassland, with an intact species-rich hedge and species-poor hedge bordering much of the site. A dry ditch is also present along the western and southern boundary. This is confirmed with the ecological reports submitted with the application.

The Preliminary Ecological Appraisal highlights that there are no nature conservation sites with statutory protection within 2km radius of the site. There are two Local Wildlife Sites (LWS) located within 2km of the site, however it is considered unlikely, given the distance from the survey area, that the sites with non-statutory protection would be directly affected by any construction activity on the surveyed area.

It was found that there are suitable features within the area to be affected by the proposed development, which may provide habitat for protected species.

In particular:

- The areas of grassland, scrub and trees provide suitable nesting habitat for breeding birds during the breeding season; -
- Some mammal paths were noted on site, although much of the ditch on the southern and eastern border is densely vegetated to allow for a thorough search of Badger signs. It was highlighted that some minor vegetation clearance should be undertaken to facilitate a thorough search;
- The hedgerows may provide suitable habitat for Dormice;
- The grassland appears highly suitable for reptiles;
- The habitats present are considered suitable for foraging bats;
- A full botanical survey should be undertaken to fully ascertain the value of the site in relation to the National Vegetation Classification.

There were no signs of Great Crested Newt, Water Voles or Otters and the site was not found to be suitable for these protected species. However, habitats that may be affected by the proposed works include those that may have value to legally protected species, particularly foraging bats, birds, reptiles and dormice of district significance. Depending upon the results of further protected species surveys the value of these habitats may increase.

Phase 2 Surveys were recommended for Breeding Birds; Bats; Reptiles; Badgers; Dormice; and a National Vegetation Classification (NVC) survey of the habitats, along with Biodiversity enhancements.

Bat, Reptile, Badger and Botanical surveys were also submitted with the application. These found that two species of bat were encountered on the site: Common and Soprano Pipistrelle commuting activity, (flying over/across the site), and a number of feeding buzzes were noted. Providing consideration to future lighting is sympathetic to foraging and commuting, and any hedgerows to be removed are replaced, it is considered that bats will not pose a constraint to development. However, the proposed development should provide roosting opportunities for bats. This could be in the form of bat boxes which could be placed on the mature trees surrounding the development, or bat bricks which can be incorporated into the buildings.

With respect to reptiles, Common Lizards (*Zootoca vivipara*) were found on site during seven of the ten ecologist visits mostly to the north and east of the site, with a Slow Worm (*Anguis fragilis*) being identified on the last visit near to the eastern corner of the site. Therefore, a detailed mitigation plan should be formulated and agreed between the developer and Local Planning Authority, mitigation is likely to involve the translocation of species from site to a suitable receptor site. An outline mitigation strategy has been provided within the report.

Concerning Badgers, no setts were found on site during the survey visits. However, mammal paths were found throughout the site running parallel with the eastern and southern hedgerows. None were identified cutting through the grass on site indicating that Badgers may not be using the entire site for foraging and are just commuting through. Notwithstanding this, the report advises that should development commence more than one year from the date of the report, a re-survey for Badgers would be required to ensure no new Badger activity is occurring on the site.

Therefore, subject to appropriate planning conditions being imposed to cover the legislative requirements in respect of protected species, it is considered that the proposal would not give rise to demonstrable harm to interests of ecological importance.

Built Heritage

In considering whether to grant planning permission for development which affects a listed building or its setting, the Local Planning Authority is required, as set out at Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Furthermore, the significance of a listed building is based on a range of heritage values that make up their overall architectural and historic interest and they have aesthetic value as attractive buildings within the landscape. The NPPF makes clear that the significance of heritage assets derives not only from their physical presence, but also from their setting. The NPPF defines setting as the surroundings in which a heritage asset is experienced.

In addition as a material consideration, Policy CS9 states that the Council will promote and secure the highest possible standards of design and layout in all new development and the protection and enhancement of the historic environment in order to, amongst other things, respect and respond to the local context, where development affects the setting of historic buildings, and areas of highest archaeological and landscape sensitivity. These sentiments are supported by Policy RLP 100 and DLP Policy LPP42.

As highlighted by the Historic Buildings Consultant (HBC), the principal heritage asset affected by the proposal is the Grade II listed Jeffrey's Farmhouse opposite the site, on the west side of Mill Lane.

It is acknowledged that the listed building currently retains a rural setting with views across the countryside in north westerly and westerly directions, and that this does contribute to its significance. However, the HBC states that their earlier concerns in regard to the position of the access relative to the listed building and the proximity of the development generally to it have both been addressed satisfactorily under the proposal as amended. The access has been moved further northwards and the development would be set back into the site, with a substantial landscaped buffer strip provided in front of it, which would satisfactorily protect the setting of the listed building.

Third parties have raised concerns with regard to the listed building being subjected to flooding and structural damage due to the increased volume of traffic. However, it is considered that the amount of traffic generated by the development, both during its construction process and from first occupation would not be so material as to create issues in respect of these matters.

In summary, it is considered that the proposal would preserve the setting of the listed building.

Archaeology

In its glossary, the NPPF highlights that *“There will be archaeological interest in a heritage asset if it holds, or potentially may hold, evidence of past human activity worthy of expert investigation at some point. Heritage assets with archaeological interest are the primary source of evidence about the substance and evolution of places, and of the people and cultures that made them.”* Policies LPP53 and Policy RLP106 also apply, these state that where permission is given for development which will affect remains, conditions are required to ensure that the site is properly excavated and recorded before the commencement of development.

As highlighted by ECC, the Essex Historic Environment (HER) Record shows that the proposed development will affect a site of archaeological interest, lying within a site with recorded evidence for historic agricultural activity and potential prehistoric activity. It lies close to historic mills and farmsteads, and is within 1km of a scheduled monument. Mill Lane is a historic route along which listed buildings survive dating from the mediaeval period onwards. The site is undeveloped and has the potential for surviving archaeological remains, therefore a planning condition requiring the implementation of a programme of archaeological work in accordance with a written scheme of investigation is recommended to be imposed.

Existing Residents' Amenities

One of the Core Principles set out in the NPPF is that planning should always seek to secure a high quality of design and a good standard of amenity for all existing and future occupants. This is supported by Policy RLP90 which states that there shall be no undue or unacceptable impact on the amenity of any nearby residential properties. The DLP Policies have similar objectives as those set out in the Local Plan Review.

A number of residential properties abut the north eastern and north western site boundaries and include dwellings that are located within Mill Lane, Bulford Close, Heycroft Drive and The Westerings. Concerns have been raised over the loss of existing views, increased noise, overshadowing and loss of privacy to existing adjoining dwellings.

There is no ability within the planning system to protect an existing view and therefore such a matter is not a material planning consideration.

However, with regard to noise and other aspects of environmental protection, Environmental Services raise no objection subject to the imposition of a number of recommended conditions in relation to construction activity, controlling hours of working, details relating to any piling to be carried out on site and the submission of a dust and mud control scheme for approval.

The contaminated land report does not indicate that there are significant concerns but does recommend that an intrusive survey should be carried out. It also may be the case that imported soil may be introduced into the site. Therefore as a precautionary approach a contaminated land condition should be included. Any external lighting shall also have to be approved prior to installation.

Whilst matters of layout and scale are reserved for future determination, with regard to sunlight and privacy, the Essex Design Guide states that *"with rear-facing habitable rooms, the rear faces of opposite houses approximately parallel, and an intervening fence or other visual barrier which is above eye level from the potential vantage point, a minimum of 25 metres between the backs of houses may be acceptable"*. It goes on to state that *"where new development backs on to the rear of existing housings, existing residents are entitled to a greater degree of privacy to their rear garden boundary, and*

therefore where the rear faces of the new houses may not encroach any closer than 15 metres to an existing rear boundary, even though with a closer encroachment 25 metres between the backs of houses would still be achieved”.

The distances between new and existing dwellings could be well in excess of those required by the Essex Design Guide and Officers do not consider that there are any grounds for refusal in terms of the relationship between existing dwellings in the locality and the proposed development. Consequently, adherence to these standards would ensure that the living conditions of existing residents are protected from overshadowing and overlooking.

Furthermore, the illustrative Site Plan indicates how landscaping could be retained and enhanced within the application site, so as to further mitigate the effects of the development. Officers consider that a detailed layout could be designed which achieves an appropriate relationship with the existing dwellings and which would be sympathetic to the character of the surrounding area.

Reference has been made by local residents to the issue of overburdening existing sewerage, gas, water, electricity, telephone and broadband services; however there is a duty on Statutory Undertakers to make adequate arrangements to supply utilities to new housing development. In the case of foul sewage the developer can be required to contribute to the cost of increasing capacity so that the sewage system can handle the flows from the development. At the time of writing this report the Council is still to receive advice on this matter from Anglian Water.

In respect of the other utilities it is noted residents refer to issues with the current service provided. Whilst it is true additional properties will increase demand this could be the stimulus that leads Utility Providers to invest in services and upgrade them. This could help mitigate the impact of the development and potentially improve the service provided to existing residents as well.

Drainage and Flood Risk

Part 10 of the NPPF sets out the Government's stance on climate change, flooding and coastal change, recognising that planning plays a key role in, amongst other things, providing resilience to the impacts of climate change. Inappropriate development in areas at risk of flooding should be avoided. Furthermore, Policy CS8 of the Core Strategy states that the Council will minimise exposure of people and property to the risks of flooding by following the national guidance. In particular the sequential test will be applied to avoid new development being located in the areas of flood risk.

The proposed development is located within Flood Zone 1 (low probability risk), and having reviewed the proposals and associated documents which accompanied the planning application, ECC Flood and Water Management confirm that, subject to the imposition of reasonable conditions, the proposal

would provide appropriate measures to manage surface water through the implementations of SUDS and other engineered hydrological measures.

It is noted that local residents have raised concerns about surface water flooding and refer to existing ground conditions and flood events. A developer cannot be expected to deal with existing flooding issues in the surrounding area but they must demonstrate that measures will be put in place which can handle the surface water run-off from within their development, without putting the new dwellings at risk of flooding, or increasing the risk of flooding to existing dwellings. The Surface Water Drainage Strategy outlined by the applicant demonstrates that this can be achieved.

Site Assessment Conclusion

There are no objections to the application from any statutory consultees. Having assessed the specific merits of the site in terms of its potential to accommodate the proposed development in a sustainable manner, Officers are of the opinion that the proposed quantum of development could be accommodated without significant adverse impacts.

Planning Obligations

Policy CS11 Infrastructure Services and Facilities of the Core Strategy states that the Council will work with partners, service delivery organisations and the development industry to ensure that the infrastructure services and facilities required to provide for the future needs of the community are delivered in a timely, efficient and effective manner.

The following identifies planning obligations that the District Council would seek to secure through a S106 agreement.

Affordable Housing

Policy CS2 of the Core Strategy requires developers to provide affordable housing on site with a target of 40% affordable housing provision on sites in rural areas or 30% affordable housing on sites in urban areas. The application site is located in the countryside adjacent to the village of Cressing Tye Green where the provision of 40% affordable housing accords with the requirements of Policy CS2.

Policy RLP 3 of the Local Plan Review 2005 requires that regard is paid to the extent to which proposals for housing development will contribute towards meeting local housing needs. Policies RLP 7 and RLP 8 require that new residential development should seek to achieve mixed communities incorporating a mix of different house types, sizes and tenures.

As highlighted by the Council's Housing Research and Development Officer with the proposal being for up to 118 dwellings, at 40% affordable housing this would equate to 47 units. It is acknowledged that details of the mix would be

subject to a reserved matters application, but the preferred affordable mix based on matching recorded housing need is as follows:

- 8 x 1 bedroom 2 person flats
- 12 x 2 bedroom 4 person flats
- 20 x 2 bedroom 4 person houses
- 7 x 3 bedroom 6 person houses

Additional factors concerning affordable housing that should be considered and included within the S106 agreement are as follows:

- The affordable homes are required to be clustered in two areas of the site;
- Affordable dwellings should be reliable without reliance on public subsidy;
- All affordable units must be compliant with standards acceptable to the Homes and Communities Agency at the point of construction;
- Accessibility requirement for 25% of ground floor flats and all 3 bedroom houses to meet Lifetime Homes equivalent Part M 2 of Building Regulations; and
- 70/30 tenure mix (Affordable Rent over Affordable Intermediate Housing, such as Shared Ownerships)

Education

On the basis of 118 houses, assuming that all units have 2 bedrooms or more, a development of this size can be expected to generate the need for up to 10.6 early years and childcare (EY&C) places, 35.4 primary school and 23.6 secondary school places.

There are currently sufficient EY&C and secondary school places in the locality to accommodate children generated by the development.

However, the proposed development is located within the priority admissions area for Cressing Primary School which has a current capacity of 151 places. The school is forecast to have a deficit of 25 places by the school year 2019-20, and as a consequence plans are being made to expand the school. The proposed development would add further pressure on places at the school and the estimated cost of the project is £432,517 at April 2016 costs. This equates to £12,218 per place and therefore a developer contribution of £432,517 index linked to April 2016 should be sought to mitigate the impact of the proposal upon local primary school provision.

The initial consultation response stated that there was no requirement for a financial contribution to be made towards secondary school provision; however this was predicated on their being a safe walking route from the site to the nearest secondary school. The County Council have reconsidered the walking route and have concluded that a safe route does not currently exist. As a result the County Council have requested a financial contribution towards the cost for transporting the secondary student to school. The actual level of

contribution would be calculated based on the actual number and mix of dwellings that come forward at Reserved Matters stage but for information purposes the County Council advises the contribution would be in the region of £99,544.

Healthcare

NHS England was consulted on the proposed development and they have advised that the proposed development is likely to have an impact on the services of Silver End surgery, which is 2.7 miles from the application site.

NHS England highlight that the GP practice does not have capacity for the additional growth resulting from the development (approximately 283 residents) which would likely have an impact on the their funding programme for the delivery of primary healthcare provision within the area; and specifically within the health catchment of the development. They therefore expect these impacts be fully assessed and mitigated by way of a developer contribution secured through a planning obligation.

The development would give rise to a need for improvements to capacity by way of extension, refurbishment, reconfiguration or relocation of the existing practice, a proportion of which would need to be met by the developer. A contribution of £38,820 has been calculated to mitigate the impacts of the proposal, but this figure was based on 118 dwellings. The actual payment the developer will be required to pay will be linked to the actual number of dwellings that are constructed.

NHS England is only able to seek financial contributions for capital projects to increase the capacity of facilities to accommodate future residents of the development. Developers cannot be required to provide contributions to pay the salaries of Health Service staff.

Highways and Transport

The Highway Authority has advised that works are required to be carried out to mitigate the highways and transportation impacts of the proposed development.

Planning obligations would cover the construction of a pedestrian link and associated highway works on Bulford Mill Lane (to Cressing railway station) and to PRoW 38 and The Westerings; the financial contribution to fund the provision of cycle parking at the station; provision of real time passenger information displays at Tye Green Post Office bus stops on Claud Ince Avenue.

It is also recommended that the applicant be required to provide Residential Travel Information Packs by condition. The packs will seek to promote more sustainable forms of transport for future occupants of the development. The packs will include bus tickets for use with the relevant local public transport operator.

Public Open Space

Policy CS10 of the Core Strategy requires that the Council will ensure that there is good provision of high quality and accessible green space to meet a range of recreation, outdoor sport and amenity needs. New development should make appropriate provision for publicly accessible green space or the improvement of accessible green space to meet the future needs of residents.

The Council's Open Space SPD sets out further details on how these standards will be applied. A development of this size would be expected to make provision for equipped children's play areas and informal and amenity open space on site, with a financial contribution towards the provision of offsite outdoor sports facilities and allotments. The financial contribution would be calculated on the number and size of the dwellings constructed, to be determined at the reserved matters stage/s.

As a guide if the mix of housing at Reserved Matters Stage matches the Affordable Housing mix previously referred to and the Market Housing reflects the assessed need for housing in the SHMA the contribution would be in the region of £94,000.

Whilst the Council would usually seek a financial contribution towards the provision or improvement of allotments in the area Cressing currently does not have an allotment site, or a scheme to create an allotment site. As such it would not be reasonable to request a financial contribution for the purpose. (The contribution based on the Council's standard formula would have been approximately £3,000)

PLANNING BALANCE/ CONCLUSION

NPPF paragraph 14 stipulates that at its heart is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.

For decision-taking this means approving development proposals that accord with the development plan without delay; but where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicate development should be restricted.

It has been acknowledged that the site is situated outside a defined settlement boundary, and therefore for all intents and purposes rural policies of restraint apply. The site was put forward for residential development through the recent 'Call for Sites'. As previously stated the site was considered and rejected by the Local Plan Sub-Committee. However, whilst the Council in its plan making role has rejected the site the applicant has proceeded to make a planning application and this application must be

determined on its own merits and based on the current circumstances. Because the Council cannot currently demonstrate a five year supply of housing land, relevant policies are deemed out of date and therefore the presumption in favour of sustainable development applies. This is a factor which must be given significant weight in the determination of this application.

Clearly in times where there is significant pressure to increase the delivery of developable housing land, the granting of planning permission for up to 118 houses would go some way in meeting the Council's Objectively Assessed Housing Needs. This, along with the provision of much needed affordable housing, of an appropriate dwelling type mix to meet social needs, also falls in favour of the proposal. The applicant has submitted a suite of detailed documents which demonstrate 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 through planning obligations (S106 Agreement).

The proposal would also give rise to the provision of public open space and children's play space on site. Financial contributions towards the off-site provision of outdoor sports facilities would also be provided, as well as the upgrading of existing bus stops on Claud Ince Avenue and improving pedestrian links to Cressing Station along Bulford Lane. The scheme would also generate a significant number of construction jobs during the build phase, in addition to providing new residents to Cressing Tye Green to provide further support for existing services and facilities. The Highway Authority has also found that the proposal would not give rise to a material increase in traffic, nor would it give rise to conditions that would be detrimental to highway safety. The development would also improve the safety of the walking route to Cressing Station and offers the scope to add pedestrian routes from existing residential developments. These improvements would benefit not only residents of the proposed development but also existing residents.

The heritage impacts of the proposal have been assessed and it is considered that the proposal would preserve the setting of the listed Jeffrey's Farmhouse. Further, the site has been assessed as having the capacity to accommodate the proposed quantum of development without significant adverse impacts on the wider landscape or upon ecology. The site is capable of providing strategic landscaping and public open space in accordance with Braintree District Council's adopted policy requirements, whilst ensuring that SUDS techniques can be employed to minimise off-site surface water flooding. The site is well positioned for access to the facilities of the village with opportunities to provide good pedestrian links to/from the site, as well as to both bus and rail services connecting to the local towns, service centres, and beyond.

The development site could be considered a logical extension to the existing built form of Tye Green and is considered to have the capacity to accommodate this level of residential development without material detriment to the character of the countryside; the settlement; or the setting of any designated heritage asset.

Having assessed the specific merits of the application, Officers consider that the adverse impacts of permitting the proposed development would not significantly and demonstrably outweigh the benefits which the proposal would bring against the Council's policies and the requirements of the NPPF, both individually and as a whole.

RECOMMENDATION

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

- **Affordable Housing** – 40% of units on-site to be Affordable Housing, with a final mix to be agreed at the reserved matters stage, but with a 70%/30% ratio of Affordable Rent over Affordable intermediate Housing;
All units to comply with Lifetime Home Standards
25% of ground floor flats and all 3 bed houses to meet Cat 2 of Part M of the Building Regulations;
- **Education** - Financial contribution of £432,517 index linked to April 2016 for expansion of Cressing Primary School and a financial contribution towards the cost of transporting students from the site to secondary school based on the number of dwellings to be constructed ;
- **Health** – financial contribution towards improvements to Primary Health care facilities at the Silver End GP practice. Contribution of £328.98 per dwelling;
- **Highways & Transport** - construction of off-road pedestrian link to Cressing railway station and associated highways works; pedestrian links to PRow 38 and The Westerings; provision of real time passenger information displays at Tye Green Post Office bus stops on Claud Ince Avenue; financial contribution of £9700 + VAT toward the provision of additional covered cycle parking at Cressing Railway Station.
- **Public Open Space** (on-site) to be managed by a Management Company;
- **Equipped Play Facility** – To be provided on-site; the value of which shall be calculated in accordance with the Council's Open Spaces SPD
- **Outdoor Sports** - Financial contribution calculated in accordance with the Council's Open Space SPD

The 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 her delegated authority to refuse the application.

APPROVED PLANS

Location Plan	Plan Ref: LOC 01	Version: B
Planning Layout	Plan Ref: SK 05	Version: D
Highway Plan	Plan Ref: SWEPT PATH ANALYSIS	
Highway Plan	Plan Ref: R311/SK/201	Version: 2

1 Details of the:-

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

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

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

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

Reason

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

- 2 The submission of the reserved matters application/s pursuant to this outline planning permission shall together provide for no more than 118 dwellings, car parking, public open space, landscaping, surface water attenuation and associated infrastructure and demonstrate compliance with the approved plans listed above.

Reason

For the avoidance of doubt as to the scope of the permission and to ensure that the site is not over-developed, in the interests of protecting the character and appearance of the area, in addition to the living conditions of the occupants of existing neighbouring dwellings and future occupiers of the proposed development.

- 3 No development or preliminary groundworks of any kind shall take place until the applicant has secured and undertaken a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the local planning authority.

Reason

The site may be of archaeological interest and the programme of archaeological works must be completed prior to development commencing in order that any archaeological remains that do exist on the site are assessed and recorded before they might be harmed by construction activity.

- 4 Prior to first occupation of the development, an access onto Mill Road, as shown in principle on drawing R311/SK/201 Rev 2, shall be provided and to include a 5.5 metre carriageway, two 2 metre footways, with a radius of 8m as a minimum. The road junction at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by a minimum of 90m in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction is first used by vehicular traffic and retained free of any obstruction at all times thereafter.

Reason

To provide adequate inter-visibility between vehicles using the road junction and those in the existing public highway in the interests of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- 5 Prior to first occupation of the development hereby permitted, a 2m wide footway shall be provided on Mill Road between the proposed access and the existing footway to the north-west of the site footway to the west (as shown in principle in drawing R311/SK/201 Rev 2).

Reason

To make adequate provision within the highway for the additional pedestrian traffic generated within the highway as a result of the proposed development in accordance with policy DM9 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- 6 Each Reserved Matters application that seeks approval of appearance, layout or scale of the building(s) as detailed within Condition 1 for a relevant phase of the development, shall be accompanied by full details of the location and design of the refuse bins and recycling materials separation, storage areas and collection points. Where the refuse collection vehicle is required to go onto any road, that road shall be constructed to take a load of 26 tonnes.

The refuse storage and collection facilities and vehicular access where required shall be provided prior to the first occupation of the units within the phase of the development that the Reserved Matters application relates and shall be retained in the approved form thereafter.

Reason

To meet the District Council's requirements for recycling, to prevent the unsightly storage of refuse containers and in the interests of amenity and sustainability.

- 7 No dwelling shall be occupied until a Residential Travel Information Pack for sustainable transport has been produced by the developer, the details of which shall have been previously submitted to and approved in writing by the local planning authority.

The pack shall include six one day travel vouchers for use with the relevant local public transport operator and shall be provided to the first occupiers of each new residential unit on the development site.

Reason

In the interests of fostering more sustainable forms of transport and reducing reliance on the private car.

- 8 Before the first occupation of the development hereby permitted full details of the electric vehicle charging points to be installed in all garages shall have been submitted to the Local Planning Authority and approved in writing. The development shall be implemented in full accordance with the approved details prior to the first occupation of the development and thereafter be maintained as such.

Reason

To provide residents with access to more sustainable forms of transport in accordance with DM9 of the Essex Development Management Policies (2011) and paragraph 35 of National Planning Policy Framework (2012).

- 9 No development shall take place, including any ground works or demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement 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;
- v. 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;
- vi. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- vii. Measures to control the emission of dust and dirt during construction;
- viii. A scheme for recycling/disposing of waste resulting from demolition and construction works.

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

Reason

To ensure that on-street parking of construction 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 and DM20 of the Highway Authority's Development Management Policies February 2011. In addition this condition is necessary to protect the amenities of the occupiers of nearby residential properties and the surrounding area. The Statement is required prior to the commencement of development to ensure that measures are in place to safeguard the amenity of the area prior to any works starting on site.

- 10 There shall be no discharge of surface water onto the Highway.

Reason

To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- 11 The number of parking spaces shall be in accordance with those standards set down within Essex County Council's Parking Standards Design and Good Practice, September 2009.

Reason

To ensure that appropriate parking is provided in the interests of highway safety and efficiency.

- 12 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 the proposed building(s), in relation to existing ground levels.

Reason

To avoid the excessive raising or lowering of any building hereby permitted and the alteration of ground levels within the site which may lead to un-neighbourly development with problems of overlooking and loss of privacy.

- 13 No vehicular movements relating to the construction of the development to, from, or within the site shall take place outside the following times:-

Monday to Friday 0800 hours - 1800 hours

Saturday 0800 hours - 1300 hours

Sundays, Public and Bank Holidays - no vehicular movements

Reason

In the interests of the amenity of residents of the locality.

- 14 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

In the interests of the amenity of residents of the locality.

- 15 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

In the interests of the amenity of residents of the locality.

- 16 Prior to the commencement of development a comprehensive survey shall be undertaken to assess the nature and extent of any contamination on the site, a copy of the survey findings together with a remediation scheme to bring the site to a suitable condition in that it represents an acceptable risk shall be submitted to and agreed in writing with the Local Planning Authority prior to the commencement of development. Formulation and implementation of the remediation scheme shall be undertaken by competent persons and in accordance with 'Model Procedures for the Management of Land Contamination, CLR 11'. Further advice is available in the 'Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers'. Such agreed measures shall be implemented and completed prior to the commencement of development hereby approved.

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

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

works. Within four weeks of completion of the remediation works a validation report undertaken by competent person or persons and in accordance with the 'Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers' and the agreed remediation measures shall be submitted to the Local Planning Authority for approval. There shall be no residential occupation of the site (or beneficial occupation of the office building hereby permitted) until the Local Planning Authority has approved the validation report in writing. Furthermore, prior to occupation of any property hereby permitted, the developer shall submit to the Local Planning Authority a signed and dated certificate to confirm that the remediation works have been completed in strict accordance with the documents and plans comprising the remediation scheme agreed in writing with the Local Planning Authority.

Reason

To 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. The survey is required prior to the commencement of development to ensure that measures are in place to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors before any on-site work commences.

- 17 Details of any proposed external lighting to the site for each phase of the development 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 minimise pollution of the environment and to safeguard the amenities of the locality and the appearance of the development.

- 18 The first Reserved Matters application shall include 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. The scheme shall include but not be limited to:
 - Limiting discharge rates to 1.8/s/ha if infiltration testing at the detailed design stage of the process demonstrates that this is not a viable discharge technique;
 - Providing sufficient storage for the 1 in 100 year event, plus 30% climate change allowance; and

- Providing sufficient storage in line with the CIRIA SuDS Manual (C753).

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 reduce the risk of flooding from overloading the surface water pipe network and to mitigate environmental damage caused by run-off during a rainfall event. The Surface Water Drainage Scheme is required prior to the commencement of development as the initial ground works may impact upon it.

- 19 No development shall take place until a scheme to minimise the risk of off-site flooding caused by surface water run-off and groundwater during construction has been submitted to and agreed in writing by the LPA, the approved scheme to be implemented as approved.

Reason

To prevent off-site flooding caused by surface water run-off and groundwater during construction. This is required prior to the commencement of development as the initial ground works may impact upon the immediate locality in the absence of such measures.

- 20 No development shall take place until a Maintenance Plan, detailing the maintenance arrangements, including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and the applicant or any successor in title shall maintain yearly logs of maintenance, which shall be carried out in accordance with the approved Maintenance Plan, and shall be available on request by the Local Planning Authority.

Reason

To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk. The Maintenance Plan is required prior to the commencement of development to ensure that measures to maintain the surface water drainage system are in place before works commence on the site. Furthermore, this condition is necessary to ensure the SuDS are maintained for the lifetime of the development so that they continue to function as intended to ensure mitigation against flood risk.

- 21 The landscaping scheme required by Condition 1 of this permission shall incorporate a detailed specification of hard and soft landscaping works for each phase of the development. This shall include plant/tree types and sizes, plant numbers and distances, soil specification, seeding and turfing treatment, colour and type of material for all hard surface areas and method of laying, refuse storage, signs and lighting.

All areas of hardstanding shall be constructed using porous materials laid on a permeable base unless otherwise agreed in writing 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 hard surface areas agreed as part of the scheme shall be carried out before the first occupation of the relevant building which it serves.

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

Reason

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

- 22 Development shall not be commenced until an Arboricultural Method Statement (AMS) has been submitted and approved in writing by the Local Planning Authority. The AMS will include a Detailed Tree Protection Plan (DTPP) indicating retained trees, trees to be removed, the precise location and design of protective barriers and ground protection, service routing and specifications, areas designated for structural landscaping to be protected and suitable space for access, site storage and other construction related facilities. The AMS and DTPP shall include details of the appointment of a suitably qualified Project Arboricultural Consultant who will be responsible for monitoring the implementation of the approved DTPP, along with details of how they propose to monitor the site (frequency of visits; key works which will need to be monitored, etc.) and how they will record their monitoring and supervision of the site.

The development shall be carried out in accordance with the approved details. Following each site inspection during the construction period the Project Arboricultural Consultant shall submit a short report to the local planning authority.

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

The Local Planning Authority shall be notified in writing at least 5 working days prior to the commencement of development on site.

Reason

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

- 23 Development shall not be commenced until details of a Construction Environmental Management Plan (CEMP) to specify measures to manage the effects of site clearance and construction operations on the environment, in addition to how the land will be managed in the future, and including a maintenance schedule and measures for biodiversity has been submitted to and approved in writing to the local planning authority.

All works shall be carried out in accordance with the approved scheme and shall be so maintained at all times thereafter to the satisfaction of the local planning authority.

Reason

To ensure nesting birds and protected species are not disturbed during the development process. The information is required before the development commences to ensure that suitable protection measures are put in place and construction activity is carried out in a suitable manner. If development were to commence prior to the measures being put in place this could result in harm to birds or protected species.

- 24 Prior to the commencement of above ground construction of the relevant phase of the development details of a scheme for the provision of nest and roost sites for birds and bats shall be submitted to and approved in writing by the local planning authority. Development shall be implemented in accordance with the approved details prior to the first occupation of the dwellinghouses and thereafter so retained.

Reason

In order to ensure that appropriate provision is made for birds and bats on the site.

- 25 The first Reserved Matters application relating to landscaping shall be accompanied by a Landscape and Ecology Management Plan (LEMP), to specify long term habitat management prescriptions, and based upon the approved detailed landscape scheme, has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details prior to the first occupation of the dwellinghouses and thereafter so maintained.

Reason

To ensure that the biodiversity of the site is enhanced and effectively managed following the completion of the development.

- 26 Prior to the commencement of development and in accordance with the recommendations and outline mitigation strategy set out within the Bat Activity, Reptile and Badger Survey completed by geosphere Environmental Ltd dated 8 October 2015, a detailed mitigation plan shall be submitted to and agreed in writing by the Local Planning Authority. Mitigation/compensation works shall be carried out in accordance with the approved scheme.

Reason

In order to ensure that mitigation/compensation measures are put in place to ensure that protected species in the locality are safeguarded and if necessary translocated to a suitable receptor site.

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

Reason

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

- 28 The first Reserved Matters application for Appearance shall include 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 relevant plot 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.

- 29 The Reserved Matters application for Layout shall include a site-wide design guide for all areas of public realm and character areas, including the incorporation of public art, which shall be submitted to and approved in writing by the local planning authority prior to the approval of any reserved matters. All reserved matters submissions shall accord with the approved site wide guidance, unless otherwise agreed in writing by the local planning authority. The agreed strategy for each area shall be implemented within 12 months of occupation of the dwellings in each respective phase to which it relates.

Reason

In the interests of good design and ensuring a high quality and characterful development and promoting social and cultural well-being.

- 30 Prior to submission of the first application for Reserved Matters pursuant to this planning permission an updated survey of the application site will have been carried out by a suitably qualified and experienced ecologist to investigate the potential presence on the application site of badgers, as specified in the BAT ACTIVITY, REPTILE AND BADGER SURVEY (geosphere environmental ltd, dated 08 October 2015).

Details of the methodology, findings and conclusions of the survey shall be submitted to the local planning authority for approval as part of the first application for Reserved Matters pursuant to this planning permission.

Reason

To safeguard and protect protected species that could be present on the site when construction commences and to ensure all impacts resulting from development are taken into account and mitigated. It will be necessary for this information to be supplied and agreed prior to the commencement of site clearance or development otherwise there would be a danger that valuable habitats used by protected species could be removed or irrevocably damaged.

INFORMATION TO APPLICANT

- 1 The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is considered to be a breach of this legislation. The public's rights and ease of passage over public footpath/bridleway/byway no 38 (Crossing) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way.
- 2 All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to:

SMO1 - Ringway Jacobs, Essex County Council
653, The Crescent, Colchester Business Park, Colchester, CO4 9YQ

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

- 3 The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.
- 4 With regard to those matters for which the submission of further details/particulars are required, you are invited to consult with the local planning authority prior to formal submission.
- 5 Please note that in accordance with Government Legislation a formal application must be made to the Local Planning Authority when submitting details in connection with the approval of details reserved by a condition.

Furthermore, a fee of £28 for householder applications and £97 for all other types of application will be required for each written request. Application forms can be downloaded from the Council's web site www.braintree.gov.uk

- 6 Your attention is drawn to the need to discharge conditions before development starts where it is a requirement of the condition/s. Development will be treated as having been commenced when any material change of use or material operation has taken place, pursuant to Section 56 of the Town and Country Planning Act 1990. A material operation means any work of construction in the course of the erection of a building, including: the digging of a trench which is to contain the foundations, or part of the foundations of a building; the laying of any underground main or pipe to a trench, the foundations, or part of the foundations of a building; any operation in the course of laying out or constructing a road or any part of a road; and any work of demolition of a building. If development begins before the discharge of such conditions then those conditions cannot be discharged and a breach of planning control will have occurred, which may result in enforcement action being taken.
- 7 Your attention is drawn to condition 3 of this planning permission and that there may be archaeological remains on the site. Any financial implications resulting from the need for archaeological investigation and subsequent protection measures are the responsibility of the developer/applicant. In respect of these requirements, you are advised to contact the Essex County Council Historic Environment Team (Teresa O'Connor, 01245 437638).
- 8 You are advised that the granting of planning permission does not absolve you from complying with the relevant law regarding protected species, including obtaining and complying with the terms and

conditions of any licences required by Part IV B of the Circular 06/2005 (Biodiversity and Geological Conservation - Statutory Obligations)

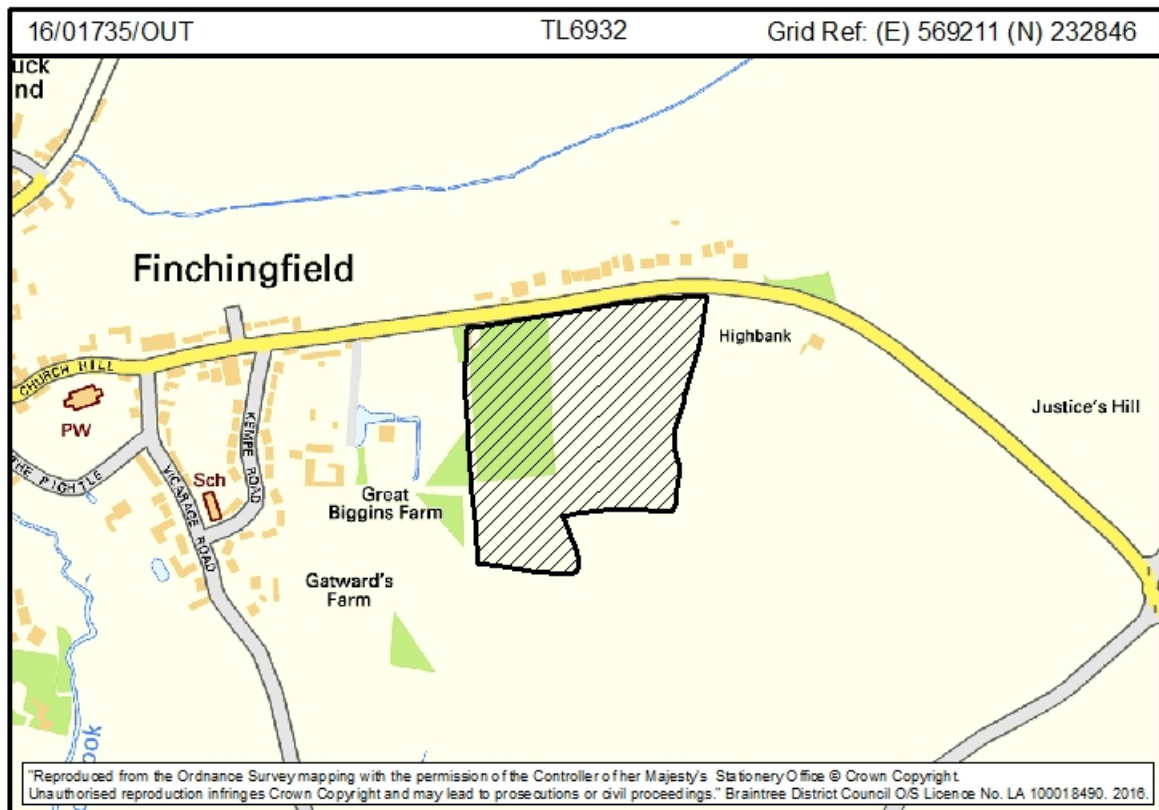
- 9 All construction or demolition works should be carried out in accordance with the "Control of Pollution and Noise From Demolition and Construction Sites Code of Practice 2012." A copy can be viewed on the Council's web site www.braintree.gov.uk, at Planning Reception, or can be emailed. Please phone 01376 552525 for assistance.

TESSA LAMBERT
DEVELOPMENT MANAGER

PART A

APPLICATION NO: 16/01735/OUT
 DATE: 17.10.16
 VALID:
 APPLICANT: Mr Beamon
 Gladman Developments Ltd, Gladman House, Alexandria Way, Congleton, CW12 1LB
 DESCRIPTION: Proposed residential development of up to 80 dwellings, landscaping, open space and associated ancillary infrastructure
 LOCATION: Land Off Wethersfield Road, Finchingfield, Essex

For more information about this Application please contact:
 Katie Towner on:- 01376 551414 Ext. 2509
 or by e-mail to: katie.towner@braintree.gov.uk



SITE HISTORY

None relevant.

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 20th June 2016 and was the subject of public consultation between the 27th June and 19th August 2016.

In accordance with paragraph 216 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 Draft Local Plan 2016.

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 216 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 Development Framework Core Strategy

CS1	Housing Provision and Delivery
CS2	Affordable Housing
CS5	The Countryside
CS7	Promoting Accessibility for All
CS8	Natural Environment and Biodiversity
CS9	Built and Historic Environment
CS10	Provision for Open Space, Sport and Recreation
CS11	Infrastructure Services and Facilities

Braintree District Local Plan Review

RLP2	Town Development Boundaries and Village Envelopes
RLP7	Housing and Mixed Use Sites
RLP9	Design and Layout of Housing and Mixed Use Areas
RLP10	Residential Density
RLP36	Industrial and Environmental Standards
RLP49	Pedestrian Networks
RLP50	Cycleways
RLP53	Generators of Travel Demand
RLP54	Transport Assessments
RLP55	Travel Plans
RLP56	Vehicle Parking
RLP62	Development Likely to Give Rise to Pollution or the Risk of Pollution
RLP64	Contaminated Land
RLP69	Sustainable Urban Drainage
RLP71	Water Supply, Sewerage & Drainage
RLP72	Water Quality
RLP80	Landscape Features and Habitats
RLP81	Trees, Woodland Grasslands and Hedgerows
RLP84	Protected Species
RLP90	Layout and Design of Development
RLP95	Preservation and Enhancement of Conservation Areas
RLP100	Alterations and Extensions and Changes of Use to Listed Buildings and their settings
RLP105	Archaeological Evaluation
RLP106	Archaeological Excavation and Monitoring
RLP138	Provision of Open Space in New Housing Developments

Draft Local Plan

SP1	Presumption in Favour of Sustainable Development
SP2	Meeting Housing Needs
SP4	Infrastructure and Connectivity
SP5	Place Shaping Principles
LPP16	Housing Provision and Delivery
LPP24	Affordable Housing

LPP25	Affordable Housing in Rural Areas
LPP28	Housing Type and Density
LPP36	Sustainable Access for All
LPP37	Parking Provision
LPP40	New Road Infrastructure
LPP41	Broadband
LPP42	Built and Historic Environment
LPP43	Health and Wellbeing Impact Assessment
LPP44	Provision for Open Space, Sport and Recreation
LPP46	Layout and Design of Development
LPP47	Preservation and Enhancement of Conservation Areas and Demolition within Conservation Areas
LPP50	Alterations, Extensions and Changes of Use to Heritage Assets and their Settings
LPP53	Archaeological Evaluation, Excavation and Recording
LPP56	Natural Environment
LPP57	Protected Species
LPP58	Enhancements, Management and Monitoring of Biodiversity
LPP59	Landscape Character and Features
LPP62	Energy Efficiency
LPP64	Renewable Energy within New Developments
LPP65	Surface Water Management Plan
LPP66	Sustainable Urban Drainage Systems
LPP67	Run-off Rates
LPP68	External Lighting

Supplementary Planning Guidance

BDC Affordable Housing Supplementary Planning Document
 Essex Design Guide
 BDC Open Spaces Supplementary Planning Document
 BDC Open Spaces Action Plan
 ECC Parking Standards – Design and Good practice

Other Guidance

Braintree District Landscape Character Assessment 2006
 Historic Environment Good Practice Advice in Planning Note 3 (Historic England, 2015)

INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is being presented to Committee, as the development is considered to be of significant public interest and represents a departure from the development plan and is therefore an application which has significant policy implications.

SITE DESCRIPTION

The application site comprises some 5.68ha of agricultural land located to the southern side of Wethersfield Road to the eastern side of the village of Finchingfield. The site comprises two fields segregated by a ditch and tree planting. The field to the west of the site is in use as a Christmas tree plantation, the field to the east is actively farmed. The topography of the land is such that it rises up from north to south.

The northern boundary of the site which abuts Wethersfield Road is defined by a mature hedgerow. To the northern side of Wethersfield Road directly opposite the site is a row of detached residential properties in linear form fronting on to the highway. The western boundary of the application site abuts the Finchingfield Conservation Area and the curtilage of Great Biggins Farmhouse, which is a Grade II listed property. This boundary is heavily planted with mature Oak and Lime trees. The southern and eastern boundaries are partially defined by trees and hedgerow but are noticeably more open to the surrounding fields than the northern and western boundaries.

Finchingfield is a historic village mentioned within the Domesday Book. It includes a 15th Century Guildhall and a 14th Century Church of Norman origin together with many listed buildings and a Conservation Area. The village has grown beyond the historic core over time, for example Kemp Road is an attractive post war development which remains largely unchanged.

PROPOSAL

This application seeks Outline Planning Permission, with all matters reserved except access, for the development of up to 80 residential dwellings (including up to 40% affordable housing), introduction of landscaping, informal public open space and children's play area, surface water flood mitigation and attenuation, vehicular access point from Wethersfield Road and ancillary infrastructure.

All matters are reserved with the exception of the main vehicular site access which would be on the southern side of Wethersfield Road and includes 2 metre footway either side of the site access. The proposal also includes 2no. pedestrian refuge crossings and the introduction of bus stop facilities on both sides of Wethersfield Road.

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

The application is also supported by a suite of documents which include –
- Design & Access Statement

- Affordable Housing Statement
- Landscape and Visual Assessment
- Air Quality Report
- Arboricultural Assessment
- Heritage and Archaeological Assessment
- Design Code
- Ecological Appraisal
- Flood Risk Assessment
- Foul Drainage Analysis
- Noise Screening Report
- Phase 1 Geo-Environmental Report
- Planning Statement (including socio economic impacts)
- Soil Resources and Agricultural Use and Quality
- Statement of Community Involvement
- Transport Assessment
- Utilities Statement
- Sustainability Assessment

The density of the development would be approximately 24 dwellings per hectare over an area of 3.36ha. Public open space (including an equipped play area), amenity space, woodland planting and landscaping would cover approximately 2.32ha. The illustrative masterplan indicates a potential attenuation basin to the North West corner of the site and swales along the western boundary.

Information within the application indicates that it is likely that on average around 30 - 40 dwellings would be completed per annum, with the development period covering 2-3 years. This is however only indicative and would be ultimately determined by the housebuilder at a later date.

CONSULTATIONS

Historic England – The development would cause some harm to the significance of the Grade II Great Biggins Farmhouse and the Finchingfield Conservation Area as a result of the loss of the rural setting and associated rural views. This should be weighed against any public benefits that may accrue from the development.

Essex County Council Heritage – The development would intrude upon the existing character and diminish the rural character of the eastern approach to Finchingfield. This would alter how the Conservation Area is experienced and interpreted. Development of this site would also isolate the historic farm complex from the surrounding fields, creating an island encapsulated by extensive residential development.

Essex County Council Archaeology – No objection subject to conditions

Essex County Highways – No objection subject to conditions

Essex County Council SuDS – No objection subject to conditions

Essex County Council Education – Seek financial contributions for Early Years and Childcare provision (£100,296), Primary education (£293,232) and Secondary school transport (£65,360).

NHS – No objections. Having considered capacity in the area, no financial contribution is requested.

BDC Housing Development – In accordance with policy CS2 of adopted Core Strategy to seek affordable housing, the proposal for up to 80 residential dwellings requires 40% of the dwellings to be for affordable housing which equates to 32 homes.

BDC Waste Services – No comments to make

BDC Environmental Health – No objection subject to conditions

Finchingfield Parish Council objects for the following reasons:

- The site is outside the village development boundary and is therefore within the countryside.
- The development of 80 dwellings represents a potential increase in the size of the village of 25% which would place excessive demand on the current infrastructure.
- Finchingfield is poorly served by public transport. 80 dwellings will increase vehicular traffic to a level unsustainable for the infrastructure in the village.
- The local healthcare provision cannot sustain the impact of 80 new dwellings and it would have a detrimental impact on existing patients
- There is no space for Finchingfield or Wethersfield primary schools to expand
- Once the construction phase is over there would be little or no employment opportunities locally
- The development will harm the rural setting of the eastern approach in to the Conservation Area
- There has been no archaeological field investigations
- Consideration should be given to the Great Crested Newts identified near to the site
- Will not secure sustainable development

REPRESENTATIONS

80 letters of objection have been received in response to the public consultation. Listed below is a summary of the main material planning objections:

- The development cannot be classed as small scale
- The development is outside of the village envelope
- The proposal would increase the size of the village by 25%
- Infrastructure could not cope with an increase in occupants

- Increase in traffic would be detrimental to the village and highway safety
- Finchingfield is not a sustainable location
- The road infrastructure cannot cope with this size of development
- The GP surgery does not have the capacity to cope with additional workload/patients
- Would change the character of the village
- The number of units is inappropriate in relation to the existing size of the village
- Public transport links are poor
- Little employment in the village or nearby
- Increase in noise and disturbance
- Development should be promoted on brownfield sites
- The development will not be in keeping with the Conservation Area or the many listed buildings
- Finchingfield is a known tourist attraction. The development will crowd the village and impact upon it as a tourist destination
- The village has been successfully protected against unsympathetic development and the proposed scheme would have a damaging and detrimental effect
- It would be impossible to provide guarantees that a development of this size would not increase flooding within the village
- The Draft Local Plan does not recognise the need for expansion in this area
- Any economic benefits would be insignificant
- The primary school cannot take any additional pupils and there is no space for it to expand in the current location
- The development would not be sustainable as required by the NPPF
- The development would bring no benefits to the village
- Great Biggins is an heritage asset that should be protected
- The development would be out of context with the existing townscape and would not integrate with existing development
- Would impact on the way the heritage assets are experienced
- Impact on wildlife
- No mention of cycle parking

REPORT

Principle of Development

Planning Policy Context – Housing

Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Currently the Council's development plan consists of the Braintree District Local Plan Review (2005) and the Core Strategy (2011). In addition the Council consider that the development management policies of the Pre-Submission Site Allocations and

Development Management Plan (ADMP) (now subsumed within the draft Local Plan) are also relevant in the determination of planning applications.

The National Planning Policy Framework (NPPF) states that for the purposes of decision-taking, the policies in the Local Plan should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF in 2012.

It is however acknowledged that it is highly desirable that local planning authorities should have an up-to-date plan in place. The Council had been working on the Site Allocations and Development Management Plan (ADMP), to build on the strategic policies set out in the Core Strategy, since the adoption of the Core Strategy in 2011. This was to complete the suite of documents required in the Local Development Framework to guide development in the District. This Plan was to provide detailed land use allocations across the District, including settlement boundaries and policies used in the determination of planning applications. The Plan applied the minimum housing targets set out in the Core Strategy (approved 2011).

However, since work on the Plan began, national planning policy has changed substantially and the Regional Spatial Strategy, from which our housing target in the Core Strategy was derived, has been abolished. A key requirement specified in the NPPF is that local authorities should 'boost significantly' their supply of housing. As the Council began to gather evidence on what the new housing target would be, it became clear that it would be higher than that which is presently set out in the Core Strategy and Site Allocations and Development Management Plan.

As previously stated national planning policy has changed significantly in specifying how local planning authorities should plan for housing growth and delivery and the Council need to respond to this. Because of the requirement to meet an objectively assessed need for housing in full within Local Plans the Council took the decision in June 2014 to not submit the Pre-Submission ADMP for examination by the Planning Inspectorate. Officers, instead began work on a new Local Plan which will include all major planning policy for the District in a single document and will need to meet the requirements of the NPPF - including the need to 'boost significantly' the supply of housing in the district. The Core Strategy stated that the Council would plan, monitor and manage the delivery of a minimum of 4637 dwellings between 2009 and 2026 – this equates to a minimum of 272 dwellings per annum. In accordance with national planning policy, the Council commissioned research to establish the Objectively Assessed Need for housing in the district. The Objectively Assessed Housing Needs study for Braintree District Council and its Housing Market Area ('HMA') partners (Peter Brett Associates, November 2016) provides the updated OAN evidence. Whilst the OAN figures for the other parts of the HMA were little changed, the updated evidence resulted in a reduction in the annual average OAN for Braintree District from 845 dwellings to 716 dwellings. The study took into account up-to-date evidence on household projections and economic forecasts and so it provides a good indication of the dwelling target that is likely to be adopted as part of the new

Local Plan, the Submission Draft of which is scheduled to be published in the Spring of 2017.

The Council acknowledges that in terms of what the NPPF requires, it does not have a deliverable 5 year supply of land for housing "...that meets the full objectively assessed needs for market and affordable housing", together with an additional buffer of 5%, as required under paragraph 47 of the NPPF. Based on its latest assessment, its view as at 3rd January 2017 is that the Council is currently able to demonstrate a 3.8-year deliverable housing land supply across the District, when measured against the OAN figure of 716 dwellings (plus an allowance for accrued shortfall and the NPPF buffer), in the context of considering current planning applications. This does not mean that sites outside of existing development boundaries are automatically appropriate for new development. In such circumstances, the local planning authority must undertake an assessment of the '*planning balance*' to consider whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or whether specific policies in the Framework indicate development should be restricted. Officers recommend that the Council should determine this application on its merits, having regard to the principles of sustainable development set out in the NPPF and other relevant national and local planning policies and guidance.

The Council is committed to working to create a new Local Plan as a matter of urgency which will be fully compliant with national planning policy. Public consultation on a draft Local Plan took place in the summer of 2016 as part of the process required to get the new Local Plan adopted in 2017. The responses to this consultation are currently being considered and a consultation on the Pre-Submission Local Plan will take place in the coming months. The strategy set out in the draft Local Plan is to concentrate growth in the most sustainable locations - that is, by adopting a spatial strategy that promotes development in the most sustainable locations, where there are opportunities for walking, cycling and public transport links to nearby shops, services and employment opportunities. This means for the new Local Plan: "That the broad spatial strategy for the District should concentrate development on Braintree, planned new garden communities, Witham and the A12 corridor, and Halstead".

The Growth Locations identified under the Core Strategy are also carried forward. These include the following:

- Land to the North-West of Braintree - off Panfield Lane;
- Land to the West of the A131 at Great Notley (entirely employment-related);
- Land to the South-West of Witham - off Hatfield Road;
- Land to the North-East of Witham (in Rivenhall Parish) - off Forest Road.

Taken together, these initiatives amount to significant steps that are designed to increase the delivery of housing (and economic growth) in the District, in-line with government policy as set-out in the NPPF.

The hierarchy within the draft Local Plan also identifies 5 Service Villages which act as local centres for their surrounding rural areas. Finchingfield is not one of these villages. Its limited public transport, facilities and employment opportunities, mean it does not act as a local service centre. Amendments to the settlement hierarchy set out in the draft Local Plan were made at the Local Plan Sub-Committee meeting on 28th November 2016. It was agreed that Finchingfield would fall within the 'Secondary Villages' category. The text to accompany this which will appear in the Pre-Submission Local Plan states that "Secondary villages are those which may not serve a wider hinterland but provide the ability for some day to day needs to be met, although they lack the full range of facilities of Key Service Villages. Development of a small scale may be considered sustainable within a Secondary Village, subject to the specific constraints and opportunities of that village".

In addition, the Council considered about 360 sites brought forward through two "Call for Sites" exercises, of which about 80 have been included in the list of preferred sites in the new Draft Local Plan, along with others. As part of this work, due to the scale of new housing that is required, 2 new stand-alone garden communities are also being planned, with upwards of 10,000 homes each, to deliver sustainable and substantial growth and infrastructure into the future.

It is noted that the application site was submitted for consideration through the Local Plan consultation which took place in the summer of 2016. The site was given reference FINC646. The site was discussed at the Local Plan Sub Committee meeting on the 28th November 2016 and Members made the decision not to include it within an extended village envelope or to allocate it for residential development.

In the meantime the Council is not delaying consideration of new sites until the Draft Local Plan has been considered at Public Inquiry and its policies (with or without modification) have been adopted by the Council. On the contrary, it is considering planning applications for new housing on their merits, having regard to the policies of the NPPF (in particular, the requirement that development should be sustainable) and their impacts. Planning applications for significant amounts of new housing have been submitted in advance of the new Local Plan, some of which have already been permitted, having regard to impact and issues of sustainability, others of which remain to be determined.

Some local residents have argued that a development of this size should not be considered in advance of the new Local Plan and that the new Local Plan does not allocate any land within the village for development. If the Council were to fail to determine the application the applicant would be able to appeal to the Secretary of State / Planning Inspectorate on grounds of non-determination. Officers do not recommend that the application is refused as being premature in advance of the new Local Plan being developed and adopted.

Site Location & Designation

Policy RLP 2 of the Local Plan Review states that 'New development will be confined to the areas within Town Development Boundaries and Village Envelopes. Outside these areas countryside policies will apply'.

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

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

Policy RLP 53 states that major new development proposals that are likely to generate significant levels of travel demand will only be permitted where:

- direct public transport services exist, or there is potential for the development to be well served by public transport.
- the layout of the developments has been designed to ensure that access to existing or potential public transport lies within easy walking distance of the entire site, normally a maximum of 400 metres from the centre of the development.

Para.34 of the NPPF states that decisions should ensure that developments that generate significant traffic movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. Para.55 states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.

The proposed site is located within the countryside, outside of the development boundary for Finchingfield, as defined on the proposals map of the Braintree District Local Plan Review 2005, the Pre Submission Site Allocations and Development Management Plan 2014 (which forms part of the Interim Planning Policy Statement) and the draft Local Plan. The application site has no specific designation/allocation in the current Development Plan.

The village of Finchingfield is not a Key Service Village and therefore falls within the 'other villages' category as defined in the Core Strategy. Land outside of defined village envelopes is classified as countryside. Para.71 of the Core Strategy states that one of the core objectives is to "reduce the need to travel by locating development in sustainable locations where it will enable people to access employment, housing, retail provision, public transport and key services; such as education, healthcare, recreational facilities and open space".

It is necessary to consider the proposal having regard to the NPPF in terms of sustainable development and to assess whether there are any other material

planning considerations and benefits arising from the proposed development (such as helping the District Council meet demand for housing supply and the provision of Affordable Housing) that are outweighed by any identified adverse impacts of the proposed development.

The population of Finchingfield is 1,475 (Census 2011). This proposal would deliver a further (up to) 80 dwellings. Although not a town or key service village, Finchingfield does provide a range of facilities to the benefit of its residents and visitors, including a convenience store, petrol station, tea rooms, restaurant, 3 no. public houses, a doctors surgery, pre-school, primary school and village hall. The village also benefits from the Guildhall museum and library, church, recreation ground, football club and a village hall which hosts a number of activities. All of the above would be within reasonable walking distance from the application site. There is an existing footpath link on the northern side of Wethersfield Road which links directly to the village centre. The application also proposes a 2 metre footway either side of the site access and 2 no. pedestrian refuge crossings.

The village offers some, albeit limited, retail offer and opportunities for employment. Furthermore the village does not offer any professional services such as banks.

The village is served by a two bus services the no. 9/9A and the no. 16. The no. 9/9A provides links to Great Notley, Braintree (including the train station) Wethersfield, Great Bradfield and Bocking. This is an hourly service Monday to Friday and 4 times a day on Saturdays. No Sunday service is provided. The first bus leaves Finchingfield at 06:49, arriving at Braintree Train Station at 07:22. In the evenings the last bus leaves the train station at 18:32, arriving in Finchingfield at 19:06. The no. 16 provides a service to Chelmsford including stops at Broomfield Hospital, Felsted, Stebbing, Great Bardfield and Wethersfield. This is a more limited service with only 4 buses daily Monday to Saturday. The first bus leaves Finchingfield at 07:00, arriving at Chelmsford Railway Station at 08:18. The last bus leaves Chelmsford at 17:59 and arrives at Finchingfield at 19:09. These bus services are no more than hourly, however the no. 9/9A and to a limited degree the no. 16 does provide the opportunity for commuters to connect to rail services in Braintree and Chelmsford. It is appreciated however that this would not be suitable for all travellers and it is unlikely to prove sufficient especially in the evenings on return from work, if travelling from beyond Braintree or Chelmsford. These buses do provide the opportunity more generally for residents to travel to larger centres by sustainable means. The application proposes additional bus stops along Wethersfield Road, preventing the need for users to walk to the Fox Inn Public House (The location of the nearest bus stop).

The village is served by bus services dedicated to providing school transport. These travel to the Joyce Frankland Academy in Newport and Tabor Academy Braintree.

The applicant has made reference to a recent appeal decision in Great Bradfield for 37 no. residential units, of which Members will be aware. In

Officers opinion, Finchingfield is comparable to Great Bardfield in terms of its local facilities. In determining this appeal the Inspector concluded that *'the Planning Practice Guidance (PPG) on Rural Housing observes that all settlements can play a role in delivering sustainable development in rural areas and that rural housing is essential to ensure viable use of local facilities. An increase in the population of the village may generate demand for further goods and services'*.

The Inspector noted that Great Bardfield contains local shops, two pubs, a village hall and a primary school and concluded that there would be quite good access to a range of services and facilities nearby, which could meet some daily needs of future residents. The Inspector noted that there is no primary health care facility or secondary school within the village and stated that *'this is not uncommon within rural areas where such facilities tend to be sited in larger centres'*.

The Inspector noted that there is an hourly bus service during weekday peak hours to higher order centres such as Finchingfield and Braintree. Officer's note Finchingfield and Great Bardfield are both 'other villages' within the settlement hierarchy within the Core Strategy. The Inspector concluded that the bus services would provide reasonable access by public transport within the context of a rural district. The frequency of services would be reduced during evenings and weekends, and thus a significant proportion of journeys to and from the site are likely to be made by private motor vehicle. In this regard the Inspector concluded that *'Paragraph 29 of the NPPF recognises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas, and thus a higher proportion of journeys by car may be expected within such locations'*. Overall it was concluded that future residents would have reasonable access to services and facilities.

It is acknowledged that Finchingfield is not a village the Council considers sustainable for large scale housing development in the overall spatial strategy, taking in to account the settlement hierarchy and it does not offer the range of services and facilities that would be found in a key service village. However, taking the site on its merits in considering this application, the number of units proposed and taking account of the appeal decision aforementioned within a comparable village, Officers consider that the range of amenities and services available for existing and future residents is such that daily needs and recreational activities could be met within the village to some degree. It is appreciated that residents are unlikely to seek employment within the village and for example, weekly food shopping would have to be undertaken in a larger town, such there will undoubtedly be reliance on travel by car in order to carry out such activities. The use of a private car should be expected, especially within a District such as Braintree which is predominantly a collection of villages in a rural setting. The need to use a car to access services and facilities does not necessary suggest that a village does not provide the opportunity for its residents to take sustainable means of transport, shop locally or utilise recreational activities within walking distance.

In this regard Officers do not object to the proposed development in terms of its location and scale and suggest that it would fulfil the social role of sustainability in this regard. In Officers opinion, having regard to the recent appeal decision at Great Bardfield, a reason for refusal based on the suitability of the location would prove difficult to defend.

Sustainable Development

The application is supported a report entitled 'An Assessment of Current and Future Sustainability'.

The NPPF states in paragraph 14, 'at the heart of the NPPF is a presumption in favour of development... for decision taking this means: approving development proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out of date, granting permission unless: - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted'.

The NPPF makes it clear that housing applications should be considered in the context of the presumption in favour of sustainable development. It identifies three dimensions to sustainable development: environmental, social and economic:

- An economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;
- A social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and
- An environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.

These roles should not be considered in isolation, because they are mutually dependant. These are considered in more detail below.

Paragraph 9 of the NPPF states that the pursuit of "sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment as well as in people's quality of life".

(1) Economic Impacts

An assessment of the potential socio-economic impacts of the development has been submitted in support of the application by the applicant and is contained as an appendix to the Planning Statement. This report highlights a number of positive benefits including the following:

Creation of jobs – The report suggests a construction spend of some £7.5 million. This will contribute to the creation of jobs both directly and indirectly during construction of the development and indirectly through increased on-going demand for goods and services as a result of the occupation of the proposed dwellings. The report suggests that the proposed development could help to sustain 63 full time equivalent jobs during the construction phase and some 69 full time equivalent jobs in associated industries. This could also contribute towards supporting the local labour force.

Contribution to local economy - up to 80 residential dwellings could be home to 192 new residents bringing increased spending power to Finchingfield of just in excess of £3 million. The benefits of increased household expenditure to the local economy would be enhanced and ensure the long term economic competitiveness of Finchingfield.

Additional income to the Council from New Homes Bonus & Council Tax- The New Homes Bonus is a grant paid by central government to local councils for increasing the number of homes in their local area. The bonus is currently paid annually over the course of six years and is based on the amount of additional council tax revenue raised for new-build homes.

Reduce the cost of housing - redress this imbalance by offering a wider range of house types which are more affordable thus encouraging young families to the area. If the cost of housing remains high younger families cannot enter the housing market or a higher percentage of their income is spent on mortgage or rental payments and household bills leaving little disposable income to spend locally.

S106 contributions – these will be accrued by the local authority for the benefit of the residents.

It is not disputed that the proposal would deliver some economic benefits. New jobs would be created at the construction stage (although this would not be a long term benefit), new residents are likely to support existing businesses, the delivery of affordable housing and improvements to local services and facilities.

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. New Homes Bonus payments are listed as one form of 'local financial consideration'. Officers do not consider that the payment of New Homes Bonus is a material consideration as the payment is

not necessary to make the proposed development acceptable in planning terms. Reference to this payment is therefore for information only and Members should not consider this as being a material consideration when determining this application.

(2) Social Impacts

The social benefits of the proposal the applicant highlights are as follows:

Provision of Market Housing - Boosting the supply of land for housing. The development proposals will contribute to the 5 year supply of Braintree.

Choice of homes - The proposed development of up to 80 net additional dwellings will provide a balanced mix of dwellings providing a choice of type and size in response to the identified housing demand and market assessment for Braintree. New homes in Finchingfield will enable people to access the housing market locally rather than being forced to move away due to lack of available housing. Providing new housing will attract families with children, to support the village primary school and maintain connections with the community.

Rural Communities - The proposals will assist in helping to maintain and enhance the vitality of the community.

Provision of Affordable Housing - The application proposals would deliver 40% affordable homes (32 dwellings).

Public Open Space Provision - The development proposals provide new public open space, a landscape setting, an equipped children's play area and improved connections to Public Rights of Way.

It is acknowledged that the proposal would fulfil a social role by contributing to the support and vitality of the village. It would deliver a mix of housing, including market and affordable housing, a new play area and public open space. Financial contributions would be secured (where justified) through a S106 Agreement to enhance and improve local facilities. These benefits would be consistent with the social dimension of sustainable development.

(3) Environmental Impacts

One of the core principles set out in the National Planning Policy Framework is that 'Planning should recognise the intrinsic character and beauty of the countryside. Local plans should include strategic policies for the conservation and enhancement of the natural environment, including landscape. This includes designated landscapes but also the wider countryside'. Paragraph 109 refers specifically to protecting and enhancing valued landscapes.

Core Strategy Policy CS5 'The Countryside' states that 'Development outside town development boundaries, village envelopes and industrial development limits will be strictly controlled to uses appropriate to the countryside, in order

to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside’.

The main aim of Policy CS5 is to establish clear areas where countryside policies apply and where development is restricted to protect the character and appearance of the rural landscape. This policy aim is considered to be consistent with the NPPF which indicates the intrinsic character and beauty of the countryside should be recognised, while supporting thriving rural communities within it. Para.109 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.

Paragraph 61 of the NPPF aims to ensure that new development is integrated into the natural, built and historic environment. Policy CS8 of the Core Strategy states, ‘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 within the Landscape Character Assessment’.

RLP80 states that development that would not successfully integrate into the local landscape will not be permitted.

The applicant suggests the environmental benefits of the proposal to be as follows:

- The biodiversity of the site will be protected, diversified and improved through a new hedgerow and tree planting and the delivery of new garden spaces and green spaces. Such measures will ensure a net biodiversity gain.
- A betterment in respect of reduced surface water run off when storm events occur greater than a 1 in 1year occurrence.

The application is supported by a ‘Landscape & Visual Impact Assessment’ (LVIA). This concludes that the proposed development and associated green infrastructure are of a relatively modest nature and scale and could be incorporated within the local landscape without resulting in any unacceptable landscape or visual effects.

The report discusses the landscape on a National, County and District level. At a national level the site lies within National Character Area (NCA) 86 ‘South Suffolk and North Essex Clayland’. This assessment Finchingfield is referred to as follow. *‘The well preserved medieval villages or small towns (such as Lavenham, Finchingfield, Cavendish and Thaxted) and their magnificent ‘wool’ churches are recognised as distinctive components of the landscape that help attract many visitors to the area’*. The applicant contends that the development of the site is relatively modest in scale and nature and would have a negligible effect on the wider character area.

At a County level the site forms part of the 'Blackwater and Stour Farmlands' Landscape Character Area (LCA) as defined by the Essex Landscape Character Assessment (ELCA) (2013). The key characteristics of this LCA include *'wide views across the farmland'*, *'small villages, hamlets with a wealth of historic buildings'*, and a *'tranquil character'*. This assessment notes the nucleated form of Finchingfield and *'limited modern development associated with settlements'*. The condition of the landscape is considered to be good with *'limited out of character modern development'*.

A sensitivity rating for each LCA is also provided to different types of change. This Character Area has a moderate sensitivity to both small urban extension (<5ha) and major urban extensions and new settlements. The applicant suggests that this signifies that the development may be capable of being absorbed. The applicant concludes that on a County level the development would result in a minor adverse impact on the Blackwater and Stour Farmlands Character Area decreasing to negligible-minor adverse at year 10 once new planting has had the opportunity to establish.

The Braintree District Council Historic Environment Characterisation Project (2010) assesses the sensitivity of the historic environment to *'medium to large scale development, specifically housing expansion'*. The site is located within Historic Environment Character Zone 5.5 Villages North West of Braintree. This zone is characterised as being highly sensitive to medium to large scale development. The project advises that the historic environment plays or could play a key role in the zone's sense of place for the local people and visitors. The zone contains assets which are or could be promoted for the benefit of local people or visitors.

At a District level the site is located within the Stambourne Farmland Plateau (B9) Landscape Character Area. The key characteristics for this Character Area are set out as being:

- Relatively open gently undulating arable land.
- Predominantly agricultural land bounded by species rich hedgerows with trees and ditches.
- Narrow country lanes bounded by grass verges and ditches dissect the fields.
- Lines of pylons dissect the open landscape.

This character area encompasses the gently undulating arable land which stretches from Stambourne in the north to Finchingfield in the south west to Highstreet Green in the east. The gently undulating slopes are covered predominantly with large arable fields with smaller fields in the shallow river valleys adjacent to the narrow, shallow, gently meandering rivers. Farmsteads and isolated dwellings along with small deciduous copses occasionally punctuate fields. The larger villages of Finchingfield and Toppesfield designated conservation areas have clear focal points centred around the church and village shops. Finchingfield also has a village common and a duck pond which contribute to the character and overall strong sense of place within this character area. There is an overall sense of tranquillity throughout

the character area with a network of quiet rural lanes winding through the landscape joining the settlements.

This Character Assessment highlights that the area is at risk from potential residential expansion of the villages which would be conspicuous on the skyline. There is a strong sense of historic integrity, resulting from a dispersed historic settlement pattern (with isolated farms, moated sites and small villages strung out along linear greens) and historic cores (centred around churches) within villages such as Finchingfield and Toppesfield. Finchingfield is described as one of the main historic landscape features and its distinctive landscape is noted, *'The nucleated village of Finchingfield... occupies a nodal position in the communications. This nodal position is in turn reflected in the 'spider web' field pattern which radiates around the village'*. This pattern is sensitive to potential new largescale development. Overall, this character area has moderate to high sensitivity to change.

This assessment includes a landscape strategy for each Character Area which are:

Conserve - seek to protect and enhance positive features that are essential in contributing to local distinctiveness and sense of place through effective planning and positive land management measures.

Enhance - seek to improve the integrity of the landscape, and reinforce its character, by introducing new and/or enhanced elements where distinctive features or characteristics are absent.

Additionally the assessment includes the following landscape planning guidelines:

- Consider the visual impact of new development and farm buildings on the open arable landscape; and
- Ensure that any new development is small scale, responding to the historic settlement pattern, landscape setting and locally distinctive building styles.

The applicant's report details that the development proposals have been considered against the key sensitive characteristics and landscape elements within this Character Area and have been designed to ensure that existing landscape and townscape characteristics would be conserved and enhanced. The report suggests that the proposed green infrastructure represents an opportunity to contribute to the landscape planning. It is considered by the applicant that the proposed development is likely to result in no greater than a minor adverse effect at completion on the 'Stambourne Farmland Plateau' LCA. This would decrease to a negligible-minor adverse effect at Year 10 once planting has established.

The applicant concludes that the site and its immediate context are considered to have medium susceptibility to change, being relatively well enclosed and suggest the site has medium landscape value overall. They conclude that the development, undertaken as set out within the Design and

Access Statement would have a moderate adverse landscape effect within the site reducing to minor adverse at year 10 when the planting has established. The Landscape and Visual Assessment is supported by visual montages which aim to show how the development would appear from a number of viewpoints.

The applicant's report also discusses the visual effects of the proposed development upon residents and users of local roads and Public Rights of Way. This suggests that views from the properties opposite the site would be filtered by vegetation and development at the front of the site would be limited to 1.5 storeys in height. With regards to the Public Rights of Way the applicant argues that once the green infrastructure has had opportunity to establish there would be no greater than minor adverse effect where views are possible, declining to negligible where views are more distant.

Finchingfield's historic settlement pattern is identified within published character assessments which have been referred to above. At a National, County and District level Finchingfield is a distinctive component of the landscape. The village core, extending up to the western boundary of the site is a designated Conservation Area. The historic settlement pattern of Finchingfield is considered to be a valued landscape with reference to paragraph 109 of the NPPF. It is recognised by way of recent appeal decisions that undesignated landscapes may be valued landscapes in terms of the NPPF. The site was previously within a Special Landscape Area as set out within the Local Plan Review. Although this is no longer applicable, it is an indicator that the landscape is locally valued. In a recent appeal decision (Charnwood Borough Council) the Inspector concluded that Para. 109 of the NPPF is a specific policy that indicated that development should be restricted and so the presumption in favour of sustainable development does not apply. The Inspector comments that consequently *'the planning balance that applies is a straightforward balancing exercise of weighing the benefits of the proposed development against the harm, having regard to the three dimension of sustainable development... without applying a 'tilt' in favour of the grant of planning permission'*.

The Council's Landscape Consultant advises that the site and immediate surrounding landscape make for a positive contribution to the rural character of the approach in to Finchingfield along Wethersfield Road and along the PRoW to the south. This landscape also provides a rural setting for the Conservation Area. It is appreciated that the existing housing opposite the site detracts from the historic settlement character, but this has not completely suburbanised the approach along Wethersfield Road. The undeveloped nature of the site makes a significant contribution to maintaining its rural character and the presence of the housing to the northern side of Wethersfield Road may be considered to increase the sites susceptibility to development rather than decrease it. The Council's Landscape Consultant advises that the site has medium/high sensitivity to the scale of development proposed, resulting from the combination of the value placed on the landscape and its susceptibility to change.

Finchingfield retains a relatively coherent settlement pattern, generally sympathetic to its historic nucleated, nodal form. The proposed development would deviate from both the historic settlement pattern, and that of more recent development. It would introduce a new development typology to the village; with clustered housing set around cul-de-sacs, accessed via a single access point off Wethersfield Road; and one which is geographically and physically disconnected from the village proper. The density proposed would also result in a noticeable contrast in development density with adjacent land to the west and north.

The site ranges in elevation from 75m to 84.5m AOD. This places the entire development at an elevation above the majority of Finchingfield, and would therefore be a substantial change to the village's characteristic containment within the Finchingfield Brook valley and the integrity of the historic village form. This aspect of the development would have a major adverse impact on the landscape setting of the village. The proposal would not be consistent with the BDC LCA landscape guidelines which require development to '*respond to historic settlement pattern and landscape setting.*' The overall effect would be at moderate/major adverse.

The Council's Landscape Consultant has considered the LVIA which supports the application. Figure 13 within the LVIA shows that keeping the hedge along Wethersfield Road would help to limit the suburbanising of Wethersfield Road. However, the access road into the site and the views into the site that would be available from it would still have a detrimental effect on the character of Wethersfield Road and the landscape setting of the village.

The LVIA considers that the proposal will respond to and complement the existing development on the northern side of Wethersfield Road. However, the recommendation in the BDC LCA that new development should respond to the '*historic settlement pattern*' and '*landscape setting*' is intended to refer to those characteristics that make a positive contribution to the historic character of the settlement. Housing development to the south of Wethersfield Road would compromise those elements that make a positive contribution to the landscape setting of Finchingfield and its historic character.

The proposal would establish a dense eastern settlement edge which would replace the current transition between the developed edge of the village and the countryside beyond. Predominantly undeveloped, the land at Great Biggins Farm forms part of the Conservation Area and the mature trees within it provide a very positive transition between village and countryside. The proposed development would be defined by a density, overall scale, and elevation that is not present elsewhere on the edges of the village. The mitigation measures proposed in the application, the open space buffer along the site's western boundary, and the proposed retention of the high hedge alongside the road, would lessen this impact but in Officers opinion, not eliminate it.

The Council's Landscape Consultant has also considered the impact of the development on the visual amenity of users of the PRow to the south of the site.

The PRow south of the site traverses mostly through open farmland between the village of Wethersfield and Mill Road in Finchingfield. Currently, and as with the vehicular approaches described above, Finchingfield is not overly prominent or noticeable upon its approach from this PRow. The settlement is set down and largely enclosed within the valley, slightly off to the north-west of the footpath's alignment. St John the Baptist's Church is visible, as are a limited number of buildings, including Great Biggins Farm within the Conservation Area.

Views further to the north, towards the site, currently include views across the valley to the rising valley side to the north of Wethersfield Road, with Howe Hall (grade II listed) visible on its upper slopes. The existing housing along Wethersfield Road is not visible. Consequently, this footpath provides its users with an attractive, tranquil route through open countryside, connecting Finchingfield with Wethersfield along a route alignment which has connected the two villages since at least 1897. It is illustrative of the open views across arable fields framed by woodland and hedges that are characteristic of this area.

The photomontages provided within the LVIA, specifically the view at year of completion, illustrate that the development would form a highly prominent addition to the views north-west and north from the footpath. The result would be an increased awareness of the entire village, with a greater sense of development dominating the views north-west and north due to the site's proximity to the footpath. The proposed elevation of the development, including houses at over 80m AOD, would obstruct cross-valley views to the north, which currently provide views of open countryside; of Howe Hall in the distance and of the more distant ridge. This elevation would result in a sense of the village rising out of the Brook valley, and onto the surrounding plateau landform, which is highly uncharacteristic of the existing settlement pattern.

The proposal includes a planted buffer of 15m (in depth) along the eastern half of the site's southern boundary, and a 10-12m buffer along its eastern boundary to be established 10 years after completion. Notwithstanding this it is likely that views of the development will be attainable through gaps in the vegetation particularly in winter, and that there would be an awareness of the development and an increase in the perceived scale of the village overall. In a recent decision (Ref: APP/X1545/W/15/3139154 Maldon District Council), an Inspector commented that the necessity to entirely screen view of a proposed development was indicative of a problematic location.

'I consider that the extent of the proposed landscaping in the visualisations and the illustrative landscape masterplan, which appears to try and entirely screen the proposed development on the eastern boundary, rather than to soften its integration with the wider landscape, illustrates the difficulty of trying to do so in this particular location.'

The development does not positively consider '*the visual impact of new residential development and farm buildings on the open arable landscape*' as recommended in the BDC LCA landscape guideline. The effect of the proposal on the amenity values of PROW users would be major adverse in the immediate term, decreasing to major/moderate adverse in the long term.

The applicant acknowledges that with regards to effects upon the site and its immediate setting, development will result in localised permanent adverse changes to the landscape. It is stated that the long term landscape effects on the site would be of negligible-minor adverse by Year 10, as the proposed planting matures. The applicant is of the opinion that the landscape has the ability to absorb the development and associated changes and that the proposed development would be appropriate within the existing landscape context and would not give rise to any unacceptable landscape and visual harm.

In Officers' opinion, having regard to the advice from its Landscape Consultant, it is considered that the density, location and form of the proposed development would deviate from Finchingfield's historic settlement pattern, by way of 1) a location which is geographically separate from the core of the village, 2) a location upon rising land from 75m to 84.5m AOD. The existing village is located almost entirely below 75m AOD and 3) a depth of development much greater than that of the typically single row development found along Wethersfield Road and elsewhere in the village.

The elevated nature of the site would be particularly harmful to the integrity of the historic village form and would have a major adverse impact on the landscape setting of the village.

Furthermore the development would not be consistent with the BDC LCA landscape guidance which requires development to '*respond to historic settlement pattern and landscape setting*.' The uncharacteristic nature of the proposal would result in adverse effects upon: the approach to Finchingfield; the landscape setting of the village; and the valued settlement pattern. The village has grown organically over time; however the scale of development proposed would be out of scale with the pattern of development and would fail to integrate in to the natural, built and historic environment. The overall effect would be at moderate/major adverse.

Due to the site's location upon rising land away from the village core, the proposals would be highly visible on the approach to the village along the Public Right of Way (PROW) to the south of the site. The edge of the village would appear to be rising out of the Brook valley, and onto the surrounding plateau landform. This would be highly uncharacteristic of the existing settlement pattern. In addition, the current, characteristic cross valley views, would be lost. In this regard the development would not be consistent with the BDC LCA landscape guidance to positively consider '*the visual impact of new residential development and farm buildings on the open arable landscape*'. The effect of the proposal on the amenity values of PROW users would be

major adverse in the immediate term, reducing to major/moderate adverse in the long term.

Accordingly it is Officer's opinion that the proposal fails to accord with the policies and guidance set out above and that the environmental impact, on a valued landscape, would be such that this proposal could not be considered to be sustainable development.

Design, Appearance and Layout

Paragraph 56 of the NPPF states that good design is a key aspect of sustainable development; is indivisible from good planning, and should contribute positively to making places better for people. Paragraph 58 states that developments should aim to 'establish a strong sense of place, using streetscapes and buildings to create attractive comfortable places to live, work and visit; and respond to local character and history and reflect the identity of local surroundings and materials'. Policy CS9 of the Core Strategy states that 'the Council will promote and secure the highest possible standards of design and layout in all new development'.

This is an outline application where scale, design, layout and landscaping are reserved matters. The application includes an Illustrative Development Framework Plan that indicates the key aspects of the design and layout, such as access, public open space and landscape features, SuDs features, and equipped play area. The Illustrative Framework has been developed by the applicant to demonstrate to the Council that a development of the scale proposed could be accommodated within the site whilst adhering to relevant design principles and standards.

The application is also supported by a Design Code, including an indicative layout, which would guide the detailed development of the site, providing some certainty as to the type of housing, design of streets, materials and such like. If considered acceptable the contents of this could be secured by condition on any grant of consent.

The application proposes up to 80 units, however the indicative layout as contained within the Design Code does not show this many units. It is appreciated however that the proposal is up to 80 units and could contain a degree of flatted development which would not be apparent from the site layout submitted. The Design Code describes a three street character approach, including Rural Gateway, Village Street and Rural Lanes. These street types will have different design characteristics, in terms of: function, width, building form, landscape, and frontage details.

Officers are of the opinion that this size of site overall is capable of containing up to 80 units, however it is questionable as to whether the aspirations of the design code could be realised on site, as it is unlikely that the 24dph density could be achieved when taking in to account the need for car parking and private amenity space, which is not accounted for realistically on the illustrative masterplan. It is likely that the degree of open space shown on the

indicative layout would be compromised in order to meet standards in terms of car parking, back to back distances to protect residential amenity and garden areas.

Officers are also concerned with regards to the quality and effectiveness of the Design Code. Although it has some merit, it does little to preserve local distinctiveness, introducing alien and unrelated parts of the layout that are not found in the village. In particular the hard landscaped Village Street area bears no resemblance to Finchingfield and is a more generic design taken from elsewhere. It is doubtful that this area could be realised in the manner proposed as the parking provision has not been properly calculated and there are no visitor spaces provided. In addition the car parking space sizes are referred to as 2.4m x 4.8m throughout the document, which is smaller than the 2.9m x 5.5m required by the adopted standard. This will have implications on the aspirations of the Design Code.

The Design Code also has contradictions between its text and illustrations. This is most pertinent where the text aspires to high quality materials for walls and roofs but the illustrations show poor quality concrete roof products, a series of window, porch and chimney details which lack the finesse and quality of the general palette used in the village. The Design Code also suggests three materials palettes, one for each of the three character area; however the Design Code shows they consist of the same materials.

There are numerous other aspects of the Design Code that are contradictory. For instance a photo of a well detailed chimney that has dentil course and corbelled brickwork accompanies a text that states all that is required are simple chimneys. The Design Code is fundamentally flawed and it would be impossible for the Local Authority to successfully negotiate a scheme using this document given its contradictions and ambiguities. The Design Code would only serve to produce a generic and unsympathetic proposal.

Notwithstanding this, the application is in outline form whereby appearance, layout, scale and landscaping are matters for consideration at the reserved matters stage, thus the application cannot be refused on the concerns raised above. The concerns raised in respect of the design and layout could be overcome by way of a condition on any grant of consent requiring a Design Code to be submitted and agreed by the Local Planning Authority alongside the reserved matters.

Impact upon the Historic Environment

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

A core principle of the NPPF is the conservation of the historic environment.

Para.132 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. The more important the asset, the greater the weight should be. It indicates that significance can be harmed or lost through development within its setting. Para.134 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.

Policies RLP90 and RLP100 seek to conserve local features of architectural, historic and landscape importance and the setting of listed buildings. Policy RLP95 seeks to preserve and enhance the character and appearance of designated Conservation Areas.

Historic England's 'Historic Environment Good Practice Advice in Planning: 3' guide states that the character of a historic place is the sum of all its attributes, which may include: its relationships with people, now and through time; its visual aspects; and the features, materials, and spaces associated with its history, including its original configuration and subsequent losses and changes. Heritage assets and their settings contribute to character but it is a broader concept, often used in relation to entire historic areas and landscapes. It also states that a conservation area will include the settings of listed buildings and have its own setting, as will the village or urban area in which it is situated.

The document advises that the contribution of setting to the significance of a heritage asset is often expressed with reference to views, a purely visual impression of an asset, and including views of the surroundings from or through the asset. It states that views which contribute more to understanding the significance of a heritage asset include those where relationships between the asset and places or natural features are particularly relevant. It further advises that setting is not in itself a heritage asset, nor a heritage designation, and its importance lies in what it contributes to the significance of the heritage asset.

Whilst not located within, the site lies immediately abutting the Finchingfield Conservation Area and is also sited adjacent to the boundary with the Grade II listed Great Biggins Farmhouse. Great Biggins Farmhouse dates back to the 16th Century and is set with a defensive moat and is also of importance archaeologically. The associated barns date back to the 18th Century and together with the farmhouse form a cohesive group. Great Biggins, although of historic importance in its own right, was included within the Conservation Area in 2009 due to the contribution made to it by way of its driveway, trees, buildings and grounds. It is noted that the barns at Great Biggins Farm have not been converted to residential as suggested by the applicant.

The application is supported by a 'Heritage and Archaeology Assessment' and a subsequent statement in response to comments made by Historic England and Essex County Council. These reports conclude that the development will have a negligible impact on the heritage significance of Great Biggins Farm as

a result of the negligible contribution made by the site to the heritage significance of the assets. In respect of the Conservation Area the report states that given the way in which the proposals will be in keeping with the current character of Wethersfield Road, the proposed development would not result in a change in character of the site and very minor change to the views on the eastern approach and as such this would not cause harm to the overall significance of the Conservation Area.

Historic England and The Council's Heritage Consultant have been consulted on the application and both parties raise an objection.

The application site forms part of the setting of the Conservation Area. Historic England note that as you approach the site from the east, the landscape to the south of Wethersfield Road is bound by a mature hedgerow affording glimpses of the open countryside beyond. The Council's Heritage Consultant notes that the hedgerow allows for views of fields and open skies which give an impression of openness and a visual connection to the countryside. The open countryside to the south and east of the Conservation Area and listed buildings provide a rural setting which contributes to the significance of these heritage assets.

Historic England and the Council's Heritage Consultant advise that the development as proposed will harm the rural setting of the eastern approach in to the Conservation Area. As the northern edge of this has already been developed the cumulative impact of this will be to erode the rural setting of both the Conservation Area and the village. Views both in to and out of the Conservation Area and the setting of Great Biggins Farm will become urban in nature rather than rural. The rural character of the eastern approach to Finchingfield would be diminished, thereby altering how the Conservation Area is experienced and interpreted.

Furthermore, the development would isolate the historic farm complex at Great Biggins from the surrounding fields creating an island encapsulated by extensive residential development.

In their concluding comments Historic England and the Council's Heritage Consultant state that the development will cause some harm to the significance of the grade II listed Great Biggins Farmhouse and the Conservation Area as a result of the loss of the rural setting and associated rural views. This harm should be weighed against any public benefits that may accrue from the development.

As approaching the Conservation Area from the east, the edge of which is the Great Biggins Farm boundary constitutes a mature tree line. This tree line and open countryside beyond is a distinctive visual statement/key transition point demarking the beginning of the Conservation Area when travelling in to the village from the east and signals the end of the Conservation Area when leaving the village in a westerly directly along Wethersfield Road. The presence of the tree line is of benefit to the visual amenity of the Conservation Area, its setting and the setting of Great Biggins. The Conservation Area and

the setting of the Grade II listed Great Biggins Farm complex has an association with the open countryside directly adjacent regardless of this tree belt and thus whether the asset, in the case of the listed buildings, can in fact be seen from the application site or Wethersfield Road.

The large scale nature of the development, which extends in depth from Wethersfield Road, would erode the rural setting of both the Conservation Area and the adjacent listed buildings and create an unsympathetic sense of enclosure, which would be of harm to the significance of the character and setting of the identified heritage assets. It is Officer's opinion, although the harm is less than substantial, that this can reasonably form a reason for refusing the application, given conflict with the above mentioned policies.

The development fails to satisfy the environmental role of sustainable development, which requires development to protect and enhance the natural, built and historic environment.

Impact on Neighbouring Amenity

One of the core planning principles set out in the NPPF is to secure a good standard of amenity for all existing and future occupants of land and buildings. Policy RLP90 of the Local Plan Review also states that development should not have an unacceptable impact upon neighbouring amenity.

The properties directly opposite the site on the northern side of Wethersfield Road and the adjacent properties to the west at Great Biggins Farm and Little Biggins and the property to the east at Highbanks are those which would be closest to the development. Whilst the outlook from the properties opposite the site would change significantly as a result of the development private views are not protected through the planning system. Although the design and layout of the development is not known at this stage, it could be designed so that the development would not result in an unacceptable loss of privacy. The indicative layout provided suggests the development could be set back in to the site and the existing hedgerow along the front boundary would be retained, aside from at the point of access. Consideration would however have to be given to how the land rises south from the highway and the impact of this upon the residential properties opposite. Officers are satisfied a scheme could be produced to ensure this.

The properties to the east and west of the site are well distanced and separated by substantial tree planting, such the amenities of the occupiers of these properties is unlikely to be detrimentally harmed as a consequence of the development.

There is the potential for the development to affect the amenity of residents of adjoining properties during the construction period. If the Council were minded to approve the development Officers would recommend a number of conditions to control construction activity in order to minimise the impact on those properties.

Highway Issues

The application is supported by a Transport Assessment. This application requests that access is considered at the outline stage.

Para.32 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

A plan showing the proposed vehicular access from Wethersfield Road (a classified road) has been provided within the Transport Assessment. This shows that visibility splays of 2.4m x 127m to the west and 2.4m x 105m to the east can be provided. This part of Wethersfield is within a 40mph speed limit and the visibility splays have been determined taking this in to account together with the results of a speed survey. The speed survey determined that average speeds in an easterly direction were 40mph and 35.9mph in a westerly direction.

The Highways Authority (Essex County Council) raise no objections to the proposed access.

Concerns have been raised by local residents with regard to increased traffic generated from the development. The Transport Assessment considers traffic generation from the development. It is concluded that the development will add an additional vehicle every 2 minutes on to the highway network during peak hours. Based on assessment of key roads and junctions and their performance, this is not considered to have a material or detrimental impact on the operational performance of the highway network, to which Essex County Highways agree.

The Transport Assessment proposes the provision of Travel Information Packs to all households in order to promote sustainable travel. This can reasonably be controlled by condition.

The proposal includes 2 metre footways either side of the site access, 2no. pedestrian refuge crossings and the introduction of bus stop facilities on both sides of Wethersfield Road. This would accord with Policy RLP49 which states that the needs of pedestrians should be fully incorporated in the design and layout and provide appropriate links to other land uses and developments. Essex County Highways raise no objections to these proposals, subject to them being secured by way of a planning condition.

The provision and layout of parking would be dealt with at Reserved Matters stage as part of layout and design if the application progressed. It would be expected to include off road and visitor parking and cycle parking in accordance with the Council's adopted Parking Standards.

Landscape and Ecology

Policy RLP 80 states that proposals for new development will be required to include an assessment of their impact on wildlife and should not be detrimental to the distinctive landscape features and habitats of the area such as trees, hedges, woodlands, grasslands, ponds and rivers. Development that would not successfully integrate into the local landscape will not be permitted. All new development will be expected to provide measures for any necessary mitigation of their impact upon wildlife and for the creation and management of appropriate new habitats. Additional landscaping including planting of native species of trees and other flora may be required to maintain and enhance these features.

Policy RLP 84 states that planning permission will not be granted for development, which would have an adverse impact on badgers, or species protected under various UK and European legislation, or on the objectives and proposals in National or County Biodiversity Action Plans as amended. Where development is proposed that may have an impact on these species, the District Council will require the applicant to carry out a full ecological assessment. Where appropriate, the Planning Authority will impose conditions and/or planning obligations to:

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

Development of the site would not result in the loss of any existing landscape features within the site as these are confined to the boundaries.

An Arboricultural Assessment has been submitted with the application. A total of 6 trees, 12 groups of trees and 2 hedgerows were surveyed as part of the assessment. The site is such that the majority of the trees/hedgerows are on the site boundaries and thus in the main these are proposed to be retained and enhanced with additional planting. There will be no significant tree loss required in order to facilitate the development. The tree retention plan shows the loss of a small part of Group 12 (Category C) in order to provide an access between the two fields and a loss of part of the hedgerow along the front of the site (Group 3) in order to allow for the proposed vehicular access.

The arboricultural assessment refers to additional planting and it is noted that this is shown on the illustrative layout. Landscaping is however a reserved matter and would be given full consideration at the reserved matters stage.

The application is supported by a Phase I habitat survey undertaken by the applicant's ecologist to assess the ecological value of the site and identify any ecological constraints on the proposed development. The site comprises three fields, one of arable crop, one of sheep grazed poor semi-improved grassland and Christmas tree plantation, and one of unmanaged poor semi-improved grassland. Hedgerows containing mature trees form the majority of site and field boundaries. Dry ditches are present at the boundaries of the arable field.

The survey has concluded that there is no badger, Great Crested Newt or reptile activity at the site.

The hedgerows, scrub, mature trees and ditch habitats at the site and field boundaries provide suitable nesting and foraging habitat for farmland and urban edge bird species. The arable land provides some potential suitable habitat for ground nesting species; however this is limited due to the small size of the field. All nesting birds are protected under the Wildlife and Countryside Act 1981, which makes it an offence to kill, injure or take any wild bird or take, damage or destroy its nest whilst in use or being built, or take or destroy its eggs. Any vegetation should therefore be removed outside of the bird breeding season (March to Aug/Sept). If this is not possible, vegetation should be checked prior to removal by an experienced ecologist. If active nests are found vegetation should be left untouched until all birds have fledged.

The east of the site consists of cultivated arable land which provides sub-optimal habitat for foraging or commuting bats. The west of the site consists of managed and unmanaged poor semi-improved grassland, with young Christmas tree planting, which provides suitable habitat for foraging bats. Linear features including the field and site boundary hedgerows, and the offsite blocks of woodland which are located adjacent to the western boundary, provide suitable foraging and commuting habitat for bats. The survey concludes that no harmful impacts would result to the bat population, especially given that the majority of vegetation is to be retained. It is advised that a sensitive lighting scheme be designed and measures for habitat enhancement such as bat boxes be incorporated. These could be covered by conditions on any grant of consent.

Drainage and Flood Risk

The site lies in Flood Zone 1 (lowest risk of flooding from fluvial sources). An 'Ordinary Watercourse' (unnamed ditch) is located along the south-eastern boundary of the Site and flows north along the central boundary to the northern boundary on Wethersfield Road, discharging into the Highway drain via an existing pipe. There are further ditches located on the western and eastern boundaries. The closest 'Main River', Finchingfield Brook, is located 500m west of the Site.

Paragraph 103 of the NPPF states that when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere. It states that priority should be given to the use of sustainable drainage systems.

Paragraph 109 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability.

A Ministerial Statement issued by The Secretary of State for Communities and Local Government on 18 Dec 2014 states that the Government's expectation is that sustainable drainage systems will be provided in new developments wherever this is appropriate. It states "To this effect, we expect local planning policies and decisions on planning applications relating to major development - developments of 10 dwellings or more; or equivalent non-residential or mixed development - to ensure that sustainable drainage systems for the management of run-off are put in place, unless demonstrated to be inappropriate. Under these arrangements, in considering planning applications, local planning authorities should consult the relevant lead local flood authority on the management of surface water; satisfy themselves that the proposed minimum standards of operation are appropriate and ensure through the use of planning conditions or planning obligations that there are clear arrangements in place for ongoing maintenance over the lifetime of the development."

These changes took effect from 6 April 2015. It also states that for avoidance of doubt the statement should be read in conjunction with the policies in the National Planning Policy Framework. The statement should also be taken into account in the preparation of local and neighbourhood plans, and may be a material consideration in planning decisions.

Paragraph 86 of the Planning Practice Guidance (PPG) states that when considering major development (i.e. developments of 10 dwellings or more) the local planning authority should consult the Lead Local Flood Authority (LLFA).

The Lead Local Flood Authority (Essex County Council) became a statutory consultee on planning applications from 15th April 2015.

A Flood Risk Assessment has been submitted which considers the potential impact of the development on surface water runoff rates, given the increase in impermeable areas post-development. This FRA concludes that the proposed development would be operated with minimal risk from flooding and would not increase flood risk elsewhere. In order to mitigate flood risk from the ditches located within the site and on the boundaries the following measures are proposed:

- Formalisation of the ditches to contain flows within the channel
- Undertake maintenance to clear the ditches from debris and overgrown vegetation
- Provide a 4m easement, free from development, along both banks of the ditches
- Set finished floor level of units a minimum of +150mm above external ground level
- Provide a headwall and scour protection for the proposed surface water outfall to the ditch
- Undertake CCTV of the piped outfall to establish the condition of the asset

The only secondary flooding source identified is groundwater flooding. The Flood Risk Assessment suggests that this can be mitigated through the adoption of a surface water management strategy. The surface water drainage arrangements for any development site should be such that the volume and peak flow rate of surface water leaving the developed Site are no greater than the rates prior to the proposed development. As such surface water run-off will need to be addressed through Sustainable Urban Drainage measures and attenuation. The applicant is confident that sufficient measures can be put in place to ensure that the development will not increase flood risk elsewhere.

The information submitted has been considered by the Lead Local Flood Authority (ECC). No objections are raised subject to a series of conditions being placed on any grant of consent.

Section 106

Paragraph 204 of the Framework sets out that planning obligations should only be sought where they are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. This is in accordance with Regulation 122 of the Community Infrastructure Levy (CIL) Regulations. The following identifies those matters that the District Council would seek to secure through a planning obligation, if it were preparing to grant it permission.

Affordable Housing – Policy CS2 of the Core Strategy states that on developments of this size affordable housing will be directly provided by the developer on-site with a target of 40% affordable housing provision on sites in rural areas. The applicant has submitted a Draft Heads of Terms for a Section 106 Agreement. Within this document the provision for 40% affordable housing is acknowledged. The Council's Housing Enabling Officer has advised on the mix of type and tenure of housing which would be sought. This could be secured through a S106 Agreement if the application were acceptable in all other respects.

Education – Essex County Council has stated that there is insufficient capacity within Early Years and Childcare and Primary Schools closet to the site in order to meet demand from this proposal. As such they request a financial contribution of £100,296 for Early Years and Childcare and £293,232 for additional Primary School places.

In addition although there is sufficient capacity within secondary schools, a financial contribution is requested for school transport, given all secondary schools are in excess of 3 miles from the site. A contribution of £65,360 is requested in this regard.

In response to Essex County Council's advice, the applicant has provided additional information which suggests that a maximum contribution of

£223,960 would be necessary, not the £458,888 requested. The applicant was advised that given the late submission of additional information that re-consultation with Essex County Council would be undertaken on the basis that they agreed to extend the time for determination of the application. The applicant has refused to extend the time for determination. Essex County Council are in receipt of the additional information, however at the time of writing no response had been provided to the LPA. The applicant was advised that if this matter cannot be resolved before Committee deadlines and in the absence of an agreed extension of time, then Essex County Council's initial advice would stand. Given the applicant does not agree to enter in to a S106 for the requested contribution, this reasonably forms a reason for refusal.

Health – NHS England advises that the GP surgery within the village has sufficient capacity to meet the demand arising from a development of this size and therefore no financial contribution is requested.

It is acknowledged that the GP Surgery and local residents have raised concerns with regard to the impact of the development on the healthcare services provided by the local surgery. The NHS has been consulted on the proposal and has, based on their data, confirmed that the surgery has the capacity to accommodate additional patients resulting from the proposed development. The responsibility lies with the NHS to advise the LPA as to whether a financial contribution is required. The District Council does not have any of its own data, nor has it been presented with any contrary data which could justify requiring a contribution.

Open Space – Policy CS10 of the Core Strategy states that the Council will ensure that there is a good provision of high quality and accessible green space. New developments are required to make appropriate provision for publicly accessible green space or improvement of existing accessible green space in accordance with adopted standards.

The Council's Open Space SPD sets out further details on how these standards will be applied. A development of this size would be expected to make provision on-site for informal and amenity open space and an outdoor equipped playground. This is shown on the indicative layout and referred to within the draft Planning Obligation.

A financial contribution would be sought for outdoor sport. The provision/contribution is based upon a formula set out in the SPD and is currently not determined given the application is in outline form. There is also a requirement to secure the on-going maintenance of any public open space provided on site. These aspects would be secured through a S106 Agreement.

Within the draft Planning Obligation the applicant makes reference to an outdoor sport contribution, however a S106 agreement has not been prepared or signed and therefore this can form a reason for refusal. It is also acknowledged that the trigger proposed for payment of the contribution prior

to 50% occupation is unlikely to be acceptable; however this could be negotiated at a later date.

The draft Planning Obligation refers to highway improvements, however given no financial contribution is required, these can reasonably be sought by planning condition.

Other Matters

Archaeology – The application is supported by details pertaining to archaeology. This details that archaeological activity was indicated as a result of a geophysical investigation and the potential for archaeological deposits was high. A programme of archaeological evaluation has also been carried out from aerial photographs. The aerial photographs have established that the focus of known archaeological activity possibly associated with the adjacent Roman villa site is within a small area of the site and that the main focus lies beyond the site boundary. Evidence associated with this activity is likely to survive within the site boundary and will require investigation through further evaluation. Essex County Council are satisfied that this can be carried out through trial trench investigation and recommend conditions in this regard be placed on any grant of consent.

Loss of Agricultural Land – The application is supported by a ‘Soil Resources and Agricultural Use and Quality of’ report. This concludes that the land comprises Grade 3a agricultural land. The Natural England Agricultural Land Classification Maps indicate that the vast majority of agricultural land within this part of Essex falls within grade 2 agricultural land and this site falls at the convergence of grade 2 and 3. As such, it is inevitable that some development of such land will be necessary in order to meet the significant housing requirements. Paragraph 112 of the Framework states that “Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land.”

Construction Activity – The Council’s Environmental Services Team have been consulted regarding the proposed development. They have raised no objection, subject to a number of conditions to control construction activity (hours of working; piling; dust and mud control). It is inevitable that there will be some disruption with construction activities. These would not be permanent in nature.

Contaminated Land – The Geoenvironmental Report submitted to support the application confirms that further work is required to be undertaken to ensure the land is suitable for residential development. The Council’s Environmental Service Team raises no objections to the report and agrees with its conclusions for further survey work to be undertaken. This can reasonably be controlled by condition.

Noise – A noise screening report has been submitted in support of the application. This identifies Wethersfield as the main source of noise to future residents of the development. This is a 40mph road and does not carry a

significant volume of traffic which would cause significant impact on residential amenity.

Air Quality – The application is supported by an air quality screening report. This concludes that any increase in pollutant concentrations will not cause any air quality objectives to be approached or exceeded and thus the development will not have a significant effect on air quality.

Foul Drainage – A report submitted with the application indicates that there are public foul sewers located north of the site in Wethersfield Road. Foul water drainage for the system will be constructed and connected to the existing public sewerage network which is owned and operated by Anglian Water. It has confirmed that there is adequate capacity in the public sewerage system to accommodate the foul flows from up to an additional 100 residential properties and thus there is sufficient capacity for the proposed development of up to 80 units.

Other Utilities

Electricity – The plans supplied by UK Power Networks indicate there is a high voltage (HV) 11kV overhead line crossing the site north to south; the proposed layout allows for this to remain as it could be diverted underground if required. A new secondary substation will be required with associated LV mains and service connections.

Gas - National Grid plans indicate there are no existing gas mains within the vicinity of the site. If a gas supply is required the developer could consider the installation of a central LPG tank system with a ring main and service connections feeding each of the properties, or individual LPG tanks for larger properties. Space requirements have been considered within the masterplan but the full details cannot be determined until the detailed design layout has been developed. Alternatively other options such as oil or renewable technology solutions could be considered.

Water – The plans supplied by Anglian Water indicate there is a 225mm water main running along Wethersfield Road. It is anticipated the new development will be able to be fed from the existing main adjacent to the site. Some minor diversions are expected to accommodate the new site entrance. A new mains infrastructure would be laid on site to serve the new domestic properties.

Telecoms – British Telecom (BT) records indicate there is existing overhead BT plant running along Wethersfield Road; this is not anticipated to be affected by the proposed development. The proposed new site could be fed by extending this existing infrastructure. Broadband connections are available within this area though cable broadband is yet to be installed.

CONCLUSION

As set out above the development of new housing will always bring benefits but those benefits do not always outweigh all other considerations. Para.49 of

the NPPF makes it clear that housing applications should be considered in the context of the presumption in favour of sustainable development and that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. In such circumstances, the local planning authority must undertake the 'planning balance' to consider whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or whether specific policies in the Framework indicate development should be restricted.

It is acknowledged that the provision of market and affordable housing would bring social and economic benefits which would also contribute towards the District's 5 year housing supply and this should be given significant weight.

In addition to the benefits of providing additional market and affordable housing the applicant refers to a range of other benefits including the creation of construction jobs; increased demand for local services; the provision of public open space within the site and as a result of financial contributions to mitigate for the impacts of this development. Such benefits would be consistent with the social and economic dimensions of sustainable development.

Nonetheless, Officers are of the opinion that the impact of the proposed development upon the landscape setting of the village, having particular regard to the location of the development and its deviation from the historic settlement pattern of Finchingfield, the site's elevated nature and thus substantial change to the characteristic containment within the Finchingfield Brook valley and the loss of cross valley views is such that, the development is considered to fail the environmental dimension of sustainable development.

It is also concluded that the development will result in harm (less than substantial) to the significance of the Conservation Area and Grade II listed Great Biggins as a result of the loss of the rural setting and associated rural views. The proposal fails to protect the historic environment and thus does not secure the environmental role of sustainable development in this regard.

When considering the planning balance and having regard to the requirements of the NPPF as a whole, Officers have concluded that the harm to the landscape and setting of heritage assets would significantly and demonstrably outweigh the acknowledged benefits and accordingly it is recommended that this application is refused. As referred to above Officers consider that paragraph 109 of the NPPF is applicable and the site can be regarded as a valued landscape. A recent appeal decision has concluded that this is a specific policy that indicates that development should be resisted and thus the presumption in favour of sustainable development does not apply, rather a straight forward balancing exercise of weighing the benefits against the harm should be undertaken.

In addition, a S106 Agreement has not been secured to ensure the delivery of affordable housing and public open space (including equipped play) and a financial contribution towards outdoor sport and education (early years, primary schools and secondary school transport) in order to mitigate the impacts of the development in these respects.

RECOMMENDATIONS

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

- 1 The proposed development would have a significantly adverse impact upon the valued landscape (para. 109 NPPF). The proposed development would deviate from the historic settlement pattern of Finchingfield and would introduce a development which is geographically and physically disconnected from the village. The scale of the development and elevated position above the existing village would result in a substantial change to the characteristic containment of the village. The development would result in a harmful impact on the distinctive rural character and landscaping setting of the area.

Furthermore the contribution the open countryside makes to the significance of the rural setting of the adjacent heritage assets would be harmfully impacted upon, such the proposed development would have a significant adverse impact upon the historic environment.

The proposal would introduce a large scale development to an area of open countryside and of landscape quality which positively contributes to the rural setting of the village and adjacent heritage assets. Views of the open countryside, heritage assets and the historic landscape which contribute to the character and setting of Finchingfield would be irretrievably lost.

It is therefore considered that given the harm identified to the landscape character of the area and identified heritage assets the development would fail to perform the environmental role of sustainability. When considering the National Planning Policy Framework as a whole, the harm identified significantly and demonstrably outweighs any benefits of the development. For these reasons the proposal would fail to accord with the principles and guidance set out in the NPPF (2012), policies RLP80, RLP90, RLP95 and RLP100 of the Local Plan Review (2005) policies CS5, CS8 and CS9 of the Core Strategy (2011) and guidelines set out within the Braintree District Landscape Character Assessment (2006).

- 2 Adopted policies and Supplementary Planning Documents applicable to the proposed development would trigger the requirement for:
- The delivery of affordable housing on site;
 - A financial contribution towards early years and childcare places and primary school places and secondary school transport
 - A financial contribution towards outdoor sport
 - The provision, maintenance and delivery of public open space.
 - The provision, maintenance and delivery of an equipped play area

These requirements would be secured through a S106 Agreement. At the time of issuing this decision a S106 Agreement had not been prepared or completed. In the absence of such a planning obligation, the proposal is contrary to policies CS2, CS10 and CS11 of the adopted Braintree District Core Strategy (2011) and policy RLP138 of the adopted Braintree Local Plan Review (2005) and Open Space Supplementary Planning Document (2009).

SUBMITTED PLANS

Location Plan	Plan Ref: 7172-L-01
Site Plan	Plan Ref: 7172-L-03 B
Access Details	Plan Ref: 1493/08 A

TESSA LAMBERT
DEVELOPMENT MANAGER

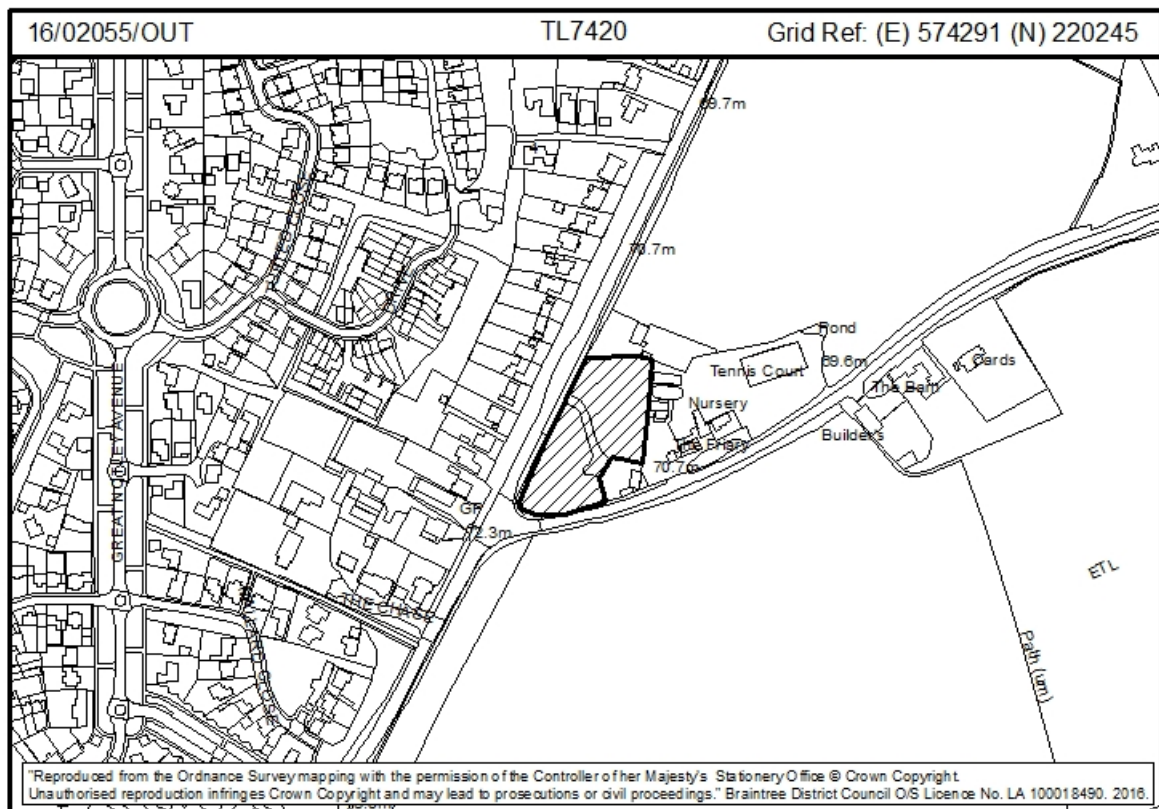
PART A

APPLICATION NO: 16/02055/OUT
 DATE VALID: 02.12.16
 APPLICANT: Mr B Tann
 c/o Agent
 AGENT: Plainview Planning Ltd
 Mr Andrew Ransome, Clarendon House, 42 Clarence House, Cheltenham, GL50 3PL
 DESCRIPTION: Outline planning application for 4 no. dwellings
 LOCATION: Land Adjacent Peacehaven, London Road, Black Notley, Essex

For more information about this Application please contact:

Katie Towner on:- 01376 551414 Ext. 2509

or by e-mail to: katie.towner@braintree.gov.uk



SITE HISTORY

16/00005/REF	Erection of 8 no. market and affordable dwellings	Appeal Dismissed	14.06.16
89/2164/P	Display of pole mounted and gate mounted signs.	Granted	17.01.90
88/1362/P	Residential development (five dwellings).	Refused	12.08.88
90/1431/P	Erection of 2 no. dwellings.	Refused	19.10.90
95/720/P	Display of one double sided sign.	Appeal Dismissed	15.08.95
88/01362/P	Residential Development (Five Dwellings)	Refused	12.08.88
90/01431/PFBS	Erection Of Two No Dwellings	Refused	19.10.90
15/01124/OUT	Erection of 8 no. market and affordable dwellings	Refused then dismissed on appeal	04.11.15

POLICY CONSIDERATIONS

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

The Council is currently working on a Draft Local Plan, which was approved by the Council unanimously for consultation on the 20th June 2016 and was the subject of public consultation between the 27th June and 19th August 2016.

In accordance with paragraph 216 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 Draft Local Plan 2016.

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 216 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 Development Framework Core Strategy

CS5 The Countryside
CS9 Built and Historic Environment

Braintree District Local Plan Review

RLP2 Town Development Boundaries and Village Envelopes
RLP10 Residential Density
RLP56 Vehicle Parking
RLP69 Sustainable Urban Drainage
RLP81 Trees, Woodland Grasslands and Hedgerows
RLP90 Layout and Design of Development

Draft Local Plan

SP1 Presumption in favour of Sustainable Development
LPP17 Strategic Growth Location - Land East of Great Notley, South of Braintree
LPP28 Housing type and density
LPP37 Parking Provision
LPP41 Broadband
LPP42 Built and Historic Environment
LPP46 Layout and Design of Development
LPP50 Alterations, Extensions and Changes of Use to Heritage Assets and their Settings
LPP56 Natural Environment
LPP59 Landscape Characters and Features
LPP65 Surface Water Management Plan
LPP66 Sustainable Urban Drainage Systems

Supplementary Planning Guidance

Essex Design Guide

ECC Parking Standards – Design and Good practice

INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

The application is brought before the Planning Committee in accordance with the Council's scheme of delegation as the Parish Council have objected to the application contrary to the Officer recommendation.

SITE DESCRIPTION

The site extends to approximately 0.4 ha and lies upon the east side of London Road at its junction with Bakers Lane, outside of the Town Development Boundary and thus within the countryside.

The site is roughly rectangular in shape and has a frontage to both London Road and Bakers Lane. The site is generally laid to grass and open in character, albeit it wraps around a building within the applicants ownership which lies just beyond the southeast corner of the red-edged site. This building is accessed from London Road via a driveway which traverses the site. The site is bound by hedging to London Road and Bakers Lane; however there is no planting within the site.

To the north the site abuts the residential property of Peacehaven, 291 London Road. Immediately opposite the site on the western side of London Road is a linear form of residential properties. To the east the site abuts the residential property of The Friary, which is a grade II listed building.

PROPOSAL

This is an outline planning application with all matters reserved for the erection of 4 no. dwellings. All matters have been reserved and therefore this application is simply seeking to establish the principle of residential development on the site.

The application is supported by an indicative layout which shows 4 no. detached dwellings in linear form fronting on to London Road. Each property is shown to be served with a private amenity space and car parking. The site is shown utilise the existing vehicular access off London Road.

CONSULTATIONS

Black Notley Parish Council – Objects for the following reasons:

- The site is within the open countryside
- The area is lacking in essential facilities
- The nearest school is inaccessible except by car

- Health care facilities are inadequate
- Infrastructure is overburdened
- Development should ensure privacy
- A covenant should be imposed to prevent loft extensions

BDC Environmental Health – No objections

ECC Heritage – No objections

BDC Engineers – No objections. Notes that London Road is prone to flooding so a SuDS scheme should be required by condition.

REPRESENTATIONS

Two letters of objection have been received in response to the neighbour consultation, the contents of which are summarised below:

- This site remains within the curtilage of a historic site
- The proposal will hinder the view of the Friary from London Road
- Concerns of loss of privacy
- Development here has previously be refused given the impact it will have upon the area
- Consideration should be given to additional planting/screening
- Concerns with the design
- Lack of car parking provision
- Will not contribute to the need for new homes

REPORT

Principle of Development

The site is located within the countryside for the purposes of planning. Policy RLP2 of the Local Plan Review states that new development will be confined to areas within town development boundaries and village envelopes and outside of these areas countryside policies will apply. Policy CS5 of the Core Strategy states that development within the countryside will be strictly controlled to appropriate uses.

The Council acknowledges that it cannot demonstrate a 5 year supply of housing land, thus in accordance with paragraph 49 of the Framework, therefore in so far as policy RLP2 of the Local Plan Review and Policy CS5 of the Core Strategy seek to restrict new dwellings in the countryside, they would be considered out of date and the proposal would therefore be considered in accordance with the presumption in favour of sustainable development.

The draft Local Plan is in the early stages of development however it has now been subject to one round of public consultation. In accordance with paragraph 216 of the NPPF, from the day of publication the Council can give weight to the emerging Local Plans 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)”.

The site was put forward within the call for sites (ref: BLAN 112) as part of the new Local Plan and was considered by the Local Plan Sub Committee on the 9th May 2016. It was concluded not to allocate the site specifically for residential development as it could contain less than 10 units and thus was below the allocation threshold. The site is however, contained within the revised development boundary.

The site as outlined in red is contained wholly within the countryside as set out on the Local Plan Proposals Map. Within the new Local Plan this site is proposed to be contained within the revised Development Boundary, whereby residential development is acceptable in principle. The site is also shown to be surrounded by the Strategic Growth Location (Pursuant to Draft Local Plan Policy LPP17) which extends from the A120 up to Bakers Lane and then beyond Bakers Lane to the south. Of relevance is the recent grant of planning permission for 96 residential units immediately north of the application site, on the northern side of the neighbouring property at no. 291 London Road. Although a much larger scale of development, consideration and weight in the determination of this application was given to the revised Development Boundary as proposed within the new Local Plan.

The application site has recently been subject to an application for 8 no. residential properties, which was refused and subsequently dismissed at appeal. At this time the Council considered it had a 5 year supply of housing land and thus determined the application against policies RLP2 of the Local Plan Review and CS5 of the Core Strategy. The Inspector considered the proposal in the context of sustainable development and raised no objections on economic or social grounds and concluded the development would secure these roles. It was also noted that the site holds a reasonably sustainable position, adjacent to a bus stop and within reasonable walking distance to local amenities. The Inspector raised no objections to the principle of residential development in this location. The appeal was dismissed on failing to secure environmental sustainability, on the basis that the proposed no. of dwellings could not be accommodated to satisfactorily assimilate in to the locality. The application under consideration seeks to overcome this matter raised by the Inspector and this is considered in detail below.

Design, Appearance and Layout

The matters of layout, scale and appearance of the dwellings are reserved for later approval and are not therefore for consideration at this stage. The layout

provided is indicative only and subject to change at the detailed application stage (Reserved Matters or full application).

In determining the recent appeal the Inspector concluded that the development would not secure the environmental role of sustainable development. Paragraph 7 of the NPPF makes it clear that sustainable development should contribute to the protection and enhancement of the natural, built and historic environment. Paragraph 9 of the NPPF also confirms that pursuing sustainable development involves seeking positive improvements in the quality of the natural, built and historic environment, as well as people's quality of life. The Inspector concluded that the provision of no. 8 dwellings in the layout proposed, would not have any particular visual or physical affinity with the looser-knit pattern of development to be found on the east side of London Road, or along Bakers Lane and thus the indicative layout failed to demonstrate that the proposal could be satisfactorily assimilated into the locality.

In response to this the number of units has been reduced to four and the indicative layout proposes a linear form of development which mimics the predominant character along this part of London Road. The application is also supported by a storey heights plan which indicates plots 1 and 4 as two storey houses to a maximum ridge height of 8m and plots 2 and 3 as 1 ½ storey houses with a maximum ridge height of 7m. The proposed garages would all be single storey no greater than 4m in ridge height. This plan provides some certainty as to how the development would come forward and can be secured by way of condition on any grant of consent.

The site plan provided is of sufficient detail to be satisfied that in principle the number of dwellings proposed can be accommodated on the site in an acceptable manner, in character with the context of the locality. Furthermore plentiful space is available to achieve amenity space and car parking requirements. Detailed design matters will be addressed at Reserved Matters stage.

Impact on the setting of Listed Buildings

The site is bounded to the east by 'The Friary', a Grade II listed building. A Grade II* listed building, 'Cards', is situated further along Bakers Lane, on its south side. The Council, in determining the previous application for 8 units highlighted concern with regards to the impact on the nearby listed buildings and refused the application for this reason.

In determining the appeal the Inspector commented that any linkages between the application site and The Friary had been lost. The Inspector commented that *'the site tends to appear visually and physically separated from the existing grounds of the historic building, not least because of the vegetation and trees on the boundary and the intervening buildings. It is difficult to view or appreciate the 'The Friary' from within the site and thus concluded that it would not intrude upon the setting of the listed building'*.

Given the conclusions of the Inspector, which are a material consideration, it is not considered that a refusal of planning permission can now be justified on the impact on the setting of nearby listed buildings, especially given the reduction in the number of units proposed. Essex County Council does not raise an objection to this application.

Impact on Neighbour Amenity

The NPPF requires a good standard of amenity for all existing and future occupiers of land and buildings. Policy RLP90 states that development shall not cause undue or unacceptable impacts on the amenities of nearby residential properties.

As stated above, the siting and size of the dwellings is only indicative at this stage and detailed elevations are not required to be submitted. Therefore it is not possible to assess the impact on neighbouring amenities at the present time. This will be a matter for consideration at the detailed application stage.

It is considered from the layout provided however, that it would be possible to ensure that the amenities of Peacehaven, The Friary and the commercial business are protected, by way of attention to window placement, internal arrangement and landscaping.

It is not considered that the amenity of the occupiers of the proposed dwellings would be compromised by the existing offices located beyond the south eastern corner of the site as a B1 use is unlikely to generate significant degrees of noise and disturbance.

Highway Issues

Access is a matter which is reserved for later approval and full consideration would be given to this if the proposal were to proceed to a reserved matters application.

The indicative site plan proposes to utilise the existing access on to London Road, which is considered reasonable.

OTHER MATTERS

Ecology

The application is supported by a Phase I Ecology Survey. The site largely comprises short mown, managed semi-improved grassland bounded by hedgerows on the northern, southern and western boundaries. No buildings or trees with roosting potential would be lost to the development proposals.

The site contains hedgerows, and as such, the survey advises that any future development should seek to retain existing hedgerows and improve the quality of hedgerows by undertaking infill planting. The survey reports that the site is considered unlikely to support reptiles given the context of the site as a

managed, maintained location and general lack of suitable habitat therein. In addition, given the lack of a water body on site, and lack of connectivity to a potentially suitable offsite water body, the site is not considered to provide, nor have potential connectivity to a habitat suitable to support great crested newts.

No evidence of badger activity was identified within the proposed development area and the site is not considered to provide habitat for rare/protected invertebrates.

The survey concludes that the site is of low ecological value and no further surveys in respect of any protected species are required.

Contamination

The Council's Environmental Health Team advise that a condition be placed on any grant of consent requiring a preliminary risk assessment in respect of land contamination to be undertaken which will inform the need for any further surveys. This is considered reasonable given the proposed residential use.

Flooding

The site is located within flood zone 1 and thus is unlikely to be subject of flooding. That said London Road is known to flood and therefore in the interests of sustainability and in accordance with policy RLP69 of the Local Plan Review, it is considered reasonable to place a condition on any grant of consent which requires a SuDS scheme to be submitted for agreement by the Local Planning Authority.

CONCLUSION

NPPF paragraph 14 stipulates that at its heart is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. For decision-taking this means approving development proposals that accord with the development plan without delay; but where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicate development should be restricted.

It has been acknowledged that the site is situated outside a defined settlement boundary, and therefore for all intents and purposes rural policies of restraint apply. However, due to the fact that the Council cannot currently demonstrate a five year supply of housing land, those policies are deemed out of date and therefore the balance of considerations outlined above applies. The site has, however, been allocated for residential development within the emerging Draft Local Plan, and this can be afforded some limited weight as a material planning consideration.

The proposed development would provide some economic benefit throughout the construction phase and additional support for local facilities and social benefits in the contribution, albeit marginal, to housing supply. Consideration must also be given to the recent appeal decision at the site whereby the Inspector did not dismiss the appeal on the principle of the development within this countryside location, but only on the proposed indicative layout and the implications this would have on the character of the area. In Officers' opinion this concern has been overcome and there is now no justifiable reason to withholding planning permission.

It is considered that the proposal is an acceptable form of development and 4no. units could be accommodated on site in a manner which will not prejudice the character of London Road and Bakers Lane, or give rise to significant harm to the character and setting of the nearby listed buildings.

RECOMMENDATIONS

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
Storey Height

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

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

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

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

Reason

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

- 2 Construction of any dwelling 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 be implemented in accordance with the approved details.

Reason

To ensure that the development does not prejudice the appearance of the locality. This matter must be dealt with prior to commencement of development as its requirements relate to measures that will need to be in place at the construction stage.

- 3 The landscaping scheme required by Condition 1 of this permission shall incorporate a detailed specification of hard and soft landscaping works. This shall include plant/tree types and sizes, plant numbers and distances, soil specification, seeding and turfing treatment, colour and type of material for all hard surface areas and method of laying, refuse storage, signs and lighting.

All areas of hardstanding shall be constructed using porous materials laid on a permeable base unless otherwise agreed in writing by the local planning authority.

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 unless otherwise previously agreed in writing by the local planning authority.

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

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

Reason

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

- 4 Prior to first occupation of any of the dwellings hereby approved details of all gates/fences/walls or other means of enclosure shall be submitted to and approved in writing by the local planning authority. The details shall include position, design, height and materials of the screen walls/fences. The gates/fences/walls as approved shall be provided prior to the occupation of any dwelling hereby approved and shall be permanently maintained as such.

Reason

In order to secure the satisfactory development of the site and in the

interests of visual amenity.

- 5 Any Reserved Matters application relating to scale or appearance shall be in strict accordance with the storey heights as shown on the Storey Heights plan submitted as part of this application.

Reason

In order to ensure storey heights of the buildings in the interests of the appearance of the street and residential amenity.

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

Reason

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

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

Reason

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

- 8 Prior to the commencement of development a comprehensive survey shall be undertaken to assess the nature and extent of any contamination on the site, a copy of the survey findings together with a remediation scheme to bring the site to a suitable condition in that it represents an acceptable risk shall be submitted to and agreed in writing with the Local Planning Authority prior to the commencement of development. Formulation and implementation of the remediation scheme shall be undertaken by competent persons and in accordance with 'Model Procedures for the Management of Land Contamination, CLR 11'. Further advice is available in the 'Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers'. Such agreed measures shall be implemented and completed prior to the commencement of development hereby approved.

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

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

works. Within four weeks of completion of the remediation works a validation report undertaken by competent person or persons and in accordance with the 'Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers' and the agreed remediation measures shall be submitted to the Local Planning Authority for approval. There shall be no residential occupation of the site (or beneficial occupation of the office building hereby permitted) until the Local Planning Authority has approved the validation report in writing. Furthermore, prior to occupation of any property hereby permitted, the developer shall submit to the Local Planning Authority a signed and dated certificate to confirm that the remediation works have been completed in strict accordance with the documents and plans comprising the remediation scheme agreed in writing with the Local Planning Authority.

Reason

To ensure that any potential contamination and any risks arising are properly assessed and that the development incorporates any necessary remediation and subsequent management measures to satisfactorily deal with contamination. This matter must be dealt with prior to commencement of development as its requirements relate to measures that will need to have taken place prior to the construction stage.

- 9 Prior to commencement of the development a surface water drainage strategy, based on the principles of Sustainable Urban Drainage Systems (SUDS) shall be submitted to and agreed in writing by the Local Planning Authority. The strategy as approved in writing by the Local Planning Authority shall be carried out in its entirety prior to the first occupation of any of the dwellings and thereafter retained and maintained in the approved form.

Reason

To ensure the satisfactory drainage of surface water in the interests of sustainability. This matter must be dealt with prior to commencement of development as it will include works that need to be undertaken prior and during construction.

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

Monday to Friday 0800 hours - 1800 hours
Saturday 0800 hours - 1300 hours
Sundays, Public and Bank Holidays - no work

Reason

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

INFORMATION TO APPLICANT

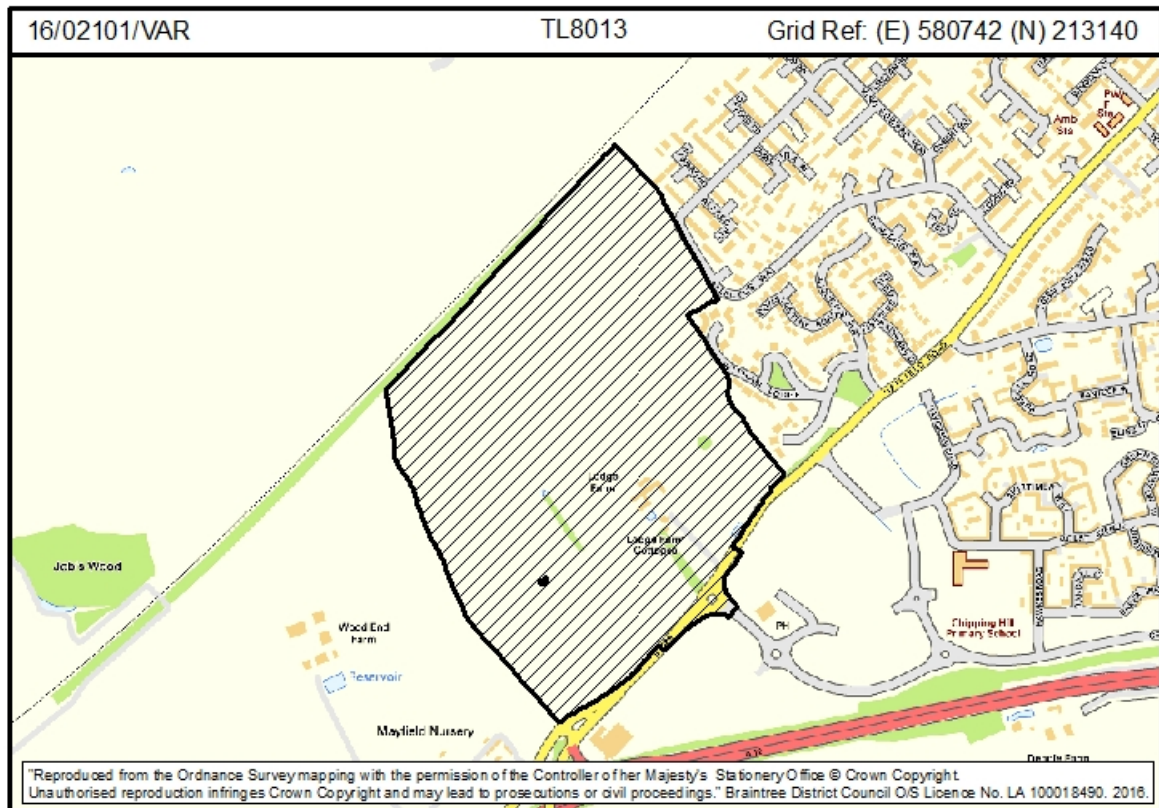
- 1 Please note that in accordance with Government Legislation a formal application must be made to the Local Planning Authority when submitting details in connection with the approval of details reserved by a condition. Furthermore, a fee of £28 for householder applications and £97 for all other types of application will be required for each written request. Application forms can be downloaded from the Council's web site www.braintree.gov.uk
- 2 Your attention is drawn to the need to discharge conditions before development starts where it is a requirement of the condition/s. Development will be treated as having been commenced when any material change of use or material operation has taken place, pursuant to Section 56 of the Town and Country Planning Act 1990. A material operation means any work of construction in the course of the erection of a building, including: the digging of a trench which is to contain the foundations, or part of the foundations of a building; the laying of any underground main or pipe to a trench, the foundations, or part of the foundations of a building; any operation in the course of laying out or constructing a road or any part of a road; and any work of demolition of a building. If development begins before the discharge of such conditions then those conditions cannot be discharged and a breach of planning control will have occurred, which may result in enforcement action being taken.
- 3 Please note that the Council will contact you at least annually to gain information on projected build out rates for this development. Your co-operation with this request for information is vital in ensuring that the Council maintains an up to date record in relation to Housing Land Supply.
- 4 This development will result in the need for a new postal address. Applicants should apply to the Street Naming & Numbering Officer using the application form which can be found at www.braintree.gov.uk/streetnaming. Enquiries can also be made by emailing streetnaming@braintree.gov.uk.

TESSA LAMBERT
DEVELOPMENT MANAGER

PART A

APPLICATION NO: 16/02101/VAR DATE: 08.12.16
 VALID:
 APPLICANT: Redrow Homes Ltd
 2 Sylvan Way, Laindon, Basildon, Essex
 AGENT: Mr David Fletcher
 Strutt & Parker, Coval Hall, Rainsford Road, Chelmsford,
 CM1 2QF
 DESCRIPTION: Application to vary condition no. 26 of planning approval
 15/00430/OUT - to vary the condition so that the site wide
 design guide will be submitted to and approved by the
 Council prior to the submission of the first reserved matters
 application for the 92nd dwelling on the site.
 LOCATION: Land Adjacent To Lodge Farm, Hatfield Road, Witham,
 Essex

For more information about this Application please contact:
 Mr Neil Jones on:- 01376 551414 Ext. 2523
 or by e-mail to: neil.jones@braintree.gov.uk



SITE HISTORY

14/00016/SCO	Town & Country Planning Act 1990 (as amended), Town & Country Planning (Environmental Impact Assessment) Regulations 2011 - Scoping Opinion Request - Outline planning application for the erection of up to 850 dwellings, primary school, local centre and associated infrastructure	Screening/ Scoping Opinion Adopted	15.10.14
15/00430/OUT	Outline application with all matters reserved other than strategic access point onto Hatfield Road, for the erection of up to 750 dwellings, Primary School and early years centre, enterprise centre (A1/A2/B1/D1/D2 uses) and retention of existing barn buildings for mixed use purposes (A1/A2/A3/B1/D1/D2 uses), with associated infrastructure and landscaping.	Granted with S106 Agreement	27.05.16
16/01281/ADV	Application of consent to display two free-standing v-shaped stack boards with flags fixed to the top	Granted	12.09.16
16/01320/DAC	Application for approval of details reserved by condition nos. 20, 21 and 22 of approved application 15/00430/OUT	Part Grant, Part Refused	17.10.16
16/01538/FUL	Infrastructure application for the provision of primary road network for Phase 1 with associated footpaths, cycleways, necessary drainage infrastructure including a foul water pumping station, and other minor access roads where appropriate.	Pending Consideration	

16/01563/PDEM	Application for prior notification for proposed demolition of cottages and outbuildings	Permission not Required	10.10.16
16/01681/REM	Approval of site, appearance, landscaping, layout and scale reserved matters for Phase 1A to provide 91 dwellings with associated landscaping, public open space, access and parking. Please refer to accompanying cover letter and Design, Access and Landscaping Statement. An Environmental Impact Assessment was submitted alongside the outline planning application.	Pending Consideration	
16/01682/DAC	Application for approval of details reserved by condition nos. 5, 9, 19, 24 and 26 of approved application 15/00430/OUT	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 20th June 2016 and was the subject of public consultation between the 27th June and 19th August 2016.

In accordance with paragraph 216 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 Draft Local Plan 2016.

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 216 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 Development Framework Core Strategy

CS1	Housing Provision and Delivery
CS2	Affordable Housing
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 Local Plan Review

RLP2	Town Development Boundaries and Village Envelopes
RLP3	Development within Town Development Boundaries and Village Envelopes
RLP4	Prevention of Town Cramming
RLP7	Housing and Mixed Use Sites
RLP8	House Types
RLP9	Design and Layout of Housing and Mixed Use Areas
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
RLP36	Industrial and Environmental Standards

RLP38	Conversion of Rural Buildings
RLP49	Pedestrian Networks
RLP50	Cycleways
RLP51	Cycle Parking
RLP52	Public Transport
RLP53	Generators of Travel Demand
RLP54	Transport Assessments
RLP56	Vehicle Parking
RLP65	External Lighting
RLP69	Sustainable Urban Drainage
RLP70	Water Efficiency
RLP71	Water Supply, Sewerage & Drainage
RLP72	Water Quality
RLP74	Provision of Space for Recycling
RLP77	Energy Efficiency
RLP80	Landscape Features and Habitats
RLP81	Trees, Woodland Grasslands and Hedgerows
RLP90	Layout and Design of Development
RLP91	Site Appraisal
RLP92	Accessibility
RLP93	Public Realm
RLP105	Archaeological Evaluation
RLP106	Archaeological Excavation and Monitoring
RLP138	Provision of Open Space in New Housing Developments
RLP164	Environmental Impact Assessment

Braintree District Draft Local Plan

SP1	Presumption in Favour of Sustainable Development
SP2	Meeting Housing Needs
SP3	Providing for Employment
SP4	Infrastructure and Connectivity
SP5	Place Shaping Principles
SP6	Spatial Strategy for North Essex
LPP16	Housing Provision and Delivery
LPP24	Affordable Housing
LPP28	Housing Type and Density
LPP36	Sustainable Access for All
LPP37	Parking Provision
LPP41	Broadband
LPP42	Built and Historic Environment
LPP44	Provision for Open Space, Sport and Recreation
LPP46	Layout and Design of Development
LPP47	Preservation and Enhancement of Conservation Areas, and Demolition within Conservation Areas
LPP56	Natural Environment
LPP57	Protected Species
LPP58	Enhancements, Management and Monitoring of Biodiversity
LPP59	Landscape Character and Features

LPP61	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP62	Energy Efficiency
LPP63	Renewable Energy Schemes
LPP64	Renewable Energy Within New Developments
LPP65	Surface Water Management Plan
LPP66	Sustainable Urban Drainage Systems
LPP67	Run-off Rates
LPP68	External Lighting

INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is brought before the Planning Committee as the Town Council has raised an objection, contrary to Officers' recommendation.

SITE DESCRIPTION

The following description of the site was contained within the Officer report to the Planning Committee in September 2015.

'The application site comprises 36 hectares of predominantly arable farmland, known as Lodge Farm. It is situated on the south western edge of Witham, to the north of Hatfield Road (B1389) and opposite the Gershwin Boulevard/Maltings Lane development. Other site boundaries are demarcated by the mainline railway to the north east, residential estates of Allectus Way and Witham Lodge to the north east, and Wood End Farm and Mayfield Nursery to the south west.

The existing access into the site is an unmade farm track which leads to a pair of semi-detached cottages (Lodge Farm Cottages) and a range of redundant farm buildings and yard which stem from the Victorian period and later. There are quite a number of natural features within the site, including veteran trees, hedgerows, ditches and a pond, some of which date from a time when the eastern section of the land formed part of the parkland and gardens to the former Witham Lodge.

Whilst the vast majority of the site falls within the ward of Witham South, some of the site falls within the Parish of Hatfield Peverel'.

Since the original report Lodge Farm Cottages have been demolished and a scheme of investigative works undertaken to assess the archaeological potential of part of the site. This work has left a number of mounds where excavations were undertaken at the south eastern end of the site, near Hatfield Road.

PROPOSAL

This application seeks to vary Condition 26 of the Outline Planning Permission 15/004030/OUT. The original wording of Condition 26 is set out below;

26. *A site-wide design guide for all areas of public realm and character areas, including the incorporation of public art, shall be created across the whole site and be submitted to and approved in writing by the local planning authority prior to the approval of any reserved matters. All reserved matters submissions shall accord with the approved site wide guidance, unless otherwise agreed in writing by the local planning authority. The agreed strategy shall be implemented within 12 months of occupation of the dwellings in each respective phase to which it relates.*

Reason

In the interests of good design and ensuring a high quality and characterful development.

The applicant proposes that the condition be varied so that instead of the Guide having to be approved **prior to approval of the first Reserved Matters application** the timing of the requirement is changed so that the Guide must be submitted to and approved in writing by the local planning authority **prior to the submission of the reserved matters application for the 92nd dwelling.**

CONSULTATIONS

Witham Town Council – Object to the application as *‘it would be detrimental to a satisfactory development if the design guidance was delayed and a lack of strategy to be implemented. The proposals to develop properties without an agreed design guidance would provide no consumerate benefit to the public of Witham’.*

REPRESENTATIONS

One comment – Witham & Countryside Society – asks that consideration is given to the Society’s proposals for a footpath / cyclepath alongside the railway line to connect to Hatfield Peverel. They also ask that future residents of the development get free bus passes to promote public transport use and this requirement should be included within the Design Guide for the site.

REPORT

Principle of Development

The site was identified in the adopted Core Strategy (2011) as a residential growth location within Policy CS1 (Housing Provision and Delivery). The Core Strategy remains part of the Council’s adopted Development Plan. Since 2011

the Council has worked on the Site Allocations and Development Management Plan (ADMP) and more recently the new Local Plan. Neither of these documents sought to remove this allocation.

Members will be aware that on 27th May 2016 the Council formally granted Outline permission for the erection of up to 750 dwellings, Primary School and early years centre, enterprise centre (A1/A2/B1/D1/D2 uses) and retention of existing barn buildings for mixed use purposes (A1/A2/A3/B1/D1/D2 uses), with associated infrastructure and landscaping. These factors all firmly establish the principle of residential development of the site.

Design, Appearance and Layout

The Council has granted outline permissions for a development of up to 750 dwellings, a primary school and mixed use of existing buildings at the above site in 2016. This permission is subject to a large number of planning conditions, one of which requires the submission and approval of a site wide design guide for all areas of public realm and character areas prior to the approval of any reserved matters application

The planning permission that was granted was in Outline form, with only the means of strategic access to the site covered in detail. This means that the applicant will need to submit and obtain approval for the detail of the development through Reserved Matters applications.

This could either be for a single application for the whole site, or separate applications which deal with separate phases / areas of the site. If the applicant proceeds to make application for separate phases then before any dwelling can be built it will need approval through a Reserved Matters application.

The Reserved Matters applications will need to cover all of the outstanding details of the outline application proposal. In this case the Reserved Matters are:

- **appearance** - aspects of a building or place which affect the way it looks, including the exterior of the development
- **means of access** - covers accessibility for all routes to and within the site, as well as the way they link up to other roads and pathways outside the site
- **landscaping** - the improvement or protection of the amenities of the site and the area and the surrounding area, this could include planting trees or hedges as a screen
- **layout** - includes buildings, routes and open spaces within the development and the way they are laid out in relations to buildings and spaces outside the development
- **scale** - includes information on the size of the development, including the height, width and length of each proposed building

The size of the site and the scale of the proposed development mean that the site will be built out over a significant number of years and it is likely that the applicant will choose to bring the development forward through a number of separate phases, with each phase being subject to separate Reserved Matters applications.

The applicant acknowledged the importance of good design in the Design and Access Statement that accompanied the Outline application. It refers to the core guiding principle of the development being '*the delivery of a high quality and locally distinct new quarter*'.

However this is a large development, currently being proposed by a single developer and Officers considered that there was a risk that if left unchecked this could become a housing development that lacked variety, being restricted only to a limited range of just one developer's standard house types. Whilst the Design and Access Statement and accompanying Parameter Plans started to set out how this vision might be achieved Officers considered that a far greater level of design detail was required to provide clarity and assurance that the development would come forward in an acceptable form. This is what led to the imposition of Condition 26 on the Outline permission.

Paragraph 56 of the NPPF states that good design is a key aspect of sustainable development; is indivisible from good planning, and should contribute positively to making places better for people. Paragraph 58 states that developments should aim to '*establish a strong sense of place, using streetscapes and buildings to create attractive comfortable places to live, work and visit; and respond to local character and history and reflect the identity of local surroundings and materials*'.

Policy CS9 of the Core Strategy states that '*the Council will promote and secure the highest possible standards of design and layout in all new development and the protection and enhancement of the historic environment*'. This is supported by Policy RLP90 of the Local Plan Review and these sentiments are also reflected with DLP Policies SP5, LPP28, LPP42 and LPP46 which are concerned with place shaping principles, housing type and density, the built and historic environment and the layout and design of development respectively.

An application to discharge Condition 26 was submitted in October 2016 (16/01682/DAC). Officers assessed the Site Wide Design Guide that was submitted and consulted with the Highway Authority; the Council's Landscape Officer and Urban Design consultant. The application to discharge condition 26 was refused as Officers were not satisfied that the document achieved the objective of establishing a clear vision of how the site will be developed, with an appropriate level of detail to establish how this should be achieved.

The Council is currently considering a reserved matters application for the first phase of the development (which relates to the first 91 dwellings and is the subject of a current application ref 16/01681/REM). This application has not yet been determined, but whatever the outcome, the developers will still

require detailed approval (i.e. through a reserved matters application) for any single dwelling that they propose to build at the site and will need to have met the requirements of all applicable pre-commencement conditions before they start building any dwellings at the site.

The applicant still accepts the need for a Site Wide Design Guide and has made a commitment to work with Officers to produce an acceptable document. To allow time for this work to be undertaken and to avoid delaying the determination of the first Reserved Matters application the applicant has proposed that the condition be varied so that the requirement to provide the Site Wide Design Guide is moved so that it has to be submitted to and approved by the Council prior to the submission of the reserved matters application for the 92nd dwelling – i.e. the second phase of the development.

The applicant has referred to the fact that the proposed variation to the condition could allow the first phase of development to come forward without being delayed whilst the Site Wide Design Guide is revised and approved. The delivery of housing on this site is important as part of the Council's efforts to ensure that a 5-year supply of housing land is available to meet the District's Objectively Assessed Housing Need. This is potentially an important benefit, but it is not so important that it should be at the expense of good design.

Officers are however satisfied that in this instance the first phase of development can be assessed on its own merits whilst the Design Guide for the whole of the site is completed. The first phase of the development has been the subject of extensive pre-application discussion which has already established a vision for this part of the site. Nevertheless, whatever the outcome of the Reserved Matters application, the Site Wide Design Guide will need to show how any scheme that approved for Phase 1 will 'Fit' within the site as a whole in terms of key elements of its overall design.

It is noted that the Town Council have objected to this application to vary Condition 26. They consider it would be detrimental to a satisfactory development of the site if the design guidance was delayed and a strategy was not put in place. They go on to state that there would be no benefit to the town's population from the proposed variation.

Officers do not accept that the failure to agree the Site Wide Design Guide prior to the approval of the first Reserved Matters application would automatically result in an unacceptable form of development. As stated above the developer is still required to make applications for approval of the Reserved Matters and this means that Officers would have effective controls over the development.

The Town Council and other interested parties have had the opportunity to comment on the first Reserved Matters application (and will be consulted on any subsequent Reserved Matters applications). If they have any specific concerns regarding the Reserved Matters application they can highlight these.

It is noted that the Town Council raised no objection to the current Reserved Matters application.

PROCEDURE

This application is made under Section 73 of the Town and Country Planning Act 1990 and requests permission to develop the land without compliance with conditions previously attached to a planning permission – in this case by amending an existing condition.

It is important to note, however, that the effect of such an application is not merely an amendment to the existing permission. If such an application is granted, the effect is to grant a new permission. The applicant, therefore, could have two or more permissions and they can choose which one to implement. This is because an application under Section 73 does not change the existing permission.

If the Council make a decision to grant permission, it is necessary to re-state all the other conditions under the previous permission that are not being altered under the s73 application. This is because the new permission stands alone. It is also necessary for a Deed of Variation to the S106 agreement so the obligations secured through that agreement remain obligations if this new permission is implemented.

CONCLUSION

Officers are satisfied that the proposed change to Condition 26 is acceptable and will allow the original objective of the condition to be achieved, whilst also allowing the Council to determine the Phase 1 Reserved Matters application on its own merits.

By requiring approval of the Site Wide Design Guide before the first Reserved Matters application for Phase 2, subsequent phases of the development will need to comply with the Guide, which will need to set out how any scheme approved for Phase 1 of the development will relate to the remainder of the site.

In the event that the applicant was to dispose of the whole, or part of the site, the Reserved Matters applications would also need to comply with the relevant parts of the Guide.

It is recommended that the application is approved, subject to the Deed of Variation to the S106 agreement, and the wording for condition 26 varied so that it reads:

A site-wide design guide for all areas of public realm and character areas, including the incorporation of public art, shall be created across the whole site and be submitted to and approved in writing by the local planning authority prior to the submission of the reserved matters application for the 92nd dwelling . All reserved matters submissions thereafter shall accord with the

approved site wide design guidance, unless otherwise agreed in writing by the Local Planning Authority.

RECOMMENDATION

It is RECOMMENDED that, subject to completion of a Deed of Variation to the legal agreement pursuant to S106 of the Town and Country Planning Act 1990 (as amended) securing the obligations agreed as part of planning permission 15/00430/OUT that the Development Manager be authorised to GRANT planning permission under delegated powers subject to the conditions set out below. Alternatively, in the event that a suitable Deed of Variation is not agreed, within 3 months of the date of this resolution, the Development Manager be authorised to REFUSE the grant of planning permission.

APPROVED PLANS

Location Plan	Plan Ref: 13 904-SK02	Version: B
Parameter Drawing	Plan Ref: 13 904-SK12.2	Version: I
Parameter Drawing	Plan Ref: 13 904-SK12.4	Version: I
Site Masterplan	Plan Ref: 13 904-SK03	Version: L
Parameter Drawing	Plan Ref: 13 904-SK12.1	Version: D
Parameter Drawing	Plan Ref: 13 904-SK12.3	Version: E
Parameter Drawing	Plan Ref: 13 904-SK12.5	Version: D
Tree Plan	Plan Ref: 140712-P-10-01	Version: A
Tree Plan	Plan Ref: 140712-P010-02	Version: A
Tree Plan	Plan Ref: 140712-P-11-01	Version: D
Tree Plan	Plan Ref: 140712-P-11-02	Version: D
Tree Plan	Plan Ref: 140712-P-12-01	Version: B
Tree Plan	Plan Ref: 140712-P-12-02	Version: B
Tree Plan	Plan Ref: TREE WORK SCHEDULE 140712-PD-12A	
Access Details	Plan Ref: RH.LODGEFARM.(ACCESS01)	
Other	Plan Ref: FLOOD RISK ASSESSMENT	

- 1 With the exception of the strategic access point onto Hatfield Road, details of the access routes within the site, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") for each phase of the development shall be submitted to and approved in writing by the local planning authority before any development is commenced within that phase. The development shall be carried out as approved.

Reason

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

- 2 Application for approval of the reserved matters for the first phase of the development shall be made to the local planning authority on, or before 27th May 2019.

Applications for approval of all remaining reserved matters shall be made to the local planning authority on, or before 27th May 2026.

Reason

In order to comply with Section 92 of the Town and Country Planning Act 1990 as amended and to ensure that the submission of reserved matters takes place within an acceptable timescale.

3 This planning permission shall begin prior to:

- i) 27th May 2021; or
- ii) 2 years from the date of the approval of the final reserved matters to be approved, whichever is the later.

Reason

In order to comply with Section 92 of the Town and Country Planning Act 1990 as amended and to ensure that the submission of Reserved Matters takes place within an acceptable timescale.

4 The submission of reserved matter applications pursuant to this outline planning permission shall together provide for up to 750 dwellings, Primary School and early years centre, enterprise centre (use classes A1/A2/B1/D1/D2 uses) and retention of existing barn buildings for mixed use purposes (A1/A2/A3/B1/D1/D2 uses), with associated infrastructure and landscaping and demonstrate compliance with the approved plans listed above.

Reason

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

5 No development shall take place, 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 Plan shall provide for the following all clear of the highway:

- Safe access to/from the site
- The parking of vehicles of site operatives and visitors
- Loading and unloading of plant and materials
- Storage of plant and materials used in constructing the development
- Wheel and underbody washing facilities
- The safeguarding of the Public Rights of Way during construction
- The erection and maintenance of security hoarding, including decorative displays and facilities for public viewing, where appropriate;
- Measures to control the emission of dust and dirt during construction;
- A scheme for recycling/disposing of waste resulting from demolition and construction works;

- Delivery, demolition and construction working hours.

The approved Construction Management Plan shall be adhered to throughout the construction period for the development.

Reason

In the interests of highway safety, in the interest of protecting the environment and the amenities of local residents.

- 6 No dwelling shall be occupied until the roundabout alterations and associated works as shown in principle on drawing RH. Lodge Farm (Access01) dated January 2015 have been implemented, in accordance with specific details which shall have been previously submitted to and approved in writing by the Local Planning Authority.

Reason

In the interests of highway safety.

- 7 No dwelling shall be occupied until a toucan crossing across Hatfield Road, linking the site with the footpath/cycleway network at the Maltings Lane development opposite has been provided, in accordance with specific details which shall have been previously submitted to and approved in writing by the Local Planning Authority.

Reason

In the interests of fostering sustainable travel patterns and the safety of pedestrians and cyclists.

- 8 No dwelling shall be occupied until a Residential Travel Information Pack for sustainable transport has been produced by the developer, the details of which shall have been previously submitted to and approved in writing by the local planning authority. The pack shall include 12 month travel vouchers for use with the relevant local public transport operator and shall be provided to the first occupiers of each new residential unit on the development site.

Reason

In the interests of fostering sustainable travel patterns.

- 9 Prior to the submission of any reserved matters application pursuant to this outline planning permission, a written scheme of archaeological investigation, which shall include the setting out of a programme of archaeological trial trenching for the whole site, shall be submitted to and approved in writing by the planning authority.

Reason

The site may be of archaeological interest.

- 10 Each Reserved Matters application that seeks approval of appearance, layout or scale of the building(s) as detailed within Condition 1 for a

relevant phase of the development, shall be accompanied by a report on the archaeological trial trenching that has been undertaken in accordance with the approved written scheme of archaeological investigation. The report shall include a mitigation strategy detailing an excavation/preservation strategy to guide the development of the proposed phase.

Furthermore, no development or preliminary groundworks shall commence on areas containing archaeological deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, and which has been signed off in writing by the local planning authority.

A post-excavation assessment shall be submitted within six months of the completion of fieldwork, unless otherwise agreed in advance with the local planning authority. This shall include a 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 archaeological remains.

- 11 Works to convert the barn buildings shall not be commenced until proposed floor plan and elevational drawings, at a scale no greater than 1:50, showing a scheme of their repair and reuse, including details of any new external finishing materials have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the agreed details.

Reason

To ensure the sensitive conservation of the non-designated heritage assets, which add value to the character of the development.

- 12 No works shall take place to the barn buildings or their curtilage, including any demolition, until a detailed contaminated land remediation scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including a verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the barn buildings are occupied.

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.

- 13 Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority.

These approved schemes shall be carried out before the development or relevant phase of development is resumed or continued.

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.

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

Reason

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

- 15 Each Reserved Matters application that seeks approval of appearance, layout or scale of the building(s) as detailed within Condition 1 for a relevant phase of the development, shall be accompanied by a Lighting Scheme. The details of the lighting scheme 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 prior to the occupation of the phase of the development to which the Reserved Matters application relates. There shall be no other sources of external illumination unless otherwise agreed in writing by the local planning authority.

Reason

In the interest of promoting sustainable forms of development and minimising the environmental and amenity impact.

- 16 Each Reserved Matters application that seeks approval of appearance, layout or scale of the building(s) as detailed within Condition 1 for a relevant phase of the development, shall be accompanied by full details of the location and design of the refuse bins and recycling materials separation, storage areas and collection points. Where the refuse collection vehicle is required to go onto any road, that road shall be constructed to take a load of 26 tonnes. The refuse storage and collection facilities and vehicular access where required shall be provided prior to the first occupation of the units within the phase of the development that the Reserved Matters application relates and shall be retained in the approved form thereafter.

Reason

To meet the District Council's requirements for recycling, to prevent the unsightly storage of refuse containers and in the interests of amenity and sustainability.

- 17 The landscaping scheme required by Condition 1 of this permission shall incorporate a detailed specification of hard and soft landscaping works. This shall include plant/tree types and sizes, plant numbers and distances, soil specification, seeding and turfing treatment including areas of wildflower grassland, colour and type of material for all hard surface areas and method of laying, refuse storage and signage.

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 unless otherwise previously agreed in writing by the local planning authority.

All areas of hardstanding shall be constructed using porous materials laid on a permeable base unless otherwise agreed in writing by the local planning authority. All hard surface areas agreed as part of the scheme shall be carried out before the first occupation of the buildings or upon the completion of the development whichever is the earlier.

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

Reason

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

- 18 The development shall be carried out in accordance with the Tree Survey, Proposed Layout _ Tree Removals, and Indicative Tree Protection plans; and Tree Works Schedule within Appendix I to the submitted Environmental Statement, unless otherwise agreed in writing by the local

planning authority.

Reason

To ensure the protection and retention of existing/remaining trees, shrubs and hedges.

- 19 Development shall not be commenced until details of a Construction Environmental Management Plan (CEMP) to specify measures to manage the effects of site clearance and construction operations on the environment, in addition to how the land will be managed in the future, and including a maintenance schedule and measures for biodiversity has been submitted to and approved in writing to the local planning authority. All works shall be carried out in accordance with the approved scheme and shall be so maintained at all times thereafter to the satisfaction of the local planning authority.

Reason

In the interests of protecting and enhancing biodiversity.

- 20 No development shall commence until a Landscape and Ecology Management Plan (LEMP), to specify long term habitat management prescriptions, and based upon the approved detailed landscape scheme, has been submitted to and approved in writing by the local planning authority. The LEMP shall include for the provision of nest/roost sites for bats and birds. The development shall be implemented in accordance with the approved details prior to the first occupation of the dwellinghouses and thereafter so maintained.

Reason

In the interests of protecting and enhancing biodiversity.

- 21 Each Reserved Matters application that seeks approval of appearance, layout or scale of the building(s) as detailed within Condition 1 for a relevant phase of the development, shall be accompanied by a Bat Mitigation Strategy to detail appropriate mitigation measures to be implemented as part of the phase of development that impacts upon trees and the farm buildings that support bat roosts. The mitigation measures shall be provided prior to the commencement of the phase of the development that the Reserved Matters application relates and shall be retained in the approved form thereafter.

Reason

In the interests of protecting bats on the site.

- 22 Each Reserved Matters application that seeks approval of appearance, layout or scale of the building(s) as detailed within Condition 1 for a relevant phase of the development, shall be accompanied by a Reptile Mitigation Strategy to detail mitigation measures for reptiles for all development phases that impact reptile habitat, as identified in Appendix H to the Environmental Statement. The mitigation measures shall be

provided prior to the commencement of the phase of the development that the Reserved Matters application relates and shall be retained in the approved form thereafter.

Reason

In the interests of protecting reptiles on the site.

- 23 The development permitted by this planning permission shall be carried out in accordance with the Flood Risk Assessment dated February 2015 produced by Mayer Brown and their letters dated 6th July and 16th July 2015 to Essex County Council Flood and Water Management. Runoff rates shall be restricted to no more than equivalent rates and 50% betterment over 1 in 100 year rates. The mitigation measures shall be fully implemented prior to first occupation of the phase of development that the reserved matter relates.

Reason

To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

- 24 The development hereby permitted shall not be commenced until such time as a scheme to minimise the risk of off-site flooding caused by surface water run-off and groundwater during construction works has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.

Reason

The National Planning Policy Framework paragraph 103 states that local planning authorities should ensure flood risk is not increased elsewhere by development. Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoil during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate against increased flood risk to the surrounding area during construction therefore, there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

- 25 Prior to first occupation of any dwellings on the phase of development that the reserved matter relates, a Maintenance Plan detailing who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies thereof required, including methods of reporting and logging such activities shall be submitted to and approved in writing by the local planning authority.
Development shall be carried out in accordance with the agreed details.

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 for the lifetime of the development.

- 26 A site-wide design guide for all areas of public realm and character areas, including the incorporation of public art, shall be created across the whole site and be submitted to and approved in writing by the local planning authority prior to the submission of the reserved matters application for the 92nd dwelling . All reserved matters submissions thereafter shall accord with the approved site wide design guidance, unless otherwise agreed in writing by the Local Planning Authority.

Reason

In the interests of good design and ensuring a high quality and characterful development.

- 27 Prior to the first occupation of dwellings a scheme to deal with the disposal of foul sewage, including phasing, shall have been submitted to and approved in writing by the local planning authority. No dwellings or buildings within each phase of the development shall be occupied until the works relating to that phase of the development have been carried out in accordance with the approved scheme.

Reason

To ensure a satisfactory method of foul drainage.

INFORMATION TO APPLICANT

- 1 All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works. An application for the necessary works should be made to development.management@essexhighways.org or SMO1 - Essex Highways, Colchester Highways Depot, 653, The Crescent, Colchester Business Park, Colchester, CO4 9YQ.
- 2 The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.
- 3 For the avoidance of doubt although there have been some pre application discussions regarding the internal road layout no conclusions have yet been reached by the County Council who will have specific requirements of road layout in the vicinity of the school and where roads are to be used by buses in particular.
- 4 With regard to those matters for which the submission of further details/particulars are required, you are invited to consult with the local planning authority prior to formal submission.

- 5 Please note that in accordance with Government Legislation a formal application must be made to the Local Planning Authority when submitting details in connection with the approval of details reserved by a condition. Furthermore, a fee of £28 for householder applications and £97 for all other types of application will be required for each written request. Application forms can be downloaded from the Council's web site www.braintree.gov.uk
- 6 Your attention is drawn to the need to discharge conditions before development starts where it is a requirement of the condition/s. Development will be treated as having been commenced when any material change of use or material operation has taken place, pursuant to Section 56 of the Town and Country Planning Act 1990. A material operation means any work of construction in the course of the erection of a building, including: the digging of a trench which is to contain the foundations, or part of the foundations of a building; the laying of any underground main or pipe to a trench, the foundations, or part of the foundations of a building; any operation in the course of laying out or constructing a road or any part of a road; and any work of demolition of a building. If development begins before the discharge of such conditions then those conditions cannot be discharged and a breach of planning control will have occurred, which may result in enforcement action being taken.
- 7 Your attention is drawn to condition 10 and 11 of this planning permission and that there may be archaeological remains on the site. Any financial implications resulting from the need for archaeological investigation and subsequent protection measures are the responsibility of the developer/applicant. In respect of these requirements, you are advised to contact the Essex County Council Historic Environment Team (Teresa O'Connor, 01245 437638).
- 8 You are advised that the granting of planning permission does not absolve you from complying with the relevant law regarding protected species, including obtaining and complying with the terms and conditions of any licenses required by Part IV B of the Circular 06/2005 (Biodiversity and Geological Conservation - Statutory Obligations)
- 9 All construction or demolition works should be carried out in accordance with the "Control of Pollution and Noise From Demolition and Construction Sites Code of Practice 2012." A copy can be viewed on the Council's web site www.braintree.gov.uk, at Planning Reception, or can be emailed. Please phone 01376 552525 for assistance.

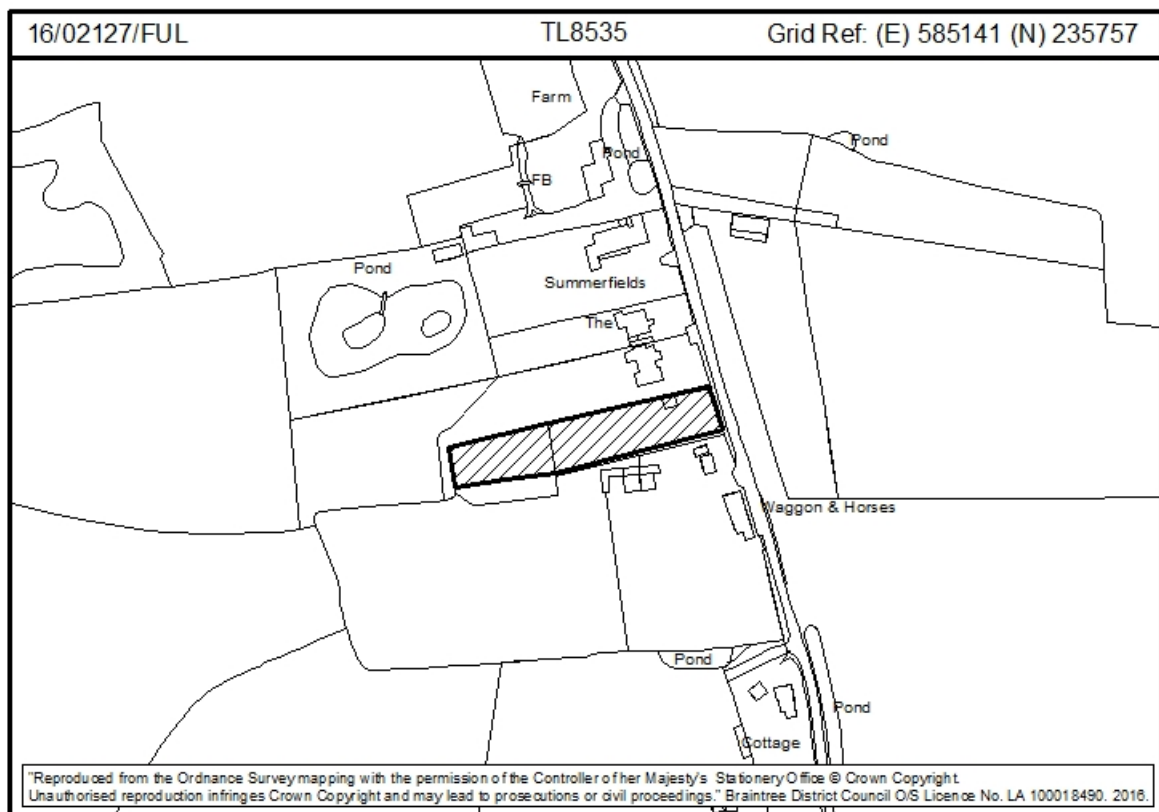
- 10 The Local Planning Authority has produced a statement regarding compliance with Regulation 24(1) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. A copy of this statement is available to view on the Council's website www.braintree.gov.uk or by inspecting the file at Causeway House, Bocking End, Braintree, Essex CM7 9HB, quoting reference 15/00430/OUT.

TESSA LAMBERT
DEVELOPMENT MANAGER

PART A

APPLICATION NO: 16/02127/FUL DATE: 20.12.16
 VALID:
 APPLICANT: Mr Philip Chance
 c/o Agent,
 AGENT: Mr Chris Loon
 Springfields Planning And Development, 15 Springfields,
 Great Dunmow, CM6 1BP, United Kingdom
 DESCRIPTION: Erection of 4 bedroom detached dwelling complete with cart
 lodge and related infrastructure, including altered vehicular
 access
 LOCATION: Land Between 'The Wagon And Horses' and 'Hollies',
 Pebmarsh Road, Twinstead, Essex

For more information about this Application please contact:
 Nina Pegler on:- 01376 551414 Ext. 2513
 or by e-mail to: nina.pegler@braintree.gov.uk



SITE HISTORY

08/02145/FUL	Erection of new dwelling and garage	Refused	09.01.09
10/00365/FUL	Erection of new dwelling and garage	Refused	11.05.10

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 20th June 2016 and was the subject of public consultation between the 27th June and 19th August 2016.

In accordance with paragraph 216 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 Draft Local Plan 2016.

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 216 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 Development Framework Core Strategy

CS1	Housing Provision and Delivery
CS5	The Countryside
CS7	Promoting Accessibility for All
CS8	Natural Environment and Biodiversity
CS9	Built and Historic Environment

Braintree District Local Plan Review

RLP2	Town Development Boundaries and Village Envelopes
RLP10	Residential Density
RLP16	Hamlets and Small Groups of Dwellings
RLP56	Vehicle Parking
RLP74	Provision of Space for Recycling
RLP80	Landscape Features and Habitats
RLP90	Layout and Design of Development

Draft Local Plan

SP1	Presumption in Favour of Sustainable Development
LPP28	House Type and Density
LPP33	Infill Developments in Hamlets
LPP36	Sustainable Access for All
LPP37	Parking Provision
LPP42	Built and Historic Environment
LPP46	Layout and Design of Development
LPP59	Landscape Character and Features

INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is being presented to Committee as the Parish Council has supported the application, contrary to Officer's recommendation.

SITE DESCRIPTION

The site is located to the south west of Twinstead and to the south of Twinstead Green. Twinstead does not have a settlement boundary and therefore for the purposes of planning the site is located in the countryside. The site is located between two existing dwellings which form a linear development of six detached properties. The existing properties vary in size, style and orientation. They occupy one side of the road only and face open countryside.

The site is predominately laid to grass, with mature trees to the rear of the site.

With the exception of the dwelling named 'The Waggon and Horses' to the immediate south, the dwellings are set back from the road by between 10 and 15 metres with generally low level soft landscaping to the front which creates a sense of openness. The front boundary of the site is enclosed by a mature hedge and metal gate.

PROPOSAL

This application seeks approval for the erection of a detached dwelling, cartlodge and altered vehicular access.

The dwelling would have the appearance of a 1 ½ storey dwelling at the front, featuring dormer windows and a gable projection. The rear elevation features two no. 2 storey gables. The external materials would comprise red stock brickwork at ground floor level, with render above and clay plain tiles to the roof. Design features would include an oak frame, brick chimney stacks and balconies to the two gables to the rear.

The vehicular access would be moved slightly further to the north than existing and positioned more centrally within the frontage of the site. Part of the existing front boundary hedge would be removed and replanted further back.

The two bay open fronted cartlodge would be located to the front of the dwelling along the southern boundary. It would measure approximately 7.3 metres by 5.7metres, with a log store to the side, and a height of 4.5 metres. The external materials would comprise a brick plinth with weatherboard above. There would also be a gravel parking and turning area to the front of the site.

CONSULTATIONS

BDC Engineers – No objections

BDC Landscape Services – No objections, subject to conditions regarding tree protection and a landscaping scheme.

ECC Highways – No objection subject to conditions.

Parish Council – Support the application. Considers this proposal is consistent within Policy RLP16. There is a presumption in favour of development at the core of the NPPF and that the Local Plan includes policies to permit development within the countryside and within hamlets, which must logically include Twinstead and Twinstead Green. The dwelling sits comfortably within the plot and is set well away from neighbours' boundaries. It is of a form and scale that would sit comfortably within the street scene.

Whilst this Parish Council accepts that precedents are not set by the granting of planning applications, it draws attention to permission for a single infill dwelling that fell within the confines of RLP16 and was recently granted elsewhere in the village. The current application site cannot be considered to be any less sustainable than that of the recently consented dwelling.

REPRESENTATIONS

5 letters (4 in objection and 2 in support) have been received in response to the public consultation, the contents of which are summarised below:

Letters in objection:

No sheltered and secure cycle parking

2 previous applications have been refused. No changes to the reasons why both were refused.

There is not a nucleus of 10 or more properties. There are only six.

The Parish Council has not consulted neighbours.

There may be a future application to extend the property making the property excessive in size, a factor for which it had been previously rejected.

The plot was purchased from The Waggon & Horses, the occupants of which support the application.

Proposal will not solve the housing shortage.

Will set a precedent for the other five properties to develop space on their frontages and the land opposite.

There are no references to a Twinstead Green on deeds or postal records.

The recent planning consent elsewhere in Twinstead is in no way comparable to this proposal as the approved scheme is within a clearly defined nucleus of more than 10 properties. There was also an existing building on the plot.

A further large modern property would make 3 such properties in a row which would detract from the balance of period, listed and character dwellings located in this AONB.

Letters in support:

It will contribute towards the housing shortage;

It will enhance the area and not detract from the village;

The land is ideal for development.

REPORT

Previous History

Two previous planning applications have been submitted for a dwelling on the same site in 2008 (08/02145/FUL) and 2010 (10/00365/FUL). In both cases the principle of the proposal formed a reason for refusal as set out below:

“The proposal represents a new dwelling and unjustified intrusion into the countryside to the detriment of its rural character and contrary to policies RLP2, RLP78 and RLP79 and PPS7. The site is located in an unsustainable location and development at this location would set a precedent for further residential development outside of defined settlement boundaries”.

With the 2008 application, permission was also refused based on the design of the dwelling and with the 2010 application, permission was also refused as a Tree Survey had not been submitted with the application.

These decisions are material considerations relevant to the determination of the current application and consideration must be given as to whether it overcomes the previous reasons for refusal, and is acceptable in all other respects.

Principle of Development

It is acknowledged that since the previous planning applications were determined the planning policy context has changed with the introduction of the National Planning Policy Framework (NPPF) in 2012 & the Council's Core Strategy in 2011. Accordingly regard must be had to the content of these documents and their relevance to the application.

In accordance with S.38(6) of the Planning and Compulsory Purchase Act 2004, the starting point when considering development proposals is the adopted development plan. It states "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is also set out in paragraph 11 of the National Planning Policy Framework.

Currently the Council's development plan consists of the Braintree District Local Plan Review (2005) and the Core Strategy (2011). In addition the Council consider that the development management policies of the Pre-Submission Site Allocations and Development Management Plan (ADMP) which are now subsumed within the draft Local Plan are also relevant in the determination of planning applications.

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

Policy RLP16 of the Local Plan Review provides an exception to the countryside policies of restraint and allows for the development of a single dwelling in circumstances where there is a defined nucleus of at least ten dwellings and where it would not be detrimental to the character of the surroundings. Policy RLP16 of the Local Plan Review allows, in particular circumstances, for housing in rural areas.

Policy RLP16 of the Local Plan Review sets out some specific requirements which a proposal must satisfy in order to be permissible. It states that “Where there is a defined nucleus of at least ten dwellings and where it would not be detrimental to the character of the surroundings, exceptions may be made to Policies RLP 2 and 12 for the filling of a gap, for a single dwelling, between existing dwellings, in hamlets and small groups of dwellings. This policy does not apply to proposals for individual isolated dwellings, or the extension of ribbon development and will not apply to gaps which could accommodate more than one dwelling. Proposals which would set a precedent for the consolidation of sporadic or ribbon development, or for the further infilling of large gaps, will also be resisted”.

The Council is currently preparing a new Local Plan which will replace the Core Strategy and Local Plan Review and will be used to guide development up to 2033. The plan will set out the housing requirements for the District, allocate sites for new housing development and set out strategic and detailed planning policies. This it seeks to achieve by concentrating growth in the most sustainable locations - that is, by adopting a spatial strategy that promotes development in the most sustainable locations, where there are opportunities for walking, cycling and public transport links to nearby shops, services and employment opportunities. It is not proposed to add a village envelope (ie a defined settlement boundary) to Twinstead in the draft Local Plan. It is however proposed to include a hamlet policy. This is reflected in Policy LPP33 of the draft Local Plan. The plan has been subject to public consultation. It is anticipated that it will be submitted to the Planning Inspectorate later in 2017, followed by public examination. Having regard to Para.216 of the NPPF, it is considered that some weight should be afforded to the principles and strategies set out in the draft Plan.

Para.71 of the Core Strategy states that one of the core objectives is to “reduce the need to travel by locating development in sustainable locations where it will enable people to access employment, housing, retail provision, public transport and key services; such as education, healthcare, recreational facilities and open space”. Policy CS7 of the Core Strategy states that “Future development will be provided in accessible locations to reduce the need to travel”.

The site is located in the countryside, which is at the bottom of the settlement hierarchy identified in the Core Strategy and draft Local Plan. It is in a location where the Council’s existing and proposed development strategies seek to restrict new residential development unless there are exceptional circumstances. Twinstead does not benefit from a village envelope. Having regard to the development plan as the starting point, as required by the NPPF, consideration is given as to whether the proposal meets the criteria of Policy RLP16.

The site itself does not fall within the main built up area of Twinstead, it is situated over one kilometre away (as the crow flies). It falls between two existing dwellings which form part of a linear development of residential properties. However, there are only six properties in this row. Accordingly

there is not a defined nucleus of ten dwellings (as required by Policy RLP16). As with previous applications for this site, in the opinion of Officers the site falls within an isolated group of dwellings in the countryside and is not close to, or linked to what may be considered as the hamlet itself. It is also the case that the policy refers to a gap between existing dwellings and whether this could accommodate no more than a single dwelling. In this case the gap between the dwellings on neighbouring plots is over 50 metres which could accommodate more than one dwelling. Therefore this proposal principally fails to comply with Policy RLP 16. It is also contrary to the Council's strategy in both the adopted Local Plan Review and the emerging Local Plan for directing new residential development to sites within towns and villages and protection of the countryside.

The applicant considers that there is a nucleus of 25 dwellings forming the group at Twinstead Green, that the pattern of development forms its core and that it is a discernible settlement. Officers do not agree. There is not a core or nucleus of dwellings in this location. The applicant has not defined the boundaries of Twinstead Green or identified where the nucleus exists. This part of Twinstead comprises scattered dwellings along a rural lane in the countryside. There is nothing which distinguishes it as any different. It is unlike other parts of Twinstead, where, in one part for example, dwellings are clustered close to a church.

The policies set out above seek to protect the countryside and direct new residential development to sustainable locations. They do also refer to the supply of housing. Para.49 of the NPPF states that relevant policies for the supply of new housing should not be considered up to date if the LPA cannot demonstrate a five year supply of deliverable housing sites. The Council acknowledges that in terms of what the NPPF requires, it does not have a deliverable 5 year supply of land for housing "...that meets the full objectively assessed needs for market and affordable housing", together with an additional buffer of 5%, as required under paragraph 47 of the NPPF.

Member's attention is drawn to a recent appeal decision for an infill dwelling beyond settlement boundaries at Little Maplestead which is appended to this report. In that case the Inspector considered the relevance of adopted policies and the weight that should be afforded to them. The Inspector did not consider that the proposal complied with Policy RLP16 but acknowledged that the policy is not wholly consistent with the NPPF as, whilst it seeks to protect the countryside by located new housing in existing discernible groups, it does not consider the accessibility to services from such a nucleus of housing, ie the sustainability of the location.

The Inspector acknowledged that Policy RLP2 of the Local Plan Review and Policy CS5 of the Core Strategy are broadly consistent with the NPPF, which seeks to encourage development that supports the vitality of rural areas, recognising the intrinsic character and beauty of the countryside and promotes travel choice. The Inspector considered that these policies relate to the supply of housing as they aim to restrict new homes outside of settlement boundaries and as the Council could not demonstrate a five year housing land

supply, the policies relating to the supply of housing in the development plan are out of date. Accordingly the appeal was determined in accordance with Paragraph 14 of the NPPF which indicates that in such circumstances planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Officers acknowledge this decision and whilst the policies are considered to be out of date, they are, as the Inspector noted, broadly consistent with the NPPF and set out the Council's approach in terms of locating new development in sustainable locations and protecting the rural character of the countryside. It is necessary to consider the proposal having regard to the NPPF in terms of sustainable development and to assess whether there are any other material planning considerations and benefits arising from the proposed development that are outweighed by any identified adverse impacts of the proposed development. The Council must undertake the 'planning balance'.

Para. 49 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development. Para.55 states that in order to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. LPA's should avoid isolated new homes in the countryside unless there are special circumstances. In the Maplestead appeal the Inspector noted that the NPPF does not define or limit the meaning of 'isolated' but considered that there are two main aspects to be assessed when considering 'isolation', these being the site's physical relationship with a settlement and its functional connectivity to services.

This proposal represents a new dwelling in the countryside which is not required to support agriculture, forestry or any other rural use. The site is not located in a sustainable location and does not benefit from easy access to local facilities and services. Twinstead has very few facilities/amenities. It has no facilities such as a shop, school, bank, petrol station, doctor's surgery or employment opportunities and occupants are unable to meet their daily needs within the village. Villages and towns nearby are not within comfortable walking distance of the site and access is via narrow, unlit country roads without pavements. The distance and unappealing walking/cycling environment is likely to deter future residents from walking or cycling to local facilities and increase reliance on travel by car to access everyday facilities and services. The closest towns are Sudbury and Halstead (both of which are between 4 and 5 miles from the site) where a good range of services and facilities can be found. Neither is within comfortable walking distance of the site and there are no cycleways between these locations. It is accepted that there is a DaRT (Demand Responsive Transport) bus service to the surrounding villages (within a specified area) and to the main towns of Halstead and Sudbury, and that this mode of travel could reduce the reliance on a private car. However some of the nearest villages have equally few facilities. The Council has refused planning applications for residential development in Bulmer and Wickham St Paul for example, due to the lack of facilities and amenities in these villages. The closest train station is at

Sudbury but this only provides a limited service with trains to Marks Tey. Development at the proposed location would leave future occupants of the proposed dwellings with limited sustainable travel choices to access services and facilities.

In the Maplestead appeal case there was development on three sides of the site. The Inspector considered that development in the vicinity of the appeal site was sporadic and did not 'read' as a discernible settlement. A view that Officer's also take with the current planning application. In the Maplestead case the Inspector noted the limited services within walking distance of the site and the uninviting walking environment. Whilst he acknowledged that the bus service was a relatively good one for a rural area and that travel by bus could reduce the predisposition to rely on a private car, he considered there would be a very limited contribution to the vitality of rural facilities if nearly all of the services used by future residents of the appeal scheme are in the local market towns rather than surrounding villages. He was not satisfied that the absence of facilities within a comfortable walk of the appeal site was satisfactorily mitigated by a rural bus service. The Inspector concluded that the proposed development would be a functionally isolated development in the countryside due to its limited connectivity to everyday services and facilities and that the functional isolation would result in significant harm when considering the social and environmental dimensions of sustainable development.

In addition to the sustainability of the location of the site it is also recognised that sustainable development has three dimensions, as set out in Para.7 of the NPPF. This being, an economic role (contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation), a social role (supporting strong, vibrant and healthy communities, by providing the supply of housing required, by creating a high quality built environment, with accessible local services), and an environmental role (contributing to protecting and enhancing the natural, built and historic environment, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change). These roles should not be considered in isolation, because they are mutually dependant.

The proposed development is not of a scale which would generate long term economic benefits or new services/facilities which would benefit the community's needs within Twinstead itself or support the long term future of services/facilities in other villages. It would not deliver any benefits in terms of affordable housing or the improvement of public open spaces (as a result of a Court of Appeal decision in May 2016). In terms of the three dimensions of sustainable development, the provision of a small amount of housing would be relevant to the economic and social roles, although these benefits would be limited due to the scale of the development. The development of new housing will always bring some benefits but those benefits do not always outweigh all other considerations. The scale of the development proposed would not significantly contribute towards the District's 5 year housing supply to the

extent that concerns about the sustainability of the location should be set aside. There is little to support the proposed development in respect of the environmental role.

Therefore, having regard to the NPPF as a whole, Officers do not consider that this proposal accords with the principle of sustainable development. Although there has been some change to national and local planning policies since the previous applications were considered, the principles of locating development in sustainable locations and protecting the countryside remain relevant.

It should be noted that Para.111 of the NPPF indicates that planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value. Consideration must be given to a recent judgement which considered whether the definition of "previously developed land" (commonly known as "brownfield land") within the NPPF excluded all private residential gardens, or just those "in built up areas". The Deputy Judge held that the wording of the exemption to previously developed land, within the NPPF was significant. It reads "land in built-up areas such as: private residential gardens". As such, the Deputy Judge found that only residential gardens within the "built-up area" were exempt from the definition of previously developed land whereas, residential gardens outside "built up areas" were "brownfield". The Court held there to be a rational explanation for the distinction, namely that undeveloped land in the urban area was at more of a premium and thus required greater protection. This decision referred to 'residential garden land'. In this case, the site is a vacant plot between two dwellings and does not form part of a residential garden. The description of previously developed land set out in Appendix 2 (Glossary) of the NPPF also states that this excludes "land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time". In the case of the current planning application the site is separated from neighbouring plots and enclosed to the sides by closed board fencing. It is laid to grass, and although there is a wooden shed on the site, it is not considered that this defines the site as previously developed. It is worth noting that the Maplestead appeal site did constitute previously developed land but that the Inspector considered that the isolated location of the site meant that this was not a determinative matter.

The Parish Council has made reference to a planning application for an infill dwelling in Twinstead which was approved last year. This planning application (ref: 16/00897/FUL) was considered acceptable as it complied with Policy RLP16. In that case the site is located within the main hamlet of Twinstead, in a location where there is a defined nucleus of ten dwellings. That is not the case with the current application. Furthermore, the application was determined prior to the Maplestead appeal decision which provides guidance from the Planning Inspectorate on the relevance of the Council's adopted policies and the weight that can be afforded to these.

Design, Appearance and Layout

The NPPF requires planning to always seek to secure high quality design as a key aspect of achieving sustainable development. Policy RLP90 of the Local Plan Review and policy CS9 of the Core Strategy seek to ensure a high quality design and layout in all developments.

The existing development in the area is characterised by a mix of styles of dwellings. The submitted plans show that the site could accommodate a dwelling of the size proposed without appearing overdeveloped. The design itself is not considered to be objectionable. However it would introduce new built form in the countryside which would be detrimental to the rural character of the area.

The frontages to the dwellings in this part of Pebmarsh Road are characterised by driveways to the front of the dwellings which are bounded by soft landscaping, representing a generally open character. The proposal for a garage would introduce built form within the site's frontage. However, Officers are mindful that planning permission was granted for a detached garage to the front of The Hollies and there is an existing garage on the site to the south. On this basis it is not considered that an objection could be raised to this element of the proposal.

Impact on Neighbour Amenities

The NPPF requires a good standard of amenity for all existing and future occupiers of land and buildings. Policy RLP90 requires consideration to be given to the amenity of neighbouring properties.

It is accepted that by virtue of the distance between the proposed dwelling and the existing neighbouring dwellings, this proposal would not result in an unacceptable impact on neighbouring residential amenity. The only first floor windows on the north facing side elevation facing 'Hollies' would be roof lights which would serve en-suite bathrooms. The proposed dormer window and roof light on the south facing elevation would be just above eaves level and sufficient distance from the boundary with the neighbouring property so as not to give rise to any unacceptable issues.

Highway Issues

The Highway Authority has considered the proposal and has not raised an objection. Subject to conditions, the Highway Authority considers that a safe access can be provided.

The submitted plans include a proposed two bay open fronted cartlodge. An additional parking space is also shown within the site. On this basis adequate parking in accordance with the Council's adopted Parking Standards can be provided.

Landscape Consideration

The trees located on the application site are located to the rear of the plot, beyond the footprint of proposed development. In this case the site is not within a Conservation Area and there are no Tree Preservation Orders on any of the trees.

An Arboricultural Assessment submitted with the application indicates that the building footprint would not impact on any of the nearby trees. It is recommended that the crown of an Ash tree is pruned, by cutting back lower secondary branches in order to provide clearance for scaffolding and a suitable separation between the tree and roof of the new dwelling once it is built. Other than this, all of the trees would be protected during the development by suitable tree protective fencing.

The proposed alterations to the access would require the removal of part of the existing roadside hedge. However, it is proposed to replace this with a new Copper Beech hedge to match the existing hedgerow at 'Hollies'.

The proposal has been considered by the Council's Landscape Officer who has raised no objection subject to conditions requiring the tree protection measures to be in place before development commences and details of a suitable landscape scheme to cover the details of replacing part of the section of lost hedge on the road frontage.

Other Matters

The applicant's agent has referred to a recent appeal decision at Great Bardfield. Officers acknowledge that planning permission was granted on appeal for up to 37 dwellings at Great Bardfield (Planning Application 15/01354/OUT refers). In that case the main issues were whether the proposal would be appropriately located, having regard to national and local planning policy, whether future residents would have reasonable access to services and facilities, and whether there would be a significant loss of the best and most versatile agricultural land.

It is not considered that the site or proposals are comparable to the current application. In the Bardfield case the scale of development was much larger and the site was located adjacent to the village envelope. Great Bardfield has a number of facilities and shops, including a small supermarket, and a more frequent bus service. Although the Inspector noted that there are relatively limited employment opportunities, there is nonetheless, a business centre in the village.

The Inspector concluded that residents would have quite good access to a range of services and facilities nearby which could meet some daily needs and that local infrastructure and services would cope adequately with the additional demands arising from future residents of the development. When undertaking the planning balance, the Inspector considered that the adverse

impacts in terms of some reliance on travel by car outside of peak hours and the relatively limited economic opportunities within the village did not significantly and demonstrably outweigh the social and economic benefits. Furthermore, Members are reminded that each application should be considered on its individual merits.

CONCLUSION

To conclude the proposed development would fail to accord with Policies CS5 and CS7 of the Council's Core Strategy and Policies RLP2 and RLP16 of the Local Plan Review, as set out above. Having regard to a recent appeal decision it is acknowledged that the weight that can be afforded to some of these policies is reduced as the Council is currently unable to demonstrate a five year supply of housing land, as required by the NPPF. In such circumstances, the local planning authority must undertake the 'planning balance' to consider whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or whether specific policies in the Framework indicate development should be restricted.

In this case the site is not one which would offer sustainable access to the range of facilities that are required to meet the everyday needs of the occupants of the proposed dwelling. The proposal would be contrary to the Council's existing and proposed strategy of locating new residential development in sustainable locations where residents would have good access to services and facilities. To allow residential development in this location would also set a precedent for further residential development in the vicinity which would be detrimental to the rural character of the area.

In considering the potential benefits of the proposal, the new dwelling would make a negligible contribution to the Council's five year housing land supply as required by Paragraph 47 of the Framework. The construction of the dwelling would give rise to some economic benefits but this would be for a limited time. Furthermore, given the small scale of the development the contribution to the local economy from the future occupants is unlikely to be significant. The proposed development is not of a scale which would generate long term economic benefits or new services/facilities which would benefit the community's needs within Twinstead itself or support the long term future of services/facilities in other villages.

When considering the planning balance and having regard to the requirements of the NPPF as a whole, Officers have concluded that the proposal would not represent a sustainable form of development for which the NPPF carries a presumption in favour. This issue would significantly and demonstrably outweigh the limited benefits and accordingly it is recommended that this application is refused.

No concerns are raised with regard to the design and layout of the dwelling, the proposed changes to the access or impact upon neighbouring amenities and trees.

RECOMMENDATIONS

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

- 1 The site is located in the countryside to the south west of Twinstead and falls beyond any defined settlement boundaries. Twinstead has very limited facilities, amenities and employment opportunities which prevents residents being able to meet their needs within the village. Development at the proposed location would leave future occupants of the proposed dwelling with limited travel choices to access jobs, facilities and amenities.

The proposed development is not of a scale which would generate long term economic benefits or new services/facilities which would benefit the community's needs within Twinstead itself or support the long term future of services/facilities in other villages. The introduction of new residential development in this location, beyond the defined settlement limits, is therefore contrary to the objectives of local and national policies to secure sustainable patterns of development and would be detrimental to the rural character of the area. When considering the NPPF as a whole, the development would not significantly contribute to the three roles of sustainable development and it is concluded that the poor location of the site in terms of access to services and facilities would result in a proposal which is not sustainable development for which the NPPF carries a presumption in favour. This issue would significantly and demonstrably outweigh any limited benefits of the development.

For these reasons the proposal would fail to accord with the principles and guidance set out in the NPPF, Policies CS5 and CS7 of the Council's Core Strategy, Policies RLP2 and RLP16 of the Braintree District Local Plan Review and Policy LPP33 of the draft Local Plan.

SUBMITTED PLANS

Location Plan	Plan Ref: CHA.16.001 B
Block Plan	Plan Ref: CHA.16.002 B
Proposed Site Plan	Plan Ref: CHA.16.003 D
Floor Plan	Plan Ref: CHA.16.004 C
Elevations	Plan Ref: CHA.16.005 E
Carport/Cartlodge Details	Plan Ref: CHA.16.006 B
Street elevation	Plan Ref: CHA.16.007 A
3D Visual Plan	Plan Ref: CHA.16.008
Site Plan	Plan Ref: CHA.16.009 A

TESSA LAMBERT
DEVELOPMENT MANAGER

Appeal Decision

Site visit made on 24 October 2016

by Graham Chamberlain BA (Hons) MSc MRTPI

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

Decision date: 31st October 2016

Appeal Ref: APP/Z1510/W/16/3153601

Land between Coppice and Maplestead Court, Sudbury Road, Little Maplestead, Essex CO9 2SD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Bird against the decision of Braintree District Council.
 - The application Ref 16/00114/FUL, dated 19 January 2016, was refused by notice dated 6 May 2016.
 - The development proposed is a detached dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. In light of the recent court of appeal judgement¹ pertaining to planning obligations and tariff style contributions, the Council have withdrawn the second reason for refusal. As the necessity of a planning obligation towards the provision of open space is no longer a matter in dispute, I have not considered it further.

Main Issue

3. The main issue in this appeal is whether the proposed development would constitute a suitable site for housing having regard to local and national policy and the principles of sustainable development.

Reasons

Whether the proposed development would constitute a suitable site for housing

4. Saved Policy RLP2 of the Braintree District Local Plan Review 2005 (LP) directs new development to the Town Development Boundaries and Village Envelopes as a means of protecting the countryside and focusing new development within settlements. This policy also states that outside these areas, countryside policies will apply. Policy CS5 of the Braintree District Council Core Strategy 2011 (CS) states that development in the countryside will be strictly controlled.
5. It is common ground between the appellants and Council that the appeal site is located outside of a Village Envelope. In my view, the proposal would be further sporadic development in the countryside even though it would be sited on previously developed land. Thus, the scheme would be contrary to the aims of the

¹ *Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council (Planning obligations and affordable housing & tariff-style contributions)* - 11 May 2016

above policies and would undermine the broad strategy for housing and the protection of the countryside contained in the Development Plan.

6. Saved Policy RLP 16 of the LP permits, as an exception to the broad strategy of restraining most development in the countryside, some housing outside of village envelopes. This is when it involves the erection of a single dwelling in a gap between existing properties in a discernable nucleus of development. Development in the vicinity of the appeal site is sporadic in nature and is not a discernable nucleus. Consequently, I share the view of the Council that the proposal does not glean support from Policy RLP 16. Notwithstanding this, Policy RLP 16 is not wholly consistent with the Framework as, whilst it seeks to protect the countryside by located new housing in existing discernable groups, it does not consider the accessibility to services from such a nucleus of housing.
7. Saved Policy RLP2 of the LP and Policy CS5 of the CS are broadly consistent with the National Planning Policy Framework (the Framework), which seeks to encourage development that supports the vitality of rural areas, recognising the intrinsic character and beauty of the countryside and promotes travel choice. Nevertheless, I am of the view that these Policies relate to the supply of housing as they aim to restrict new homes outside of settlement boundaries. This is significant as it is common ground between the Council and appellants that the Council cannot currently demonstrate a five year housing land supply as required by Paragraph 47 of the Framework.
8. As a consequence, the policies relating to the supply of housing in the development plan are out of date. Paragraph 14 of the Framework indicates that in such circumstances planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. I have determined this appeal accordingly.
9. Paragraph 55 of the Framework specifically addresses the provision of housing in rural areas. It states that housing should be located where it will enhance and maintain the vitality of rural communities by avoiding isolated homes unless there are special circumstances. The Framework does not define or limit the meaning of 'isolated'. In my experience, and having regard to the aims of the Framework, there are two main aspects to be assessed when considering 'isolation', these being the site's physical relationship with a settlement and its functional connectivity to services.
10. The appeal site is a hard standing located between a small block of flats to the east and a dwelling to the west. To the north is a commercial property and to the south an agricultural field and beyond this a loose scattering of properties in Collins Road. The development in the vicinity of the appeal site is sporadic and the does not 'read' as a discernable settlement, although the appeal site would be part of a loosely defined built up frontage along the A131.
11. The nearest 'settlement' is Little Maplestead, which the Council suggests is half a mile away from the appeal site. This a small and sprawling village with no identifiable centre from which development radiates. As such, the appeal scheme would not appear as a natural extension of a discernable settlement. Instead, it would intensify the existing sporadic built development in the vicinity of the appeal site on the approach to the village. In this respect, the appeal scheme would, to some extent, appear remote from a discernable settlement.

12. However, this harmful impact would be tempered by the presence of existing development on three sides. The appellants also suggest that the site is close to the village envelope of Little Maplestead. I have no reason to disagree. Whilst the village envelope is out of date, it is nonetheless a useful starting point in considering the relationship between a development proposal and the built form of a defined settlement. The proposal would not incongruously jut out into the countryside and the visual impact would be contained due to the flanking development either side. On balance, I am satisfied that the development would not appear physically isolated from a settlement.
13. In terms of connectivity to services and facilities, my attention has been drawn to an Indian restaurant and a florist nearby. However, the level of services within walking distance of the site is very limited, including everyday facilities necessary for education, employment and shopping. In any event, the walking environment is uninviting given the noise and speed of traffic along the busy A131, which would need to be crossed. The nearest everyday services are available in the market town of Halstead or the village of Great Maplestead. Neither is within comfortable walking distance of the appeal site.
14. The distance and unappealing walking environment is likely to deter future residents from walking to local facilities. This would be especially so for the more vulnerable pedestrians such as parents with young children and those with mobility impairments. Given the distance and inconvenient walking environment, I consider it highly likely that future residents would be predisposed to rely on a private car to access everyday services and facilities, especially in the winter months. Cycling could be an option for some future residents, but not all, depending on mobility and proficiency. Thus reducing the reliance that can be placed on this mode of transport as an alternative to a private car.
15. I note that there is a bus stop near to the appeal site. The appellants suggest that this is serviced by four bus routes providing a service from early morning to 7pm Monday to Saturday. A timetable confirming this has not been submitted and, although the Council has not disputed what the appellants have suggested, it is unclear how frequent the buses run. The service described by the appellants would be a relatively good one for a rural area and therefore travel by bus could reduce the predisposition to rely on a private car.
16. However, the bus route would take future residents to either Sudbury or Halstead. As such, there would be a very limited contribution to the vitality of rural facilities if nearly all of the services used by future residents of the appeal scheme are in the local market towns rather than surrounding villages. If this is the case, a new dwelling would be better sited closer to these service centres. In any event, I am not satisfied that the absence of facilities within a comfortable walk of the appeal site is satisfactorily mitigated by a rural bus service, the timings of which may not always be convenient. Consequently, the proposed development would be a functionally isolated development in the countryside due to its limited connectivity to everyday services and facilities.
17. This functional isolation would result in significant harm when considering the social and environmental dimensions of sustainable development. It would leave future occupants of the proposed dwelling largely reliant on private vehicles with limited travel choices. It would also undermine the Framework's aim of locating new dwellings in rural areas close to services and facilities as a means of supporting the vitality of rural communities and reducing unnecessary travel by

car, with its associated carbon emissions, as one measure to cumulatively limit the effects of climate change.

18. In considering any special circumstances that would justify the isolated location of the appeal scheme, I do not have substantive evidence before me to suggest that the examples of special circumstances listed in Paragraph 55 of the Framework are met and no other special circumstances have been advanced by the appellants.
19. I therefore conclude that as an isolated dwelling outside of a village envelope the appeal proposal presents a conflict with the development plan. More significantly in this case, the development is contrary to the Framework (Paragraphs 55 in particular), which seeks to deliver development that minimises the above adverse impacts by siting development in locations that maximise opportunities for future residents to live in a sustainable way.

Conclusions

Whether the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits

20. In considering the potential benefits of the proposal, the new dwelling would contribute to the Council's five year housing land supply as required by Paragraph 47 of the Framework. Nevertheless, a net increase of one dwelling would be a very small contribution. I therefore give this benefit only limited weight. The proposal would make use of previously developed land but the isolated location of the site means this is not a determinative matter. The proposal may 'tidy up' the site, but I do not consider the site is in such a poor state that this is a noteworthy benefit.
21. In addition, the construction of the dwelling would derive some economic benefits but this would be for a limited time and could apply to new development anywhere. Furthermore, given the small scale of the development the contribution to the local economy from the spending power of future occupants is unlikely to be significant or focussed on rural services and facilities. In any event, such a contribution could be made by the occupants of a dwelling constructed in a more appropriate location. I therefore give these economic benefits only limited weight.
22. I have considered the benefits which would be derived from the appeal scheme but these carry only limited weight overall. The proposed development would however be in an isolated location, with the significant and inherently harmful social and environmental impacts this would bring. Overall, I attribute significant weight to the harm I have identified.
23. I therefore conclude the very modest benefits of the proposal are significantly and demonstrably outweighed by the significant harm I have identified. I therefore find that when taken as a whole, the proposal is not sustainable development for which the Framework carries a presumption in favour.

Overall Conclusion

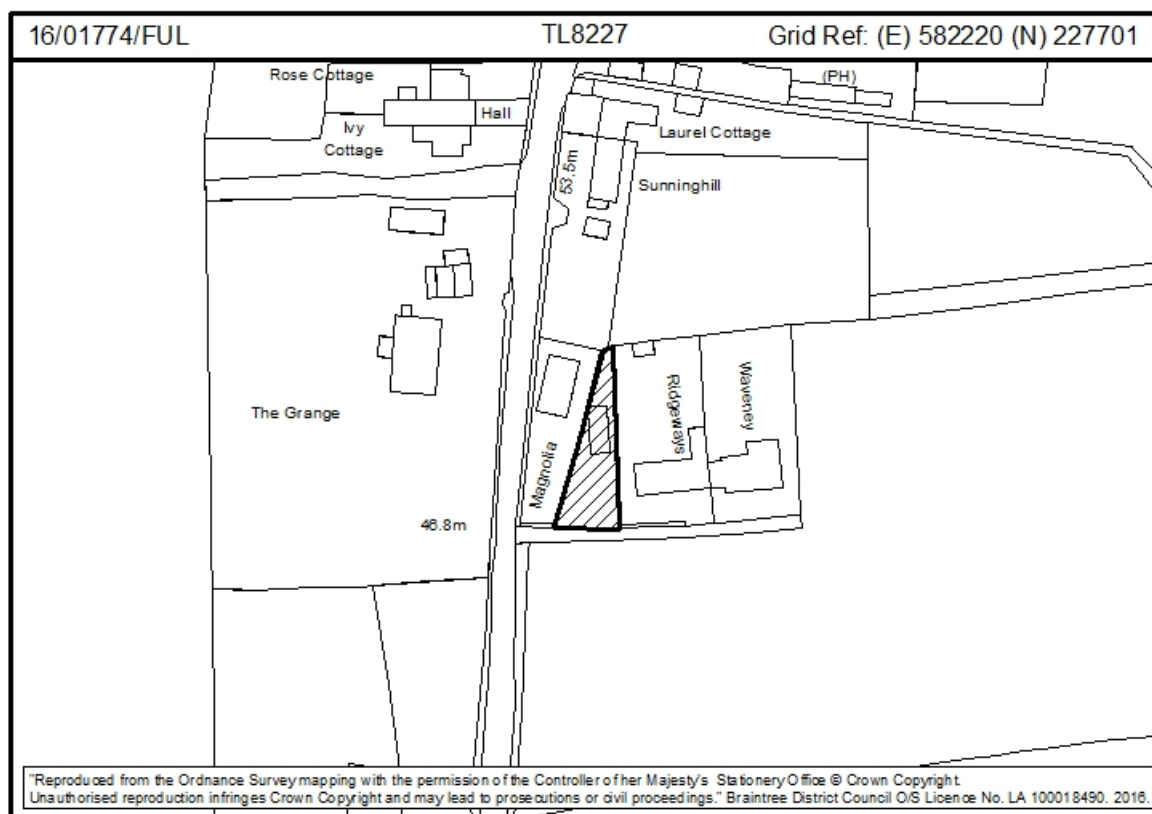
24. For the reasons given above, and having regard to all other matters raised, I conclude the appeal should be dismissed.

Graham Chamberlain
INSPECTOR

PART B

APPLICATION NO: 16/01774/FUL DATE: 26.10.16
 VALID:
 APPLICANT: Mr Stephen Astell
 Magnolia, Grange Hill, Greenstead Green, Halstead, Essex,
 CO9 1QZ
 DESCRIPTION: Change of Use of land to domestic garden land in
 connection with Magnolia
 LOCATION: Land Between Magnolia and Ridgeways, Grange Hill,
 Greenstead Green, Essex

For more information about this Application please contact:
 Mrs H Reeve on:- 01376 551414 Ext. 2503
 or by e-mail to: helen.reeve@braintree.gov.uk



SITE HISTORY

03/00024/REF	Erection of one dwellinghouse	Appeal Dismissed	26.09.03
02/02117/OUT	Erection of one dwellinghouse	Refused then dismissed on appeal	17.12.02

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 20th June 2016 and was the subject of public consultation between the 27th June and 19th August 2016.

In accordance with paragraph 216 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 Draft Local Plan 2016.

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 216 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 Development Framework Core Strategy

CS9 Built and Historic Environment

Braintree District Local Plan Review

RLP3 Development within Town Development Boundaries and Village Envelopes
RLP25 Garden Extensions within Built-Up Areas
RLP90 Layout and Design of Development

Braintree District Local Plan Review

RLP3 Development within Town Development Boundaries and Village Envelopes
RLP25 Garden Extensions within Built-Up Areas
RLP90 Layout and Design of Development

INTRODUCTION/REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

The Parish Council have raised objection to the proposal, contrary to officer recommendation.

SITE DESCRIPTION

The site is located towards the southern edge of Greenstead Green village, within the development boundary. The piece of land in question is located directly off a small track off Grange Hill, which currently serves neighbouring properties – Ridgeways and Waveney. The site is triangular in shape, measuring 14 metres wide (max), 37 metres length and sited directly adjacent the associated dwelling, Magnolia and neighbouring property, Ridgeways. The site's inclusion as garden land would result in a rectangular plot for Magnolia, of a similar size as neighbouring properties mentioned above.

The existing plot for Magnolia runs lengthways along Grange Hill, sited on elevated ground in relation to the road and slopes downwards with a low brick retaining wall and hedgerow.

Upon visiting the site, a large storage container is currently in situ along with a caravan. This application is solely for the change of use of the land to domestic garden, therefore neither the caravan nor the container can be considered as part of this application.

PROPOSAL

Permission is sought for a change of use of land in connection with Magnolia to domestic garden land.

CONSULTATIONS

None.

REPRESENTATIONS

Parish Council – raises an objection to the change of use until such time that the caravan on site is removed.

REPORT

Principle of Development

The site is located within the village envelope wherein there is a presumption in favour of development, provided it meets necessary criteria. Policy RLP 25 allows for garden extensions within built-up areas, providing the impact on the surrounding area is limited; furthermore, the policy seeks to protect areas of public or visually important space.

The land in question is not a public or visually important space and is largely obscured from the wider street scene. It is discreetly located between existing plots and the overall size is of a similar scale with existing residential plots immediately adjacent. It is therefore considered that the principle of changing the use of this land to a domestic garden is an acceptable one.

Design and Appearance

The overall appearance of the site and its position between dwellings lends itself to being a domestic garden. RLP 90 of the Braintree District Local Plan Review requires development to reflect or enhance local distinctiveness and to be of a high standard of design and materials. The area of land is largely screened from the road by the existing garden. Although the site is within the development boundary, the area is largely rural in character, being on the edge of Greenstead Green with clear views of the countryside. Taking account of this, it is considered appropriate to impose a condition requiring further details of forms of enclosure, if applicable, to the southern boundary to ensure a softer boundary treatment in this edge of village location. The site currently provides informal vehicular access and parking with no enclosure directly to the rear.

Impact on Neighbour Amenity

RLP 90 requires that there should be no undue or unacceptable impact on the amenity of any nearby residential properties. It is not considered that the

change of use to domestic garden would have a noticeable additional impact on neighbouring amenity any more than the existing situation. The site would currently appear to be used in a domestic capacity directly related to Magnolia.

Highway Issues

No change to the access is proposed.

Other Matters

The presence of the storage container and caravan, together with the Parish Council's concerns, are noted. Whilst not part of this application, the case officer has sought confirmation from the applicant as to the use and likely period of time both structures are proposed to remain. It is intended by the applicant to remove the caravan during Summer 2017 and the storage container shortly after this time. It has been indicated by the applicant, that the Council has given permission for the caravan in late 2013, but there would appear to be no record of this.

The structures on site need to be considered separately to the change of use of the land; with no permission intact for their presence, they are unauthorised. The change of use of the land does not automatically convey acceptability of retaining these structures. It is considered appropriate to include an Informative on the decision notice advising that the situation will be monitored and enforcement action taken if deemed appropriate.

CONCLUSION

It is considered that the proposed change of use of land is an acceptable one.

RECOMMENDATIONS

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

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

Reason

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

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

Reason

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

- 3 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 provision of any building, as permitted by Class A of Part 1 of Schedule 2 of that Order shall be carried out within the land hereby permitted as garden land without first obtaining planning permission from the local planning authority.

Reason

To ensure the development does not prejudice the appearance of the locality in this edge of village location.

INFORMATION TO APPLICANT

- 1 The applicant is advised that this permission in no way gives permission for the retention of the caravan and container on the site, which are unauthorised. The Council will monitor the situation and, if considered appropriate, take enforcement action to ensure their removal.

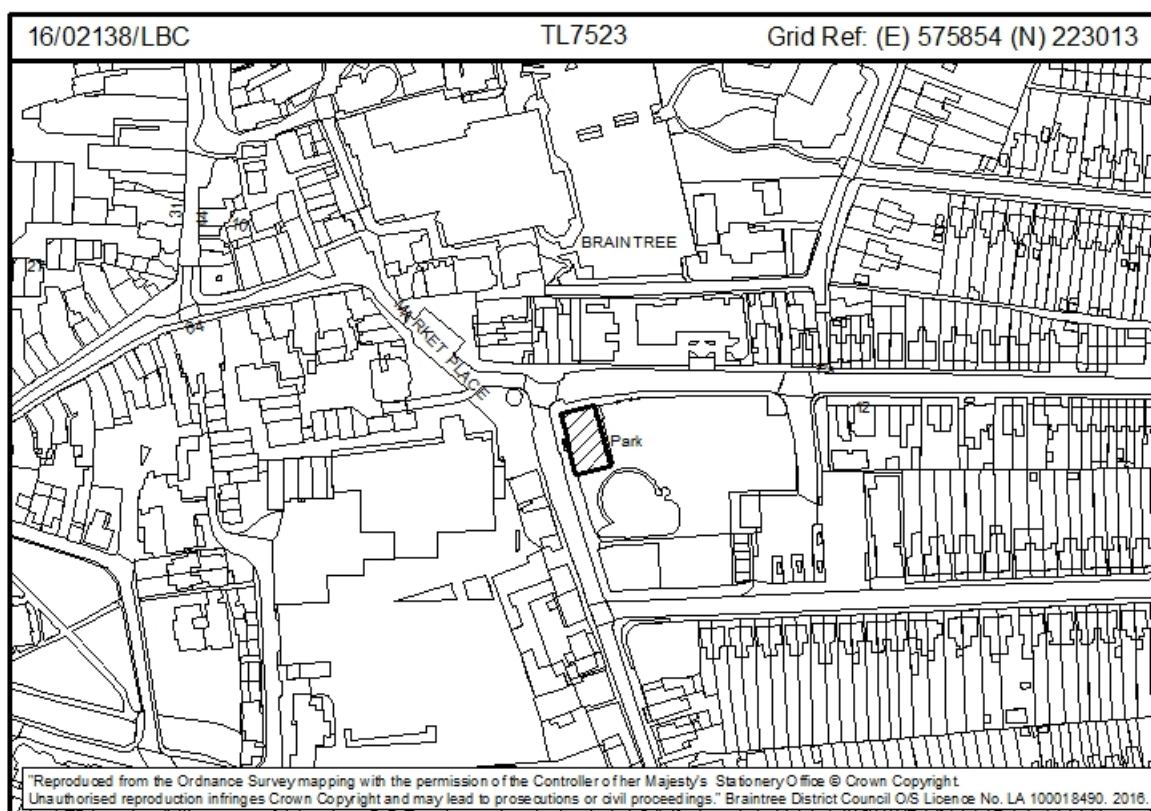
TESSA LAMBERT
DEVELOPMENT MANAGER

AGENDA ITEM NUMBER 5h

PART B

APPLICATION NO: 16/02138/LBC DATE: 20.12.16
VALID:
APPLICANT: Braintree District Council
Mr Mark Wilson, Causeway House, Bocking End, Braintree,
Essex, CM7 9HB
DESCRIPTION: Installation of external flue as part of boiler installation
LOCATION: Town Hall Centre, Fairfield Road, Braintree, Essex, CM7
3YG

For more information about this Application please contact:
Mrs F Fisher on:- 01376 551414 Ext. 2503
or by e-mail to: fayfi@braintree.gov.uk



SITE HISTORY

04/00520/LBC	Installation of upgraded security alarm system	Granted	20.12.04
91/00433/E 92/00429/PFBN	Access By Disabled Alterations And Construction Of Ramp For Access For The Disabled	Withdrawn	15.06.93
94/00040/BDC	Proposed access for the disabled; Construction of ramp on part Manor Street footpath & internal alterations and alteration to Manor street carriageway, footpath and taxi rank to accommodate ramp	Withdrawn	28.09.94
94/00041/LBC	Proposed access for the disabled; construction of a ramp and steps on part Manor Street footpath and general internal alterations and alterations to Manor street carriageway, taxi rank to accommodate ramp. Provision of disabled toilet.	Withdrawn	28.09.94
96/00721/FUL	Proposed alterations to existing south and east elevations to create new access and escape doors including minor internal modifications and related external works	Granted	11.11.96
96/00722/LBC	Alterations to existing south and east elevations to create new access and escape doors including internal modifications and related external works	Granted	11.11.96
05/00094/LBC	Installation of lift and alterations to toilet	Granted	23.09.05
05/01911/LBC	Installation of a cabled computer data network	Granted	18.11.05
06/00556/LBC	Installation of CCTV system, replacement of inner lobby front entrance doors, installation of first floor ceiling crawlway access, installation of anti-pigeon netting to clock tower and repairs and	Granted	06.06.06

07/01391/LBC	remedial works to floorboards in art gallery Removal of existing window to boiler room and replacement with ventilation grille	Granted	04.10.07
10/01065/LBC	Interior and exterior cleaning of limestone cladding and adaption of Art Gallery, Arts Development, Tourism and Manager's Offices into rooms suitable for meetings	Granted	07.12.10
10/01570/LBC	Installation of secondary double glazing window units fitted to all meeting rooms excluding Council Chamber French doors, stained glass window on staircase and basement windows	Withdrawn	01.08.11
12/00314/LBC	Erection of a blue plaque to commemorate the Protestant martyr William Pygot who was publicly burnt near to this spot on 28 March 1555	Granted	01.05.12
16/00089/LBC	Installation of aluminium framed secondary glazing units to first and ground floor.	Granted	10.08.16

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 20th June 2016 and was the subject of public consultation between the 27th June and 19th August 2016.

In accordance with paragraph 216 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 Draft Local Plan 2016.

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 216 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 Development Framework Core Strategy

CS9 Built and Historic Environment

Braintree District Local Plan Review

RLP77 Energy Efficiency
RLP95 Preservation and Enhancement of Conservation Areas
RLP100 Alterations and Extensions and Changes of Use to Listed
 Buildings and their settings

Braintree District Draft Local Plan

SP1 Presumption in Favour of Sustainable Development
LPP34 Residential Conversion of Buildings in the Countryside
LPP37 Parking Provision
LPP42 Built and Historic Environment
LPP46 Layout and Design of Development
LPP57 Protected Species

INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is brought before the Planning Committee because the applicant for the application is Braintree District Council.

SITE DESCRIPTION

The Town Hall is a substantial and prominent Grade II* Listed Building, located in the centre of Braintree town, within the Town Development Boundary and Conservation Area.

PROPOSAL

It is proposed to replace the current heating boiler with an A rated boiler and also install a new external flue in position of the existing external air vent. All works proposed would be located to the rear of the Town Hall.

CONSULTATIONS

Historic England

Historic England state that whilst the works could have the potential to affect the Grade II* Listed Building and they would have visual effect on the external elevation of the Town Hall, they consider that the proposed works would not cause harm in terms of the NPPF. Therefore they have no objections to the proposed works.

Essex County Council Historic Buildings Consultant

Historic Buildings Consultant states that the works will result in a level of harm which is not considered to impact on the overall architectural or historic significance of the building. Weighed against the benefit of securing an efficient and effective long term heating option for the building, the installation of new boiler and flue is considered to have a positive impact on the long term maintenance and viability of the building. It is therefore concluded that the works would result in a low level of harm to the building, which would be balanced by the resulting improvement in the overall heating of the building.

REPRESENTATIONS

A site notice was displayed on the application site. No letters of representation have been received in connection with this application.

REPORT

When considering the impact of development on a historical asset the National Planning Policy Framework (NPPF) specifically states in paragraph 132 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. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification".

Paragraph 134 also 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 securing its optimum viable use.

Policy RLP100 of the Braintree District Local Plan Review states inter alia that development involving internal or external alterations, extensions and partial demolitions to a listed building will only be permitted if the proposed works or uses do not harm the setting, character, structural stability and fabric of the building and do not result in the loss of or significant damage to the building's historic and architectural elements of special importance, and include the use of appropriate materials and finishes. Considering the policy above, the principle of the scheme is considered acceptable.

In addition to the above, the Braintree District Local Plan Review provides support for the introduction of energy efficiency measures. As identified above, the aims of this proposal is to improve the energy efficiency of the building and to increase the marketing potential of the Town Hall. While these aims are supported, the key issue for consideration in this case is the impact of the proposal upon the character and appearance of the Listed Building and Conservation Area.

The flue would be located at the rear of the building, on the external wall of the cellar, the majority of which is set below the adjoining ground level. This part of the building is already utilised for services and will be relatively hidden. As a result the impact on this area of the building would be limited. The proposed vent would be installed in the bottom right pane of a window serving the cellar and service rooms. Similarly to the above, it would be located below the ground level of the adjacent car park, and would not be visible unless the viewer is standing directly in front of the window. The window itself is of low significance so it is concluded that the works would not result in a level of harm which is considered to impact on the overall architectural or historic significance of the building. In terms of harm, this would need to be weighed against the benefit of securing an efficient and effective long term heating option for the building. It is officer opinion that the installation of a new boiler would have a positive impact on the long term maintenance and viability of the building therefore it is conclude that the works would result in a low level of harm to the building, and is balanced by the resulting improvement in the overall heating of the building.

As such, in this case it is considered that the proposal would not have a detrimental impact upon the fabric or character and appearance of the listed building.

CONCLUSION

The installation of a replacement boiler and installation of a flue would result in a low level of harm to the building, which would be balanced by the resulting improvement in the overall hearing of the building. The proposal would secure an efficient and effective long term heating option for the building, which would have a positive long term impact on the maintenance and viability of the building.

RECOMMENDATIONS

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

Basement Floor Plan

Photograph Plan Ref: APPENDIX 1

Photograph Plan Ref: APPENDIX 2

Photograph Plan Ref: APPENDIX 3

Photograph Plan Ref: APPENDIX 4

Photograph Plan Ref: APPENDIX 5

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

Reason

This Condition is imposed pursuant to Section 18 of the Planning (Listed Building & Conservation Areas) Act 1990.

- 2 The works 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.

TESSA LAMBERT
DEVELOPMENT MANAGER

Monthly Report of Planning and Enforcement Appeal Decisions Received		Agenda No: 6
Portfolio Planning and Housing Corporate Outcome: A sustainable environment and a great place to live, work and play A well connected and growing district with high quality homes and infrastructure Report presented by: Report prepared by: Liz Williamson – Planning Technician		
Background Papers:		Public Report
Appeal decisions summary		Key Decision: No
Executive Summary: This is a regular report on planning and enforcement appeal decisions received with specific analysis of each appeal decision.		
Recommended Decision: That the report be noted.		
Purpose of Decision: To note a report on appeal decisions.		
Corporate Implications		
Financial:	N/A	
Legal:	N/A	
Safeguarding:	N/A	
Equalities/Diversity:	N/A	
Customer Impact:	N/A	
Environment and Climate Change:	N/A	
Consultation/Community Engagement:	N/A	
Risks:	N/A	
Officer Contact:	Liz Williamson	
Designation:	Planning Technician	
Ext. No:	2506	
E-mail:	lizwi@braintree.gov.uk	

This is the monthly report on appeals which contains a précis of the outcome of each appeal received during the month of **January 2017**.

The full text of decisions is available on the planning website under each respective planning application or, in respect of enforcement cases, a copy may be obtained from the Planning Enforcement Team (Ext 2529). **Commentary Text (Inspector's Conclusions) is given only** in respect of specific cases where the planning decision has been overturned.

1.	Application No/Location	16/01123/FUL – 12 Mortimer Road, Hatfield Peverel
	Proposal	Single storey dwelling and adjustment to crossover with parking on the frontage for number 12.
	Council Decision	Refused under delegated authority – RLP2, RLP3, RLP9, RLP10, RLP56, RLP90
	Appeal Decision	Dismissed
	Main Issue(s)	1. The effect on the character and appearance of the area; whether acceptable living conditions would be created for future occupants' and whether adequate parking would be provided for the proposed dwelling.
	Inspector's Conclusion	<p>The site comprised a two storey semi-detached dwelling fronting Mortimer Road, which presents a variety of house types with a relatively spacious character created by the good amounts of space surrounding and between buildings. The proposed dwelling would be located in the rear garden of the property, fronting Bennett Way. Despite the narrow and constricted streets, the buildings in Bennett Close stand within relatively spacious plots with landscaped front gardens and regular spacing between the pairs of bungalows, which show a great deal of consistency on design. Whilst the site is already enclosed by a fence, the proposed building would become far more prominent and imposing in the street. This is particularly so because of its proximity to the carriageway which means that little front garden would be created, distinctly at odds with the surrounding properties. The combination of the buildings siting on entering the cul-de-sac and the lack of space in front and around would be harmful to the character and appearance of the street, disrupting its rhythm and the sense of spaciousness currently seen around neighbouring properties. The development would harm the character and appearance of the area. This would be in conflict with Policies RLP3, RLP9, RLP10 and RLP90 of the Braintree District Local Plan Review.</p> <p>The proposed development would include a garden area of 58sqm in excess of the 50 sqm required by the Essex Design Guide. However, the garden would be wholly</p>

		<p>overlooked by the first floor rear windows of the appeal property and its neighbour and no usable private amenity space would be available. Whilst all habitable rooms would be served by more than one window, the only aspect that would not be enclosed by a fence is to the front. Whilst the Inspector was satisfied that sufficient light would reach the property given the number and orientation of the windows, the quality of outlook from the property would be poor. Overall, the failure to provide amenity space or a reasonable outlook for future occupants would lead the Inspector to conclude that the development would not achieve the high quality design and good standard of amenity required by the National Planning Policy Framework as a core planning principle. The development would not provide adequate living conditions for future occupants and would be in conflict with Policy RLP3 of the Braintree District Local Plan Review.</p> <p>Although sufficient parking would be provided, the development would harm the character and appearance of the area, would not provide suitable living conditions for future occupants and would harm the living conditions of neighbouring occupants, it is also clear that the site identifies that the development would represent an overdevelopment of the site.</p>
2.	Application No/Location	16/00245/VAR – Rivenhall Oaks Gold Centre, Forest Road, Witham
	Proposal	<p>Variation of condition 10 of the original approval 15/00926/FUL (Operational development comprising new tees, greens, mounds, bunkers, lakes to facilitate a revised golf course layout; clubhouse extension to accommodate reception, function/event room, office and associated floor space; car park extension, adventure golf facility; hardstanding for turning hear and all ancillary development)</p> <p>Condition 10 states:- No external lighting shall be provided at any part of the Golf Course including the Adventure Golf Course. Details of any additional lighting proposed in association with the extended club house and car park shall be submitted to, and approved in by the local planning authority prior to installation.</p>
	Council Decision	Non-determination
	Appeal Decision	Allowed
	Main Issue(s)	1. The effect of replacing condition 10 on the character and appearance of the area, with particular regard to light pollution.
	Inspectors Conclusion	Condition 10 was attached to the original planning permission to ensure that inappropriate external lighting was not installed at the site, in the absence of any detailed

	<p>lighting specifications accompanying the application. This application now contains a comprehensive lighting scheme for the site. The proposed lighting scheme involves modern LED lighting that would be attached to lighting columns surround the car park area and adventure golf course, at a height of 6m and 5m respectively. Down lighters are proposed on the external elevations of the building to light the club house. Detailed information has been provided with regards to the means by which light would be directed to the task areas, minimising spillage and the Council accept that the submitted details demonstrate a good level of control of horizontal light spills. It also accepts that, on the whole, the proposed lighting design would comply with the main principles of the Council's external lighting policy. The professional lighting advice submitted by the Council provides a critique of the proposed lighting scheme and suggests a number of areas where improvement might be made. A series of recommendations are made to reduce and limit the amount of light on site but it is unclear what harm is expected to arise from the lighting scheme proposed in the application. The Inspector concludes that the proposed scheme has been carefully designed with consideration for impacts on character and appearance, whilst ensuring the needs of the appellant and business are met. The Inspector finds no conflict with Policy RLP65 of the Braintree District Local Plan Review given that the lighting is integral to the scheme, utilises low energy technology, incorporates measures to reduce light spillage whilst providing adequate levels of light for the development and that no harm is anticipated to neighbours' living conditions or natural ecosystems. The Inspector does not find any conflict with Policies CS5, CS8 and CS9 of the Local Development Framework Core Strategy, which seeks to protect the countryside, natural environment and biodiversity and ensure good design that protects and enhances the built and historic environment. The principle of proposed development has already been firmly established by the Council's grant of planning permission and there is no dispute other than in respect of Condition 10. Under the circumstances, the Inspector states that it cannot be said that the LPA's suggested condition is necessary to make the development acceptable in planning terms and so fails the test for conditions contained within the Framework and Planning Practice Guidance. In light of the above, and having considered all other matters, the appeal is allowed.</p> <p><u>Application for Costs – Allowed</u></p> <p>The application was made on the 12 February 2016 and</p>
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		<p>allocated a 13 week statutory target for determination of 13 May 2016. The Council was aware of the nature of the application throughout this period and the submitted e-mail exchanges demonstrate attempts to identify a professional lighting adviser as early as 15 February 2016, having acknowledged that the Council did not have the necessary in-house expertise. There are on-going e-mail exchanges for some after this but by the time the appellant submitted his appeal, on 13 September 2016, no advice has been obtained and the application remained undetermined. Had the professional advice been obtained earlier on the application process the appellant would have had the opportunity to consider the Council's position and discussions might have identified a mutually acceptable position that avoided the need for an appeal. In this case, the appellant waited a considerable length of time for the Council to decide the application and made contact several times in attempt to encourage dialogue and, ultimately a determination. Therefore, the Inspector concludes that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.</p>
3.	Application No/Location	16/00694/FUL – Moorfield Court, Witham
	Proposal	Replacement of all existing timber framed windows with new UPVC framed double glazed windows. Replacement of all existing timber entrance doors with new thermally broken aluminium profiled doors. All existing timber fire exit, resident's patio and French doors will be replaced with UPVC.
	Council Decision	Refused under delegated authority – RLP3, RLP17, RLP90, RLP95
	Appeal Decision	Dismissed
	Main Issue(s)	1. Whether the proposed development would preserve or enhance the character or appearance of the Witham Conservation Area.
	Inspectors Conclusion	<p>The building is an imposing three storey block of apartments that is set back from the road. Although a more modern property that was constructed in the 1990s, the building displays a number of period details including gables and dormer windows. The material palette used in the appeal building reflects that found elsewhere in the Conservation Area and includes red brick, plain roof tiles, painted render and timber windows. As such, the building integrates well with the character and appearance of the Conservation Area when considered as a whole.</p> <p>A building's fenestration is an important component in</p>

		<p>defining its visual and architectural character. In this instance, the proposed insertion of UPVC and aluminium windows and doors would introduce a material finish to the appeal buildings fenestration that is not prevalent in other buildings found elsewhere within the Conservation Area. Moreover, due to the likely profile of the frames and the texture of the finish, the fenestration would appear as a discordant intrusion into the historic character and appearance of the surrounding Conservation Area. Due to the number of windows and doors in the building, and its visibility from surrounding public vantage points, the impact would be extensive. The distance between the building and public vantage point is not sufficient to mitigate for this impact. This would result in the appeal scheme having a harmful impact upon the character and appearance of the Conservation Area.</p> <p>The Inspector concludes that the proposal would harm the significance of the Conservation Area. The character or appearance of the Conservation Area would not be preserved or enhanced. The proposal would therefore fail to adhere to Policy CS9 of the Braintree Core Strategy 2011 and Saved Policy RLP95 of the Braintree District Local Plan Review which are consistent of Section 12 of the Framework.</p>
4.	Application No/Location	15/01373/FUL – Tilkey Road, Coggeshall
	Proposal	Erection of 5 no. dwellings, estate road, footpaths, garages, public open space, foul and surface water drainage and landscaping
	Council Decision	Non-determination
	Appeal Decision	Allowed
	Main Issue(s)	1. The effect of the proposed development upon the character and appearance of the area, including the local landscape.
	Inspectors Conclusion	<p>The appeal site is located towards the northern extend of Tilkey Road, a predominately residential street radiating out from the centre of Coggeshall. The appeal site encompasses a smaller part of a much larger arable field. The boundary of the filed with Tilkey Road is marked by a dense hedgerow that is an important landscape feature that currently delineates the built form of the village from the countryside beyond. The appeal scheme would result in five dwellings being constructed behind this hedge. Consequently the proposed development would inherently urbanise the appeal site, which would result in a limited effect upon the open and undeveloped character of the appeal site. Due to the very low density of the scheme,</p>

	<p>the proposed dwellings would be large and set in comparatively wide plots. In some respects the low density of the appeal scheme would jar with the higher density housing on the western side of Tilkey Road. However, the low density of the appeal scheme would enable the provision of extensive landscaping and a public open space within the development. This would assist in softening the impact of the development, which would be situated on the edge of the village in a transition zone between the built form of Coggeshall and the open countryside beyond. Whilst the low density of the appeal scheme is a limitation it is not a matter that weighs significantly against the proposal. The scale and massing of the proposed dwellings would be similar to the larger properties within Tilkey Road and thus characteristic of the wider street scene. The site levels present a challenge, with the appeal site being on notably higher ground than Tilkey Road. Nevertheless the Inspector was satisfied that the retention of the existing road side hedge, along with the siting of the proposed dwellings back from the edge of the road, would be sufficient in ensuring the development would not be unduly imposing when viewed from Tilkey Road. The massing of the dwellings would also be broken up into primary and secondary elements and features such as chimneys would assist in articulating the form of the buildings. As such, the Inspector was satisfied that the proposed dwellings would not appear overly large relative to surrounding properties.</p> <p>To assist in softening the impact upon the landscape a comprehensive planting scheme is proposed along the eastern boundary of the appeal site, which would include trees as well as hedging. Whilst this would take time to mature, once established it would provide a soft boundary to the appeal scheme and the settlement in a more general sense.</p> <p>To conclude, the Inspector states that whilst the appeal scheme would have some limitations, it would nevertheless preserve the character and appearance of the area, including the local landscape. The proposed would thus adhere to Policy RLP90 of the Braintree District Local Plan Review 2005 and emerging Policies LLP46 and LLP59 of the Draft Local Plan, which requires new development to recognise and reflect local distinctiveness. Aims consistent with Paragraphs 17, 56 and 58 of the National Planning Policy Framework. The appeal scheme would urbanise an existing undeveloped site outside the settlement boundary. Moreover, the settlement boundary is out of date. The proposal would</p>
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		also, in a modest way, support the rural economy and housing supply. These are noteworthy benefits. As such, the Inspector does not consider that any adverse impacts of the proposal would significantly and demonstrably outweigh the benefits. Therefore the Inspector states that the proposal would be sustainable development.
5.	Application No/Location	16/00641/FUL & 16/00642/LBC New House Barn, Church Road, Cressing
	Proposal	Erection of an oak framed extension to rear
	Council Decision	Refused under delegated authority – RLP18, RLP80, RLP90, RLP100
	Appeal Decision	Dismissed
	Main Issue(s)	1. Whether the proposal would preserve the special architecture and historical interest of the Grade II Listed Building
	Inspectors Conclusion	<p>New House Barn is an early 17th Century timber framed and thatched barn. The main two storey building has a byre extending from the southern end of the barn, described as 19th Century in the listing, and a long 19/20th century single storey former stable range extending to the north. Despite the conversion the essential character of the barn remains. The proposed extension would extend to the north east on the end of the former stable range, and would take the basic form of a 'T' plan, with the stem of the 'T' being of single storey height to match the stable range, and the crossbar being a two storey structure. Dormer windows would be included on the south western elevation of the two storey element, facing back towards the 17th century barn, the proposal would be constructed in oak with weather-boarded sections. A significant amount of glazing is proposed in the design. Whilst the existing extension to the north is lengthy, it remains fully subordinate to the original building through its siting and height. Visually the extension would compete with the original building, thereby reducing its significance, with the materials of the proposed extension, whilst sustainable and clearly of high quality, would not present a lightweight design due to the bulk and mass of the design, despite the glazing proposed. In totality, the design would create a rather sprawling building, detracting from the original barn, creating a separate element to the building which would detract from the main building.</p> <p>The National Planning Policy Framework (the Framework) makes it clear that when considering the impact of the proposed development on the significance of a listed building, great weight should be given to its conservation. Significance can be harmed or lost through alteration of</p>

		<p>the heritage asset, and as they are irreplaceable, any harm should require clear and convincing justification. For the reasons given above, the Inspector considers the proposal would result in harm being caused to the significance of this listed building. However, and particularly as the proposal would not affect the fabric of the original part of the cottage, which would remain intact, the Inspector is satisfied that in this case the degree of harm caused, would be less than substantial.</p> <p>In conclusion, the proposal would cause less than substantial harm to the significance of this Grade II listed building, and would not preserve its special architectural or historic merit. It has not been shown that public benefits would outweigh this harm, and the proposal would conflict with the Framework and the Local Plan Policies RLP90 and RLP100 thereby also conflicting with RLP18.</p>
6.	Application No/Location	16/00382/FUL – Land adj Boulders, Nether Hill, Gestingthorpe
	Proposal	Erection of a dwelling
	Council Decision	Refused under delegated authority – RLP2, RLP56, RLP90
	Appeal Decision	Appeal Allowed
	Main Issue(s)	<ol style="list-style-type: none"> 1. The effectiveness of local settlement policy and its implications for the proposal; and 2. Whether the appeal site would constitute a suitable location for housing with particular reference to the proposals effect on the vitality of the rural community and whether it would be isolated
	Inspectors Conclusion	<p>The appeal site is outside of the village envelope of Gestingthorpe and is in the countryside. The proposal would thus, in a modern way, urbanise the countryside. In this respect the appeal scheme would be contrary to policies RLP2 of the Braintree District Local Plan and Policy CS 5 of the Braintree District Core Strategy and would undermined the broad strategy for housing and the protected of the countryside contained in the Development Plan. Saved Policy RLP16 of the Local Plan permits some housing outside of village envelopes as an exception to the broad strategy of restraining most development in the countryside. This is when it involves the erection of a single dwelling in a gap between existing properties in a discernible nucleus of development. Being on the outer most edge of a row of houses, the appeal site is not located within a gap and therefore the exception is not engaged. Saved Policy RLP2 and CS 5 are broadly but not entirely consistent with the National Planning</p>

	<p>Policy Framework which is less restrictive as it seeks to encourage development that supports the vitality of rural areas whilst recognising the intrinsic character and beauty of the countryside and promotes travel choice.</p> <p>Nevertheless, these Policies relate to the supply of housing as they aim to generally restrict new houses outside of the defined settlement boundary. The LPA cannot demonstrate a five year housing land supply as required of Para 57 of the Framework. As a consequence, the policies relating to the supply of housing in the development plan are currently out of date and carry little weight. The Inspector therefore concludes that the effectiveness of rural settlement policy in the district is already undermined by reason of an undersupply of housing, Para 14 of the Framework directs that when relevant policies are out of date planning permission should be granted unless any other adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.</p> <p>The appeals site encompasses a small parcel of land on the edge of Gestingthorpe. The site is currently occupied by a single storey building but is otherwise overgrown and apparently unused. The site is also in a prominent and elevated position in views from the north towards the village. The erection of a house within the appeal site, in the way now proposed, would not appear as an incongruous intrusion into the countryside. The number of services within walking distance of the site is limited but includes a public house, playing field, village hall and church. The site is also a reasonably short distance from a bus stop. As a consequence, and in this context, the site is not functionally isolated from services and facilities.</p> <p>As the site is visually and physically related to the settlement of Gestingthorpe with some functional links to everyday services and facilities the appeal scheme would not be 'isolated' even though it would be outside the settlement boundary. Therefore in conclusion the Inspector considers that the appeal scheme would not have any adverse implications for the vitality of the rural community or the intrinsic character and beauty of the countryside.</p> <p><u>Appeal for Costs – Allowed</u></p> <p>The appeal scheme relates to a resubmitted planning application. It was resubmitted following an unsuccessful</p>
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	<p>appeal in an attempt to address the concerns identified.</p> <p>The PPG states that a substantive failing in respect of a Local Planning Authority's conduct may arise when it persists in objections to a scheme, or elements of a scheme, which the Secretary of State or an Inspector has previously indicated to be acceptable. Consequently, the Council's refusal, which was predicated on a finding that the appeal site is in an inaccessible and unsustainable location, when an Inspector had already found that it is in an accessible and sustainable location, was unreasonable and this a substantive failure of significance. This is because the LPA did not refer to any material changes in local or national policy that could have otherwise justified its departure from the previous Inspector's conclusions. Nor did the Council refer to any physical changes in and around the appeal site that could have justified its conclusion either.</p> <p>Therefore, The Inspector concluded that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, had been demonstrated and that a full award of costs is justified.</p>