

PLANNING COMMITTEE AGENDA

Tuesday, 13 October 2020 at 7.15pm

In accordance with the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020, this meeting will be held via Zoom and by the Council's YouTube channel – Braintree District Council Committees.

Members of the public will be able to view and listen to this meeting via YouTube.
To access the meeting please use the link below:
<http://www.braintree.gov.uk/youtube>

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

Membership:-

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

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

A WRIGHT
Chief Executive

INFORMATION FOR MEMBER – DECLARATIONS OF MEMBERS’ INTERESTS

Declaration of Disclosable Pecuniary Interests (DPI), Other Pecuniary Interests (OPI) or Non-Pecuniary Interests (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:

In response to the Coronavirus the Council has implemented procedures for public question time for its virtual meetings which are hosted via Zoom.

The Agenda allows for a period of up to 30 minutes for public question time.

Participation will be via the submission of a written question or statement which will be read out by an Officer or the Registered Speaker during the meeting. All written questions or statements should be concise and should be able to be read **within 3 minutes** allotted for each question/statement.

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

The Council reserves the right to decline any requests to register for public question time if they are received after the registration deadline.

Upon registration members of the public may indicate whether they wish to read their question/statement or to request an Officer to read their question/statement on their behalf during the virtual meeting. Members of the public who wish to read their question/statement will be provided with a link to attend the meeting to participate at the appropriate part of the Agenda.

All registered speakers are required to submit their written questions/statements to the Council by no later than 9am on the day of the meeting by emailing them to governance@braintree.gov.uk. In the event that a registered speaker is unable to connect to the virtual meeting their question/statement will be read by an Officer.

Questions/statements received by the Council will be published on the Council’s website. The Council reserves the right to remove any defamatory comment in the submitted questions/statements.

For the Planning Committee only, the order in which questions and statements will be read 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 for public question time and to amend the order in which questions/statements are presented to the Committee.

Documents: Agendas, Reports, Minutes and public question time questions and statement can be accessed via www.braintree.gov.uk

Data Processing: During the meeting the Council will be collecting performance data of participants' connectivity to the meeting. This will be used for reviewing the functionality of Ms Teams/Zoom and YouTube as the Council's platform for virtual meetings and for monitoring compliance with the legal framework for Council meetings. Anonymised performance data may be shared with third parties.

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

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

PUBLIC SESSION

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1 Apologies for Absence

2 Declarations of Interest

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

3 Minutes of the Previous Meeting

To approve as a correct record the Minutes of the meetings of the Planning Committee held on 18th August 2020, 22nd September 2020 and 29th September 2020 (copies previously circulated).

4 Public Question Time

(See paragraph above)

5 Planning Applications

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

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

PART A

Planning Applications

- | | | |
|-----------|--|------------------|
| 5a | Application No. 18 02010 FUL (Variation) - Gimsons, Kings Chase, WITHAM | 6 - 84 |
| 5b | Application No. 20 00352 REM - Land rear of Tey Road, EARLS COLNE | 85 - 103 |
| 5c | Application No. 20 00785 FUL - 3 Coggeshall Road, BRAINTREE | 104 - 126 |
| 5d | Application No. 20 01101 VAR - Appletree Farm, Polecat Road, CRESSING | 127 - 148 |

PART B

Minor Planning Application

- | | | |
|-----------|---|------------------|
| 5e | Application No. 20 01175 HH - 21 Constable Way. BLACK NOTLEY | 149 - 156 |
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6 Review of Scheme of Delegation 157 - 172

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.

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.

PRIVATE SESSION

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8 Urgent Business - Private Session

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

Variation to resolution to grant planning permission for Application Reference 18/02010/FUL - Gimsons, Kings Chase, Witham		Agenda No: 5a
Portfolio	Planning	
Corporate Outcome:	Connecting People and Places Enhancing our Environment	
Report presented by:	Mathew Wilde, Senior Planning Officer	
Report prepared by:	Mathew Wilde, Senior Planning Officer	
Background Papers: Planning Committee Report – Application Reference 18/02010/FUL Planning Committee Minutes – 19.03.2019 (both attached at the end of the report)	Public Report	
	Key Decision: Yes	
Executive Summary:		
<p>This report relates to a planning application for a residential development that Members previously considered at the Planning Committee held on 19.03.2019 and resolved to grant planning permission subject to the completion of a Section 106 Agreement and subject to planning conditions.</p> <p>Officers are seeking to add three conditions in addition to those previously recommended to Members at Planning Committee, and therefore the matter is duly being referred back to Committee for consideration. The three additional conditions relate to boundary treatments at the north of the site with Witham park; Affordable Housing design certificates and Affordable Housing construction certificates. The additional conditions are a result of additional representations / requirements following the resolution to grant planning permission on 19.03.2019. This report is only concerned with these additional conditions as the acceptability of the development has been established by the resolution from Members at Planning Committee held on 19.03.2019.</p> <p>Members are therefore requested to pass a new resolution to grant planning permission subject to the revised list of conditions and completion of the S106 legal agreement in accordance with the revised Heads of Terms.</p> <p>For the avoidance of doubt these are also set out within the Recommendation section of this update report.</p>		

Recommended Decision:

That the application is GRANTED planning permission subject to the applicant entering into a suitable legal agreement pursuant to S106 of the Town and County Planning Act 1990 (as amended) to cover the revised Heads of Terms and conditions set out in this report.

New Condition 26 - Notwithstanding the boundary treatment shown on the site boundary adjoining Witham Town Park and Witham Cricket Club on approved plan 'PR135-01 C,' prior to first occupation plots 50-53, 57-69, 70-78 details of the proposed means of boundary treatments to the extent of the abovementioned boundaries shall be submitted to and approved in writing by the Local Planning Authority. Prior to first occupation plots 50-53, 57-69, 70-78, the approved boundary treatments shall be installed in accordance with the approved details and thereafter retained as such.

Reason: In order to provide a suitable boundary treatment arrangement on these sensitive public edges in the interests of visual amenity.

New Condition 27 - No development shall commence unless written confirmation from an Approved Inspector or Local Authority Building Control Service to certify that Plots 33, 34, 35, 36, 37, 63, 67, 68, 69, (Flats 38, 40, 43, 57, 58, 61) as indicated on drawing number 857-PI-03ZJ have been designed to comply with Building Regulations 2015 Part M4 Category 2 has been submitted to and approved in writing by the Local Planning Authority.

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

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

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

Purpose of Decision:

To enable the Local Planning Authority to grant planning permission and allow the proposed development to proceed.

Any Corporate implications in relation to the following should be explained in detail.

Financial:	Failure to ensure that the Affordable Housing is designed and provided to an appropriate standard could mean that the housing does not meet current and future needs of people requiring Affordable Housing. This could lead to additional costs to the Council having to re-house residents who have extra mobility needs, or bearing additional costs to alter and adapt Affordable Housing to meet the housing need of current and future occupants.
Legal:	No matters arising out of this report
Safeguarding:	No matters arising out of this report
Equalities/Diversity:	The additional conditions regarding the design and construction of the Affordable Housing will have a positive/neutral impact on people with protected characteristics.
Customer Impact:	No matters arising out of this report
Environment and Climate Change:	No matters arising out of this report
Consultation/Community Engagement:	No matters arising out of this report
Risks:	Failure to ensure that the Affordable Housing is designed and provided to an appropriate standard could lead to Affordable Housing being provided that is not accessible and adaptable.
Officer Contact: Mathew Wilde	
Designation: Senior Planning Officer	
Ext. No: 2512	
E-mail: mathew.wilde@braintree.gov.uk	

REPORT

Background

Planning application reference 18/02010/FUL (Gimsons, Kings Chase, Witham), was validated by the Council on 8th November 2018. The application was subject to two rounds of public consultation, including one following the submission of revised plans to improve the design and layout of the scheme and address issues raised by Officers. The application was reported to the Planning Committee on 19th March 2019 and Members passed a resolution to grant planning permission, subject to finalising the terms of the S106 legal agreement which had to include particulars that would resolve the outstanding objection from Sport England.

Shortly after the Committee passed the resolution to grant planning permission, the Council received a request from the National Planning Casework Unit that the application should not be determined. This was because the National Planning Casework Unit needed to consider whether the application was of national interest and warranted being called in for determination by the Secretary of State. If the application was Called In, the decision on the application would be taken out of the Councils hands, and instead be determined by the Secretary of State. Whilst the Secretary of State considered whether to Call In the application for their determination, the applicant decided not to continue negotiations on the S106 legal agreement or the scheme any further, until it was decided whether the application was to be called in or not.

Seven months after the Council was requested not to determine the application, the Council received a letter from the National Planning Casework Unit. The letter dated 17th October 2019 stated that the Secretary of State did not require the application to be called in. This was because in accordance with national guidance; *“the application does not involve issues of more than local importance justifying the Secretary of State’s intervention”*. Following receipt of this letter the Council was again able to determine the application and set about finalising the S106 legal agreement, including overcoming Sport England’s holding objection.

Officers are pleased to report that they have been able to negotiate and agree terms for all the outstanding S106 particulars with the developer. The drafted agreement is in the process of being finalised and signed by all parties. Concurrently, Sport England’s concerns have been addressed and thus they now offer no objection to the application. The Heads of Terms are set out at the end of this addendum report.

Further Representations Received Post Committee

A number of further representations have been received from 1 Blunts Hall Road since the Planning Committee passed the resolution to grant planning permission on 19th March 2019. The representations raised a number of issues which are summarised below:

- The railings on the north side of the site, opposite the Witham Park, are located within the Conservation Area and are thus designated heritage assets. The development would necessitate the removal of the railings and this matter was not adequately considered by Members at Planning Committee. The representation states that as a result the development cannot be implemented

as shown as planning permission has not been granted for the removal of the railings

- A petition with 1,138 signatures has also been submitted to the Council asking that the railings be retained owing to their age and historic significance
- The proposed access road would not be able to be improved to an adoptable standard as it would not be wide enough. Planning Committee Members were advised incorrectly that the road was to be adopted

Responses to these points and other areas are below:

Railings

The park railings are owned by the District Council and are located on land that is just outside of the red line application site. Therefore, they do not form part of this planning application proposal. The removal of the railings to facilitate the development would be a separate matter which the Council's Asset Management and Operations teams would have to resolve with the Developer as appropriate. Critically, these discussions would happen outside of the planning process. Any proposed boundary treatment as shown on the submitted plans would be located within the red line site boundary of the site.

The Council listed Drawing No. 'PR135-01 C' which referred to hard and soft landscaping of the development and included means of enclosure on the top of the site, as an approved plan. This consisted of a timber knee rail and bollards. However, taking into account the local desire to retain the existing railings, it is proposed that an additional condition is added to facilitate further exploration about the boundary treatment on this part of the site through planning condition. The following condition is recommended:

"Notwithstanding the boundary treatment shown on the site boundary adjoining Witham Town Park and Witham Cricket Club on approved plan 'PR135-01 C,' prior to first occupation plots 50-53, 57-69, 70-78 details of the proposed means of boundary treatments to the extent of the abovementioned boundaries shall be submitted to and approved in writing by the Local Planning Authority. Prior to first occupation plots 50-53, 57-69, 70-78, the approved boundary treatments shall be installed in accordance with the approved details and thereafter retained as such."

In any case, it should be noted that the existing railings are not be located within the Conservation Area, and are instead located just outside of the Conservation Area. In accordance with the General Permitted Development Order 2015 (as amended), the railings would not require planning permission to be removed. Furthermore, the railings are not considered to be of any special architectural or historic interest, and in this regard it is understood that Historic England were approached to list the railings, but declined to do so. The railings are also in a poor state of repair in places. Notwithstanding this, it is acknowledged that the railings are of local interest, as evidenced by the additional representations and by the petition that has been received. The additional condition is recommended to allow further discussions on this matter to take place between the developer and the Council (as land owner). While the proposed link from the development into the park is supported, the condition ensures that this matter of detail is resolved and will mean that the

proposed boundary treatment (within the application site boundary) can be adjusted accordingly if necessary.

Access Road

As set out in the original Officer report to Planning Committee, the Highway Authority raised no objections to the application subject to the access arrangements shown in Drawing No.180857-con-x-00-dr-c-3330 and Drawing No. 180857-con-x-00-dr-c-3331 being provided. As Officers stated during the original presentation of the application to the Planning Committee, it is correct that the access road and the subsidiary roads (excluding private drives) will be adopted by the Highway Authority.

While the comments by the objector are noted, Essex Highways have confirmed that each site is reviewed on its individual merits, and roads that do not fully comply with adoption standards can still be adopted by the Highway Authority. In this case, it is understood that the rationale for adopting the road was that it would only serve a limited number of dwellings and the road would therefore be lightly trafficked. A single footway on the northern side, leading to a pedestrian crossing point and an adjoining footway on the southern side of River View, was therefore considered to be sufficient by the Highways Officer. While the concerns raised within the additional representations are noted, as the Highway Authority have confirmed that the access road can be adopted, Members have been advised correctly.

Other Additional Conditions

When the S106 legal agreement was drafted, Officers included an obligation concerning the design and construction of the Affordable Housing to ensure that all new dwellings must be constructed in accordance with the Building Regulations. Part M of the Building Regulations are concerned with access to and use of buildings. Amongst other matters the document provides information about the ease of access to, and use of, buildings, including facilities for disabled visitors or occupants, and the ability to move through a building easily including to toilets and bathrooms. It sets out three categories of dwellings:

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

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

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

To ensure that new Affordable Housing stock is designed to meet both existing and projected future needs of occupiers, the Council requires that all houses provided as Affordable Housing and all the flats which provide ground floor accommodation must be designed to the Category 2 standard - Accessible and Adaptable. These dwellings are designed to enable people to live more independently, while also saving on health and social costs in the future. Accessible and adaptable housing will provide safe and convenient approach routes into and out of the home and outside areas, suitable circulation space and suitable bathroom and kitchens within the home.

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

The applicant agreed that the Affordable Housing would be designed and constructed to the required standard and the S106 was drafted so that the applicant had to provide a 'Design Certificate' and a 'Construction Certificate' for the relevant Affordable Housing at the site. The Building Control service used by the applicant has said that they would be unable to provide the written confirmation that the Council required if this were an obligation within a S106 agreement. They did however say that they would be able to undertake these checks and produce the confirmation that the dwellings were correctly built if required to do so by planning condition.

It is therefore recommended that the following conditions be added:

Design Certificate

"No development shall commence unless written confirmation from an Approved Inspector or Local Authority Building Control Service to certify that Plots 33, 34, 35, 36, 37, 63, 67, 68, 69, (Flats 38, 40, 43, 57, 58, 61) as indicated on drawing number 857-PI-03ZJ have been designed to comply with Building Regulations 2015 Part M4 Category 2 has been submitted to and approved in writing by the Local Planning Authority."

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

Construction Certificate

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

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

An additional informative is also recommended to supplement these conditions:

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

S106 Heads of Terms

While the S106 has been subject to ongoing negotiation on the finer detailed points, the Heads of Terms remain very similar to those updated to members at the Planning Committee meeting (as set out within the minutes of the meeting and not contained within the original Committee Report). For the avoidance of doubt, these are:

- The reference to ‘Tree Buffer Zone’ has been removed as it is not needed. A tree protection condition is attached to the decision notice (Condition 21) to ensure that all relevant trees are protected during construction.
- Removal of ‘possible additional financial contribution’ in relation to the Sport Open Space contribution. The Council have been provided with quotations from suppliers which have been discussed with sport England, and Officers are satisfied that the nets which are required for sport England mitigation can be provided within the specified figure.
- Cricket safety netting figures have been added as these have been agreed with the Developer and Sport England.

As such, the full list of Heads of Terms are as follows:

- **Affordable Housing:** 23 units comprising tenure of 15 x Affordable Rent & 8 x Shared Ownership.
- **Public Open Space:** On site provision of public open space. Management Company be appointed for the maintenance of the proposed on-site open space. Financial contribution in accordance with the Town Council and Open Spaces Action Plan for:
 - Equipped play: £48,693.65 - Upgrading and refurbishing Witham Town Park Play Area
 - Allotments: £2,300.63 - Allotments (Site 1), Cut Throat Lane, Witham

- for the installation of raised gardening beds for less physically able people and improvements to parking area.
 - Sports: £72,499.52 – for the provision and maintenance of practice cricket nets at Witham Hockey and Cricket Club, Sauls Bridge Sports Ground, Riverview, Maldon Road, Witham. The contribution could also be used for the provision of equipment including walking/running signage and kilometre markers and/or improvements to the outdoor sports facilities at Sauls Bridge Sports Ground, Riverview, Maldon Road, Witham.
 - The Public Open Space contributions to be paid prior to first occupation of the development as appropriate.
- **Footpath / Cycleway Improvements** - £48,500 to improve a section of the River Walk and £7,500 to improve a section of the footpath in Witham Town Park.
- **Education:** Financial contributions for Early Years and Child Care: £52,266, Primary education: £304,856
- **NHS:** Financial contribution of £29,187 to improve Fern House Surgery
- **Cricket safety netting:** Financial contribution of £21,155 for the provision and installation of ball stop netting and a further financial contribution of £15,000 to be paid to the Council to cover the cost of maintaining the ball stop netting for a period of 15 years.

Summary and Conclusion

Members are asked to pass a fresh resolution to grant planning permission, subject to the conditions and Heads of Terms as set out within this report, which includes the three additional conditions as set out above in respect to the boundary treatments; and with regards to Affordable Housing Design and Construction certificates.

To reaffirm, the acceptability of a residential development of this size, at this site, has been considered by Members at the Planning Committee meeting held on 19.03.2019. At the time of that meeting the Council considered that it had a 5.42 years Housing Land Supply, but still concluded that the public benefits of the scheme outweighed the harms. As Members will be aware, the current position is 4.52 years Housing Land Supply and the fact that the Council cannot demonstrate a five year land supply would further weigh in favour of this application being approved. There are no other material changes that would give rise to the application being reassessed and Members only need to consider the matters stipulated above. The amendments to the conditions and Heads of Terms are considered to be minor in nature, and do not change the basis of Officers original assessment of the proposals or the Planning Balance exercise previously undertaken.

Conditions and Reasons

- 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 Prior to first occupation of each respective phase of the development hereby approved (as shown on Phasing Plan reference 857-PL-19 Rev.B), the development shall be carried out in accordance with the approved hard and soft landscape plan reference PR135-01 and thereafter retained as such.

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.

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

Reason

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

- 4 No above ground development in phase 2 in its entirety (Approved Plan ref: 857-PL-19 Rev.B) shall commence unless and until samples of the materials to be used on the external finishes have been submitted to and approved in writing by the local planning authority. The development shall only be implemented in accordance with the approved details.

Reason

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

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

Monday to Friday 0730 hours - 1800 hours

Saturday 0730 hours - 1300 hours

Bank Holidays & Sundays - no work

Reason

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

- 6 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.

- 7 The principal access to serve the development hereby permitted shall be constructed and available for use in accordance with the details as shown on the approved plan 180857-CON-X-00-DR-C-3105 P2 prior to the first occupation of any dwelling.

Reason

To ensure roads/footways are constructed to an acceptable standard and in the interests of highway safety.

- 8 Prior to the commencement of development on phase 1 (Approved plan ref: 857-PL-19 Rev.B with the exception of site clearance and demolition), 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.

- 9 Prior to the commencement of development on phase 2 in its entirety (Approved plan ref: 857-PL-19 Rev.B with the exception of site clearance and demolition), 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.

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

- Safe access to/from the site including details of any temporary haul routes and the means by which these will be closed off following the completion of the construction of the development;
- The parking of vehicles of site operatives and visitors;
- The loading and unloading of plant and materials;
- The storage of plant and materials used in constructing the development;
- The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- Wheel washing facilities;
- Measures to control the emission of dust and dirt during construction;
- A scheme for recycling/disposing of waste resulting from demolition and construction works;
- Delivery, demolition and construction working hours.
- A method statement for badger/small mammal protection during construction
- No HGV vehicles shall access the site if Maldon Road is closed or partially closed to facilitate connection to the main sewer network.

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

Reason

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

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

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

features.

- o A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

Reason

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

- o To ensure the effective operation of SuDS features over the lifetime of the development.

- o To provide mitigation of any environmental harm which may be caused to the local water environment

- o Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

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

Reason

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

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

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

- 13 No development (with the exception of site clearance and demolition) shall commence unless and until a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided. The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

Reason

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

Failure to provide the above required information before commencement of works may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site. To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

- 14 No development shall take place unless and until a badger survey is undertaken to assess the possible changes of badger activity which may affect works to the proposed development.

Reason

To conserve and enhance Protected and Priority species and allow the LPA to discharge its duties under the UK Habitats Regulations 2017, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 and s17 Crime & Disorder Act 1998.

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

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.
- i) Containment, control and removal of any Invasive non-native species present on site (If required).

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

Reason

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

- 16 Prior to the first occupation of the development, a Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority. The content of the LEMP shall include the following:
- a) Description and evaluation of features to be managed.
 - b) Ecological trends and constraints on site that might influence management.
 - c) Aims and objectives of management.
 - d) Appropriate management options for achieving aims and objectives.
 - e) Prescriptions for management actions.
 - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
 - g) Details of the body or organization responsible for implementation of the plan.
 - h) Ongoing monitoring and remedial measures.
 - l) woodland management plan

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

Reason

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

- 17 The development shall not be occupied unless and until a Biodiversity Enhancement Strategy for Protected and Priority species is submitted to and approved in writing by the local planning authority, following the recommendations provided within the Phase 2 Ecological Surveys and Assessment (Southern Ecological Solutions Ltd, November 2018).

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

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

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

Reason

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

18 No above ground development shall commence in phase 1 (Approved plan ref: 857-PL-19 Rev.B) unless and until the following (including an implementation timetable) has been submitted to and approved in writing by the Local Planning Authority:

(a) details of any proposed external lighting to phase 1 including a strategy to protect bats

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

Reason

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

19 No above ground development shall commence in phase 2 in its entirety (Approved plan ref:857-PL-19 Rev.B) unless and until the following (including an implementation timetable) has been submitted to and approved in writing by the Local Planning Authority:

(a) details of any proposed external lighting to phase 2 including a strategy to protect bats

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

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

Reason

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

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

Following completion of this work, a mitigation strategy detailing the excavation/preservation strategy shall be submitted to the Local Planning Authority.

No development or preliminary groundworks can commence on those areas containing archaeological deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, and which has been signed off by the Local Planning Authority.

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

Reason

The site may be of archaeological interest and as such to start these works without further planning could compromise archaeological findings.

- 21 No development shall commence (with the exception of site clearance and demolition) unless and until details of the means of protecting all of the existing trees, shrubs and hedges to be retained on the site from damage during the carrying out of the development have been submitted to the local planning authority for approval. The approved means of protection shall be installed prior to the commencement of any building, engineering works or other activities on the site and shall remain in place until after the completion of the development to the complete satisfaction of the local planning authority.

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

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

Reason

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

- 22 Gimsons House shall not be demolished unless and until the applicant has secured and undertaken a programme of archaeological work in accordance with a written scheme of investigation to be submitted to, and approved in writing by the local planning authority.

Reason

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

- 23 No occupation of the development shall take place unless and until the following have been provided or completed:

- a) The two bus stops which would best serve the proposal site upgraded to current Essex County Council specification (details shall be agreed with the Local Planning Authority prior to commencement of the development).
- b) The Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per dwelling, for sustainable transport, approved by Essex County Council.

Reason

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

public transport, cycling and walking, in accordance with policies DM1, DM9 and DM10 of the Highway Authority's Development Management.

- 24 The approved hard standing areas detailed in Hard Landscaping Plan PR135-01 REV C shall be completed in full prior to the occupation of the final dwelling to be constructed on the development.

Reason

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

- 25 Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting that Order) no enlargement of the dwelling-houses/alteration of the dwelling-houses or erection of outbuildings, as permitted by Classes B and C of Part 1 of Schedule 2 of that Order shall be carried out to Plots 64-69 inclusive without first obtaining planning permission from the local planning authority.

Reason

In order that the local planning authority may exercise control over any proposed future extensions/alterations in the interests of residential and/or visual amenity.

- 26 Notwithstanding the boundary treatment shown on the site boundary adjoining Witham Town Park and Witham Cricket Club on approved plan 'PR135-01 C,' prior to first occupation plots 50-53, 57-69, 70-78 details of the proposed means of boundary treatments to the extent of the abovementioned boundaries shall be submitted to and approved in writing by the Local Planning Authority. Prior to first occupation plots 50-53, 57-69, 70-78, the approved boundary treatments shall be installed in accordance with the approved details and thereafter retained as such.

Reason

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

- 27 No development shall commence unless written confirmation from an Approved Inspector or Local Authority Building Control Service to certify that Plots 33, 34, 35, 36, 37, 63, 67, 68, 69, (Flats 38, 40, 43, 57, 58, 61) as indicated on drawing number 857-PI-03ZJ have been designed to comply with Building Regulations 2015 Part M4 Category 2 has been submitted to and approved in writing by the Local Planning Authority.

Reason

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

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

Reason

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

INFORMATION TO APPLICANT

- 1 A professional archaeological contractor should undertake any archaeological investigation. An archaeological brief detailing the requirements can be produced from this office.
- 2 The woodland management plan required by condition 16 will need to address the phased rotational coppice of willows/poplars along the woodland edge to ensure the canopy maintains screening at low level and minimises risk of tall stems near to residential dwellings.
- 3 It is suggested that the developer seeks to obtain a Secured by Design "Gold" award in relation to this development.
- 4 The applicant is advised in respect of Conditions 27 and 28 that evidence is required to be submitted to demonstrate compliance with the aforementioned standards as it is the responsibility of the person carrying out the development to let the Building Control body know about any conditions setting an optional requirement under the Building Regulations.

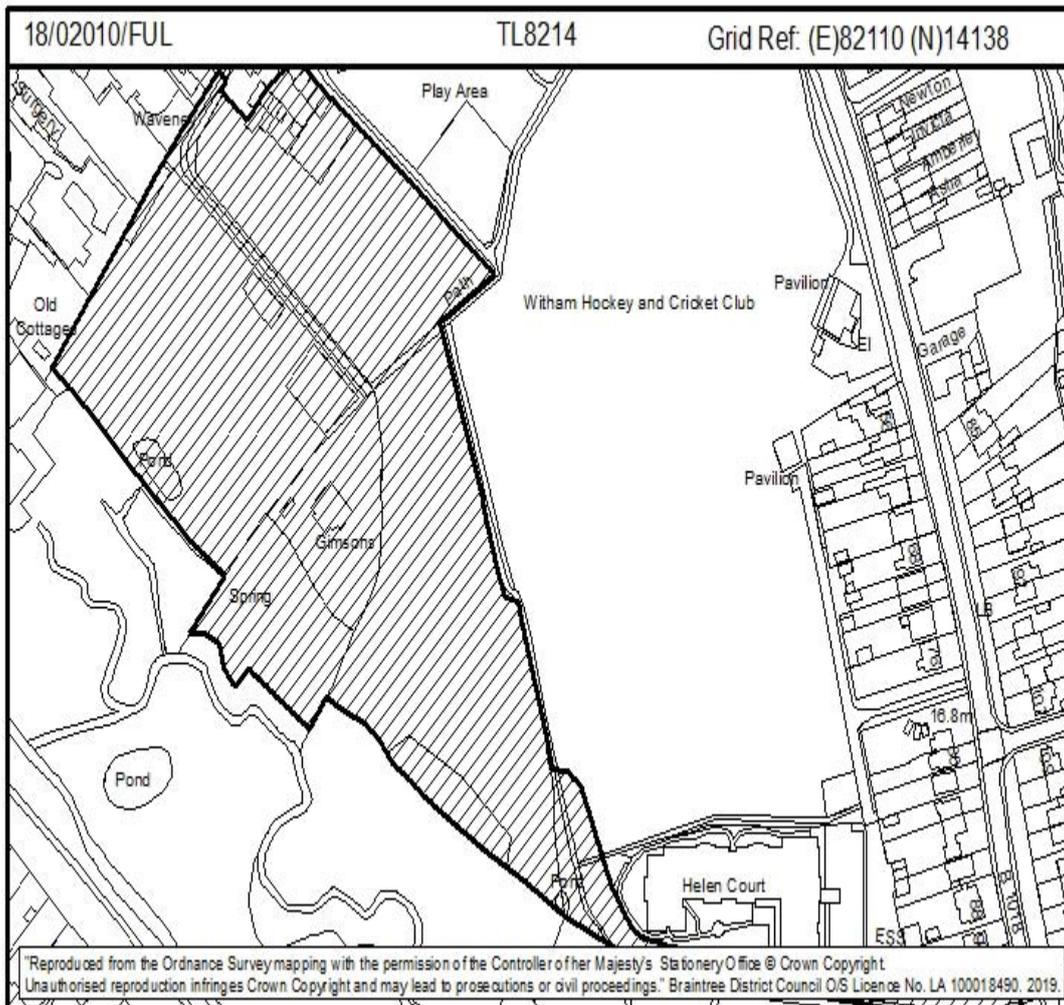
CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

PART A

AGENDA ITEM NUMBER 5a

APPLICATION NO: 18/02010/FUL
DATE VALID: 08.11.18
APPLICANT: Mr Steve Read
1 Cunard Square, Townfield Street, Chelmsford, Essex, CM1 1AQ
AGENT: Mr Michael Calder
250 Avenue West, Great Notley, CM77 7AA
DESCRIPTION: Demolition of existing dwelling and construction of 78 dwellings including access, landscaping, parking and associated works
LOCATION: Gimsons, Kings Chase, Witham, Essex, CM8 1AX

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



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PEN4J1BF07F00>

SITE HISTORY

91/00574/PFWS	Erection Of Building For Scout Meetings	Granted	10.09.91
96/00301/TPO	Notice of intent to carry out work to protected trees - pollard 1 sycamore	Refused	22.04.96
05/00036/TPO	Notice of intent to carry out works to trees protected by Tree Preservation Order No. 8/86 - G1 - Carry out works to 10 sycamores	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. The Draft Local Plan, now referred to as the Publication Draft Local Plan, was approved by the Council on 5th June 2017 for consultation and for submission to the Secretary of State. The public consultation ran from 16th June to 28th July 2017. The Publication Draft Local Plan was submitted to the Secretary of State on the 9th October 2017.

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

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

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

- Option 1 – Remove the Garden Communities proposals from the Section 1 Plan at this stage, and commit to submitting a partial revision of Section 1 for examination by a defined time.
- Option 2 – The NEAs carry out further work on evidence base and Sustainability Appraisal, and bringing forward any resulting revised strategic proposals, before the commencement of the Section 2

examinations. This option would result in the suspension of the examination, and the part 2 examination could not take place.

- Option 3 – Withdraw Section 1 and Section 2 of the Plans from examination and to resubmit them with any necessary revisions, after carrying out required further work on the evidence base and Sustainability Appraisal, and the relevant consultation and other procedures required by legislation.

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

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

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

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

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

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

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

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

National Planning Guidance

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

Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP3	Development within Town Development Boundaries and Village Envelopes
RLP8	House Types
RLP9	Design and Layout of Housing and Mixed Use Areas
RLP10	Residential Density
RLP22	Accessible Housing and Lifetime Housing
RLP49	Pedestrian Networks
RLP50	Cycleways
RLP51	Cycle Parking
RLP52	Public Transport
RLP54	Transport Assessments
RLP56	Vehicle Parking
RLP65	External Lighting
RLP67	Flood Risk in Undeveloped Areas
RLP69	Sustainable Urban Drainage
RLP70	Water Efficiency
RLP71	Water Supply, Sewerage & Drainage
RLP72	Water Quality
RLP74	Provision of Space for Recycling
RLP77	Energy Efficiency
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
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
RLP140	River Walks/Linear Parks and Disused Railway Lines

Braintree District Local Development Framework Core Strategy 2011

CS2	Affordable Housing
CS7	Promoting Accessibility for All
CS8	Natural Environment and Biodiversity
CS9	Built and Historic Environment

CS10 Provision for Open Space, Sport and Recreation

Braintree District Publication Draft Local Plan 2017

SP1	Presumption in Favour of Sustainable Development
SP2	Spatial Strategy for North Essex
SP3	Meeting Housing Needs
SP5	Infrastructure & Connectivity
SP6	Place Shaping Principles
LPP1	Development Boundaries
LPP32	Residential Allocation Area - Gimson's, Witham
LPP33	Affordable Housing
LPP37	Housing Type and Density
LPP44	Sustainable Transport
LPP45	Parking Provision
LPP49	Broadband
LPP50	Built and Historic Environment
LPP51	An Inclusive Environment
LPP52	Health and Wellbeing Impact Assessment
LPP53	Provision of Open Space, Sport and Recreation
LPP55	Layout and Design of Development
LPP56	Conservation Areas
LPP60	Heritage Assets and their Settings
LPP63	Archaeological Evaluation, Excavation and Recording
LPP67	Natural Environment and Green Infrastructure
LPP68	Protected Species, Priority Spaces and Priority Habitat
LPP69	Tree Protection
LPP70	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP71	Landscape Character and Features
LPP73	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP74	Climate Change
LPP75	Energy Efficiency
LPP78	Flooding Risk and Surface Water Drainage
LPP79	Surface Water Management Plan
LPP80	Sustainable Urban Drainage Systems
LPP81	External Lighting

Other Material Considerations

Site Allocations and Development Management Plan

Essex Design Guide

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

Essex Parking Standards/Urban Space Supplement

Village Design Statement

Open Space SPD

INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

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

SITE DESCRIPTION

The site measures approximately 3.48 Hectares and relates to a dwelling called 'Gimsons' and its associated private land. 'Gimsons' is a large 1930's dwelling and comprises some timber stable buildings in the northwest corner of the site. 'Gimsons' is currently accessed from Kings Chase. Other than the existing dwelling and its outbuildings, the site has not been developed and is an irregularly shaped greenfield site. It contains numerous scrub and vegetation including trees subject to a Preservation Order, but has generally been left unmanaged as the former use of paddocks have long since ceased. The site slopes some 5m from the north-east to the south-west, towards the River Brain, where there is a steep bank. The very southern aspect of the site would be in close proximity to the flood plain associated with the River Brain.

The site is situated in the heart of Witham, between the River Brain (and the River Walk further south), Maldon Road Park to the North, Witham Hockey and Cricket Club & the Sauls Bridge Sports Ground to the East, Helen Court to the South East, and properties that back onto the site from Newland Street and Kings Chase. The site also borders the Newland Street Conservation Area on its north-eastern and north-western boundaries and the 'backlands' plots on the north-western boundary along Newland Street, which are historically associated with four listed buildings.

There is currently no public access through the site, however there is a footpath which runs parallel with the site boundary on the eastern side which is also adjoining the sports grounds and leads to the Maldon Road Park. The footpath is unlit and narrow in places. The River Walk (PROW 121_90) runs parallel with the site but on the opposite side of the River Brain. The River Walk is not therefore included within the site boundary and is instead approx. 95m away at the closest point, and an average distance of approx. 120m from the site. There is also an informal right of way along the north-west boundary with access from a rear car park off of Newland Street.

NOTATION

The site (excluding Gimsons house) is identified as 'Visually Important Space' in the Adopted Local Plan. However, this designation has been removed as part of the emerging Draft local Plan as the site (excluding Gimsons house and immediate land) is now proposed to be allocated for Residential Development.

PROPOSAL

The application in this case seeks full planning permission to demolish 'Gimsons' and erect 78 dwellings. The site would be accessed from River View which is a subsidiary road from Maldon Road. It is proposed that River View is retained in its current position but be brought up to adoptable highway standards. Vehicular access for Plots 1-77 will be taken from River View, with Plot 78 being accessed from Kings Chase.

The development would therefore create an internal spine road from Riverview which runs through the eastern edge of the site, before splitting off into subsidiary shared surface roads. The development has been designed to retain the most valuable trees subject to a Preservation Order and also retain other mature boundary planting adjacent to the River. The development would provide parking, public and private amenity space for future occupiers.

The development proposes 55 market dwellings with 23 affordable dwellings at a ratio of 30% in accordance with the Councils Adopted Policies. The site would comprise a mix of housing comprising a range of two, three and four bedroom houses and one and two bedroom flats.

In terms of scale, the proposed houses would be two storey with only one apartment block at three storeys on the western edge of the site. The houses are designed to respond to the local vernacular. In terms of appearance, the development would provide 11 core house types and two apartment blocks.

CONSULTATIONS

Sport England

Due to the proximity of the sports pitches, require provision of demountable nattering system to protect road users. Sport England have issued a holding objection to the application pending submission of these details. Discussions between the applicants, the Local Planning Authority and Sport England are ongoing and an update will be provided for members at Committee.

Highways England

No objection to the development.

Historic England

Do not wish to offer any comments and state that local Conservation and Archaeological advice is followed.

Natural England

No objection but recommend financial contribution towards securing funding for the Blackwater Estuary.

Environment Agency

No objection on land contamination, surface water management or flood risk. Recommend conditions in respect of contamination and drainage systems.

BDC Ecology

Raises no objections and recommends conditions including the submission of a construction environmental management plan, badger survey, habitat sites mitigation, landscape and ecological management plan, biodiversity enhancement strategy and a wildlife sensitive lighting design scheme.

ECC Sustainable Urban Drainage Systems (SUDS)

Raised no objection to the development, subject to a number of conditions including Surface water drainage scheme, minimising surface water during construction, maintenance plan for SUDS features and yearly logs of maintenance for the SUDS features.

ECC Archaeology

No objection to the development, however in view of possible archaeological remains at the site, recommend conditions in relation to no groundworks, mitigation/excavation strategy, archaeological deposits and a post excavation assessment.

ECC Education

No objection. Require financial contributions to the provision of additional Early Years and Child Care places (3), and Primary Education places (20.2). These figures would be for 78 houses:

- Early years and child care: £52,266
- Primary education - £ 304,856

No secondary school provision is sought in this case.

ECC Highways

No objection to the development, subject to conditions in respect of Construction Management Plan, Upgrading of Footpath to the north of the site to provide Cycle Way, works to improve bus stops on Newland Street and travel information packs.

ECC Historic Buildings Consultant

Heritage harm of the development has been identified as the proposal would remove one of the last remaining plots of undeveloped land, detracting from the landscape context and setting of the Conservation Area. The development

would have less than substantial harm on the Conservation Area and setting of Listed Buildings, and the highest possible harm related to the loss of a non-designated heritage asset (Gimsons house).

NHS England

No objection subject to a financial contribution to Fern House Surgery of £29,187.

Anglian Water

The developer should contact Anglian Water to discuss particulars of surface water as the development could lead to an unacceptable risk of flooding downstream if not appropriately mitigated. Anglian Water however do not explicitly object to the application. Instead they suggest conditions should the application be approved in relation to foul and surface water.

Essex Police

Have some concerns with the development in respect of its permeability and potential for crime; however set out that they will reserve final judgement when finer detail such as lighting and security measures are submitted. Recommend that the applicant seeks to achieve a Secure by Design 'Gold Award.'

BDC Council Waste Services

Private roads require maximum of 20m bin pull distance from adopted highway. Adopted Roads can be collected from directly.

BDC Council Environmental Health

Raise no objection to the application subject to standard conditions. Also responded to concerns raised by residents in respect to Air quality. The Environmental Health Officer (EHO) considered that that air quality is not a material consideration for this planning application as there will not be an exceedance of the air quality objective created at the facades of proposed or existing residential properties.

BDC Council Landscape Services

No objection to the development from a landscape setting, arboriculture and boundary treatment perspective. Suggest conditions relating to Tree Protection Plan, Woodland Management Plan and appropriate landscape scheme. A blanket TPO at the site would not be appropriate.

BDC Housing Enabling Officer

No objection to the development subject to the provision of 30% affordable housing and the following tenure mix:

River View, Witham Unit Type	No	Affordable Rented Tenure	Other Affordable Routes e.g Shared Ownership
1 bed 2 person flat	7	7	0
2 bed 4 person flat	7	3	4
2 bed 4 person house	7	4	3
3 bed 5 person house	2	1	1
Total	23	15	8

Essex Wildlife Trust

Object as proposals would not conserve priority habitats, reptile habitat, light pollution, no demonstration of net gain in biodiversity and loss of overall net biodiversity.

PARISH/TOWN COUNCIL

Witham Town Council

Objects to the application with the following summarised concerns:

- Contrary to emerging policy LPP32 and Policy RLP4 of the Adopted Plan
- 78 Dwellings an overdevelopment of the site
- Harmful landscape impact
- Habitat and tree surveys not comprehensive enough to identify species on site – Japanese knotweed survey required
- Access from River View is inadequate
- Proposal does not provide suitable footpath or cycling links
- Detrimental impact to the amenity of Helen Court residents
- Chimneys and bollards would have adverse impact on the street scene and result in reduced security (bollards)

REPRESENTATIONS

A total of 582 representations have been received in connection with this application. This comprises a total of 473 objection comments received from 389 individual properties following the initial period of consultation on the site. A further re-consultation took place in February which brought about a further 109 objections, and a further 26 individual properties setting out the following summarised concerns:

- The site is allocated as visually important space in the Adopted Local Plan
- Site only allocated for 40 dwellings in Emerging Local Plan (which is not yet adopted)
- Contrary to Witham's Town Plan

- Braintree have 5 year housing land supply - too much new housing in Witham
- The site is part of a historic landscape and is the last undeveloped area of its kind – loss of tranquil green space – set precedent
- Harm to the linear pattern of development along Newland Street
- Impact of noise and pollution on existing and future residents
- Impact upon heritage assets – Conservation Area drawn incorrectly
- Scale of development too large – layout inadequate for use and not good mix of houses - waste collection issues
- Historic refusal on the site for residential development
- No justification for removal of historic ‘Gimsons House’ or other local features on land– should be non-designated heritage asset – land could be brought and used for community benefit (lottery fund, grants etc).
- Loss of and unnecessary works to protected and high quality trees and hedges, light pollution from development
- Ecology & Archaeological report inaccurate / not robust – proposal would have detrimental effect on wildlife – No EIA submitted
- Existing infrastructure (services, facilities and roads) not adequate to cope with increased demand/traffic from development and other developments
- Possible Flooding Issues- development on flood plain
- Highways issues including inaccurate transport statement, access design, vehicle movements (including emergency vehicles), existing congestion, pedestaling safety and parking along River View
- Disruption & harm to neighbouring properties including Helen Court and likewise to new residents from existing activities leading to complaints/injuries
- Overlooking of scouts hut, play park and other areas
- Negatively affect existing footpath around site, existing sports pitches, mental health of residents and those with special educational needs
- Negative impact during construction - construction vehicles would not be able to use weak bridge on Maldon Road- no construction management plan
- A cycle network should be included at the site – cycle Action Plan requires this
- Money from sale of land should be invested locally
- Land and house could have other uses
- No S106 agreement in place to secure improvements
- Clearance / reptile fence works have started on site
- Meeting should be held in Witham
- Amendments made do not address issues raised above – numerous national and local policy deficiencies/conflicts

(The above figures are up to date as of the 7th March).

Four objections have also been received withholding or denying permission to publish the address. These objections would not normally be taken into account however they all raise the same issues as those set out above.

Responses have also been received from the Witham Countryside society, Witham Chamber of Trade, Witham Chamber of Commerce, RSPB Chelmsford, Witham Tree Group, Campaign for Rural England, Witham Scout Club and Heart of Witham group all raising concerns with the development. It is considered these concerns are encompassed in the residents' concerns above.

One letter of support and one general comment was received setting out the following comments:

- High streets are struggling - businesses need new housing to continue to grow and attract more commercial premises to the area
- Disingenuous - all housing was once built on undeveloped land – no reason why this cannot continue here
- Site has no public access
- Benefit of street lighting
- Good use of piece of wasteland

A letter of support was also sent to the Chair of the Planning Committee from residents of Helen Court. The letter sets out that the majority of Helen Court residents (63 out of 70) do not object to the application:

- The development would provide a large number of affordable homes.
- Parking restrictions would be put in place on River View to stop vehicles parking, blocking the road and access with Maldon Road.
- New development a big advantage for connectivity with the Town due to the new footways through the development.
 - Existing routes on Maldon Road or through the 'dog leg path' around the cricket ground are dangerous on a mobility scooter.

REPORT

PRINCIPLE OF DEVELOPMENT

National Planning Policy Framework (NPPF) 2018

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

Paragraph 9 of the NPPF outlines that planning decisions should play an active role in guiding development towards sustainable solutions, but in doing

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

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

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

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

The Development Plan

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

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

In the Adopted Local Plan, the majority of the site (approx. 3.23Ha) is designated as Visually Important Space. The parts that are not allocated as

Visually Important Space is the proposed road access and land currently occupied by Gimsons house. The site has however been allocated for residential development (WITC421) in the Draft Local Plan (excluding Gimsons house and immediate land) As such, the development of the site in this case would be contrary to the Adopted Development Plan, but would comply, in part, with the Draft Local Plan (as both the draft allocation and Gimsons house are proposed for development).

5 Year Land Supply

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

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

In accordance with the PPG, the Council published the 2018 Annual Monitoring Report on 15th January 2019. The Annual Monitoring Report is based on a comprehensive assessment of sites in accordance with the revised definition of 'deliverable' in the new NPPF.

The standard methodology as revised by the Government in Planning Practice Guidance 20th February 2019 prescribes a formula which uses information from the 2014 based household projections; the Government Housing Delivery Test results, and the official housing affordability data for the district. The 2018 Housing Delivery Test results were published 19th February 2019 and they determined that the current buffer to apply to the base target for Braintree District is 5%. The most recent (2017 based) housing affordability data was published 26 April 2018.

Although the Council now considers that the supply indicated within the 2018 Annual Monitoring Report represents a robust assessment of the Council's Housing Land Supply position, the Council's latest 5 year supply figure of 5.42 years, as at 31st March 2018 (recalculated utilising the 2014 based household projections and takes into account the 2018 Housing Delivery Test results), must be considered in the context of the emerging Publication Draft Local Plan.

The Publication Draft Local Plan which currently sits with the Inspector must be able to demonstrate a 5 Year Housing Land Supply in order for it to be found sound and adopted. Unlike the current methodology for calculating 5 year supply which takes account of housing undersupply in the standard methodology formula, the methodology for calculating 5 year supply under a

new Local Plan must add on the backlog from previous years. This results in a higher 5 year supply requirement.

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

SITE ASSESSMENT

History

There is no relevant planning application history relating to this site. It does however have call for sites history as part of emerging local planning policy spanning over a decade. The allocation history refers to the land at Gimsons but did not include the house, or the immediate land around the house. It was identified in the 2008 Core Strategy as having potential for approximately 90 dwellings in the long term, but this was revised down to 35 in the 2010 Strategic Housing Land Availability Assessment (SHLAA) and then back to 70 in the 2016 SHLAA.

The site was subsequently accepted as a draft allocation at the Local Plan sub-committee of the 13th April 2016 for the Draft Local Plan; with the Officers report considering the following:

“The site is a large green area located to the rear of Newland Street the main street in Witham. It is centrally located and would be within walking distance of retail and other community facilities. The land sits adjacent to the town park and sports and cricket grounds creating a green lung to this area, however is within private ownership with no public access. The site is adjacent but outside the Conservation Area and is also bordered by recreational land to the south side along the river which is also a local wildlife site. On balance it is considered that the site should be allocated for new homes, providing that appropriate access can be gained to the site. The site would suit a lower density development and must provide appropriate green walking and cycling links between the town, town park and the river walk area, linking these areas and providing a network of recreation spaces within the heart of the town. There are several group and single Tree Preservation Orders on the site which must be retained and designed to be incorporated into the scheme as appropriate.

Appropriate management of the site in relation to the neighbouring local wildlife site would need to be accommodated and design would need to be appropriate to its position adjacent to the conservation area. Vehicular access will need to be provided from River View with pedestrian and cycle links from Kings Chase, which is considered too narrow to accommodate a vehicle access.”

The allocation was put forward for 70 dwellings, however Planning Policy Officers considered 40-50 dwellings may be more appropriate for the site to help preserve the green setting. The recommended 40-50 dwellings (as

indicated in Appendix 3 of the Draft Local Plan) was not however based on any submitted layout and was purely an indicative figure. Gimsons house and the immediate land around the house was not proposed for allocation for residential development as the existing house was to be retained.

As the Draft Local Plan went through various stages of public consultation, the site retained its draft allocation for residential development and included its own draft policy in Section 2 of the Draft Local Plan, specifically Policy LPP32 states that:

Development at land identified at Gimsons will be supported subject to all of the following requirements;

- 40 new homes
- Provision of vehicular access from River View
- Provision of safe, direct pedestrian and cycle access from Kings Chase through to River Walk
- Contributions towards public realm improvements at Kings Chase
- Provision of formal and informal public open space
- Retention of the visual integrity of the character and setting of Gimsons, and its access
- Adequate protection and enhancement of protected trees, local wildlife sites and ecological integrity if the river view corridor
- Enhancement of the parkland setting of Gimsons

This policy assumed that Gimsons house would remain. As this development proposes to demolish Gimsons house, the above relating to its retention as above are not relevant to the development as the overall number of new dwellings would increase. There is no policy requirement to enhance or retain Gimsons house, and therefore its loss cannot be resisted and is acceptable in principle.

Following publication of Policy LPP32 of the Draft Local Plan for a Residential Allocation at Gimsons, the Section 2 Publication Draft Local Plan was subject to one further round of public consultation before submission to the Secretary of State. In summary, only four comments were received, raising concerns that the access from river view would be unsuitable, possible overlooking onto an existing playground, overdevelopment of the site, preference for a care home onsite and lack of specific reference to affordable housing.

While the Draft Local Plan has yet to be fully adopted, it can still be attributed weight in decision making as explained in relevant sections in the report above. For the purposes of this application, the site has a draft allocation for residential development. This therefore weighs heavily in favour of residential development at the site in principle. The significance of this will be explored within later sections of the report.

Location and Access to Services and Facilities

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

Witham is identified as a 'Main Town' which is the most accessible location in the Settlement Hierarchy in the Adopted Core Strategy for accessing services and facilities. This designation also carries through as part of the Draft Local Plan. The site in this case is centrally located within the Witham development boundary; it is within walking distance of the town centre containing shops, services and facilities meeting day-to-day needs and the railway station, it is therefore highly accessible. The sites accessible location can be given substantial weight in considering the planning balance at the end of the report.

Landscape Character, Layout, Scale & Appearance

The NPPF states that new development should seek to improve streetscapes and buildings to create attractive and comfortable places by using design which reflects local character and history, and reflect the identity of local surroundings and materials, thereby resulting in a form of development which is visually attractive as a result of good architecture and appropriate landscaping. In addition, the NPPF states that planning applications should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience (Paragraph 91).

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

The Council has adopted the Essex Design Guide as a Supplementary Planning Document. This indicates that dwellings with two bedrooms should be provided with a private rear garden of 50sq.m or more, and three bedroom dwellings should be provided with 100sq.m or more. Furthermore, Policy RLP56 of the Adopted Local Plan requires that sufficient vehicle parking should be provided for all new development in accordance with the Essex County Council Vehicle Parking Standards 2009.

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

Landscape Character

The site is identified as visually important space in the Adopted Local Plan (although this designation is not carried forward in the Draft Local Plan). The

site is also located within the A9 Blackwater River Valley Landscape Character Area (LCA), as defined by The Landscape Character of Braintree District (September 2006). The application is therefore supported by a Landscape and Visual Appraisal report (LVA). The report aims to predict and review the potential effects of the development on landscape character and visual amenities by assessing views around the entirety of the site from public vantage points, including Witham Town Park, Kings Chase, the sports grounds, River View, The River Walk, Newland Street, Maldon Road, and some of the surrounding estates. The LVA report also identifies wider mitigation measures as appropriate for the development.

Upon completing this assessment, overall the LVA considers that the development would have moderate-low visual prominence with limited public views due the mature trees which surround the site, either on the site boundaries or within the immediate context of land adjoining the site (that would be retained). The report does however acknowledge that some viewpoints would have more visual prominence and thus a higher sensitivity to change than others, including those from the Witham Park, Helen Court and the footpath to the east of the site. The report however concludes that any impact would be largely mitigated by replacement boundary treatments or boundary planting.

Numerous concerns have been raised by residents in respect of the impact that the development would have on the river walk. However, the report sets out that the site is generally well screened from viewpoints along the River Walk by boundary vegetation but also by existing trees along the river banks and within the intervening land. It does acknowledge though that there are currently three relatively narrow gaps along the site's southern boundary where there would be a degree of visibility, although these are proposed to be planted up to ensure the proposed new residential development is adequately screened from the River Walk.

From reviewing the LVA and Officer site visits, residents' concerns are understood and acknowledged as the immediate area around the River Walk (PROW) is generally open and spacious in character. However, what is important to note is that this development would not directly affect the River Walk. The development site is on average some 120m away from the river walk footpath to the red line site boundary, with the closest proposed dwelling 130m away from the footpath. Furthermore, in between the river walk and the site there are numerous trees and vegetation which fall outside of the application site that are not proposed to be altered. As such, while concerns have been raised about the impact upon the river walk, taking into account the above, the overall visual impact would be limited. Moreover, boundary planning is proposed to strengthen any gaps that do exist and this is reflected in the soft landscaping plan. The LVA provides a fair account of the likely impacts of the development from the River Walk.

In terms of other public vantage points explored in the LVA, the development would have more of an impact, especially from Witham Park, the easterly footway by the cricket fields and Helen Court, as the development would be

visible through existing trees and vegetation that are to remain. As such, in the short term there would be a more substantive impact from the aforementioned public vantage points. However, the development would considerably tidy up the site, from vandalised boundary treatments and overgrown vegetation, to a development that would be well managed and maintained. In addition, with appropriate new boundary treatments and new planting, the short term harm of the development would be reduced considerably in the medium and long term from these vantage points.

In order to reduce the impact of the development, the LVA sets out 12 recommendations for a landscape strategy, including removing scrappy vegetation and new tree planting on various boundaries, removal and replacement of existing boundary treatments, removal of overly mature trees subject to a preservation order, Poplars which pose health risk, protection of all other trees subject to a preservation order, bee and butterfly friendly planting, simple pallet of hard landscaping materials and a landscape management plan. These recommendations are broadly reflected within the various submitted plans.

Overall, taking into account all of the above, the development would have some short term harm from several more sensitive public vantage points. However, the development would tidy up the site and in the medium to long term any impact of the development would be substantially reduced with the recommendations from the LVA set out above. Furthermore, the Councils Landscape Officer raises no objections in respect of the above. The above factors will be assessed in the overall planning balance at the end of the report.

Impact on Vegetation

As set out above, there are a number of mature and protected trees around the edge of the site and which significantly contribute to the site's character. The application has subsequently been supported by an Arboricultural Impact Assessment (AIA), Tree Survey and Method Statement in order to determine which trees are worthy of retention and those trees/vegetation which are low quality and can be removed. Two further addendum reports were provided to better highlight which protected trees are to remain and identify more trees that are proposed to be managed/removed at the site. In any case, many of the significant trees on the site are already protected by a Tree Preservation Order (TPO).

The layout of the development has undergone numerous alterations at pre-application stage as documented within the submitted Planning Statement. These changes were not only to gain a more appropriate form of development by reducing quantum of units, but also to respond directly to the existing trees subject to a Preservation Order at the site by including them within the layout and allowing sufficient space for retention. The most notable retained trees would be the mature sycamores that punctuate the main drive to the Gimsons residence which would be retained in an open space corridor within the layout. The later report addendum continues the retention of these sycamores but

proposes some remedial works to manage them effectively. Other protected trees on the site would also be retained and incorporated within the layout.

There are however one group of Lombardy poplars subject to a Preservation Order at the site which are proposed to be removed. This grouping is located fairly central to the site near Gimsons house and is labelled G60 within the AIA. The poplars are tall trees and a collective feature in local vistas; however they are a short-lived tree rarely exceeding 60 years, prone to canker and branch drop and as such are not appropriate to be retained in a future residential development where they will inevitably cause anxiety and requests for reduction or removal. Furthermore, the AIA identifies a number of defects within these trees. As such, while the Lombardy poplars have a group TPO, the Councils Landscape Officer considers that their loss would be acceptable and necessary for any residential development at the site. There is also a mixed species woodland labelled W66 that is to be removed which is positioned to the south west of the site. This grouping forms part of the TPO listing but is only of moderate value and its removal is required to facilitate the development. It is proposed however to be replanted as part of the landscape scheme elsewhere to offset the loss. Taking this into account it is considered the proposal is acceptable in this regard.

All other trees and vegetation proposed to be removed would either be moderate or low quality and value across the site and would not be protected. The Addendum report sets out some further works to the group of trees on the southern aspect of the site. As such, it is considered the development would not involve the felling of any high quality trees or woodland and the Landscape Officer has no objections to all of the tree works proposed. A comment was received during the planning application process stating that the entirety of the site should be covered by a TPO to avoid any loss of trees. The Landscape Officer considered this and determined that the remaining areas of tree cover (outside of existing TPO groups on the site) are not of sufficient merit or collective amenity to warrant any further protection.

Layout & Scale

The site measures approximately 3.38Ha. In respect of the layout particulars itself, the application proposes 78 dwellings, although there would only be a net of 77 dwellings because Gimsons house is proposed to be demolished. The overall density of the site would therefore be in the region of 23 dwellings per hectare. However, the net density at the site (excluding open space and the long entrance road past Helen Court) would be closer to 33 dwellings per hectare. The density of development at this site would therefore be higher than the density of the older roads, but more commensurate with modern developments to the south of the river walk and beyond. This is because there is an onus on Local Government to secure the most efficient use of land in accordance with the NPPF. In this case, the site would utilise just over two thirds of the site as developable area, and leave just under one third as open space or strategic landscaping to be sensitive to its surroundings. The proposed 78 dwellings would therefore be concentrated in the middle to top end of the site, with only the access road going past Helen Court. The site

would also form an illuminated link from Maldon Road to Witham Town Park (and Newland Street beyond) which is a positive improvement to the current unlit footpath/river walk to link Maldon Road and Newland Street. The layout has been designed to be permeable to pedestrians in this way, with an open frontage to the Maldon Road park.

Plot 1, along with all plots other than Plot 78, would be accessed from River View via an internal spine road. Plot 78 would take its vehicular access from Kings Chase but would very much form part of the proposed development. River View is currently an un-adopted road however as part of these proposals the road would be upgraded and adopted as necessary. It should be noted that there is only a footpath on one side where the access road runs past Helen Court, however raised tables have been included as denoted on the site plan so that those with mobility impairment in particular can easily cross the road to utilise the footpath. These raised tables would also act as traffic calming measures. The existing footpath which runs along the eastern boundary of the site with the sports pitches would be altered slightly to facilitate the development (only the area just north of Helen Court), but would primarily remain open and usable to the public. The remainder of the existing public footpath around the site would remain unaltered. A public right of way also exists behind 129 Newland Street and the site. In the revised layout, this right of way is shown on the plan with a brick wall alongside Plot 33. Vehicle access would still be able to be taken for properties Wynngate and Waveney but only from Kings Chase; bollards would be included to restrict any vehicles using this as an access point. It would however be usable for pedestrians.

The internal spine road would measure 5.5m with 2m footpaths and comprises one sided development on the west side to enable a landscape buffer on the east side with the playing fields. There would also be a landscape buffer on the southern tip of the site adjacent to the river. River View would therefore retain its existing route in front of Helen Court, but extend into the site, curving upwards to run parallel with the sport pitches to the east. The curvature of the road in this way enables a strong area of existing landscaping to be retained parallel to Helens Court. It also encourages a strong vista towards existing vegetation and green space to help define a soft edge to the start of the development.

Those dwellings closest to the eastern and northern boundary would all front onto the playing fields/park so that the development is not completely inward facing and instead attempts to respond positively to its context. It would also enable public surveillance over the existing play equipment. The development also proposes a large corridor of open space to protect the row of protected trees which currently form part of the access to Gimsons house. This green corridor effectively splits the development into parcels; the larger parcel concentrated at the start and the middle of the site with back-to-back, back-to-side development and private drives, while the smaller parcel would be adjacent to the existing park but still comprise back-to-back development. The majority of the development would comply with the Essex Design Guide standards for back-to-back distances in order to provide suitable privacy for

future occupiers. Permitted Development Rights for those that do not fully comply have been removed by virtue of Condition 25.

In addition, the majority of the development would also provide garden sizes either in accordance or in excess of the standards set out in the Essex Design Guide to provide a good standard of amenity for future occupiers. Those plots that do not comply are considered to be close to the required figure, and would in any case be able to utilise the large areas of open space that would be retained as part of the development. Parking provision would also be included to the standards set out in the Essex Parking Standards and would include 168 parking spaces in totality with 19 of those as visitor spaces dispersed at various points around the site.

In terms of the mix of units, the site in totality would comprise a mixture of scale of housing including 7 one bedroom flats, 19 two bedroom flats/houses, 32 three bedroom houses and 20 four bedroom houses. In terms of story heights, all units excluding the flat block on the northwest tip of the site would be two storey to reflect the sites sensitive location and development further afield. The flat block on the northwest corner would be three storey. This is to reflect the three plus storey Moorfield Court which would be in close proximity to the site (and is much larger in overall size and scale). It is considered that this approach to scale would be suitable in the context of the site and its context, and thus is considered to be acceptable in this regard.

Taking into account all of the above, the site would be able to accommodate 78 dwellings while securing a high quality layout, creating a good sense of place for future occupiers and respecting its context in a sensitive location adjacent to many areas of open space or river corridors. The development would provide sufficient parking and garden space, while providing ample open space for future residents to enjoy. It is therefore considered that the development would be acceptable from a layout perspective.

Housing Mix/Tenure & Quality of Accommodation

The development would also provide 23 affordable units at 30% of the 78 total dwellings. This percentage of affordable housing would be compliant with the Councils Core Strategy Policy for Witham. The affordable units would be concentrated within two areas of the site; the northwest tip which includes 5 houses and 8 flats, and the northeast side which would have 5 flats and 5 houses. The split of units would be 70:30 affordable rent to shared ownership (or other forms of affordable home ownership) respectively in accordance with the Councils standards. The affordable units have been designed to some extent to be tenure blind with tandem parking and comprise the same if not similar house types to the market units.

In terms of the affordable split, the required mix of housing has been explored and revised with the Council's Housing Enabling Officer which has determined that a higher portion of the smaller units in this case should be affordable, and that some of the affordable units are larger to accommodate more double bedrooms. The affordable units therefore comprise 7 one bed two person

flats, 7 two bed four person flats, 7 two bed four person houses and 2 three bedroom 5 person houses. The units would comprise a mixture of shared ownership and affordable rented tenure other than the one bedroom flats.

In terms of internal amenity, the affordable housing and the market housing would comply with the Nationally Described Space Standards (NDSS), with the exception of house types Dahlia (3 bed) and Fitzgerald (4 bed) which would have a second/third bedroom which would be slightly below the required size. These units are however the larger of the market units which overall provide more internal amenity space comparatively to the smaller units which are more sensitive, and in this case do comply with the NDSS. As such, even though some bedrooms would be slightly deficient comparatively to NDSS guidance, in this case it is considered that all occupiers of the development would benefit from a good quality of internal amenity and standard of residential accommodation

Appearance

The overall design and appearance of the development is that of a simple but traditional style responding to local vernacular; comprising a mixture of terraced (link semi-detached), semi-detached and detached. The development proposes two flat blocks, ten core market housing types and three core affordable housing types. There would also be subtle variations within the base house types to provide visual interest in the development, such as the inclusion of weatherboard or a certain window detailing. One of the changes secured through the application stage was to add chimneys which would have prominence from the playing fields or Witham Park in order to enhance the overall quality of the development. There would also be a mixed palette of materials; a predominance of brick and render with some weatherboarding, with a mixture of a darker/plain tile.

Taking into account all of above, the development would provide a good mixture of houses and flats which would create its own sense of place and respond to local context. It is considered the detailed design for both the market and affordable units is acceptable.

Soft & Hard Landscaping

Details of hard and soft landscaping treatments have been included as part of the application. These particulars were revised during the course of the application to include boundary treatment details.

The main access roads and footpaths in the site would be constructed in concrete asphalt. The two subsidiary shared surface roads (and private drives accessed from these roads) would comprise charcoal block paving, however the style of block paving would change between the northern and southern elements. The south side of the site would be 45 degree herringbone pattern and the north side would be 90 degree herringbone pattern. Parking spaces and individual drives would be light grey 45 degree herringbone pattern block paving to distinguish between the public and private space. Buff paving slabs

would be used for footpaths to individual dwellings and for footpaths through open space as necessary.

In terms of boundary treatments, starting at the edge of the site with the Witham Town Park and the playing fields, the perimeter would generally be open but the site enclosed by a 0.75m timber knee rail fence. A section of this fence would be left open with 16 twelve inch square posts installed to allow permeability for pedestrians and cyclists through the site but restrict vehicular access. This knee rail fencing and bollards would also be present around some of the open space areas of the site that are to be retained. At the bottom of the site adjacent to Helen Court, it is proposed that a high quality 1.6m woven wattle fence is installed on the site side of the existing railings to provide a soft edge and some screening for residents of Helen Court. On boundary edges in the public realm, these would be 1.8m high brick walls, with 1.8m high close boarded fencing acting as the border between gardens. Finally, to the southern tip of the site, there would be a 1.5m high green mesh fence. This will provide a means of securing the site and ensuring any deer and otters are less likely to find their way out of the river corridor and the adjacent wildlife site

Soft landscaping particulars have been confirmed to be appropriate by the Landscapes Officer with tree retention and additional planting of boundary hedges, ornamental planting to frontages and tree planting of species including Acer Campestre 'Elegant.'

Overall the hard and soft landscaping proposed would be appropriate for the site and would complement the high quality layout as explored in earlier sections of the report.

Ecology

Policy RLP84 of the Adopted Local Plan states that planning permission will not be granted for development which would have an adverse impact on badgers, or species protected under various UK and European legislation, or on the objectives and proposals in National or County Biodiversity Action Plans as amended. Where development is proposed that may have an impact on these species, the District Council will require the applicant to carry out a full ecological assessment. This is echoed by Policy LPP68 of the Draft Local Plan.

The application is supported by the submission of an Extended Phase 1 Habitat Survey and a Phase 2 Ecological Survey(s) and Assessment by a qualified ecologist. These documents include assessing the biodiversity value of the site in general, as well as its potential to support ecological receptors. It also includes surveys for protected and other species including badgers, bats, breeding birds, great crested newts, invertebrates, notable mammals: European hedgehog, otters, water voles and reptiles. The aim of these documents is to provide a thorough assessment of the likely ecological impact of the development, and also identify any mitigation measure that would be appropriate to offset any impact.

The Ecological Officer has reviewed the submitted Phase 1 and Phase 2 surveys. The Ecological Officer considered that sufficient ecological information has been provided with the application to make an appropriate assessment of the likely ecological impact of the development. In considering the likely impact, the Ecological Officer determined that with appropriate mitigation measures to conserve and enhance Protected and Priority species, the proposed development would not have a detrimental ecology impact. As such, conditions 14-19 inclusive have been attached to the report, including the submission of a construction environmental management plan, phase 2 badger survey, habitat sites mitigation, landscape and ecological management plan, biodiversity enhancement strategy and a wildlife sensitive lighting design scheme.

A large number of representations stated that deer, kingfishers and other important species are present at the site. However, with the conditions set out above, it is considered any impact on these species could reasonably be mitigated against during construction and in the longer term. Moreover, the development would not build over the entirety of the site, and the richest habitat for wildlife along the river would be retained and enhanced. While The Essex Wildlife Trust object to the application, the Council's Ecology Officer has reviewed the application and has no objection. Officers are satisfied with the assessment that has been undertaken and agree with the conclusions of the Ecology Officer. As such, taking into account all of the above, it is considered that the development would be acceptable from an ecological perspective.

Habitat Regulations Assessment (HRA / RAMS)

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

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

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

However, whilst the appropriate assessment of the Local Plan has identified a likely significant effect for all residential development in-combination with other plans and projects, the amount of minor and major development proposals for

1-99 houses that is likely to be granted planning permission prior to the adoption of the RAMS, which will require financial contributions for all residential proposals, is considered to be de minimis considering that the RAMS will be dealing with the in-combination effects of housing growth across Essex over a 15 year period.

As such, it is concluded that this proposal would not have a likely significant effect and therefore no financial contribution is requested in this case. Notwithstanding the above, at the present time, there are no specific costed projects identified and no clear evidence base to give the Local Planning Authority any ability to impose such a requirement for a proportionate, evidence based contribution.

Heritage

Paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 196 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Paragraph 197 of the NPPF states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Policy RLP95 of the Adopted Local Plan and Policy LLP56 of the of the Draft Local Plan states that the Council will preserve, and encourage the enhancement of, the character and appearance of the designated Conservation Areas and their settings, including inter alia the buildings and historic features and views into and within the constituent parts of designated areas. Proposals within/adjoining Conservation Areas will be permitted where the proposal does not detract from the character, appearance and essential features of the Conservation Area.

Policy RLP100 of the Adopted Local Plan supported by Policy CS9 of the Adopted Core Strategy and Policy LPP60 of the Draft Local Plan states inter alia that works will be permitted where they do not harm the setting, character, structural stability and fabric of the building (or structure); and will not result in the loss of, or significant damage to the building or structure's historic and architectural elements of special importance, and include the use of appropriate materials and finishes.

The application site abuts the Witham Town Centre, Newland Street Conservation Area. The settlement of Witham grew around the main arterial road to London which is similar to many of the settlement cores in this area, including adjacent Kelvedon. This is reflected in the existing settlement where the historic building stock fronting the B1389 makes the historic layout very much discernible. The proposed development site is one of the last locations where land to the rear of these historic buildings remains undeveloped. In its undeveloped form, the proposed development site makes a positive contribution to the setting and significance of the Conservation Area and is one of the best means by which to understand and appreciate the historic linear form of the settlement core and understand its origin.

The development if approved would remove one of the last remaining plots of underdeveloped land, detracting from the landscape context and setting of the Conservation Area. Due to the above, the Historic Buildings Consultant considered that the development of this site would remove the site's contribution to the significance of the Conservation Area, and attributes this harm as 'less than substantial' in accordance with Paragraph 196 of the NPPF. Furthermore, the development would alter the existing undeveloped area to the rear of a number of listed buildings that front onto Newland Street including No's 117 and 119, 121 and 123, 125 and 127, and 129. The heritage statement submitted with the application identifies that the development would have 'negligible harm' to the setting of listed buildings. The Historic Buildings Consultant however considers that the harm identified to the listed buildings by the development would also be 'less than substantial harm' under the NPPF. As such paragraph 196 is also relevant in this regard.

Gimsons house is due to be demolished as part of the development. It has been identified as a non-designated heritage asset. However, the building is not formally designated heritage asset and has no formal means of protection with it not being located in a Conservation Area or within the setting of a Listed Building. Furthermore, the Applicants Heritage Consultant considers the heritage significance of the building to be low, but did acknowledge on site that the building was a non-designated heritage asset.

As per paragraph 196 of the NPPF, development resulting in 'less than substantial harm' to heritage assets should be weighed against the public benefits that would arise from a proposal. In this respect, the less than substantial harm to the Conservation Area, listed buildings and loss of a non-designated heritage asset identified, would not automatically dictate that the development is unacceptable. Instead, it means that the identified heritage harm must be weighed against the public benefits of the proposal. Furthermore, should planning permission be granted, a condition would be attached to enable full building recording before demolition takes place (Condition 22).

In this case, there are considerable public benefits which would arise from the development; these include but are not limited to the site's highly assessable location, contribution to the housing supply, contribution to the vitality of the

Town through increased revenue and S106 contributions for services and footway improvements. It is considered that the weight to be attached to these benefits would outweigh the less than substantial harm that would arise to the setting of the Listed Buildings, Conservation Area and the loss of a non-designated heritage asset. As such, in the heritage balance, it is considered that the heritage harms would not outweigh the public benefits. The wider planning balance exercise is carried out at the end of the report which considers all harms and benefits of the development.

Archaeology

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

The application in this case was supported by a Desk Based Archaeological Assessment. This assessment found that possible urns from a cemetery could exist at the site, however there is some dispute as to the exact location of the urns. Accordingly, the imposition of a condition covering groundworks, mitigation strategy for excavating/preservation, mitigation for fieldwork and a post excavation assessment is recommended (Condition 20).

Impact on Neighbour Amenity

A core principle of the National Planning Policy Framework is that development should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Draft Local Plan states that development shall not cause undue or unacceptable impacts on the amenities of nearby residential properties. In addition, the Essex Design Guide states that new development which backs onto existing development should have gardens of 15m depth to rear boundaries, with a minimum of 25m separation distance between the rear elevations of each property, to be acceptable from neighbouring impact perspective.

The site in this case directly backs onto those properties accessed from Kings Chase and Newland Street. All other neighbouring properties (with the exception of Helens Court) are separated from the site by way of open space or playing fields. As such, due to separation distances and the scale of development, there would no detriment by reason of overlooking, overbearing, overshadowing or loss of light to properties on other roads in the vicinity of the site.

Properties in close proximity include 'The Cottage' which is accessed from Kings Chase. The Cottage faces onto Kings Chase and is directly adjacent to

the top part of the site, and the existing entrance to Gimsons house. The closest proposed plots to The Cottage would be plots No.78 and No.70. Plot No.78 would mirror the siting and orientation of The Cottage while being located 10m away. On this basis that Plot No.78 would not cause a detrimental impact on The Cottage. Similarly, Plot No.70 is located directly behind Plot No.78, as such would not have direct overlooking capabilities into the garden area of The Cottage. Some indirect overlooking could occur, however given separation distances of approx. 22m between the properties and existing outbuildings in the garden of The Cottage, any indirect overlooking would not be detrimental.

Those properties known as 'Waveney' and 'Wynngate' currently share the existing access road to Gimsons House. This access road would not be changed as part of the development. The layout of the development has been designed so that neighbouring properties Waveney and Wynngate would overlook existing trees and landscaping to be retained as part of the development. As such, the amenity of neighbouring properties Waveney and Wynngate would not be detrimentally affected by the proposal.

In terms of other properties accessed from Newland Street, most are located on the road frontage with car parking or garden at the rear and have a mixture of commercial and residential uses. In the west corner of the site the Witham Scouts ground is located approx. 32m from the edge of the site, while Moorfield Court is located approx. 9m from the edge of the site. The proposed three storey flat block on the development would be located in this area and is located 44m away from the Scout hut and 25m away from Moorfield Court at the closest point. The proposed three storey flat block would therefore be some distance away from the Witham Scout hut and thus would not cause a detrimental impact on the use of the Scout hut or grounds. Similarly, Moorfield Court is also some distance away and is much larger than the proposed flat block on the development. The siting of the proposed flat block is also forward that of Moorfield Court. Taking the separation distance and siting into account, it is considered the development would not have a detrimental impact on the amenity of residents of Moorfield Court.

Helen Court is a care home located off of River View. The proposed development would extend River View in front of Helen Court to gain access to the wider site. The proposed development would therefore have an impact upon the amenity of residents at Helen Court by virtue of cars traversing into and out of the development. In order to mitigate this impact, the hard/soft landscaping plan indicates a 1.6m Woven Wattle Fence that was explored in consultation with residents of Helen Court. This fence would block out views of car drivers around the corner of the building to prevent any direct overlooking on the western wing of the building. Similarly, the proposed raised tables between the two points of Helens Court would reduce traffic speeds and noise associated with passing vehicles. However, a development of this size is not expected to generate excessive vehicular movements. Finally, there would be no footpath on the side of Helen Court going past the front or side of the building, as such there would at the shortest distance be a gap of

approx. 6m to the access road. Taking all of the above into account, the amenity of residents of Helen Court would be protected.

A number of concerns were raised in respect of construction activities at the site. Construction activity however is a temporary disturbance that is associated with any development. The Local Planning Authority cannot reasonably refuse an application because construction works may temporarily disturb neighbouring properties/commercial premises. A condition would be imposed to ensure construction works would not occur outside of unreasonable hours (Condition 5). Furthermore, should any infrastructure works requiring the closure or partial closure of Maldon Road, the works and vehicle movements could be effectively managed by way of the Construction Method Statement (Condition 10). Any necessary road closures will be dealt with in an appropriate way by the Highways Authority. The Construction Method Statement is not required up front as these details are not likely to be finalised until later in the process. Any damage caused by construction vehicles would be a civil matter and not something that the Local Planning Authority can control.

Highway Issues

Access to the Site

The site would be accessed from Maldon Road and River View. River View is currently a private road which services Helen Court and also provides some vehicular access to the rear of properties 56-90A Maldon Road and the pavilion on the Sauls Bridge sports ground. River View currently terminates opposite the middle core of Helen Court, and then comprises green strip leading to the existing footpath which runs alongside the perimeter of the application site. River View also provides an access to the footpath towards the river and bridge which is at a lower level than the site.

The access from Maldon Road to River View would remain unchanged as part of the development. Numerous concerns have been raised by objectors in respect of the suitability of the access and vehicles entering and exiting the site onto Maldon Road in either direction. Concerns have also been raised in respect to the overall intensification of the access, the busyness of Maldon Road and the congestion that arises in Witham more generally at peak periods.

The application is however supported by a Transport Statement which aims to assess the likely highway impact of the development. The Transport statement sets out that the propose development would generate 43 movements in the AM peak period, and 49 movements in the PM peak period based on the trip generation figures set out by Essex County Council. The Transport Assessment also considered the impact of the development on a number of junctions in close proximity to the site. The conclusion was that the development could be accommodated safely within the highway network without need for mitigation measures. In addition, the existing access is compliant with the Highway standards for a 30mph road, measuring 2.4m by

43m in both directions. Essex Highways have completed their own assessment of the junction and the likely impact of the development, taking into account all of the above. Essex Highways are satisfied that the development would be able to provide a safe access onto Maldon Road and would not require any mitigation measures to off-set any impact of the development on junctions in the area. As such, while concerns with the existing access are noted, it is considered that the existing access would be suitable to accommodate the proposed development.

The development in this case also proposes to upgrade part of River View to adoptable standards and extend it over the green strip that runs parallel with Helen Court into the site itself. The road's adoption will enable future management by Essex Highways rather than be part of a management company for future residents of the site. The road upgrade would be completed in accordance with Highway specifications in consultation with the Highways Authority. There is sufficient space available for this upgrade without requiring additional land in excess of the existing hedge boundaries of the site to the north or south. It is considered that the proposed adoption of the access and shared surface roads would be appropriate in line with comments from Essex Highways.

The proposed access road into the site would also use a small triangular section of the sports ground measuring approximately 243sq.m to avoid felling numerous trees on the southern tip of the site. The access road would therefore partially encompasses the existing footpath around the site; the footpath walking north from the river would join up with the proposed 2m footpath, provide a raised table crossing point, and then access to the 2m footpath on the other side of the proposed access road, to then join up with the existing path that runs parallel to the site. The way that the layout is configured is such that pedestrians also have the option to walk through the site to access the existing park and Kings Chase as well as utilising the existing footpath.

The final consideration is that some of the proposed conditions attached to the Committee Report comprise different triggers related to phases of development; those for the access itself, and those for the remaining development. If approved, this enables the access road to be upgraded before having to discharge other conditions relating to the wider site itself.

In summary, the Highway Authority do not object to the application and instead recommend conditions in respect of a construction management plan (Condition 9), footpath link widening, upgrading of bus stops and residential travel information packs (Condition 23).

River Walk Improvements

The site in this case is directly adjacent the river walk and river Brain (which is formally identified on the proposals map. Policy RLP140 of the Adopted Local Plan Review states inter alia that *"...In considering proposals for the development of adjacent land, the District Council will seek opportunities to*

extend and improve river walks/linear parks and links to them. Cycleways and improved footpaths and bridleways will be provided where appropriate at river walks and disused railway lines.” Policy CS7 of the Adopted Core Strategy also states that The Council will work to improve accessibility, to reduce congestion, and promote sustainable travel. Sustainable transport links will be improved, including provision of and contributions for, cycling and walking. Furthermore, Draft Policy LPP32 requires inter the “*provision of safe, direct pedestrian and cycle access from Kings Chase through to River Walk.*”

The river walk (more specifically, the section from the edge of the footbridge over the river through to Newland Street) is 495m long. The whole section is currently too narrow for pedestrians and cyclists to pass safely and with ease. Works are therefore required to widen the path and provide a suitable surface along this length of path, as future users of the site would likely use the River Walk. The works to widen and resurface the river walk (to 3.5m) for this stretch of 495m would cost in the region of £48,500. The Applicant has agreed to pay for these works subject to an agreed specification. This is therefore a material benefit which weighs in favour of the application.

It was also considered whether the Applicant should contribute towards the cost of improving the bridge that connects the site to the River walk, but on this occasion it is considered that the cost of that improvement to be disproportionate to the scale of development proposed.

Witham Town Park Footpath Improvements

A financial contribution of £7500 would also be secured to widen a 65m stretch of footpath adjacent to the front of the site leading from Plot 68 to the adopted highway at Kings Chase. The footpath would be widened to 3m to allow for pedestrians and cyclists to use it. It is considered that this will be secured through the suggested conditions attached to this report and through S106.

SUDS, Sewerage and Drainage

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

Government Policy as set out in Para.163 of the NPPF strongly encourages a sustainable drainage system (SuDs) approach to achieve these objectives. SuDs offer significant advantages over conventional piped drainage systems in reducing flood risk by reducing the quantity of surface water run-off from a site and the speed at which it reaches water courses, promoting groundwater recharge, and improving water quality and amenity.

The application was supported by a flood risk and surface water drainage strategy document. The site is located in Flood Zone 1 which is an area with the lowest risk of flooding. The site is however close to the River Brain which is in Flood Zone 3, but the submitted strategy document concludes that the

site is at low risk from fluvial sources and no risk from tidal sources. The Environment Agency concur with the findings of the strategy document and consider that there would be no issues with flood risk at the site.

In terms of surface water, it is proposed that private roads and driveways would consist of permeable paving that would discharge into the river terrace deposits. For impermeable roads and roofs these areas would be drained by a conventional piped network laid beneath the road. Attenuation would be provided by an attenuation tank and detention basin located on the outfall from the network and a shallow SUDS area due to levels at the site. Essex SUDS, the Environment Agency and Anglian Water raised no objection to the development, subject to the imposition of conditions (Conditions 11, 12 and 13).

Anglian Water provided comments that that the developer should contact them to discuss particulars of surface water as the development could lead to an unacceptable risk of flooding downstream if not appropriately mitigated, recommending that the applicant contact them directly, but do not explicitly object to the application. Instead they suggest conditions should the application be approved. Taking into account the above information, and the SUDS no objection to the development, it is considered that the proposed means of surface water drainage would be acceptable.

Lighting

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

Subject to an appropriate lighting scheme being secured via Conditions 18 and 19, there would not be a detrimental impact on the area by any future proposed lighting on the scheme. Lighting controls would also extend to protecting biodiversity in the area.

Contamination

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

The application was supported by a Contaminated Land Assessment which sampled soil across the site. The report highlights that some contaminants were only found in one area of the site in close proximity to the playing field.

The Environment Agency and the Council's Environmental Health Officer considered the report and had no objection subject to Condition 8 and Condition 9 for further sampling works and what to do if contamination is found.

Air Quality

Concerns have been raised by residents in respect of air quality and the lack of an air quality assessment submitted with this application. The concern is that the development would create air pollution for existing residents of Helen Court and wider traffic jams on Maldon Road. Residents consider that by not asking the developer to provide an Air Quality Assessment that the Council would be in breach of Article 8 of the Human Rights Act 1998. However, the Environmental Health Officer (EHO) set out that the site is not in an Air Quality Management Area, and would not lead to more than 500 light duty vehicles on the local roads. As such, the EHO considers that air quality is not a material consideration for this planning application as there will not be an exceedance of the air quality objective created at the facades of proposed or existing residential properties. Any pollutants during construction can be adequately controlled via conditions which the EHO has set out and have been included in the condition list as appropriate.

PLANNING OBLIGATIONS

Paragraph 96 of the NPPF states that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision. The assessments should identify specific needs and quantitative and qualitative deficits or surpluses of open space, sports and recreational facilities in the local area. Information gained from the assessments should be used to determine what open space, sports and recreation provision is required.

Policies CS10 and CS11 of the Adopted Core Strategy indicates that a financial contribution will be required to ensure that infrastructure services and facilities required to provide for the future needs of the community including, inter alia, open space, sport and recreation provision are delivered.

The S106 in this case would not include the site access. The reason for this split is so that the developer can deliver the access first without having to discharge conditions in relation to the wider site. The recommended conditions attached to this report are therefore categorised based on a phasing plan relating to the access and the development itself.

Notwithstanding the above, open space in Braintree District is calculated in accordance with the standards set out in the Open Spaces SPD and the Core Strategy. Open space will be provided on site in numerous areas. Due to the scale of this development, there would not be a requirement for provision for formal sports or allotments on the site, but instead these aspects could be

secured via financial contribution to identified schemes in Witham. No play equipment is proposed due to the location of the Witham Town Park play area immediately opposite the site. It is considered a financial contribution towards this park would be sufficient to satisfy the Open Spaces SPD. The payment of the contributions will be secured through the S106 legal agreement.

The open space contributions should also take into account the loss of one existing 4 bedroom dwelling at the site, so an overall net of 77 dwellings.

In terms of the required contributions:

- **Sport:** £72,499.52

This contribution would be secured for projects relating to Outdoor sport provision. In consultation with Witham Town Council, it has been agreed that this contribution would be used for provision / improvements of Outdoor Sports facilities at Sauls Bridge Sports ground for signage markers, and other schemes at Sauls Bridge Sports Ground which are still being explored.

- **Provision for Children & Young People:** £48,693.65

This contribution would be secured for upgrading and refurbishing Witham Town Park Play Area in agreement with the Town Council.

- **Allotments:** £2,300.63

This contribution would be secured for Cut Throat Lane Allotments (Site 1), Cut Throat Lane, Witham for the provision of raised gardening beds for less physically able people and improvements to parking area.

Furthermore, it is proposed that the maintenance of the amenity greenspace areas in the site along with other areas of the public realm would be maintained by a management company. This would also be secured through a Section 106 Agreement.

In addition to all of the above, a contribution of £48,500 will be secured towards widening and resurfacing the river walk for a stretch of approximately 495m. A financial contribution would also be secured of £7500 to widen part of the footpath in Witham Town park to 3m to allow cyclists to use the route.

Finally, the S106 Agreement would require financial contributions to the provision of additional Early Years and Child Care places (3), and Primary Education places (20.2). These figures for 77 units would be:

- Early years and child care: £52,266
- Primary education - £ 304,856

The NHS have also requested a financial contribution of £29,187 to improve Fern House Surgery.

30% Affordable Housing would also be secured in accordance with the following specification:

River View, Witham Unit Type	No	Affordable Rented Tenure	Other Affordable Routes e.g Shared Ownership
1 bed 2 person flat	7	7	0
2 bed 4 person flat	7	3	4
2 bed 4 person house	7	4	3
3 bed 5 person house	2	1	1
Total	23	15	8

PLANNING BALANCE & CONCLUSION

As set out within Paragraph 47 of the NPPF, planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In this case the application site is located within a town development boundary where the principle of development is acceptable. However, as identified above, the application site is identified as Visually Important Space in the Adopted Local Plan, the proposed residential development of the site is contrary to the Development Plan.

Although the Council now considers that the supply indicated within the 2018 Annual Monitoring Report represents a robust assessment of the Council's Housing Land Supply position, the Council's latest 5 year supply figure of 5.42 years, as at 31st March 2018 (recalculated utilising the 2014 based household projections and takes into account the 2018 Housing Delivery Test results), must be considered in the context of the emerging Publication Draft Local Plan. The Publication Draft Local Plan which currently sits with the Inspector must be able to demonstrate a 5 Year Housing Land Supply in order for it to be found sound and adopted. Unlike the current methodology for calculating 5 year supply which takes account of housing undersupply in the standard methodology formula, the methodology for calculating 5 year supply under a new Local Plan must add on the backlog from previous years. This results in a higher 5 year supply requirement.

The Government's policy objective of significantly boosting the supply of homes as highlighted in Paragraph 59 of the NPPF is an important material consideration in this case, however this in itself is not considered to be sufficient to outweigh any conflict with the Adopted Development Plan. In contrast, the above factor in relation to the Publication Draft Local Plan is considered to be an important material consideration. Furthermore, and as identified above, the application site has a draft allocation (in part) within the Publication Draft Local Plan for residential development which is an important material consideration and should be afforded some weight.

As set out in Paragraph 8 of the NPPF, achieving sustainable development means that the planning system has three overarching objectives, which are

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

In terms of the economic and social objectives, the development of the site for 78 units (net of 77 units) would contribute towards the Districts 5 year housing supply, while also providing 23 affordable units in accordance with the Councils adopted Policies. Developing the site would also accord (in part) with the Draft Local Plan site allocation for residential development which is a highly material factor. Furthermore, all details have been put forward for agreement up front which will lead to an earlier delivery of the site, with only conditions remaining to be discharged/agreed. There would also be jobs provided during the construction stage and once occupied, future occupiers would contribute to the vitality of Witham. The development of the site would also secure financial contributions to mitigate the impact upon services and open space within the area and would be secured through a Section 106 agreement. A financial contribution would also be secured for works to widen and resurface the river walk for a stretch of approximately 495m. As such, it is considered there are significant economic and social benefits that would arise from the development.

In terms of the environmental objective, the site is located in a highly accessible location with access to numerous services and facilities. Developing the site however would remove a green area formerly identified as visually important space in the Adopted Local Plan, but proposed planting and soft landscaping would mitigate any initial impact of the development from public vantage points. As such, while there would be some initial landscape harm of developing the site, these impacts would be mitigated in the medium and long term. There would be harm through the loss of some trees and vegetation at the site, however it is considered these losses would not result in the removal of high value trees and thus the overall harm is considered to be low and can be adequately mitigated.

Furthermore, the site is private land with no formal public access and as such the development would not result in the loss of a publicly accessible area of open space. The development of the site would also result in the loss of a

non-designated heritage asset (Gimsons house), and also would result in less than substantial harm to the setting of Listed Buildings and the Witham Conservation Area. The identified heritage harm weighs against the proposal.

In terms of other aspects, the development would provide 78 dwellings in a high quality layout that would create a good sense of place, create an appropriate character and include finer elevational detailing, comply with the standards for internal and external amenity, and comply with the parking standards. The site could also reasonably be developed without detriment to neighbouring properties, highways, ecology and existing important vegetation at the site.

Taking into account all of the above, there are a number of economic and social factors weighing heavily in favour of the proposed development, while there are also environmental factors weighing against the proposed development primarily related to heritage impacts and short term landscape impacts. When considering the planning balance and having regard to the benefits as identified above, and having regard to the requirements of the NPPF as a whole, and the draft allocation (in part) of the site, Officers have concluded that the aforementioned significant economic and social benefits including the sites highly accessible location, would outweigh the less than substantial heritage harm and initial landscape harm that would arise from the development. The proposed development would constitute sustainable development and it is therefore recommended that planning permission is granted.

Section 106 Heads of Terms

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

- **Affordable Housing:** 23 units comprising tenure of 15 x Affordable Rent & 8 Shared Ownership.
- **Public Open Space:** On site provision of public open space. Management Company be appointed for the maintenance of the proposed open space and tree buffer zone. Financial contribution in accordance with the Town Council and Open Spaces Action Plan for:
 - Equipped play - £48,693.65 -- Upgrading and refurbishing Witham Town Park Play Area
 - Allotments -£2,300.63 -- Allotments (Site 1), Cut Throat Lane, Witham for the Instillation of raised gardening beds for less physically able people and improvements to parking area.
 - Sports - £72,499.52 -- Provision / improvements of Outdoor Sports facilities at Sauls Bridge Sports ground for signage markers, and other schemes at Sauls Bridge Sports Ground which are still being explored.
 - Above contributions to be paid prior to fist occupation of the development

- **River Walk:** £48,500 – Financial contribution to widen river walk to 3.5m and resurface for a stretch of 495m from Newland Street to the proposed road into the site.
- **Education:** Financial contributions for Early years and child care: £52,266, Primary education - £ 304,856
- **NHS:** Financial contribution of £29,187 to improve Fern House Surgery.

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

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

APPROVED PLANS

Specification	Plan Ref: PR135-01	Version: C
House Types	Plan Ref: 857-HA83-01	Version: A
House Types	Plan Ref: 857-HA83-02-2B	Version: A
House Types	Plan Ref: 857-FIT-02	Version: B
Levels	Plan Ref: 180857-CON-X-00-DR-C-2000_P4	
Levels	Plan Ref: 180857-CON-X-00-DR-C-2001_P4	
Levels	Plan Ref: 180857-CON-X-00-DR-C-2002_P5	
Levels	Plan Ref: 180857-CON-X-00-DR-C-2003_P5	
Levels	Plan Ref: 180857-CON-X-00-DR-C-2004_P4	
Levels	Plan Ref: 180857-CON-X-00-DR-C-2005_P5	
House Types	Plan Ref: 857-APP2-01	Version: A
Proposed Roof Plan	Plan Ref: 857-APP2-02	Version: A
Proposed Elevations	Plan Ref: 857-APP2-03	Version: A
Proposed Floor Plan	Plan Ref: 857-APPI-01	Version: A
Proposed Floor Plan	Plan Ref: 857-APPI-02	Version: A
Proposed Elevations	Plan Ref: 857-APPI-03	
Proposed Elevations	Plan Ref: 857-APPI-04	
House Types	Plan Ref: 857-CA-01	
House Types	Plan Ref: 857-CA-02	
House Types	Plan Ref: 857-CA-03	
House Types	Plan Ref: 857-CH-02	
House Types	Plan Ref: 857-CH-04	
House Types	Plan Ref: 857-DAH-01	Version: A
House Types	Plan Ref: 857-DAH-02	Version: A
House Types	Plan Ref: 857-GO-01	
House Types	Plan Ref: 857-GO-02	
House Types	Plan Ref: 857-HA71-01 2B	

House Types	Plan Ref: 857-HA71-02 2B	
House Types	Plan Ref: 857-HA71-03 2B	
House Types	Plan Ref: 857-MAI-01	Version: A
Proposed Phasing Plan	Plan Ref: 857-PI-19	
House Types	Plan Ref: 857-PO-01	
House Types	Plan Ref: 857-QU-01	
House Types	Plan Ref: 857-TH-01	
House Types	Plan Ref: 857-TH-02	
House Types	Plan Ref: 857-CO-01	
House Types	Plan Ref: 857-CH-03	
Site Plan	Plan Ref: 857-PI-03Z	Version: J
House Types	Plan Ref: 857-CH-01-A	
House Types	Plan Ref: 857-CO-02-B	Version: A
Street elevation	Plan Ref: 857-ELE-01	Version: C
Elevations	Plan Ref: 857-ELE-02	Version: C
Street elevation	Plan Ref: 857-ELE-03	Version: C
Street elevation	Plan Ref: 857-ELE-04	Version: B
House Types	Plan Ref: 857-FIT-01-A	
House Types	Plan Ref: 857-HA855-01-2B HA855-A	
House Types	Plan Ref: 857-HA855-02-2B HA855 -B	
House Types	Plan Ref: 857-Mi-01	Version: A
Highway Plan	Plan Ref: 180857-CON-X-00-DR-C-3330	
Highway Plan	Plan Ref: 180857-CON-X-00-DR-C-3331	

- 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 Prior to first occupation of the development hereby approved, the development shall be carried out in accordance with the approved hard and soft landscape plan reference PR135-01 and thereafter retained as such.

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.

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

Reason

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

- 4 No above ground development in phase 2 (Approved Plan ref: 857-PL-19) shall commence unless and until samples of the materials to be used on the external finishes have been submitted to and approved in writing by the local planning authority. The development shall only be implemented in accordance with the approved details.

Reason

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

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

Monday to Friday 0730 hours - 1800 hours

Saturday 0730 hours - 1300 hours

Bank Holidays & Sundays - no work

Reason

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

- 6 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.

- 7 The principal access to serve the development hereby permitted shall be constructed and available for use in accordance with the details as shown on the approved plan 180857-CON-X-00-DR-C-3105 P2 prior to the first occupation of any dwelling.

Reason

To ensure roads/footways are constructed to an acceptable standard and in the interests of highway safety.

- 8 Prior to the commencement of development on phase 1 (Approved plan ref: 857-PL-19 with the exception of site clearance and demolition), 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.

- 9 Prior to the commencement of development on phase 2 (Approved plan ref: 857-PL-19 with the exception of site clearance and demolition), 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.

- 10 No development shall commence unless and until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The Statement shall provide for:

- Safe access to/from the site including details of any temporary haul routes and the means by which these will be closed off following the completion of the construction of the development;
- The parking of vehicles of site operatives and visitors;
- The loading and unloading of plant and materials;
- The storage of plant and materials used in constructing the development;
- The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- Wheel washing facilities;
- Measures to control the emission of dust and dirt during construction;
- A scheme for recycling/disposing of waste resulting from demolition and construction works;
- Delivery, demolition and construction working hours.
- A method statement for badger/small mammal protection during construction
- No HGV vehicles shall access the site if Maldon Road is closed or partially closed to facilitate connection to the main sewer network.

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

Reason

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

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

The scheme shall subsequently be implemented prior to occupation.

Reason

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

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

Reason

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

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

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

- 13 No development (with the exception of site clearance and demolition) shall commence unless and until a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

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

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

Reason

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

Failure to provide the above required information before commencement of works may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site. To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

- 14 No development shall take place unless and until a badger survey is undertaken to assess the possible changes of badger activity which may affect works to the proposed development.

Reason

To conserve and enhance Protected and Priority species and allow the LPA to discharge its duties under the UK Habitats Regulations 2017, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 and s17 Crime & Disorder Act 1998.

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

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.
- i) Containment, control and removal of any Invasive non-native species present on site (If required).

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

Reason

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

- 16 Prior to the first occupation of the development, a Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority. The content of the LEMP shall include the following:

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

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

Reason

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

- 17 The development shall not be occupied unless and until a Biodiversity Enhancement Strategy for Protected and Priority species is submitted to and approved in writing by the local planning authority, following the recommendations provided within the Phase 2 Ecological Surveys and Assessment (Southern Ecological Solutions Ltd, November 2018).

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

- a) purpose and conservation objectives for the proposed enhancement measures

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

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

Reason

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

- 18 No above ground development shall commence in phase 1 (Approved plan ref: 857-PL-19) unless and until the following (including an implementation timetable) has been submitted to and approved in writing by the Local Planning Authority:

- (a) details of any proposed external lighting to phase 1 including a strategy to protect bats

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

Reason

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

- 19 No above ground development shall commence in phase 2 (Approved plan ref: 857-PL-19) unless and until the following (including an implementation timetable) has been submitted to and approved in writing by the Local Planning Authority:

- (a) details of any proposed external lighting to phase 2 including a strategy to protect bats

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

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

Reason

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

- 20 No development or preliminary groundworks shall commence unless and until a programme of archaeological evaluation has been secured and undertaken in accordance with a written scheme of investigation which

has been submitted by the applicant and approved in writing by the Local Planning Authority.

Following completion of this work, a mitigation strategy detailing the excavation/preservation strategy shall be submitted to the Local Planning Authority.

No development or preliminary groundworks can commence on those areas containing archaeological deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, and which has been signed off by the Local Planning Authority.

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

Reason

The site may be of archaeological interest and as such to start these works without further planning could compromise archaeological findings.

- 21 No development shall commence (with the exception of site clearance and demolition) unless and until details of the means of protecting all of the existing trees, shrubs and hedges to be retained on the site from damage during the carrying out of the development have been submitted to the local planning authority for approval. The approved means of protection shall be installed prior to the commencement of any building, engineering works or other activities on the site and shall remain in place until after the completion of the development to the complete satisfaction of the local planning authority.

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

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

Reason

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

- 22 Gimsoms House shall not be demolished unless and until the applicant has secured and undertaken a programme of archaeological work in

accordance with a written scheme of investigation to be submitted to, and approved in writing by the local planning authority.

Reason

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

23 No occupation of the development shall take place unless and until the following have been provided or completed:

- a) The two bus stops which would best serve the proposal site upgraded to current Essex County Council specification (details shall be agreed with the Local Planning Authority prior to commencement of the development).
- b) The Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per dwelling, for sustainable transport, approved by Essex County Council.

Reason

To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking, in accordance with policies DM1, DM9 and DM10 of the Highway Authority's Development Management.

24 The approved hard standing areas detailed in Hard Landscaping Plan PR135-01 REV C shall be completed in full prior to the occupation of the final dwelling to be constructed on the development.

Reason

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

25 Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting that Order) no enlargement of the dwelling-houses/alteration of the dwelling-houses or erection of outbuildings, as permitted by Classes B and C of Part 1 of Schedule 2 of that Order shall be carried out to Plots 64-69 inclusive without first obtaining planning permission from the Local Planning Authority.

Reason

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

INFORMATION TO APPLICANT

1 A professional archaeological contractor should undertake any archaeological investigation. An archaeological brief detailing the requirements can be produced from this office.

2 The woodland management plan required by condition 16 will need to address the phased rotational coppice of willows/poplars along the woodland edge to ensure the canopy maintains screening at low level and minimises risk of tall stems near to residential dwellings.

3 It is suggested that the developer seeks to obtain a Secured by Design "Gold" award in relation to this development.

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

Minutes (EXTRACT)

Planning Committee

19th March 2019



Present

Councillors	Present	Councillors	Present
K Bowers	Yes	Lady Newton	Yes (until 10.40pm)
Mrs L Bowers-Flint	Yes	Mrs I Parker	Yes
T Cunningham	Apologies	F Ricci	Yes
P Horner	Yes	Mrs W Scattergood (Chairman)	Yes
H Johnson	Yes	Mrs G Spray	Yes
S Kirby	Yes	Vacancy	
D Mann	Yes		

Councillors P Barlow, J Goodman, Mrs A Kilmartin, R Ramage, W Rose and Mrs S Wilson were also in attendance (until 8.48pm).

125 **DECLARATIONS OF INTEREST**

INFORMATION: The following interests were declared:-

On behalf of Members of the Committee, Councillor Mrs W Scattergood, the Chairman of the Planning Committee, declared a joint non-pecuniary interest in Application No. 18/02010/FUL - Gimsons, Kings Chase, Witham as Councillor Michael Lager, who was speaking on behalf of Witham Town Council during Question Time, was known to some of them.

Councillor K Bowers declared a non-pecuniary interest in Application No. 18/02048/FUL - Freeport Village, Charter Way, Braintree as the Manager of Freeport Braintree was known to him. Councillor Bowers stated that he had not discussed the application with the Manager.

Councillor Mrs L Bowers-Flint declared a non-pecuniary interest in Agenda Item No. 4 – Public Question Time as Councillor Nick Unsworth, who was speaking on behalf of Coggeshall Parish Council during Question Time about a local incinerator, was known to her in his capacity as Chairman of the Parish Council. Councillor Mrs Bowers-Flint stated that she had discussed the incinerator with Councillor Unsworth in the past, but she had not spoken to him about his statement/question to the Planning Committee.

Councillor Mrs I Parker declared a non-pecuniary interest in Application No. 15/00565/OUT - Stafford Park, Liston Road, Liston as Mr Bill Binks (for Liston Residents Association) and Councillor Tony Clayton (for Foxearth and Liston Parish Council), who were speaking during Question Time, were known to her. Councillor Mrs Parker stated that she had not discussed the application with Mr Binks or Councillor Clayton.

Councillor Mrs I Parker declared a non-pecuniary interest also in Application No. 18/02184/FUL - land adjacent to 67 Little Yeldham Road, Little Yeldham as Mr Colin Attenborough (Objector) and Councillor Peter Gentry (for Little Yeldham, Tilbury Juxta Clare and Ovington Parish Council), who were speaking during Question Time, were known to her. Councillor Mrs Parker stated that she had not discussed the application with Mr Attenborough or Councillor Gentry.

Councillor F Ricci declared a non-pecuniary interest in Application No. 18/02048/FUL - Freeport Village, Charter Way, Braintree as the Manager of Freeport Braintree was known to him. Councillor Ricci stated that he had not discussed the application with the Manager.

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

126 **MINUTES**

DECISION: That the Minutes of the meeting of the Planning Committee held on 12th March 2019 be approved as a correct record and signed by the Chairman.

127 **QUESTION TIME**

INFORMATION: There were nineteen statements made about the following matters. Those people who had registered to speak about a planning application spoke immediately prior to the consideration of the application:-

Agenda Item No. 4 – Public Question Time - General statement and question by Councillor Nick Unsworth representing Coggeshall Parish Council about a local incinerator and Braintree District Council's stance. (The Chairman of the Planning Committee stated that a written response would be provided to the question).

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

Application No. 15/00565/OUT - Stafford Park, Liston Road, Liston

Application No. 18/01751/REM - Land off Western Road, Silver End

Application No. 18/02048/FUL - Freeport Village, Charter Way, Braintree

Application No. 18/02184/FUL - Land adjacent to 67 Little Yeldham Road, Little Yeldham

Application No. 18/02291/FUL - Bradwell Service Station, Coggeshall Road, Bradwell

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

129 **SECTION 106 AGREEMENT**

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

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

Affordable Housing: 23 units comprising tenure of 15 x affordable rent and 8 shared ownership.

Public Open Space: On-site provision of public open space. Management Company to be appointed for the maintenance of the proposed open space and tree buffer zone. Financial contribution in accordance with the Town Council and Open Spaces Action Plan for:

- Equipped play £48,693.65 - Upgrading and refurbishing Witham Town Park Play Area.
- Allotments £2,300.63 - Allotments (Site 1), Cut Throat Lane, Witham for the installation of raised gardening beds for less physically able people and improvements to parking area.
- Sports £72,499.52 - Provision/improvements of Outdoor Sports facilities at Sauls Bridge Sports Ground for signage markers, and other schemes at Sauls Bridge Sports Ground and/or the provision of practice cricket nets at Witham Hockey and Cricket Club which are still being explored. Possible additional financial contribution (in addition to the £72,499.52) towards practice netting at Sauls Bridge, or Witham Hockey and Cricket Club, if appropriate.
- Above contributions to be paid prior to first occupation of the development as appropriate.

Education: Financial contributions for Early years and child care - £52,266, Primary education - £304,856.

NHS: Financial contribution of £29,187 to improve Fern House Surgery.

Footpath/Cycleway Improvements: £48,500 to improve a large section of the River Walk and £7,500 to improve a section of the footpath in Witham Town Park.

Cricket Netting: Financial contribution and/or full provision for ball stopping netting and a financial contribution to the maintenance cost of the netting.

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

The Committee approved this application, subject to the Head of Term of the legal agreement relating to Public Open Space being amended; the Head of Term relating to the River Walk being deleted; and two new Heads of Term being added regarding Footpath/Cycleway Improvements and Cricket Netting; and to the amendment of an Approved Plan; and the amendment of Condition Nos. 3, 4, 8, 9, 18 and 19 as follows:-

Amended Head of Term

Public Open Space: On-site provision of public open space. Management Company to be appointed for the maintenance of the proposed open space and tree buffer zone. Financial contribution in accordance with the Town Council and Open Spaces Action Plan for:

- Equipped play £48,693.65 - Upgrading and refurbishing Witham Town Park Play Area.
- Allotments £2,300.63 - Allotments (Site 1), Cut Throat Lane, Witham for the installation of raised gardening beds for less physically able people and improvements to parking area.
- Sports £72,499.52 - Provision/improvements of Outdoor Sports facilities at Sauls Bridge Sports Ground for signage markers, and other schemes at Sauls Bridge Sports Ground and/or the provision of practice cricket nets at Witham Hockey and Cricket Club which are still being explored. Possible additional financial contribution (in addition to the £72,499.52) towards practice netting at Sauls Bridge, or Witham Hockey and Cricket Club, if appropriate.
- Above contributions to be paid prior to first occupation of the development as appropriate.

Deleted Head of Term

River Walk: £48,500 financial contribution to widen River Walk to 3.5m and resurface for a stretch of 495m from Newland Street to the proposed road into the site.

Additional Heads of Term

Footpath/Cycleway Improvements: £48,500 to improve a large section of the River Walk and £7,500 to improve a section of the footpath in Witham Town Park.

Cricket Netting: Financial contribution and/or full provision for ball stopping netting and a financial contribution to the maintenance cost of the netting.

Amended Approved Plan

Proposed Phasing Plan reference 857-PL-19 superseded by Proposed Phasing Plan reference 857-PL-19 B.

Amended Conditions

3. Prior to first occupation of each respective phase of the development hereby approved (as shown on Phasing Plan reference 857-PL-19 B), the development shall be carried out in accordance with the approved hard and soft landscape plan reference PR135-01 and thereafter retained as such.

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.

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.

4. No above ground development in phase 2 in its entirety (Approved Plan ref: 857-PL-19 B) shall commence unless and until samples of the materials to be used on the external finishes have been submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details.
8. Prior to the commencement of development on phase 1 (Approved Plan ref: 857-PL-19 B with the exception of site clearance and demolition), 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 advance 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 a 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.

9. Prior to the commencement of development on phase 2 in its entirety (Approved Plan ref: 857-PL-19 B with the exception of site clearance and demolition), 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 advance 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 a 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.

18. No above ground development shall commence in phase 1 (Approved Plan ref: 857-PL-19 B) unless and until the following (including an implementation timetable) has been submitted to and approved in writing by the Local Planning Authority:

- (a) details of any proposed external lighting to phase 1 including a strategy to protect bats

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

19. No above ground development shall commence in phase 2 in its entirety (Approved Plan ref: 857-PL-19 B) unless and until the following (including an implementation timetable) has been submitted to and approved in writing by the Local Planning Authority:

- (a) details of any proposed external lighting to phase 2 including a strategy to protect bats

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

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

Councillor Michael Lager, representing Witham Town Council, attended the meeting

and spoke against this application.

Councillor Mrs Angela Kilmartin, Braintree District Ward Councillor for Witham Central, attended the meeting and spoke against this application.

Councillor Mrs Susan Wilson, Braintree District Ward Councillor for Witham Central, attended the meeting and spoke against this application.

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

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

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

The meeting was adjourned at 10.40pm for a short break and it reconvened at 10.50pm.

The meeting closed at 12.12am.

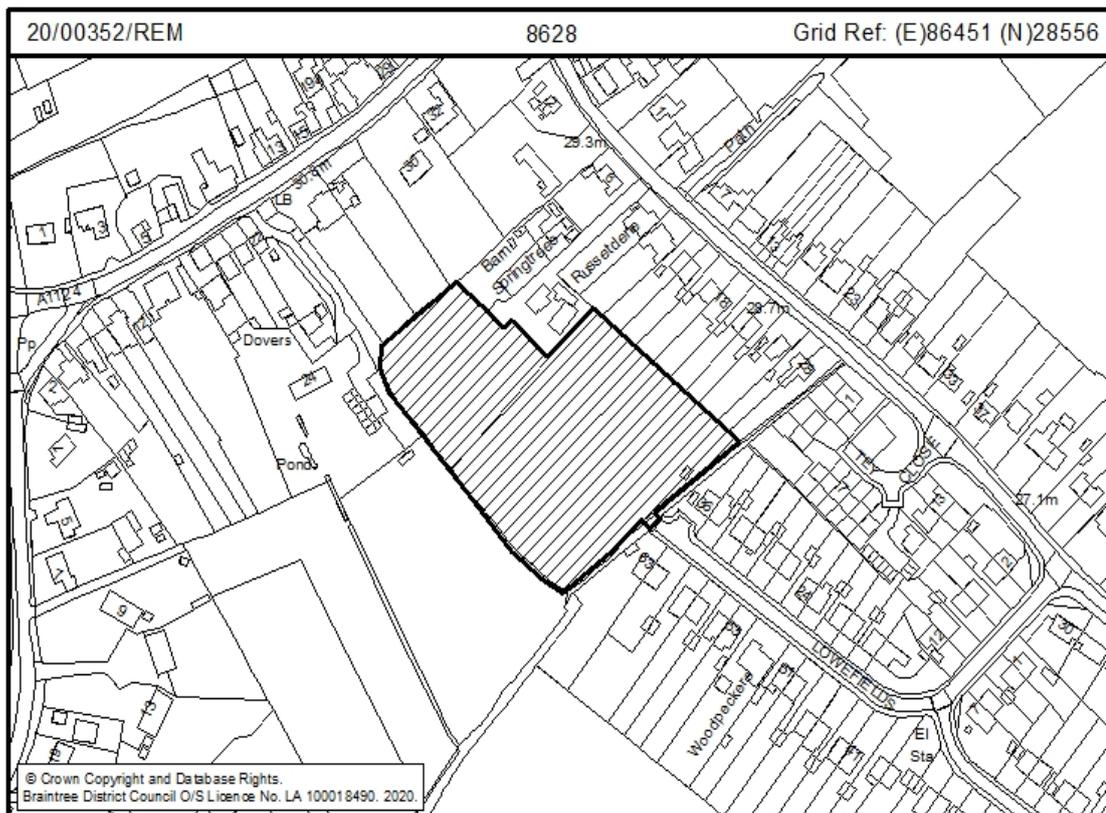
Councillor Mrs W Scattergood
(Chairman)

PART A DEFERRED ITEM

AGENDA ITEM NUMBER 5b

APPLICATION NO: 20/00352/REM
DATE VALID: 11.03.20
APPLICANT: B D G Design (South) Ltd
Mr Simon Earl, 1st Floor, Southway House, 29 Southway, Colchester, CO2 7BA, United Kingdom
AGENT: B D G Design Ltd
Mr Simon Earl, 1st Floor, Southway House, 29 Southway, Colchester, CO2 7BA
DESCRIPTION: Application for approval of reserved matters following outline approval 18/00214/OUT granted 20.05.2019 - Approval of Reserved Matters (appearance, landscaping and scale) for the erection of 23No. detached and semi detached 1, 2, 3, 4 and 5 bedroom dwellings with associated garages, parking, amenity areas, public open space, estate roads, private drive, drainage infrastructure and landscaping.
LOCATION: Land Rear Of, Tey Road, Earls Colne, Essex

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



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=Q67S73BFL0T00>

SITE HISTORY

18/00214/OUT	Erect 23 No. Detached and Semi-Detached, 1,2,3,4 and 5 Bedroom Dwellings and Associated Garages, Lay Out Parking, Amenity Areas, Public Open Space, Estate Roads, Private Drives, Drainage Infrastructure and Landscaping	Granted with S106 Agreement	20.05.19
19/02318/DAC	Application for approval of details reserved by condition 18 of approval 18/00214/OUT	Granted	28.04.20
20/00122/DAC	Application for approval of details reserved by condition 15 & 16 of approval 18/00214/OUT	Granted	28.04.20
20/00440/VAR	Variation of Condition 7 'Hours of Site Operation' of permission 18/00214/OUT granted 20/05/2019 for: Erect 23 No. Detached and Semi-Detached, 1,2,3,4 and 5 Bedroom Dwellings and Associated Garages, Lay Out Parking, Amenity Areas, Public Open Space, Estate Roads, Private Drives, Drainage Infrastructure and Landscaping. Variation would allow: - Site operation to commence at 0800 Monday to Friday as oppose to 0900 Monday to Friday.	Pending Decision	
20/00468/NMA	Non-Material Amendment to permission 18/00214/OUT granted 20.05.2019 for: Erect 23 No. Detached and Semi-Detached, 1,2,3,4 and 5 Bedroom Dwellings and	Pending Decision	

	Associated Garages, Lay Out Parking, Amenity Areas, Public Open Space, Estate Roads, Private Drives, Drainage Infrastructure and Landscaping. See covering letter for amendments	
20/00806/DAC	Application for approval of details reserved by condition 19 (b) of approved application 18/00214/OUT	Pending Consideration
20/01082/DAC	Application for approval of details reserved by conditions 6, 10, 11, 12, 13 and 14 of approved application 18/00214/OUT	Pending Consideration
20/01400/DAC	Application for the approval of details reserved by conditions 3, 4, 8 & 19(a) of approved application 18/00214/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. Following consultation in the summer of 2016 this Publication Draft Local Plan was submitted to the Secretary of State on 9th October 2017.

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

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

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

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

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

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

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

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

National Planning Guidance

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

Braintree District Local Plan Review 2005

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

Braintree District Local Development Framework Core Strategy 2011

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

Braintree District Publication Draft Local Plan 2017

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

Earls Colne Neighbourhood Plan

The Earls Colne Neighbourhood Plan is at a very early stage of preparation (pre-regulation 14) where a Neighbourhood Plan has been agreed in principle and is currently in the process of being drafted. As it has no formal status yet, it is considered that no weight can be attributed to the Earls Colne Neighbourhood Plan at this time.

Other Material Considerations

Essex Design Guide

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

Essex Parking Standards/Urban Space Supplement
Village Design Statement

INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is being reported to Planning Committee in accordance with the Council's scheme of delegation as the application is considered to be of significant public interest. The Parish Council has also objected to the proposal contrary to Officer recommendation.

SITE DESCRIPTION

The application site comprises a parcel of land located behind Tey Road in Earls Colne. The land is relatively open within the site but is surrounded by residential development on three sides with Upper Holt Street to the north west, Tey Road to the north east and Lowefields to the south east. To the west is a paddock. The existing vehicular access to the site comes from a private drive serving 'Springtrees' and a small scale B8 (storage) complex of buildings on the northern tip of the site.

Public Right of Way 75_34 runs parallel to the southern tip of the site extending from Tey Road, through to Lowefields and eventually Coggeshall Road. On the adjacent paddock is also a row of trees subject to a Tree Protection Order.

BACKGROUND

Outline planning permission (Application Reference 18/00214/OUT) was granted at the site on 20.05.2019 for the erection of 23 dwellings, which included access and layout particulars. This current application now assesses the other detailed matters reserved for consideration, namely: Appearance, Scale, and Landscaping.

A subsequent application to vary the outline planning permission was recently reported to Planning Committee on 23.06.2020 where Members resolved to grant planning permission for the proposal to vary Condition 7 of application reference 18/00214/OUT, which related to the hours of working for construction vehicles (Application Reference 20/00440/VAR). This variation application is currently subject to the completion of the related Deed of Variation to the Section 106 Agreement and has not yet been issued.

Furthermore, an application for a S96a Non-Material Amendment (Application Reference 20/00468/NMA) has been submitted at the site to amend some elements of the approved layout in application 18/00214/OUT. These are discussed below.

By way of context, an NMA application allows for changes to be made to a planning application without requiring a new planning application to be submitted. The changes however must be considered to be 'non-material' to the approved planning application. There is no statutory definition of 'non-material' as it is dependent on the context of the overall scheme. An amendment that is non-material in one context may be material in another.

In this case, the density and quantum of development would remain the same (approx. 23 dwellings per Hectare), and all gardens would remain above the required size, but there have been some necessary amendments due to the requirements of Essex Highways to have the main spine road adopted, as well as other site specific elements. The changes proposed through the NMA (20/00468/NMA) are as follows:

- The relocation of garages associated with plots 1, 3, 6, 7, 8, 12, 15 and 22;
- The addition of a garage to plot 23;
- The removal of a garage to plot 11;
- Repositioning of plot 2 to enable a better relationship with neighbouring visitor spaces;
- Amendments to the landscaping including provision for managing the existing hedge on the southern boundary, removal of proposed hedge adjacent to plots 3, 4 and 10, removal of maintenance strip no longer required, amendments to the planting scheme around the open space area and increased street planting;
- Highway amendments include footway and carriageway amendments made to reflect comments from the highways officer, and rearrangement of visitor parking spaces across the site;
- Amendments to the parking space location for plots 17 and 18;
- Amendments to the garden of plots 17 and 18 to provide a communal garden rather than two separate spaces; and
- Amendments to the affordable housing units to ensure compatibility with Building Regulations and to meet requirements of the affordable housing provider.

In this case, Officers are satisfied that the above changes would be small scale in the context of the scheme as a whole. As such, Officers are satisfied that the changes are non-material and are acceptable in planning terms. For

the avoidance of doubt, NMA applications are determined under delegated powers. However, as these changes are related to the Reserved Matters submission, a formal decision has not yet been issued.

PROPOSAL

This Reserved Matters application considers matters of Appearance, Scale and Landscaping. In respect of appearance, the application proposes traditional style dwellings with a red brick and a blue/black roof tile. It also includes some small elements of white weatherboarding on some dwellings to add variety in the street scene. The front windows of all properties would have stone headers and cills where appropriate, while flat cap canopies will be used consistently across the development. The rear of properties would have standard soldier courses above the windows.

In respect of scale, the development would comprise 2 one bedroom flats, 6 two bedroom dwellings, 4 three bedroom dwellings, 9 four bedroom dwellings and 1 five bedroom dwelling. Of the 23 units, 9 would be affordable as agreed at the Outline stage. All dwellings would be two stories in height.

In respect of 'Landscaping', the layout also includes an area of open space as agreed at the outline stage. This open space will primarily serve as a SUDS attenuation basin, but would have a small degree of usability. This is discussed further in the report. It will however provide positive visual amenity in the street scene and ecological benefits on the application site. The existing hedging/trees adjacent to the western boundary of the site (outside of the application site) would be retained.

CONSULTATIONS

BDC Environmental Health

No objection.

BDC Ecology Officer

No objection – require some additional information for some of the conditions attached to the Outline approval but nothing specifically to do with matters currently for consideration (landscaping, scale and appearance).

BDC Waste Services

Highlights that waste crews can only walk 20m from the adopted highway to collect refuse bins.

BDC Housing Officer

No objection to Affordable Housing mix proposed but sought clarity on wheelchair accessibility. The agent confirmed that the units would comply with the accessibility criteria.

BDC Landscape Services

Raise no objection to the proposals.

ECC Highways

No objection to S38 plans which are secured separately through the Highways Act.

ECC SUDS

No objection subject to conditions.

ECC Archaeology

No objection.

Historic Buildings Consultant

Initially raised concerns that the development would not be in keeping with the wider character of the area. However following detailed discussions between Officers, the Urban Design Officer and the Historic Buildings Consultant, amendments were sought to satisfy these concerns. These were subsequently submitted and no further objections have been raised by the Historic Buildings Consultant.

Natural England

HRA should be secured.

Essex Police

No objection – encourage the developer to comply with Approved Document Q by achieving a secure by design award.

Anglian Water

No objection.

PARISH/TOWN COUNCIL

Earls Colne Parish Council

Objected to the initial plans for the following summarised reasons:

- Height of buildings not in keeping with bungalows on Lowefields
- Close proximity to existing properties on Tey Road
- Overcrowding of the site
- Plans for the area designated as community land

REPRESENTATIONS

The application underwent three periods of consultation; 21 days when it was made valid on the 11th of March, a further 21 days re-consultation on the 17th of July, and a further 14 day re-consultation on the 24th of August.

Across all of these consultations, one general comment has been received and five objection comments detailing the following summarised comments/concerns:

- Heights not specified (*on initial plans*) but some appear excessive
 - Only bungalows should be permitted
 - Potential for loft space conversions in the future
- Unacceptable overlooking of properties on Tey Road and Upper Holt Street – plots should be moved closer to the road
- No details of street lighting provided – this should be included up front
 - No details of private rear lights have also been provided – could be unacceptably bright in this location
- No plot distances specified to neighbouring boundaries
- Overcrowded and out of keeping with the density of the existing neighbourhood – quantum of units should be reduced
- Risk of developing further into adjacent parcels by not having a strong boundary outside plots 3 and 4
 - Queries to do with a ransom strip
- Bat and bird boxes good but need expert advice
- HRA needs to be completed
- Open space on the site is for SUDS and not for residents to enjoy
- Hours of construction traffic should not be changed
- Concerns about the new surface water connection required and the potential shutting of Tey Road- with traffic having to use Chalkney Hill which is unsafe

REPORT

PRINCIPLE OF DEVELOPMENT

The principle of developing this site for residential purposes has been established through the grant of outline planning permission (Application Reference 18/00214/OUT). Matters of Access and Layout have also been previously approved. As such, this proposal considers matters reserved for consideration at the outline planning application stage, namely: Appearance, Scale and Landscaping.

SITE ASSESSMENT

Paragraph 124 of the National Planning Policy Framework (NPPF) states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. It also states that good

design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 127 of the NPPF states, amongst other things, that developments should function well and add to the overall quality of the area; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Furthermore, the Governments 'National Design Guide 2019' places increased importance on the importance of good design, amenity, wellbeing and sense of place for all developments.

Policy RLP95 of the Adopted Local Plan and Policy LLP56 of the of the Draft Local Plan states that the Council will preserve, and encourage the enhancement of, the character and appearance of the designated Conservation Areas and their settings, including inter alia the buildings and historic features and views into and within the constituent parts of designated areas. Proposals within/adjoining Conservation Areas will only be permitted where the proposal does not detract from the character, appearance and essential features of the Conservation Area.

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

The Council has adopted the Essex Design Guide as a Supplementary Planning Document. This indicates that dwellings with two bedrooms should be provided with a private rear garden of 50sq.m or more, and three bedroom dwellings should be provided with 100sq.m or more. Furthermore, Policy RLP56 of the Adopted Local Plan requires that sufficient vehicle parking should be provided for all new development in accordance with the Essex County Council Vehicle Parking Standards 2009.

Appearance & Materials

The design and appearance of the dwellings has gone through a number of iterations since the application was first submitted. Initially the site introduced a mixture of brick, weatherboard (different colours), render as well as some more unusual projecting gable features. Some of the house types also had higher ridges which created a steeper roof pitch. Some of the finer details were also lacking in terms of appropriate headers and cills, while the use of some mono-pitch porches appeared overly clunky.

Though negotiations with Officers and the Developer, the scheme was considerably simplified down to consist of one red brick, with one roof tile. All

porches were changed to flat caps to be consistent and less bulky, while stone headers and cills were placed on the front of the properties as appropriate. There are now only some instances of white weatherboarding which have remained to continue to add a small amount of visual interest. The pitches of the roofs on the site are all now consistent with no higher ridges as previously proposed. The garages were also re-orientated to be gable fronted as opposed to facing the roadway with the roof. In addition, the affordable dwellings at the site have been designed to be tenure blind, both in terms of their appearance and the materials used in hard surfacing.

The changes were sought in consultation with the Council's Urban Design Officer and Essex County Council's Historic Buildings Consultant. In terms of wider character references, the site takes some cues from properties along Tey Road, but does not replicate the character found on Lowefields. This is not however an area of concern, taking into account the eclectic mix of dwellings within the locality. The development would also be clearly distinct from Lowefields as a later addition, which in this case is considered to be preferable to replicating or referencing the appearance of those properties on Lowefields.

Overall, it is considered that the over-arching intent of the design and appearance of the proposed dwellings is now acceptable and responds appropriately to both the application and surrounding context. The exact materials to be utilised for the development are subject to approval, pursuant to Condition 3 on the outline planning permission (Application Reference 18/00214/OUT).

Quantum, Mix and Scale

In accordance with the outline consent, the development provides 23 new dwelling units comprising; 2 one bedroom flats, 6 two bedroom dwellings, 4 three bedroom dwellings, 9 four bedroom dwellings and 1 five bedroom dwelling. Of the 23 units, 9 would be affordable as agreed at the Outline stage. All dwellings would be two stories in height, while the flats would appear as maisonettes.

A number of representations raised concerns with the two storey nature of the development from both a character and amenity perspective. In regards to character, it has been stated in representations that the site should be developed for bungalows, to reflect the existing character on Lowefields. However, while Lowefields is predominantly made up of bungalows, there are some instances of 1½ / 2 storey development near the entrance with Tey Road. As such, two storey dwellings would not be out of keeping in this context.

Furthermore Lowefields is a development which is characterised of its time. As such, it would not represent good design to attempt to mimic that scale and character in modern development. The site would instead become its own cluster of dwellings at the end of a cul-de-sac, visually distinct from Lowefields, but not out of character with other dwellings in the locality. Taking

all of the above into account, it is considered that two-storey dwellings would be acceptable at the site. Impacts in respect to amenity are discussed in a later section.

In terms of external amenity, the layout was agreed at outline stage, with minor modifications proposed through an NMA as set out in the 'Background' section above. All garden sizes would comply with the Essex Design Guide standards. In terms of internal amenity, all of the proposed dwellings (market and affordable) would either comply with, or exceed, the Nationally Described Space Standards. In addition, it is considered that all dwellings would have sufficient outlook and access to natural light. As such, it is considered future occupiers of the development would be provided with good amenity. As such, from a quantum, mix and scale perspective, it is considered the proposal is acceptable.

Landscaping, Ecology and Public Open Space

The application provides a detailed landscaping schedule which indicates areas of grass land, hedging and trees which would be provided in order to enhance the character and appearance of the development. The development also includes bat boxes, bird boxes and swift boxes. These finer ecological enhancements are secured by way of condition (Condition 15 of the outline planning permission) and demonstrates additional biodiversity enhancement at the site.

The hedge on the western boundary would continue to be retained, but now comprises a close boarded fence around it. The management of the hedge would therefore be limited to any branches overhanging the fence, which would not be an onerous responsibility for future occupiers. Taking into account the above, and from Officer's site visits, it was determined that the previously secured maintenance strip as part of the layout, could be removed. This is proposed to be secured through the non-material amendment application (set out in 'Background' section above). The hedge would be outside of the ownership of any dwelling at this site, and therefore it will not be able to be removed by the developer or any future occupier of the development without consent of the land owner.

In terms of the public open space area, at the outline planning application stage it was envisaged that it would comprise some (albeit small) useable public amenity space for future occupiers. However, in considering the detailed landscape and SUDS requirements of the scheme, it transpired that a deeper and more engineered attenuation basin was required than was originally envisaged. As a consequence, Officers raised concerns about the usability of the public open space with the developer and asked for further clarity to be provided. Section drawings were therefore submitted which showed that the open space would have some amenity benefit, but in reality owing to its small size and the SUDS requirements, would not likely be fully useable for future residents. This is also partially indicated within the landscape drawings, which show that the open space would be surrounded by a 1.2m high knee rail fence and includes gabions on one side to be able to

provide a suitable retaining wall from the road. However, the open space at the site would still have a positive ecological and visual amenity value.

SUDS and open space are often able to be combined and still provide a good level of usable space for future occupiers. In this case, owing to the small size of the public open space, it is not possible to achieve a shallower attenuation basin as is usually secured on larger development sites with larger areas of open space available. In this case, the amenity space for the development was always small and related to the scale of the development, and while it would have provided some benefit, this benefit was always more limited owing to its small scale.

As a consequence of the above, owing to the small size of the development and the small scale of the open space, Officers are satisfied that the lack of full usability of the public open space does not render the application unacceptable in principle. Officers have instead negotiated an additional 'amenity greenspace' financial contribution of £8,754.48 in accordance with the Council's Open Space SPD, to secure improvements to other open space within Earls Colne.

Rather than entering into a separate legal agreement to secure this financial contribution, it is instead proposed that this additional amenity greenspace contribution would be secured as an additional obligation within the Deed of Variation to the Section 106 Agreement attached to the S73 variation application (Application Reference 20/00440/VAR), which has not to date been completed. As set out within the Recommendation section of this report, it is recommended that any Reserved Matters approval would not be issued until this legal agreement has been completed, and a decision on the S73 variation application has been issued.

As set out within the description of the proposal, this Reserved Matters application was submitted pursuant to the original outline planning permission (Application Reference 18/00214/OUT). As the S73 Variation application (once a decision has been issued) would represent a new outline planning permission for the site, which carries over all of the conditions attached to the original Outline planning permission (with the exception of Condition 7, which related to the hours of working for construction vehicles, which was varied), after a decision on the S73 Variation application was granted, it would be necessary to update the description of development for this Reserved Matters application so that the Reserved Matters were pursuant to the S73 Variation permission, as opposed to the original outline planning permission.

Overall, taking into account the above, it is considered that matters of landscape are acceptable for this development.

Impact on Neighbour Amenity

A core principle of the National Planning Policy Framework is that development should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Draft Local Plan states that development shall not cause undue or unacceptable impacts on the amenities of nearby residential properties.

Layout has been previously agreed by way of the outline permission, while the NMA as set out in the 'Background' section only proposes minor modifications. As such, in determining neighbour impact, the Reserved Matters application is required to assess the scale and appearance of the properties, to determine what if any impacts would arise from these elements.

Firstly, in terms of Plots 15-23, these would all back onto existing properties on Tey Road. As has been established through the layout, the shortest distance from the first floor rear of these plots to the common boundary would be 20m. The average distance would be higher. From the common boundary, there would be approximately another 30m to the rear of properties on Tey Road. Therefore, the back to back distances between these properties would be in the region of 50m+. This is double the Essex Design Guide Standard which requires back to back distances of 25m for new two storey development. As plots 15-23 would all be two storey, owing to the large separation distance it is considered that the amenity for the residents of Tey Road would not be detrimentally affected by the proposal.

Plot 23 and Plots 1 and 3 would also be adjacent to No.36 and No.63 Lowefields respectively. Plot 23 and Plot 1 would both have a side on relationship with No.36 and No.63 respectively, with a generous separation distance of over 15m and no first floor side windows. The position of these plots would also be relative to No.36 and No.63 respectively.

The plot which would have a perpendicular relationship to No.63 would be Plot 3. No.63 also has a large garden, approx. spanning 25m from the rear of the property and 7.5m to the side boundary. To reach Plot 3 at the shortest point, it would be over 35m away from the side of No.63. Plot 3 would also have a garden depth of 14m, then a further 5m across hedgerow and PROW, so would be 19m from the common boundary with No.63. Due to its position, it would be much lower than No.63, thereby any overlooking (which would be limited due to the separation distance) would be concentrated at the far end of the garden of No.63, and not the area of sensitive amenity space at the very rear of the property. Furthermore, the garage for Plot 3 would also likely assist in mitigating views at an acute angle towards the rear of No.63. Taking all of the above into account, it is considered that Plot 3 would not detrimentally affect the amenity of No.63. As such, it is considered that the amenity for the residents of No.36 and No.63 Tey Road would not be detrimentally affected by the proposal.

Properties on Upper Holt Street are also set back by a considerable distance, some 50m, while there would be a closer relationship with some back land development, this would still be approx. 25m from the boundary with No.26 Upper Holt Street and its annexe. As such, due to the scale of the proposed dwellings, it is considered that the amenity of properties accessed from Upper Holt Street would also not be detrimentally affected by the proposal.

Highway Issues

The access to the site from Lowefields has been approved as part of the outline planning permission (Application Reference 18/00214/OUT). These particulars are therefore acceptable.

In terms of layout, the changes as set out in the 'Background' section of the report were principally driven by Highway requirements, which had knock on effects for the remaining development. In any case, Essex Highways are satisfied that the layout now proposed by the NMA (20/00468/NMA) is acceptable and would meet all required highway standards. Overall, from a highways perspective, it is considered the proposal is acceptable.

A number of concerns were raised about the adequacy of the junction of Tey Road and Upper Holt Street, and whether this would be suitable to accommodate both new traffic generated by the development and construction vehicles. While these comments are noted, these issues were addressed and considered at the outline planning application stage. These issues do not therefore form part of the considerations of this application, which as previously outlined is solely related to the matters of scale, appearance and landscaping.

Habitat Regulations Assessment (HRA)

The Ecology Officer identifies that the site is situated within the Zone of Influence (ZOI) for the Blackwater Estuary SPA/Ramsar site. As such, the developer is required to pay a financial contribution towards offsite visitor management measures for the Blackwater Estuary SPA & Ramsar site, (£125.58 per dwelling). In accordance with S111 of the 1972 Local Government Act, the Developer has agreed to pay this contribution (£2,888.34) up-front prior to any decision on the application being issued opposed to entering into a separate unilateral undertaking. As such, it is considered the development would not have an unacceptable impact on the Blackwater Estuary SPA/Ramsar site.

Other issues

Concerns were raised in respect to the water/sewage connections required and the resultant closure of Tey Road. However, these particulars were all considered at the outline stage, and a condition imposed accordingly to reduce the impacts of the development as far as possible.

Concerns were also raised in respect to hours of construction, however again these are matters which have been secured through the Outline stage and most recent Variation application 20/00440/VAR which sought to amend construction hours.

Concerns were also raised in respect to street lighting and its possible location. Lighting is also however covered by Condition 19 of the outline

application approval (18/00214/OUT) which will be carried across to the variation approval. Officers will carefully assess these details when submitted to ensure they are appropriate.

PLANNING BALANCE AND CONCLUSION

The presumption in favour of sustainable development sits at the heart of the NPPF. The Framework is clear in its instruction at Paragraph 11d, that for decision-taking this means where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in Paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years), granting permission unless:

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

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

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

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

mitigating and adapting to climate change, including moving to a low carbon economy).

The principle of residential development at the site is established through the grant of outline planning permission (Application Reference 18/00214/OUT). The applicant seeks permission only for reserved matters for the Appearance, Scale and Landscaping of the development.

In this case, there are considerable public benefits which would arise from the development. These include but are not limited to; securing a good tenure blind design and layout in the context of the wider character of the area, securing a good quality of external and internal amenity for future occupiers, affordable dwellings which meet the accessibility standards and limited potential harms to neighbouring residential properties. These benefits would be in addition to those secured at the outline stage which include; that the site would be in an accessible location and would contribute to the Districts Housing Land Supply. The development would secure affordable housing, as well as contributions to local infrastructure including schools and improving footpaths.

As such, Officers consider that the proposed appearance; landscaping; and scale of the development is acceptable in planning terms. Overall it is considered that the detailed proposal constitutes a sustainable residential development in an appropriate location and accordingly it is recommended that the application is approved.

RECOMMENDATION

It is RECOMMENDED that the following decision be made:
The Reserved Matters application is APPROVED subject to:

1. The completion of a suitable legal agreement to secure the £8,754.48 'amenity greenspace' financial contribution, which may include the incorporation of this obligation with the Deed of Variation to the Section 106 Agreement attached to the S73 Variation Application (Application Reference 20/00440/VAR);
2. The decision on the Non-Material Amendment application (Application Reference 20/00468/NMA) being issued;
3. The decision on the S73 Variation application (Application Reference 20/00440/VAR) being issued;
4. The description of development for this Reserved Matters application being amended so that the Reserved Matters are pursuant to the S73 Variation Application (Application Reference 20/00440/VAR) as opposed to the original outline planning permission (18/00214/OUT);
5. The following condition and reason and in accordance with approved plans:

RECOMMENDATION

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

APPROVED PLANS

Site Layout	Plan Ref: 101	Version: PL7
General	Plan Ref: 102	Version: PL5
Materials Details	Plan Ref: 104	Version: PL7
Refuse Information	Plan Ref: 103	Version: PL5
Proposed Elevations	Plan Ref: 204	Version: PL4
Proposed Elevations	Plan Ref: 203	Version: PL4
Proposed Elevations	Plan Ref: 204	Version: PL4
Proposed Elevations	Plan Ref: 207	Version: PL5
Proposed Elevations	Plan Ref: 202	Version: PL5
Proposed Elevations	Plan Ref: 205	Version: PL5
Proposed Elevations	Plan Ref: 208	Version: PL7
Proposed Elevations	Plan Ref: 209	Version: PL4
Proposed Elevations	Plan Ref: 210	Version: PL6
Proposed Elevations	Plan Ref: 211	Version: PL6
Street elevation	Plan Ref: 400	Version: PL5
Landscape Masterplan	Plan Ref: 105	Version: P9
Landscape Masterplan	Plan Ref: 106	Version: P9
Tree Plan	Plan Ref: 108	

- 1 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.

SUBMITTED PLANS

Schedule of Works		
Garage Details	Plan Ref: 300	Version: PL2
Proposed Elevations	Plan Ref: 206	Version: PL3
Site Layout	Plan Ref: IA19/256/1040	Version: P3
Site Layout	Plan Ref: IA19/256/1041	Version: P3
Landscape Masterplan	Plan Ref: 107	Version: P3

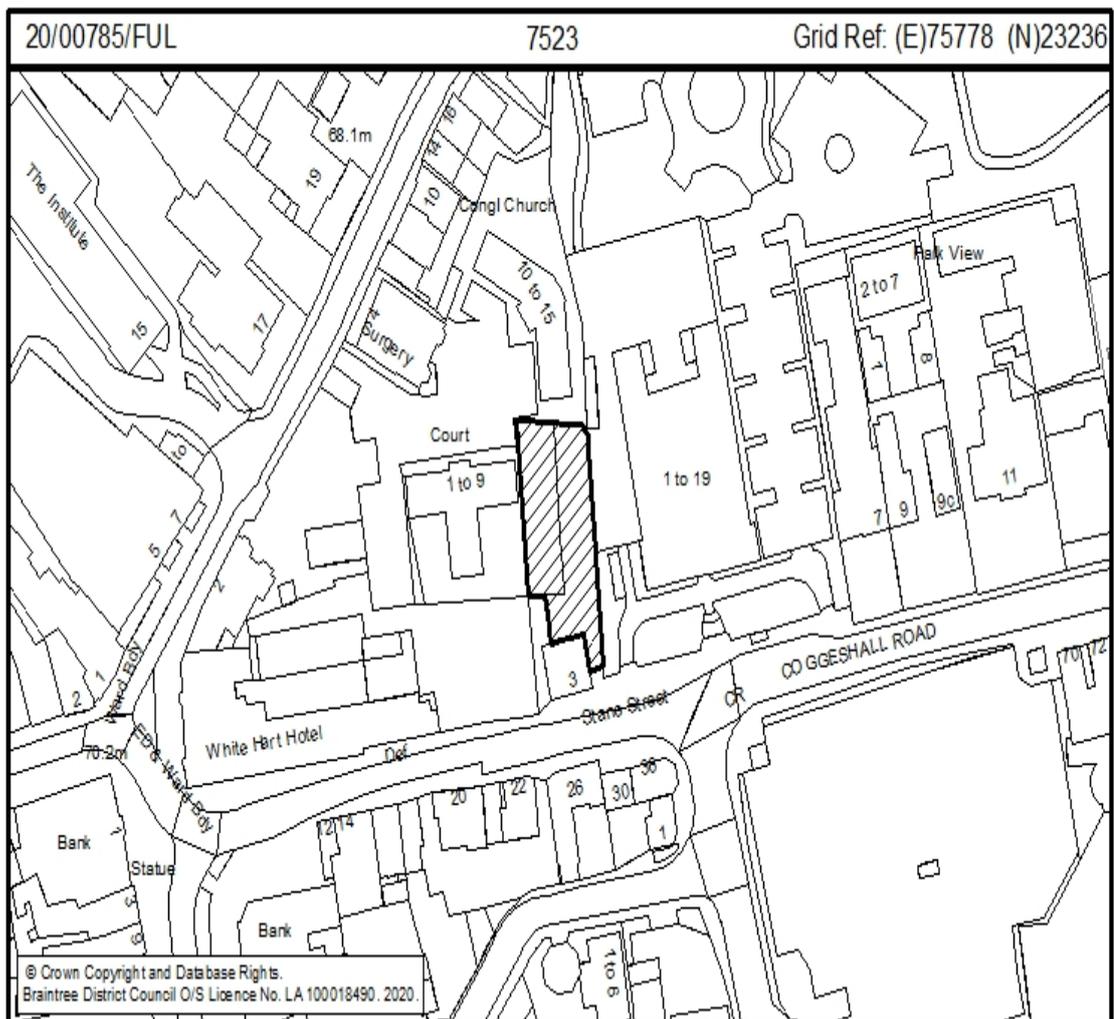
CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

PART A

AGENDA ITEM NUMBER 5c

APPLICATION NO: 20/00785/FUL
DATE: 26.05.20
VALID:
APPLICANT: Brand Builders & Developers Ltd
18 Coggleshall Road, Braintree, Essex, CM7 9BY
DESCRIPTION: Conversion of building used for storage and distribution (Class B8) to 8 No. one bed Cottages (Class C3).
LOCATION: 3 Coggleshall Road, Braintree, Essex, CM7 9DB

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



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QAD2LIBF0EC00>

SITE HISTORY

19/00096/REF	Conversion of building used for storage and distribution (Class B8) to 8 No. one bed Cottages (Class C3).	Appeal Dismissed	02.03.20
84/00050/A	Proposed display of internally illuminated fascia sign over shop.	Granted	07.02.85
80/01500/P	Proposed installation of two temporary buildings for use as customers service fitters mess and toilets.	Granted	17.11.80
88/00108/E 88/01351/P	Hire Shop Change Of Use From Shopping And Industrial To Leisure Centre And Snooker Hall	Withdrawn	25.08.88
88/01971/P	Installation Of New Shopfront	Refused	16.11.88
88/01972/P	Installation Of New Shopfront	Refused	22.08.89
88/02395/P	Proposed Replacement Shopfront	Granted	11.01.89
88/02547/P	Display Of Illuminated Fascia Sign	Refused	06.02.89
89/00400/P	Display Of Illuminated Fascia Sign	Granted	31.03.89
89/01210/P	Certificate For Established Use Of Premises For Repair & Maintenance Of Plant, Machinery & Vehicles & Storage	Refused	12.12.89
99/00498/ADV	Display of illuminated fascia sign	Granted	23.06.99
18/02053/FUL	Extension to create addition retail unit	Granted	07.02.19
19/00918/COUPA	Notification for a prior approval for a proposed change of use of a storage and distribution building (Class B8) to 8 No. dwellinghouses (Class C3).		19.06.19
19/01425/FUL	Conversion of building used for storage and distribution	Refused	15.10.19

(Class B8) to 8 No. one bed
Cottages (Class C3).

POLICY CONSIDERATIONS

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

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

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

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

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

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

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

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

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

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

National Planning Guidance

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

Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP3	Development within Town Development Boundaries and Village Envelopes
RLP9	Design and Layout of Housing and Mixed Use Areas
RLP53	Generators of Travel Demand
RLP56	Vehicle Parking
RLP90	Layout and Design of Development
RLP95	Preservation and Enhancement of Conservation Areas
RLP97	Changes of Use in Conservation Areas

Braintree District Local Development Framework Core Strategy 2011

CS9	Built and Historic Environment
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Braintree District Publication Draft Local Plan 2017

SP1	Presumption in Favour of Sustainable Development
SP6	Place Shaping Principles
LPP1	Development Boundaries
LPP37	Housing Type and Density
LPP45	Parking Provision
LPP50	Built and Historic Environment
LPP55	Layout and Design of Development
LPP56	Conservation Areas

Neighbourhood Plan

None

Other Material Considerations

Essex Design Guide

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

Essex Parking Standards

INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is being reported to Planning Committee in accordance with the Council's scheme of delegation at the request of the Chairman and Vice Chairman of the Planning Committee.

SITE DESCRIPTION

The application building is a vacant storage building, which was previously used in connection with a now closed hire shop, which is located to the south of the application site and outside of the application site red line. The shop remains vacant. Vehicular access to the site is from Coggeshall Road.

The application site is located within the Town Development Boundary of Braintree and located within the Braintree Conservation Area.

PROPOSAL

The application seeks full planning permission to convert the existing building from storage and distribution (Use Class B8) to 8 one bed cottages (Use Class C3).

The proposed cottages would all be single aspect and have a bedroom and en-suite bathroom on the ground floor, with an open plan lounge, dining area and kitchen on the first floor.

To the front of each cottage is an area of outside amenity space and within the site are 4 car parking spaces, one of which would be dedicated solely for the use of the southernmost cottage.

CONSULTATIONS

BDC Ecology

No objection. Suggests conditions regarding the general good practice mitigation to avoid ecological impacts during the construction phase, nesting birds, precautionary measures for bats and biodiversity enhancement.

BDC Environmental Health

No comments received.

Historic Buildings Consultant

The proposed scheme would not have a detrimental impact on the setting of the nearby listed buildings. Through the retention and reuse of the twentieth-century building, the character of the Conservation Area would also be preserved. Therefore no objections to the scheme.

ECC Highways

No objection. Suggests conditions regarding the submission of a Construction Management Plan and the provision of Residential Travel Information Packs.

REPRESENTATIONS

Nine representations received making the following comments:

- Would not want the wall between St Lawrence Court and the application site to be removed, as it provides security to the residents of St Lawrence Court.
- If the new roof was constructed with Velux windows privacy would be retained for the occupiers of St Lawrence Court.
- The building has stood empty for a number of years and is now an eyesore in its current state.
- Concerns that if the site remains dormant it may encourage vandalism.
- It would be nice to see the building rejuvenated and the plans to reuse the existing warehouse building at the rear of the site would certainly give the properties great character.
- There is always a need for housing in this area and these cottages will surely help with demand, particularly being in such a central location to the town.
- Would not want to see the building demolished as it provides security, privacy and reduction in noise for the residents of St Lawrence Court.
- No objection to the roof lights, as they would not overlook St Lawrence Court.

REPORT

Background

A similar application was submitted in July 2019 for the conversion of the building into 8, one-bedroom cottages, under application reference 19/01425/FUL. This application was refused in October 2019 for the following reasons:

1. *The proposal would result in an unacceptable poor level of internal amenity and outlook for the future occupiers of the 8 new dwellings. The poor level of amenity is exacerbated by the lack of private outdoor amenity space.*

The proposal is therefore unacceptable and does not comply with the NPPF, Local plan Policy RLP90 and Draft Local Plan LPP55.

2. *The Adopted Essex Parking Standards 2009 indicate that a preferred bay size for parallel parking bays should be 2.9m wide by 6m long. The parking spaces are shown to be 2.5m wide and 4.8m long.*

The undersized parking spaces combined with the impractical parking layout is unacceptable and would result in the proposal being deficient in off street car spaces contrary to Policies RLP56 and RLP90 of the Adopted Local Plan and Policies LPP45 and LPP55 of the Draft Local Plan.

A subsequent appeal was dismissed in March 2020 and the Inspector made the following observations and conclusions (Paragraph numbers from the Decision Letter are included below for ease of reference):

6. The proposed parking spaces would be smaller than the recommended size for parallel bays as illustrated within the Essex Vehicle Parking Standards 2009. Moreover, their layout would fail to provide an adequate area in which to manoeuvre and turn vehicles around. Consequently, it would be exceedingly difficult for motorists to actually utilise proposed parking spaces as their layout and size would render them unworkable. This would be likely to cause friction between future occupants, as well as hazardous driving conditions whilst vehicles reverse to the turning area located towards the site's entrance.

7. National planning policy seeks to encourage the efficient use of land in locations which offer a genuine choice of transport modes. However, this should not be at the expense of developments which function well, as advocated by paragraph 127 of the Framework. Taking all of the above into account, I find that the scheme would fail to meet this objective of the Framework as the proposed parking spaces would not be in a useable formation.

8. For the reasons given, I conclude that the proposed parking layout would have a detrimental impact upon the future operation of the proposed development. The scheme would therefore conflict with Policies RLP56 and RLP90 of the Braintree District Local Plan Review (LP) insofar as they seek to ensure developments make appropriate provision for parking and that their layouts are of a high standard.

Therefore the tandem parking arrangement proposed by the application was considered to be unacceptable and conflicted with Policies RLP56 and RLP90 of the Adopted Local Plan.

The Inspector also raised concerns about the poor outlook from the new properties and the lack of daylight serving the ground floor accommodation, particularly the kitchens to the rear.

Living Conditions

Outlook

9. The proposed dwellings would be single aspect properties with only ground floor and first floor windows to their front. These would afford close distance views of parked vehicles, the walled boundary treatment along the site's eastern boundary and a sizeable residential development beyond this boundary. In my view, this would result in an unduly harsh, urban and oppressive outlook from within the proposed properties. This would be particularly so from ground floor windows. The presence of several trees along the site's eastern boundary would

not sufficiently mitigate this harm. Neither is the existence of other town centre properties with limited outlook a suitable reason to replicate such poor internal living conditions at the appeal site.

Daylight

10. Given the relatively long, narrow, layout of the proposed properties it is unlikely that daylight would penetrate to the kitchen areas located to their rear. Consequently, these rooms would have to be lit by artificial means. Although future occupants may spend more time in larger living areas, I find that this would make the kitchens unacceptably gloomy spaces.

The Inspector also raised concerns about noise and disturbance from the vehicles parked to the front of the new dwellings.

Noise and Disturbance

11. In my view, the presence of vehicles parked within close proximity of the proposed units would cause daily noise and disturbance to future occupants. Amongst other things, this would be from the starting of engines, the manoeuvring of vehicles in and out of constrained parking spaces and the slamming of car doors. This would reinforce the scheme's poor internal living conditions.

The Inspector makes the following conclusions with regards living conditions for the 8 new dwellings:

Overall Findings – Living Conditions

13. I have found that future occupants would have suitable access to external amenity space. However, for the reasons given, I conclude that the proposal would fail to provide satisfactory internal living conditions for these occupants through the combination of poor outlook and access to daylight as well as noise and disturbance. It would therefore conflict with Policy RLP90 of the LP insofar as it seeks to secure a high standard of layout and design in all developments. It would also conflict with the Framework which seeks to achieve a high standard of amenity for future users.

A copy of the Appeal Decision is included as an appendix to this report.

PRINCIPLE OF DEVELOPMENT

National Planning Policy Framework (NPPF)

As set out in Paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 of the NPPF explains that achieving sustainable development means that the planning system has three overarching objectives: economic; social; and

environmental; which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives).

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

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

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

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

5 Year Housing Land Supply

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

For decision making purposes, as Braintree District Council does not have an up to date Local Plan, the Council is currently required to calculate the

housing target using the Government's Standard Methodology, until such time as the new Local Plan is adopted.

Following the publication by Government of the 2019 Housing Delivery Test results on 13th February 2020, Braintree District is now required to apply a 20% buffer to its five year supply target.

The Council's latest Five year supply position 2020-2025 shows a supply of 4.52 years.

The Council's Housing Land Supply position has recently been challenged at a Public Inquiry concerning a proposed development at School Road, Rayne. When considering the evidence the Inspector identified seven housing sites which were the subject of dispute. The Inspector was satisfied regarding the evidence on some of the seven sites but not all, concluding that the housing land supply figure lay between 3.72 years and 4.52 years.

The Council is continually working to gather evidence on the updated deliverable supply in the District, taking into account progress on identified sites, the addition of deliverable new sites, and updated information from developers and this will include working to progress the disputed sites so that it can be demonstrated that the disputed sites can be included within the five year housing land supply.

As the Council cannot demonstrate the required 5 Year Housing Land Supply the 'tilted balance' of Paragraph 11d) of the NPPF is engaged. It also means that the most important Development Plan policies relevant to the provision of housing are out of date. However this does not mean that Development Plan policies should be completely disregarded. It is for the decision-maker to determine the weight to be attributed to the conflict with those policies.

The Development Plan

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

The application site is located within the Town Development Boundary in Braintree, where new development is considered acceptable in principle.

Within the Draft Local Plan, the application site has been allocated for residential development.

Overall, in terms of the Adopted Local Plan, the Adopted Core Strategy, the Draft Local Plan and the NPPF, the principle of the redevelopment of the site is supported in principle in planning policy terms.

SITE ASSESSMENT

Location and Access to Services and Facilities.

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 in inter alia Braintree, Witham and the A12 corridor, and Halstead".

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

In this case, the application site is located within the Town Development Boundary of Braintree, and within the town centre and is therefore located in a highly sustainable location with excellent access to services and facilities as well as a range of public transport.

Design, Appearance and Layout

The NPPF states that the planning system should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Policies RLP10 and RLP90 seek to protect the existing character of the settlement and the street scene. Policy RLP9 states that new development shall create a visually satisfactory environment and be in character with the site and its surroundings. Policy RLP10 specifically states that the density and massing of residential development will be related to the characteristics of the site, the layout and density of surrounding development, the extent to which car parking and open space standards can be achieved within a satisfactory layout and the need to provide landscaping for the development. Policy RLP90 states that the scale, density, height and elevational design of developments should reflect or enhance local distinctiveness.

The appearance of the building would remain fairly unchanged apart from the ground floor front elevation. This will change as the wide doors and windows would be replaced by eight windows and doors to serve the 8 new dwellings. 8 rooflights are proposed to the western facing roof slope that would serve the kitchen areas in each cottage. Given that the roof lights would be located in the roof slope and would be at a height that would not allow occupants to see out and overlook the neighbouring property, St Lawrence Court.

In isolation, the resulting external appearance of the building is considered appropriate and complies with the policies outlined above.

Following the dismissed appeal, the tandem car parking has been removed and three spaces are now proposed to the south of the building, and one further space is located to the front of the two cottages located in the southern end of the building and a turning area is shown to be located to the east of the three spaces. The parking spaces are shown to be 2.5m wide and vary in depth between 5m and 5.5m. The Parking Standards 2009 indicate that a preferred bay size for parking bays should be 2.9m wide by 5.5m long. Therefore the proposed bay sizes are deficient in size.

No vehicle tracking information has been submitted in support of the parking arrangement. Notwithstanding this, based on the plans and information submitted, Officers still consider the proposed layout to be impractical, as future occupiers would have some difficulties manoeuvring within the site and leaving the site in a forward gear. Furthermore, given that the spaces are undersized, they are unlikely to be practical to use. Therefore it is considered that this proposed parking layout would be unacceptable and does not comply with the policies outlined above.

Amenity for Future Occupiers

Paragraph 170 in the NPPF states that 'planning policies and decisions should ensure that development that create places that are safe with a high standard of amenity for all existing and future occupants of land and buildings'. Policy RLP90 of the Adopted Local Plan also states that development should not have an unacceptable impact upon neighbouring amenity. This sentiment is repeated in draft Local Plan Policy LPP55.

The proposal would result in 8 single aspect dwellings contained within a walled site that provides a very limited outlook onto a high wall 8 metres from the only ground floor window. The upstairs is provided with a single window in the same elevation and a single roof light in the western roof plane.

Following the previously dismissed appeal, this application now proposes that the bedroom and bathroom areas are located on the ground floor and the open plan living room, dining area and kitchen are now located the first floor.

It is noted that the living accommodation (lounge, dining and kitchen) is now located on the first floor and that a rooflight is proposed to serve the kitchen. Whilst this roof light would provide a certain amount of light for the kitchen, the central part of the first floor for each dwelling would still receive a poor level of natural light, as both light sources would be located some distance from this space. Furthermore no section drawings have been submitted for the internal arrangements to show how the roof space above the kitchen would be designed and the amount of natural light the roof light would provide for the first floor.

By swapping the accommodation around, it does now mean that the bedroom and bathroom are located on the ground floor and the bathroom would have to be lit artificially at all times when in use. This is not uncommon for some flatted schemes, when the bathroom could be ventilated and lit artificially.

Officers are still concerned however that the bedrooms in all of the cottages would be single aspect and as they are located on the ground floor would have a poor outlook.

Beyond the eastern boundary wall that encloses the site are tall boundary trees within the former Tabor High School (now residential development) that restrict outlook from the upstairs windows and would also restrict daylight and early sunlight from entering the only window it could, in the bedroom on the east elevation. This would limit the quality of outlook and internal amenity to an unacceptable standard by way of creating unfavourable internal environments.

The 4th parking space is proposed to be located to the front of the two cottages located in the southern end of the building. The supporting statement indicates that the use of this space would be restricted to the occupiers of the southernmost cottage. To further emphasise the poor consideration for future residents, this parking space would be located outside of a property that would not use this space and directly in front of the only window provided for a bedroom and would result in noise trapped within the walled environment having adverse polluting impacts on future residents.

The submitted block plan indicates that each cottage would have a small amenity area to the front of each cottage. Beyond each of these areas is a pedestrian access that would serve each cottage. The applicant has confirmed that it is their intention that each cottage would have an area of private amenity space. They go on to state that the perimeter of this space would be enclosed by a low boundary treatment, while the space closest to the front façade of each cottage, would have a higher boundary treatment in order to create a level of privacy for each cottage. Notwithstanding this a clarification no details have been submitted to demonstrate how an acceptable boundary treatment to each of the properties could be provided. Against this context Officers consider that the introduction of a tall boundary treatment close to the front of each ground floor bedroom would reduce the outlook and light for each cottage resulting in a poor level of amenity for future occupiers.

The proposal therefore remains unacceptable, resulting in a poor level of amenity for future occupiers and does not comply with the NPPF, Adopted Local Plan Policy RLP90 and Draft Local Plan Policy LPP55.

Impact on Neighbouring Residential Amenities

Paragraph 170 in the NPPF states that 'planning policies and decisions should ensure that development that create places that are safe with a high standard of amenity for all existing and future occupants of land and buildings'. Policy RLP90 of the Adopted Local Plan also states that development should not have an unacceptable impact upon neighbouring amenity.

The use of the vacant storage building for residential purposes would not result in any unacceptable harm to existing neighbouring residential occupiers.

Highway Considerations

No objection is raised to the proposal by ECC Highways, subject to conditions.

Policy RLP56 of the Adopted Local Plan and Policy LPP45 of the Draft Local Plan requires that sufficient vehicle parking should be provided for all new development in accordance with the Essex County Council Vehicle Parking Standards 2009.

The submitted plans show 4 parking spaces to the east of the building, however only three would be available to 7 of the cottages. The proposal would result in 8 No.1 bedroom cottages. The Council's adopted Parking Standards required 1 parking space per 1 bedroom dwelling and one visitor space per 4, one bedroom dwellings. Therefore 10 spaces would normally be required.

However, the Standards also state that reductions of the vehicle standard may be considered if the development is in an urban area (including town centre locations) that has good links to sustainable transport. In this case, the site is located in the town centre which benefits from bus services and a train station. There are also public car parks close to the site. This is a location where it is reasonable for the LPA to accept a lower level of parking provision. That said, there are 3 parking spaces proposed within the development site for 7 properties and each property could accommodate two people. The recent conversion of the school building to the east of the application site resulted in 15 one-bedroom flats and 14 two-bedroom flats. The scheme provided 34 off-street car parking spaces, which complied with the Essex Parking Standards 2009.

Despite the town centre location, it is considered the scheme underprovides car parking for the proposed scheme and given the number of potential occupiers, the proposal could result in cars parking on the nearby highway. Furthermore, the layout of the proposed car parking is considered unacceptable as set out earlier in this report.

Impact on Conservation Area

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

Paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 195 states that where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

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

Policy RLP95 of the Adopted Local Plan Policy states that built or other development within or adjacent to a Conservation Area and affecting its setting will only be permitted provided that: the proposal does not detract from the character, appearance and essential features of the Conservation Area and is situated in harmony with the existing street scene and building line, and is sympathetic in size, scale and proportions with its surroundings.

Policy CS9 of the Adopted Core Strategy requires developers to respect and respond to the local context particularly where proposals affects a Conservation Area.

Policy LPP56 of the Draft Local Plan states that the Council will encourage the preservation and enhancement of the character and appearance of designated Conservation Areas.

The Historic Building Consultant concludes that the application would have a neutral impact on the character and appearance of the Conservation Area and that the development would result in no harm to the designated heritage asset.

The proposal therefore complies with Policy RLP95 of the Adopted Local Plan, Policy CS9 of the Adopted Core Strategy, the NPPF and Policy LPP56 of the Draft Local Plan.

Habitats Regulations Assessment (HRA) / RAMS

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

In accordance with the revised interim guidance an appropriate assessment has been completed for this application, as it falls within the threshold of a scheme of 99 residential units or less and is located within the updated Zones of Influence of the relevant European designated sites. However, whilst the appropriate assessment of the Local Plan has identified a likely significant effect for all residential development in-combination with other plans and projects, this application was submitted prior to 1 September 2020 which is the cut of date prior to which mitigation could not be secured for the following reasons:

- The amount of development at 99 units or less that was likely to be approved prior to the adoption of the RAMS (which will require financial contributions for all residential proposals), is comparatively minimal.
- There were no specific costed HRA mitigation projects identified and no completed clear evidence base to give the Local Planning Authority the ability to impose such a requirement for a proportionate, evidence based contribution for off-site mitigation at relevant European designated sites for schemes of this size.

It is was therefore concluded that the amount of development approved under schemes of 99 unit or less prior to the adoption of the RAMS would be de minimis considering that the RAMS will be dealing with the in-combination effects of housing growth across Essex over a 15 year period and it is not therefore considered that the current proposal would result in a likely significant effect on European designated sites, given that the application was submitted prior to the 1 September 2020 cut-off date.

PLANNING BALANCE AND CONCLUSION

The presumption in favour of sustainable development sits at the heart of the NPPF. the framework is clear in its instruction at paragraph 11d, that for decision-taking this means where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73); or where the housing delivery test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years), granting permission unless: (i) the application of policies in the framework that protect

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

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

As set out in Paragraph 8 of the NPPF, achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and needed to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives): an economic objective (to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure); a social objective (to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being); and an environmental objective (to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy).

In the case of this application, the proposal represents acceptable development within the Town Boundary of Braintree.

The proposal would have economic and social benefits, in terms of employment generated from the construction/conversion period and the provision of 8 no. new dwellings which would contribute to the supply of housing in highly sustainable location in the Town Centre of Braintree. Such benefits would be consistent with the social and economic objectives of sustainable development; however they would be limited in weight due to the scale of the development. However, there would be a number of adverse environmental impacts arising from the proposed development including the resulting poor level of amenity for future occupiers of the new dwellings in terms of poor outlook and internal amenity. Furthermore the dwellings would be served by an impractical parking arrangement, with undersized spaces that is seldom likely to be used and an under provision of car parking spaces to meet the likely needs to future occupiers. Overall, Officers consider that the proposal would result in the overdevelopment of the site to the detriment of the intended occupiers.

When considering the planning balance and having regard to the above and having regard to the requirements of the NPPF as a whole, Officers have

concluded that the proposed development would result in sufficient harm that would significantly and demonstrably outweigh the benefits and consequently it is recommended that planning permission be refused.

RECOMMENDATION

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

- 1 The proposal would result in an unacceptable level of internal amenity and outlook for the future occupiers, giving rise to unfavourably internal environments. Furthermore the poor level of amenity is exacerbated by the poorly considered outdoor amenity space and the proximity of some car parking spaces to the dwellings. The proposal is of harm to the level of amenity future occupiers ought reasonably to expect to enjoy contrary to the NPPF, Local Plan Policy RLP90 and Draft Local Plan Policy LPP55.

- 2 The Adopted Essex Parking Standards 2009 indicate that a preferred bay size for parallel parking bays should be 2.9m wide by 5.5m in length. The parking spaces are shown to be 2.5m wide and between 5m and 5.5m in length.

The undersized parking spaces combined with the impractical parking layout and an insufficient number of spaces, would fail to meet the likely needs of future occupiers, harmful to amenity and also result in the displacement of vehicles beyond the site. The proposal is thus unacceptable, is considered to be an overdevelopment of the site and contrary to Policies RLP56 and RLP90 of the Adopted Local Plan and Policies LPP45 and LPP55 of the Draft Local Plan.

SUBMITTED PLANS

Location Plan	Plan Ref: WH01
Existing Floor Plan	Plan Ref: 3 CG 002
Existing Elevations	Plan Ref: 3 CG 001
Proposed Site Plan	Plan Ref: 3 CG 003
Proposed Elevations	Plan Ref: 3 CG 005
Proposed Floor Plan	Plan Ref: 3 CG 004

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER



Appeal Decision

Site visit made on 11 February 2020

by M Heron BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th March 2020

Appeal Ref: APP/Z1510/W/19/3241003

3 Coggeshall Road, Braintree CM7 9DB

- 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 Brand Builders & Developers Ltd against the decision of Braintree District Council.
 - The application Ref 19/01425/FUL, dated 31 July 2019, was refused by notice dated 5 August 2019.
 - The development proposed is the conversion of a building used for storage and distribution (Class B8 use) to eight, two storey, one-bedroom cottages (Class C3 use).
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. **The Council's decision notice refers to policies** from the Braintree District Publication Draft Local Plan (DLP), which has been submitted for examination. However, it would appear that further evidence is required on Section 1 of the DLP. Furthermore, I do not know if there are any unresolved objections to the relevant policies within it. On the evidence before me, I therefore afford the policies of the DLP only limited weight with regard to paragraph 48 of the National Planning Policy Framework (the Framework) and instead give **precedence to the policies within the Council's adopted development plan.**

Main Issues

3. The main issues are;
 - the effect of the proposed parking layout on the future operation of the development; and
 - whether or not satisfactory living conditions would be provided for future occupants of the proposal, with particular regard to access to daylight, outlook, the provision of external amenity space and noise and disturbance.

Reasons

Parking Layout

4. The appeal site is located within the town centre area of Braintree, on the northern side of Coggeshall Road. It accommodates a two-storey warehouse building that is longer than it is wide. This is set to the rear of, and at a right angle to, a vacant commercial property that fronts the carriageway. The appeal

building is positioned on the **site's** western boundary and part of its northern boundary. A narrow section of hardstanding separates it from the **site's eastern** boundary. The site is surrounded on all sides by built form in this densely developed urban area.

5. This proposal seeks permission to convert the appeal building to eight, one-bedroom, dwellings. These would have six off-street parking spaces positioned **in a tandem arrangement along the site's eastern boundary**. I note that the Highway Authority has raised no objection to this scheme and that the quantum of spaces would be acceptable in this accessible location. Nevertheless, it is still reasonable to consider that at least some of the future occupants would own private vehicles.
6. The proposed parking spaces would be smaller than the recommended size for parallel bays as illustrated within the Essex Vehicle Parking Standards 2009. Moreover, their layout would fail to provide an adequate area in which to manoeuvre and turn vehicles around. Consequently, it would be exceedingly difficult for motorists to actually utilise proposed parking spaces as their layout and size would render them unworkable. This would be likely to cause friction between future occupants, as well as hazardous driving conditions whilst vehicles reverse to the turning area located **towards the site's entrance**.
7. National planning policy seeks to encourage the efficient use of land in locations which offer a genuine choice of transport modes. However, this should not be at the expense of developments which function well, as advocated by paragraph 127 of the Framework. Taking all of the above into account, I find that the scheme would fail to meet this objective of the Framework as the proposed parking spaces would not be in a useable formation. Suitable cycle parking spaces could be secured through the imposition of an appropriately worded condition. However, this would not improve the poor functionality of the proposed car parking arrangement.
8. For the reasons given, I conclude that the proposed parking layout would have a detrimental impact upon the future operation of the proposed development. The scheme would therefore conflict with Policies RLP56 and RLP90 of the Braintree District Local Plan Review (LP) insofar as they seek to ensure developments make appropriate provision for parking and that their layouts are of a high standard.

Living Conditions

Outlook

9. The proposed dwellings would be single aspect properties with only ground floor and first floor windows to their front. These would afford close distance views of parked vehicles, **the walled boundary treatment along the site's eastern boundary** and a sizeable residential development beyond this boundary. In my view, this would result in an unduly harsh, urban and oppressive outlook from within the proposed properties. This would be particularly so from ground floor windows. The presence of several trees along **the site's eastern boundary would not** sufficiently mitigate this harm. Neither is the existence of other town centre properties with limited outlook a suitable reason to replicate such poor internal living conditions at the appeal site.

Daylight

10. Given the relatively long, narrow, layout of the proposed properties it is unlikely that daylight would penetrate to the kitchen areas located to their rear. Consequently, these rooms would have to be lit by artificial means. Although future occupants may spend more time in larger living areas, I find that this would make the kitchens unacceptably gloomy spaces.

Noise and Disturbance

11. In my view, the presence of vehicles parked within close proximity of the proposed units would cause daily noise and disturbance to future occupants. Amongst other things, this would be from the starting of engines, the manoeuvring of vehicles in and out of constrained parking spaces and the **slamming of car doors. This would reinforce the scheme's poor internal living conditions.**

Amenity Space

12. Other than small sections of defensible space to their front, the proposed dwellings would not have any private or shared external amenity spaces. However, their size is unlikely to attract larger families. Furthermore, the appeal site is close to a number of parks which could be safely accessed by foot from the site. Consequently, I am satisfied that future occupants would have appropriate access to external amenity space.

Overall Findings – Living Conditions

13. I have found that future occupants would have suitable access to external amenity space. However, for the reasons given, I conclude that the proposal would fail to provide satisfactory internal living conditions for these occupants through the combination of poor outlook and access to daylight as well as noise and disturbance. It would therefore conflict with Policy RLP90 of the LP insofar as it seeks to secure a high standard of layout and design in all developments. It would also conflict with the Framework which seeks to achieve a high standard of amenity for future users.

Other Considerations

Special Protection Area

14. The appeal site is within a Zone of Influence for the Blackwater Estuary Special Protection Area (SPA), which is a protected European site. Natural England has provided revised advice regarding the need to ensure that new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations. In this instance, the Council has not requested a financial contribution **to mitigate the proposal's** impact upon the SPA.
15. In any event, the Court of Justice of the European Union has ruled that the decision maker, when considering the effect that a proposal may have on a European site, must consider mitigation within the framework of an Appropriate Assessment (AA) rather than at the screening stage¹. As the competent authority, if I had been minded to allow the appeal it would have therefore been necessary for me to go back to the parties to seek further information in

¹ People over Wind and Sweetman v Coillte Teoranta ECLI:EU:C:2018:244

order to undertake an AA for this scheme. However, as I am dismissing the appeal for other reasons, I have not taken the matter further.

Conservation Area

16. The appeal site falls within the Conservation Area (CA). The Council do not raise objection to the proposal's **impact on this** historic environment. Nonetheless, I have a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. The significance of this CA appears to derive from the interesting architectural and historic qualities of buildings which portray the evolution of activity associated with the town centre.
17. Although of some historic merit, the appeal building is not visually prominent within the CA. In line with the opinion of the **Council's Historic Buildings** Consultant, I find that it makes a neutral contribution to the character and appearance of the CA. The proposal would not make any significant alterations to the external appearance of the appeal building. Whilst it would make use of a vacant building, I am not persuaded that the scheme would notably enhance the character or appearance of the CA. However, it would not result in any material harm to this designated heritage asset.
18. For these reasons, I am satisfied that the proposal would preserve the character or appearance of the CA. It would therefore accord with the relevant **provisions of the Council's development plan which seek to protect the** historic environment. In addition, it would accord with the Framework insofar as it seeks to conserve designated heritage assets in a manner appropriate to their significance.

Other Matters

19. My attention has been drawn to a development at Augustus Mews which was allowed at appeal². However, this development was for a dual aspect residential property which differed in size and shape compared to the proposed units. It is therefore not directly comparable to the appeal scheme, which I have assessed based on its own planning merits in any event.
20. I have no substantive evidence before me to show that this proposed change of use could have been carried out under the provisions of the permitted development regulations. This therefore carries limited weight in my assessment.

Planning Balance

21. The Government is seeking to significantly boost the supply of housing. Although the proposal would re-use an existing building and utilise previously developed land, **it would make only a modest contribution to the Council's** housing stock. Similarly, the economic benefits associated with construction and occupation would also be modest. In this context, I give moderate weight to the social and economic benefits associated with this proposal.
22. I have found that the proposal would not harm the character or appearance of the CA and that future occupants would have suitable access to external

² Ref. APP/Z1510/W/19/3230477

amenity space. However, these are requirements of the development plan and are therefore neutral factors in the overall planning balance.

23. On the other hand, the scheme's **parking layout would prevent** this development from functioning effectively in the future. In addition, the proposal would fail to afford satisfactory living conditions for future occupants in terms of outlook, access to daylight and noise and disturbance. It would therefore fail to fulfil the **Framework's social objective** for sustainable development, which seeks to provide homes that meet the needs of present and future generations and foster a well-designed built environment. This attracts significant weight against the proposal.

24. Taking the above factors into consideration, even if the Council was unable to demonstrate a five year supply of deliverable housing land, in my view the adverse impacts of approving this development would significantly and demonstrably outweigh the benefits of providing eight homes. Consequently, the proposal conflicts with the development plan and there are no material considerations, including the advice of the Framework, which outweigh this conflict.

Conclusion

25. For the above reasons, and having regard to all other relevant matters raised, I conclude that the appeal should be dismissed.

M Heron

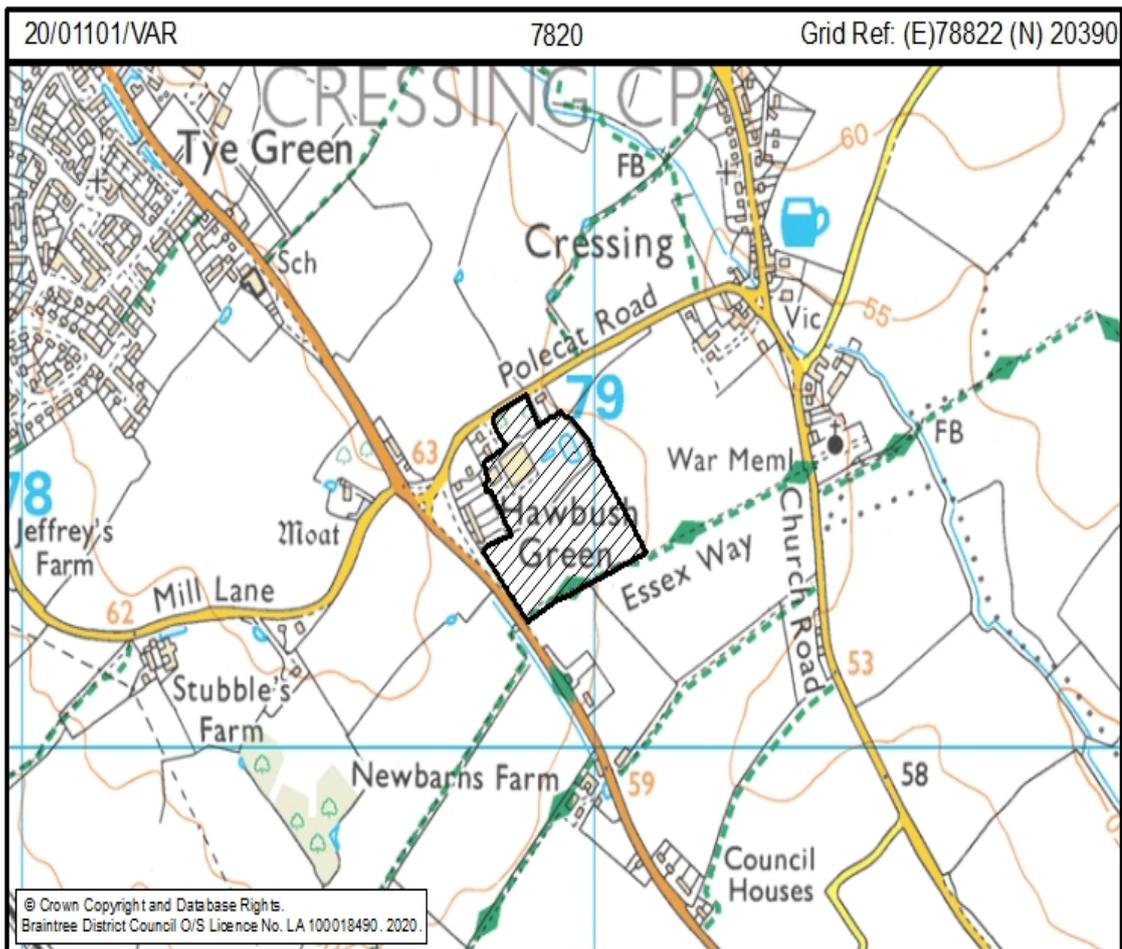
INSPECTOR

PART A

AGENDA ITEM NUMBER 5d

APPLICATION NO: 20/01101/VAR
DATE VALID: 08.07.20
APPLICANT: Inland Limited
Mr Patrick Thomas, Burnham Yard, London End, Beaconsfield, HP9 2JH
DESCRIPTION: Application for variation of Conditions 6c, 9, 11, 17, 18 of application 18/00920/FUL granted 13/02/2020 for: Demolition of existing buildings on site and erection of 78 residential dwellings with associated open space, landscaping, amenity space, car and cycle parking and other associated works.
LOCATION: Appletree Farm, Polecat Road, Cressing, Essex

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



The application can be viewed on the link below.

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

SITE HISTORY

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

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

POLICY CONSIDERATIONS

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

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

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

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

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

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

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

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

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

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

National Planning Guidance

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

Braintree District Local Plan Review 2005

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

Braintree District Local Development Framework Core Strategy 2011

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

Braintree District Publication Draft Local Plan 2017

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

Cressing Neighbourhood Plan

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

Relevant policies to this application include inter alia:

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

- Policy 9: Economy
- Policy 11: Developer Contributions

Other Material Considerations

Essex Design Guide

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

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

INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is being reported to Planning Committee in accordance with the Council's scheme of delegation at the request of the Chairman and Vice Chairman of the Planning Committee. The Parish Council also object to the application contrary to Officer recommendation.

SITE DESCRIPTION

The application site measures approximately 5.3 hectares in area. It currently comprises a multitude of industrial/commercial uses and pre-fabricated buildings of ranging sizes. Historically the site had been a potato and vegetable distribution and processing factory (until 2008). More recently it has been in operation as a haulage yard and business area. However the site is now not operational following the grant of planning permission reference 18/00920/FUL, which this current application seeks to vary.

The site is located adjacent to the countryside on three of four sides; however in its entirety, the site is well screened due to existing trees, vegetation and existing residential development. In terms of wider context, the site is situated between the villages of Tye Green and Cressing and approx. 4-5km from the centre of Braintree.

PROPOSAL

In accordance with Section 73 of the Town and Country Planning Act, the application in this case seeks to vary a number of conditions pursuant to the extant planning permission (Application Reference 18/00920/FUL) for the site which granted permission for the erection of 78 dwellings. This application seeks to vary the following conditions:

- Condition 6 – Contamination
- Condition 9 – Surface Water Drainage Scheme
- Condition 11 – SUDS maintenance plan
- Condition 17 – Landscaping

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

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

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

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

CONSULTATIONS

Essex SUDS

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

Essex Police

No further comments to make.

Essex Historic Buildings Consultant

No objection.

Essex Highways

No objection.

Environment Agency

No comments or objections.

Environmental Health

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

PARISH / TOWN COUNCIL

Cressing Parish Council

Objects to the application for the following summarised reasons:

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

REPRESENTATIONS

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

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

REPORT

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

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

Condition 6 - Contamination

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

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

The developer shall give one-month's advanced notice in writing to the Local Planning Authority of the impending completion of the remediation works. Within four weeks of completion of the remediation works a validation report undertaken by competent person or persons and the agreed remediation measures shall be submitted to the Local Planning Authority for approval...

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

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

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

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

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

Condition 9 - Surface Water Drainage

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

"No development shall commence unless and until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in

writing by the local planning authority. The scheme should include but not be limited to:

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

The scheme shall subsequently be implemented prior to occupation”.

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

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

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

The scheme shall subsequently be implemented prior to occupation.”

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

Condition 11 – SUDS Maintenance Plan

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

“No development shall commence unless and until a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

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

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

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

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

Condition 17 - Landscaping

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

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

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

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

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

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

Condition 18 - Various

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The completed scheme shall be managed and/or maintained in

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

The developer has accepted these revisions to the proposed conditions.

CONCLUSION

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

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

RECOMMENDATION

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

APPROVED PLANS

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

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

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

Reason

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

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

Reason

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

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

Reason

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

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

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

Reason

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

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

Reason

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

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

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

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

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

Reason

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

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

Reason

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

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

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

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

Reason

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

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

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

The scheme shall subsequently be implemented prior to occupation.

Reason

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

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

Reason

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

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

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

Reason

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

pollution.

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

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

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

Reason

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

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

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

Reason

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

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

provided as a set of method statements).

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

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

f) Responsible persons and lines of communication.

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

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

Reason

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

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

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

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

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

Reason

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

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

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

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

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

Reason

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

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

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

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

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

Reason

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

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

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

The completed scheme shall be managed and/or maintained in

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

Reason

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

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

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

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

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

Reason

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

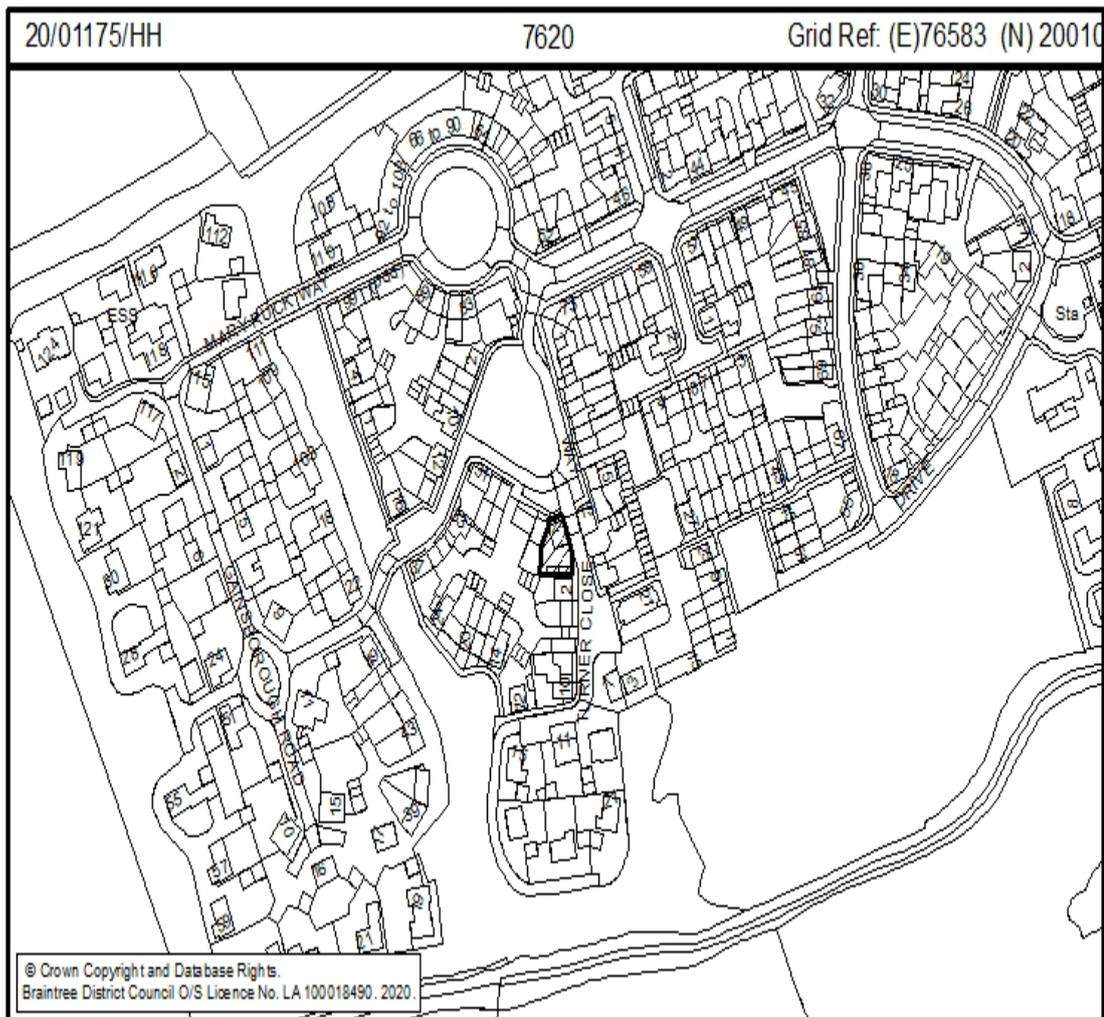
CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

PART B

AGENDA ITEM NUMBER 5e

APPLICATION NO: 20/01175/HH
DATE: 23.07.20
VALID:
APPLICANT: Mr James Douglas
21 Constable Way, Black Notley, CM77 8FE
AGENT: BM Planning & Drawing Services
Mr Bradley Martin, 211 Rayne Road, Braintree, CM7 2QE
DESCRIPTION: Erection of a two-storey rear extension and single-storey front porch.
LOCATION: 21 Constable Way, Black Notley, Essex, CM77 8FE

For more information about this Application please contact:
Fay Fisher on:- 01376 551414 Ext. 2507
or by e-mail to: fay.fisher@braintree.gov.uk



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QDTD5DBFFOJ00>

SITE HISTORY

00/00249/REM	Erection of 80 no. dwellings with garages and associated highway works	Granted	06.06.00
88/00361/P	Residential Development	Granted	05.02.91
96/00617/OUT	Residential development	Granted with S106 Agreement	17.07.97
98/00786/REM	Installation of new roundabout, pedestrian crossing points, white lining and signage	Granted	07.07.98
98/01678/REM	Extension of distributor road access to serve balance of development	Granted	18.02.99

POLICY CONSIDERATIONS

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

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

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

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

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

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

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

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

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

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

National Planning Guidance

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

Braintree District Local Plan Review 2005

RLP3	Development within Town Development Boundaries and Village Envelopes
RLP17	Extensions and Alterations to Dwellings in Towns and Villages
RLP56	Vehicle Parking
RLP90	Layout and Design of Development

Braintree District Local Development Framework Core Strategy 2011

CS9	Built and Historic Environment
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Braintree District Publication Draft Local Plan 2017

SP1	Presumption in Favour of Sustainable Development
SP6	Place Shaping Principles
LPP1	Development Boundaries
LPP38	Residential Alterations, Extensions and Outbuildings
LPP45	Parking Provision
LPP50	Built and Historic Environment
LPP55	Layout and Design of Development

Neighbourhood Plan

N/A

Other Material Considerations

Essex Design Guide

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

Essex Parking Standards

INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is being reported to Planning Committee in accordance with the Council's scheme of delegation as Black Notley Parish Council has objected to the proposal contrary to Officer recommendation.

SITE DESCRIPTION

No.21 Constable Way is a detached dwelling on a housing development constructed around the 2000s and is located within the Black Notley Village Development Boundary.

The property is set in a fair sized plot and together with its identical neighbour at No.19 Constable Way, flank the entrance way into Turner Close. The house has not been previously extended, is not located within a Conservation Area, nor are there any statutory listed buildings in the vicinity.

PROPOSAL

Planning permission is sought for a two-storey rear extension and front porch. The two-storey rear extension would measure approximately 8 metres in height, 5 metres in width and 3.1 metres in depth. The porch would measure 1.4 metres in depth by 2.1 metres in width and would be 3 metres in height. A first floor bedroom window would also be inserted in the side flank elevation of the existing dwelling facing onto the flank wall of No.19 Constable Way on the opposite side of Turner Close.

The external materials proposed are painted rendered walls on a red brick plinth and tiled roofs, all of which would match the existing dwelling.

CONSULTATIONS

None

PARISH / TOWN COUNCIL

Black Notley Parish Council

Black Notley Parish Council recommends refusal on the grounds of overdevelopment of the plot, and loss of sightline to cars from the erection of the porch.

REPRESENTATIONS

One letter of objection has been received from No.19 Constable Way raising the following area of concern:

- The proposed installation of a new window on the side of the house is at such an angle that the garden, a patio area with seating, and lawn where our children play would be severely overlooked resulting in an invasion of privacy.

REPORT

Principle of Development

The application site is located within the Black Notley Village Boundary where the principle of extensions to existing dwellings is acceptable as established by Policy RLP17 of the Adopted Local Plan and Policies LPP1 and LPP38 of the Draft Local Plan, subject to design, amenity and highway criteria.

Design and Appearance

Paragraph 124 of the National Planning Policy Framework (NPPF) sets out that 'the creation of high quality buildings and places is fundamental to what the planning and development process should achieve'. It cites good design as a 'key aspect of sustainable development'. Paragraph 130 of the NPPF is explicit stating that planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Policies RLP17 of the Adopted Local Plan and Policy LPP38 of the Draft Local Plan set out design criteria for extensions and outbuildings which aim to ensure that there is no over-development of the plot, that the siting, bulk, form and materials of the development are compatible with the host dwelling, and that unacceptable adverse impact on the amenities of adjoining residential does not occur or material harm to the street scene. Policy RLP90 of the Adopted Local Plan, Policy CS9 of the Adopted Core Strategy and Policy LPP55 of the Draft Local Plan require a high standard of design in all new development in order to ensure it respects local context in terms of scale, density, height and massing of buildings.

Officers have considered the points raised by Black Notley Parish Council and agree that this particular housing estate is of high density and as such garden sizes for most properties are small. In this case however, the design of the proposed rear extension matches well in terms of its form and style with that of the existing property and its modest size would not result in an overdevelopment of the plot or its boundaries given the size, position of the extension and the fact that 100sqm of garden space would remain.

When viewed from the public domain of Constable Close, views of the proposed rear extension would be limited and only appreciated when passing the entrance way into Turner Close. When viewed from the front of the property straight on, or from elsewhere in Constable Close the rear extension would not be seen.

When viewed from Turner Close the rear extension would be seen as built form typical at the rear of a dwelling that has been extended. Whilst this would now appear different from the matching house at No.19 Constable Close, this is not considered to be harmful given the array of built form evident across the estate and in the immediate vicinity. The area is characterised by a variety of house types, set at differing angles and outlooks. Any individual change to one property does not therefore intrinsically harm the wider character of the area subject to the appropriate use of materials. Overall, Officers are supportive of the two-storey rear extension in terms of its design and appearance.

With regards to the porch extension to the front of the dwelling, this would introduce an element of built form at the property frontage which is not mirrored with its matching neighbour. However, given its modest size and typical design, it is not considered to have detrimental impact on the front of the dwelling, nor the rest of the street and is therefore considered acceptable in this regard.

The external materials proposed for the extension would match the host property and would be compatible with the palette of materials seen in the surrounding streetscapes. The design of the proposal is therefore sympathetic to the host dwelling, and would not result in harm to the character or appearance of the surrounding area, in accordance with the requirements of the abovementioned policies.

Impact on Neighbour Amenity

Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Draft Local Plan states that development shall not cause undue or unacceptable impacts on the amenities of nearby residential properties. The NPPF further requires a good standard of amenity for all existing and future occupiers of land or buildings.

In addition to this, The Building Research Establishment's report "Site Layout Planning for Daylight and Sunlight" 1991 suggests that obstruction of light and outlook from an existing window is avoided if the extension does not result in the centre of the existing window being within a combined plan and section 45 degree overshadowing zone.

The proposed extensions themselves are not considered to have an impact on neighbouring amenity in terms of overbearing or loss of light and privacy, however, to enable the erection the rear extension a new window would need to be installed into the first floor side elevation of the existing dwelling. This would serve an existing bedroom which would no longer have access to a window on the rear elevation the property.

A letter of objection has been received from the neighbour No.19 Constable Close, which raises concerns with regards to the loss of privacy and overlooking from the new window. As a result of these concerns, the applicant

has submitted a revised plan which moves the window further to the front of the dwelling in an attempt to reduce the perceived loss of privacy.

The window proposed would look across the public domain of Turner Close and would directly face the blank flank elevation of No.19 Constable Close. The positioning of the window would be seen from the rear garden of No.19 when looking west. Views from the proposed window would not look into any habitable or non-habitable rooms of any neighbouring houses. Partial views of the rear garden of No.19 would be experienced when looking south east from this window. To appreciate such an outlook however, the viewer would have to be standing at the window, in a narrow corner of the room looking at an oblique angle. They would then only see the bottom south west corner of this neighbouring garden. Given the density of surrounding residential development and mutual overlooking already experienced between dwellings, the positioning of this window is not considered to result in an unacceptable loss of privacy to the residential amenity of No.19 Constable Close.

As such, it is considered that the proposal would not result in an unacceptable loss of light, privacy, outlook or visual intrusion and is therefore compliant with the abovementioned policies.

Highway Considerations

Policy RLP56 of the Adopted Local Plan and Policy LPP45 of the Draft Local Plan states that developments should comply with the parking standards set out in Essex County Council's Vehicle Parking Standards. The proposal would not make any alterations to the current parking arrangements and is therefore considered compliant with the abovementioned policies.

In addition to the above, Black Notley Parish Council have raised concerns in terms of the impact that the porch extension would have on highway safety. Officers are however satisfied that the porch is to be erected wholly within the site edged red and would not impede views of pedestrians using the adjacent footpath or cars which are exiting Turner Close. Whilst there are sightlines evident, they will not be obstructed by the proposed porch projection.

CONCLUSION

The design and appearance of the proposal would be in keeping with the character and appearance of the existing property. Whilst it is acknowledged that there will be a degree of overlooking from the proposed first floor side window it is not considered to be to a degree which would warrant the refusal of planning permission. The application is therefore recommended for approval.

RECOMMENDATION

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

APPROVED PLANS

Existing and Proposed Floor Plans Plan Ref: 0001-01 Version: Rev C
Existing and Proposed Elevations Plan Ref: 0001-02 Version: Rev C

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

Reason

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

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

Reason

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

- 3 The external materials and finishes shall be as indicated on the approved plans and/or schedule.

Reason

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

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

Review of Scheme of Delegation		Agenda No: 6
Portfolio	Planning	
Corporate Outcome:	Connecting People and Places Delivering and Innovating	
Report presented by:	Christopher Paggi, Planning Development Manager	
Report prepared by:	Christopher Paggi, Planning Development Manager	
Background Papers:	Public Report	
The Town and Country Planning (Local Planning) (England) (Amendment) Regulations 2017 Neighbourhood Planning Act 2017 Town and Country Planning (Development Management Procedure) Order (2015) General Data Protection Regulations National Planning Policy Framework (2019) National Planning Policy Guidance Planning for the Future, White Paper, August 2020 Braintree District Council Constitution	Key Decision: No	
Executive Summary:		
<u>Background</u>		
<p>Members are integral to the decision making process and have an important role to play within the wider planning process. The Council's Planning Committee operates as a 'shop window' for the Council in a public arena, where decisions are made in an open and transparent manner. However at present, Planning Committee is under significant pressure due to the volume of applications which it is required to consider.</p> <p>The last review of the Scheme of Delegation was undertaken in 2015. As part of that review, it was agreed that the scheme should be subject to regular review. Following consultation with Senior Officers within the Planning team, it is considered that the current Scheme of Delegation should be revised as it has not led to Planning Committee being able to concentrate on the most significant planning applications in the District and is considered to be unduly complex. It is also considered that the current Scheme of Delegation is contributing to delays in decision-making and impacting upon Service delivery.</p>		

Objectives

The review is being undertaken for three main reasons:

1. To ensure that Members of the Council's Planning Committee are focused on the determination on the most significant and complex applications, namely those which affect the way the District will grow; and have a higher level of public interest;
2. To ensure the Council is able to discharge its Development Management function in an efficient, cost effective, and timely manner so we are able to meet Government and BDC performance targets;
3. To introduce a mechanism to allow for meaningful engagement with Members of the Council's Planning Committee at the pre-application and application stage, prior to the determination of the application.

Revised Scheme of Delegation

A revised Scheme of Delegation is included within **Appendix 1** of this report. This seeks to achieve the following key outcomes:

- A prescriptive, unambiguous and transparent Scheme of Delegation that is easy to understand for all users of the planning system.
- Ensures Members of the Planning Committee are focused on the most significant and complex applications.
- An efficient and timely procedure for determining planning applications.

By adjusting the Scheme of Delegation in this way, it would also be possible to enable proposals to be introduced to enhance Member engagement in the planning process. Specifically, the creation of a 'Members Forum' where applicants and agents would have the ability to present their proposals to Members of the Planning Committee at pre-application, pre-submission and application stage of the process. There would also be an opportunity to extend invitations to attend the Members Forum to Local Ward Members and Parish/Town Councils. It should be noted that this forum would be a way for members to enhance their understanding of the proposals they have before them. It is not a decision making forum. This aspect of the proposal seeks to achieve the following key outcomes:

- Ensures meaningful engagement with Members, Local Ward Members and Parish/Town Councils in applications prior to their determination.
- Would enable applicants, agents, and Officers to understand issues of concern and how the proposals could be improved to address them.
- Strengthens Officers ability to negotiate positive changes to proposals.
- Members would have a greater level of confidence in how the proposal has evolved.

Recommended Decision:

That Members of the Planning Committee:

- a) Note the proposed Revised Scheme of Delegation and proposals for Member Engagement as set out within Appendix 1;
- b) Note the commencement of a 21 day consultation period on the proposals with stakeholders;
- c) Note that the final Scheme of Delegation will be submitted for approval at Full Council on 7th December 2020 as set out in Appendix 1, and as modified as a result of the consultation.

Purpose of Decision:

To provide the Planning Committee with details on the proposed review of the Scheme of Delegation and Member Engagement in the planning process.

Any Corporate implications in relation to the following should be explained in detail.

Financial:	Officer time and resources required to carry out the public and stakeholder consultation will be met from existing budgets. The Revised Scheme of Delegation is likely to deliver efficiency savings and reduce the costs currently associated with the determination of planning applications by Planning Committee.
Legal:	<p>The proposed revised Scheme of Delegation would involve amendments to the Council's Constitution and therefore will require formal approval by Full Council before they can be implemented.</p> <p>There is no obligation to carry out a formal consultation on the changes, however, having previous done so for planning delegations, there is an expectation that consultation will be undertaken on this occasion.</p>
Safeguarding:	No matters arising out of this report.
Equalities/Diversity:	An Equality Impact Assessment will be undertaken to support the final Scheme of Delegations submitted to full Council on 7th December 2020.
Customer Impact:	Increased delegation would result in more timely decision-making which would be beneficial to customers. The revised Scheme of Delegation would be more prescriptive and would therefore provide applicants, agents and

	members of the public with greater clarity on which planning applications need to be reported to Planning Committee for determination.
Environment and Climate Change:	No matters arising out of this report.
Consultation/Community Engagement:	There will be a 3 week consultation period to enable stakeholders to comment on the proposals.
Risks:	That the changes to the Scheme of Delegation do not lead to the anticipated outcomes. The developers and agents or Members do not want to get involved in the Members Forum.
Officer Contact:	Christopher Paggi
Designation:	Planning Development Manager
Ext. No:	2548
E-mail:	christopher.paggi@braintree.gov.uk

Review of Scheme of Delegation

1. Objective

1.1. The review of the Scheme of Delegation is being undertaken for three main reasons:

1. To ensure that Members of the Council's Planning Committee are focused on the determination of the most significant planning applications, namely those which will affect how the District will grow and develop and which have a higher level of public interest. These applications are usually more complex and benefit from the additional scrutiny at Planning Committee where Members can add most value to the decision making process in balancing conflicting pressures.
2. To ensure an effective and efficient delegation arrangement for the determination of 'Minor' and 'Other' planning applications that raise no significant planning issues, in order to discharge the Council's Development Management function in an efficient, cost effective, and timely manner, which includes meeting relevant Government and BDC performance targets, without compromising the quality of the decisions made.
3. To introduce a mechanism to allow for meaningful engagement with Members of the Council's Planning Committee at the pre-application and planning application stage over development proposals which meet the criteria for being referable to the Council's Planning Committee for determination.

2. Background

2.1 The last review of the Scheme of Delegation was undertaken in 2015. A report was considered by the Council's Planning Committee in January 2015. Subsequently, the proposals were subject to public consultation before being considered and approved at Full Council in April 2015.

3. Old Scheme of Delegation

3.1 The previous Scheme of Delegation, which was described as a 'Prescribed Approach', set out the criteria where, in certain specified scenarios, applications had to be referred to Planning Committee for determination. The old scheme was considered to be complicated and cumbersome, particularly as it included the requirement for any application, where 1 (or more) letters of representation, which were received contrary to the Officer recommendation, to be referred to Planning Committee.

3.2 Concern was also raised that the delegation rate (the proportion of applications determined at Officer Level) was relatively low in comparison with other District LPAs in Essex (the Delegation Rate for Braintree were specified as 91% for 2013-14 and 88.7% for first half of the financial year 2014-15),

which meant that Braintree had one of the lowest delegation rates in the County at the time.

- 3.3 A further factor considered as part of the last review was the associated cost of reporting an application to Planning Committee, compared to the application being considered under Delegated Powers. It was previously highlighted that research undertaken by the Governments Planning Advisory Service (PAS) reveals that a decision on a delegated case was around 10 times less than if the application was reported to Planning Committee. At the time, this was assessed to be approximately £1,500 on average per case, which was the additional cost attributed to the report and decision making process, not the cost of dealing with the application before that stage.

4. Current Scheme of Delegation

- 4.1 The current Scheme of Delegation, which was introduced in 2015, sought a widening of delegated powers to achieve efficiency savings and more timely decision-making. The Scheme of Delegation outlines a set of three criteria which sets out how applications have to be determined:

A. Applications which have to be referred to Planning Committee:

- BDC Applications / Application Site owned by BDC
- Applications 'Called In' by a Member
- Parish Council [for the purposes of this report the term Parish Council includes the Town Councils] view is contrary to Officer Recommendation
- Applicant/Agent related to a BDC Officer or BDC Member
- Applications considered to be 'Significant' by the Planning Development Manager

B. Applications which can be determined under Delegated Powers:

- Applications for sites within development limits with fewer than 6 valid planning representations
- Householder applications anywhere in the District with fewer than 6 valid planning representations
- Applications for replacement dwellings in the countryside with fewer than 6 valid planning representations
- Applications for Advertisement Consent for sites outside Conservation Areas

C. Applications subject to referral to Chair's Briefing – those applications which need to be referred to Chair/Vice Chair of the Planning Committee to determine whether the application should be referred to Planning Committee for consideration, under the 'significance' test:

- All applications for new dwellings in the countryside, including agricultural workers dwellings and barn conversions
- All S.73 applications (i.e. to vary or remove a planning condition)
- Proposals which seek a minor variation to the terms of a Section 106 Agreement
- All other applications that fall outside the categories listed in 'B' above

5. Reflection on Current Scheme of Delegation

- 5.1 When the scheme of delegation was last reviewed in 2015, it was agreed that the scheme should be subject to regular review. As part of the review process therefore, Officers have considered feedback provided by applicants and agents as well as the experiences of the team in dealing with the current arrangements.
- 5.2 Although the removal of the 'contrary representation trigger' was a positive introduction within the last review, on reflection and following additional analysis, it is considered that there are a number of issues with the current Scheme of Delegation which are detailed in turn below.
- 5.3 While the previous review was undertaken with the best of intentions and sought to address criticisms that the old Scheme of Delegation was complicated and cumbersome, the current Scheme of Delegation has failed to allow the Planning Committee to concentrate on the most complex applications with the greatest impact on the District and is now universally considered by Officers (particularly new Officers that have joined the team from other planning authorities and from the private sector) to be unduly complex.
- 5.4 The introduction of the Chair's Briefing process has facilitated positive engagement with the Chair and Vice Chair of the Planning Committee. Whilst this engagement with Members works well, the administration of the process adds to the workload of Senior Officers and Case Officers (325 applications were considered at Chairs briefing in 2019). This does result in a delay in the determination of applications, particularly 'Minor' applications.
- 5.5 The above delays are a consequence of the Chair's Briefing meeting taking place post-consultation on the application (to enable a meaningful discussion about the application with the Chair and Vice Chair). As the consultation process for these applications can take up to 5 weeks to complete, and depending on the date of Chair's Briefing (scheduled every two weeks), this can lead to a delay in determination (even if it is determined that the application can be delegated). If the Chair/Vice Chair decide that a particular application needs to be referred to the Planning Committee for determination, it is very unlikely that the application will be determined within the statutory 8 week period. Although Development Management performance continues to improve, 'Minor' application performance lags behind 'Other' and 'Major' application performance. This leaves Officers more reliant on securing Extensions of Time with applicants/agents. This can be particularly difficult where applicants and agents perceive that their application has been unnecessarily delayed by the Council's scheme of delegation.
- 5.6 Consultation with current Development Management Officers revealed a clear preference for a more prescriptive Scheme of Delegation, which set out which planning applications need to be reported to Planning Committee for determination. It was also considered that greater clarity would significantly

benefit applicants, agents and members of the public who also struggle to understand the current process.

- 5.7 Concern was also raised by Officers and Members at the number of applications which have to be reported to Planning Committee due to the fact that the Parish/Town Council view is contrary to the Officer recommendation. These concerns are further compounded by the fact that a large number of Parish/Town Council's still fail to attend Planning Committee to substantiate their concerns to Members. Analysis of the last 25 Planning Committee meetings shows that there was a total of 53 Part B Items on agendas, comprising: 14 where the applicant/agent were either BDC staff/BDC Members, or were related to BDC staff; 8 where BDC was the applicant; 4 where the application had been 'Called In' for determined by a Member; and 27 where the Town/Parish view was contrary to Officer recommendation. The relevant Parish/Town Council only attended the Planning Committee meeting on 6 of the 27 occasions (22%) where it was their referral that led to the application being determined at Planning Committee.
- 5.8 During discussions, Officers also raised concern at the number of 'Part B' applications considered at Committee. While many of these are determined 'en-bloc', and while Officers welcome this positive approach by Members, a significant amount of Officer time and resource goes into reporting Part B applications to Planning Committee. This is because Officers must still write reports and prepare presentations in advance of Planning Committee. The reporting of these applications also consumes Member time spent reading Committee Reports and visiting sites. It can also be bewildering for members of the public who see an application referred to Planning Committee for determination, only to see the item moved en-bloc with no discussion of the proposal. The fact that many of these applications are considered en-bloc, raises the question as to whether these applications could or should be considered under Delegated Powers instead.
- 5.9 Officers also questioned why recommendations of refusal are referred to Planning Committee for determination. While this prompted debate amongst Officers, there was a general consensus that referring applications, which are recommended for refusal (particularly for speculative development), is healthy for the planning process as a whole and ensures the public can see a balanced decision-making process. It also ensures that (subject to Members agreeing the Officer recommendation to refuse) that all issues are captured (including any new issues raised by Members), ensuring that these can be considered within any subsequent planning application.
- 5.10 Lastly, and although the Service receive very few requests, there was a general concern about the current Member 'Call In' procedure for planning applications. Under the current scheme of delegation Members are required to give a planning reason for calling an application in, but there is no assessment of the issue(s) raised. Whilst the ability for Members to advocate for their constituents is acknowledged, there was a general consensus that this aspect of the Scheme of Delegation would benefit from a clearer process and a greater level of oversight.

6. Delegation Rates

- 6.1 Analysis of delegation rates (i.e. the proportion of applications determined at Officer Level) shows that current delegation arrangements are resulting in a relatively low level of delegation to Officers in comparison within other District LPAs in Essex.
- 6.2 Table 1 below highlights that Braintree ranked joint second lowest in the number of planning applications determined under delegated powers (joint with Harlow), with only Maldon recording a lower rate of delegation, whilst also determining the fifth highest number of applications during 2019.

Table 1: Performance for Year ending December 2019

LPA	Total Decisions*	Delegation Rate*
Chelmsford	1,709	99%
Brentwood	951	99%
Colchester	1,450	97%
Castle Point	575	97%
Tendring	1,091	96%
Basildon	1,026	96%
Rochford	718	96%
Uttlesford	1,646	95%
Epping Forest	1,484	94%
Braintree	1,380	92%
Harlow	318	92%
Maldon	809	86%

**Based on Year ending December 2019 MHCLG Returns (Table 134: District Planning Authorities)*

- 6.3 The low delegation rate of decisions is a consequence of the current Scheme of Delegation which is contributing to delays in decision-making and impacting upon Service delivery. While it is anticipated that the revised the Scheme of Delegation as set out in **Appendix 1** would increase the number and percentage of decisions made under Delegated Powers, the motivation for seeking this change is to achieve the right balance between democratic oversight and accountability with the need for an efficient decision-making process which ensures the Council is able to consistently achieve against Government performance targets.
- 6.4 As highlighted earlier within the report, revising the Scheme of Delegation in this way would ensure that Members are able to focus on the determination of the most significant and complex applications, namely those which affect the way the District will grow; and have a higher level of public interest. Similarly, this would have a beneficial impact upon Officer capacity and particularly Senior Officers within the Development Management team. In addition to the costs associated with reporting applications to Planning Committee, a significant amount of Officer resource is consumed by the current process. A further motivation in advancing the proposed revised Scheme of Delegation is

therefore to ensure there is enough team capacity reserved to focus the Planning Committee on major and strategic planning applications.

7. Revised Scheme of Delegation

7.1 It is considered that any revised Scheme of Delegation should be based around the following principles:

- Discard the 'Part A' and 'Part B' split for Planning Committee Agendas. All planning applications referred to Planning Committee should be considered and debated by Members.
- Members of the Planning Committee should be able to focus on the determination of the most significant planning applications, namely those which will affect how the District will grow and develop and which have a higher level of public interest.
- The Scheme of Delegation should be prescriptive, clear and unambiguous so it is easy to understand and transparent for applicants, agents, Members, and members of the public.
- Members of the Planning Committee should not become 'bogged down' with the determination of 'Minor' and 'Other' applications which do not raise any significant planning issues.
- Greater oversight of the Member 'Call In' process is required to ensure that applications are referred to the Planning Committee on planning merit.
- Similarly, greater oversight is required to assess the arguments advanced by Parish/Town Councils on applications where their view is contrary to the Officer recommendation, to decide whether the application is reported to Planning Committee for determination.
- Applications, where a previous application for the same or substantially the same application site has been refused planning permission under Delegated Powers or by Planning Committee and where the new proposal is 'similar' to the previously determined application, should be able to be determined under delegated powers.

7.2 Having regard to the above principles, a revised Scheme of Delegation has been drafted and is set out in full in **Appendix 1** to this report. The proposed Revised Scheme of Delegation would achieve the following:

- Ensure all applications reported to Planning Committee are debated by Members.
- All 'Major' planning applications would be reported to Members for determination. These would include applications for outline and full planning permission as well as applications for the approval of reserved

matters. These applications are more complex and will directly shape the way in which the District grows in the future.

- A prescriptive unambiguous and transparent Scheme of Delegation that is easy to understand and transparent for Applicants/Agents, and Members of the Public.
- 'Minor' applications which raise no significant planning issues, and 'Other' applications should be determined under delegated powers to ensure the Council can discharge its Development Management function and meet relevant Government and BDC performance targets.
- Retains the Chair's Briefing process but repurposes this to provide an oversight on whether the larger 'Minor' applications, which have been subject to a Member 'Call In', or which have generated representations from the Parish/Town Council which are contrary to the recommendation of Officers, should be referred to Planning Committee for determination.

7.3 It is recognised that some Members may be concerned that more applications are being considered by Officers, rather than Members at Planning Committee. Whilst this will be true in terms of the number of applications, it will ensure that Members have the time to properly consider the most complex applications which require a planning judgement, rather than those which are a more straightforward application of local and national policy.

7.4 However in order to further enhance member engagement in the more significant and complex proposals a Member Forum is proposed. The ability to resource this forum is met by the expected reduction in the number of applications being prepared for Planning Committee.

8. Member Engagement in the Planning Process

8.1 Members are integral to the decision making process and have an important role to play within the wider planning process. The Council's Planning Committee operates as a 'shop window' for the Council in a public arena, where decisions are made in an open and transparent manner. However at present Planning Committee is under significant pressure due to the volume of applications which is required to consider.

8.2 Members are currently responsible for making decisions on applications, including major planning applications of a large or strategic scale, based on a report and recommendation from Officers published in advance of the Planning Committee meeting, and an Officer presentation on the night. They must also take into account any material considerations raised within representations and consultation responses received during the process. Some of the applications determined by Members have been subject to lengthy discussion and negotiation between Officers and the applicants. For a large scale or strategic major application, this process could easily take over a year from the initial pre-application discussion to the application being referred to Planning Committee. However, Members, who will have the final

say on the determination of the application, are not involved in any part of that process and do not have the ability to influence the proposals, except of course, for making a final decision on the application.

- 8.3 This lack of engagement currently generates significant risk for both Officers and Applicants and Agents who are investing significant time and resources in working up proposals. Member involvement in the process earlier on will mean that issues can be identified, including any significant principle concerns, so that the applicant can address these or make a decision as to whether to progress any further work on the proposal. The risk and more importantly the consequence of a Member overturn or deferral is significant, both in terms of delay but also in terms of the Officer resource and the abortive cost of this, and the potential additional costs to the Council arising from a subsequent appeal. The Council remains under significant pressure in terms of housing land supply, and it is increasingly important that strategic sites which are supported are able to be advanced through the planning process to facilitate housing delivery in the District. This will ensure that the District grows in the right way and unsustainable development can be resisted.
- 8.4 Developers are keen to understand the particular issues and concerns that Members have about proposed developments so that they can explore ways to address those concerns through their planning application. Developers who have been able to engage with Members on their proposals in advance of determined in other authorities have said they found this to be a useful way of understanding local issues and sentiment and helps produce better quality applications and developments. However, the current process does not include a formal mechanism to facilitate Member engagement as part of the pre-application and planning process.
- 8.5 The Localism Act 2011 (s25) changed rules around pre-determination, to enable Members to express a view, meet with people and still be involved in the decision, providing that an open mind is retained.
- 8.6 The proposed revised Scheme of Delegation offers a unique opportunity to introduce a 'Members Forum' where applicants and agents would have the ability during the pre-application, pre-submission and application stage of the planning process, to present their proposals to Members of the Planning Committee. Members would be able to ask questions and express a view (providing an open mind is retained) within a structured and safe forum. This engagement would enable applicants, agents and Officers to get a better understanding of particular issues of concern and how the proposals could be improved further. This would also offer the potential to significantly strengthen Officers ability to negotiate with developers and seek improvements to the scheme during the process. Moreover, where an application has been subject to consultation through the Members Forum, when the application is finally reported to Planning Committee for determination, Members would have a greater level of confidence in how the proposal has evolved.

- 8.7 Planning is a public process, and whilst Officers already encourage applicants to engage with local representatives prior to submitting a planning application, there is no reason why invitations to attend a Members Forum meeting couldn't be extended to Local Ward Members and a representative of the Town or Parish Council. This would significantly enhance engagement with Town and Parish Council's at the pre-application stage of the process. The meetings of the Members Forum would need clear governance arrangements in place and would need to be minuted.
- 8.8 The introduction of this new process, would significantly enhance the Council's current pre-application process. The costs associated with the introduction of this new process, would be met by developers ensuring that this process operated on a cost neutral basis (for both Planning and Governance).
- 8.9 Critically, the proposed revised Scheme of Delegation is designed to increase the rate of delegated decisions and reduce the number of applications that need to be determined at Planning Committee. This would facilitate the ability to create a Members Forum either in addition or in lieu of a scheduled Planning Committee meeting.

9. Next Steps

- 9.1 Prior to commencement of public and stakeholder consultation, the views of the Planning Committee are sought. Stakeholder and public consultation is scheduled to commence on 26th October 2020 for a period of 3 weeks, ending on 13th November 2020.
- 9.2 Subject to the consultation, it is proposed to seek approval for the revised Scheme of Delegation and Member Engagement proposals at Full Council on 7th December 2020.

10. **Recommendation**

- 10.1 That Members of the Planning Committee:
- a) Note the proposed Revised Scheme of Delegation and proposals for Member Engagement as set out within Appendix 1;
 - b) Note the commencement of a 21 day consultation period on the proposals with stakeholders;
 - c) Note that the final Scheme of Delegation will be submitted for approval at Full Council on 7th December 2020 as set out in Appendix 1, and as modified as a result of the consultation.

APPENDIX 1: PROPOSED REVISED SCHEME OF DELEGATION

A. Applications to be referred to Planning Committee for determination (to be presented by Officers and debated by Members at Planning Committee):

- Major Planning Applications (Application for Outline Planning Permission, Reserved Matters Approval or Full Planning Permission) for residential development comprising 10 or more proposed houses or commercial development comprising floorspace of 1,000sq.m, including any linked application for Listed Building Consent¹.
- Major or Minor Planning Applications for Renewable Energy Schemes, including solar, wind and bioenergy projects, and proposals for Anaerobic Digestion Plants.
- Where the Applicant is Braintree District Council.
- Where the Applicant is an employee or Member of Braintree District Council.
- Where the Applicant or Agent is related to an employee within the Planning Department (Development Management or Planning Policy) (change from Braintree District Council²) or a Member of Braintree District Council.
- Any application which is deemed to be 'significant' by the Planning Development Manager.

B. Applications which can be determined under Delegated Powers which may be subject to referral to Chair's Briefing:

- Minor Planning Applications (Application for Outline Planning Permission, Reserved Matters Approval or Full Planning Permission) for residential development comprising 3-9 proposed houses, including any linked application for Listed Building Consent, **Unless**:
 - Either the Town or Parish Council's view is contrary to the Officer Recommendation;
 - Or the application has been 'Called In' for determination by a BDC Councillor by the end of the specified consultation period and is accompanied by planning reasons for why the application should be referred to Planning Committee for determination.

Then:

The application shall be referred to Chair's Briefing, with the Chair and Vice Chair of the Planning Committee, who will consider whether the application should be referred to the Planning Committee for determination, except if a previous application for the same or substantially the same application site has been refused planning permission under Delegated Powers or by the Planning Committee where the proposal is deemed to be 'similar' to the previously determined application by the Planning Development Manager.

¹ For Members information only, currently the Government define a major residential development to be 10 units or more or sites 0.5ha or more and for non-residential development is where additional floorspace of 1,000sq.m or more, or a site of 1 hectare or more, or as otherwise provided in the Town and Country Planning (Development Management Procedure) (England) Order 2015, **however for the purposes of the Scheme of Delegation only the 10 units or more and 1000sq.m floorspace thresholds will be utilised to define a Major Planning Application and not the site area definitions.**

² We currently have one agent who is related to a Member of BDC staff and as a result, all of his applications are reported to Planning Committee.

C. Applications which can be determined under Delegated Powers

- Minor Planning Applications (Application for Outline Planning Permission, Reserved Matters Approval or Full Planning Permission) for residential development comprising 1-2 proposed houses, including any linked application for Listed Building Consent.
- All Section 73 applications to vary or remove planning conditions, including seeking minor material amendments, associated with any previous consent (Application for Outline Planning Permission, Reserved Matters Approval or Full Planning Permission) for 'Major', 'Minor', or 'Other' Planning Applications.
- Minor Planning Applications for replacement dwellings.
- Minor Planning Applications for agricultural workers dwellings (temporary or permanent).
- Minor Planning Applications for any other commercial development or change of use.
- All of the following Application Types:

Application Type	Description
ADV	Applications for Advertisement Consent
AGR	Agricultural Prior Approval
ALT	Certificate of Alternative Appropriate Development
AREM	Agricultural Reserved Matters
CLPLB	Certificate of Lawfulness for Works to a Listed Building
COMPA	Commercial Extensions Prior Approval
COUPA	Applications for Prior Approval (All)
DAC	Application for Approval of Details reserved by condition following grant of planning permission or a listed building consent
ECCDAC	Consultation on Essex County Council Discharge of Conditions Applications
ELD	Application for a Certificate of Lawfulness for an Existing Use or Development
FPO	Footpath Order
GOV	Development by Government Department
HDG	Hedges
HH	Householder Application for Planning Permission
HHPA	Householder Extensions Prior Approval
LBC	Application for Listed Building Consent for alterations, extensions or demolition of a listed building
LDOCC	Local Development Order Compliance Checklist
NMA	Application for a Non-Materials Amendment following a grant of planning permission
OHL	Overhead Electricity Lines
P14JPA	Prior Approval – Part 14, Class J
P3RNOT	Notification – Part 3, Class R
PDEM	Prior Approval for Demolition

PIP	Permission In Principle
PLD	Application for a Certificates of Lawfulness for a Proposed Use or Development
S106A	S106A to modify or discharge S106
SCO	EIA Scoping Opinion
SCR	EIA Screening Opinion
T56	Telecoms 56 Day Notification
TDC	Technical Details Consent
TEL	Telecommunications General
TMPCOU	Temporary Change of Use
TPO	Works to Protected Trees (subject to a TPO)
TPOCON	Works to Trees within a Conservation Area

- Consultation Responses which can be determined under Delegated Powers, following referral to the Cabinet Member for Planning:

Application Type	Description
ECC	Consultation on Essex County Council Applications ³
ODC	Out of District Consultation

³ As the majority of these applications are for smaller scale development, Development Management could notify the Cabinet Member for Planning on receipt of the consultation and await confirmation of whether a response could be issued by Officers, or if a draft response should be prepared for review and approval, prior to issue.