

PLANNING COMMITTEE AGENDA

Tuesday, 11 December 2018 at 07:15 PM

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

THIS MEETING IS OPEN TO THE PUBLIC
(Please note this meeting will be webcast and audio recorded)
www.braintree.gov.uk

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

Membership:-

Councillor K Bowers	Councillor Lady Newton
Councillor Mrs L Bowers-Flint	Councillor Mrs I Parker
Councillor T Cunningham	Councillor F Ricci
Councillor P Horner	Councillor Mrs W Scattergood (Chairman)
Councillor H Johnson	Councillor Mrs G Spray (Vice-Chairman)
Councillor S Kirby	Vacancy
Councillor D Mann	

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

A WRIGHT
Chief Executive

INFORMATION FOR MEMBERS - DECLARATIONS OF INTERESTS

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

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

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

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

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

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

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

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

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

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

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

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

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

PUBLIC SESSION

Page

1 Apologies for Absence

2 Declarations of Interest

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

3 Minutes of the Previous Meeting

To approve as a correct record the Minutes of the meeting of the Planning Committee held on 4th December 2018 (copy to follow).

4 Public Question Time

(See paragraph above)

5 Planning Applications

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

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

PART A

Planning Applications

5a	Application No. 17 01918 FUL - Former Bramston Sports Centre, Bridge Street, WITHAM	5 - 32
5b	Application No. 18 00442 OUT - The Garden Field, Land South of Western Road, SILVER END	33 - 87
5c	Application No. 18 00887 FUL - Playing Field, Church Road, GOSFIELD	88 - 99
5d	Application No. 18 01299 FUL - Land West of Cemolville, Colne Road, COGGESHALL	100 - 113
5e	Application No. 18 01628 FUL - Green Farm, The Green, WHITE NOTLEY	114 - 127

- | | | |
|----|--|-----------|
| 5f | Application No. 18 01640 OUT - Land off Colchester Road,
BURES HAMLET | 128 - 168 |
| 5g | Application No. 18 01930 FUL - Freeport Village, Charter Way,
BRAINTREE | 169 - 188 |

PART B
Minor Planning Applications

There are no applications under Part B

- 6 Urgent Business - Public Session**
To consider any matter which, in the opinion of the Chairman, should be considered in public by reason of special circumstances (to be specified) as a matter of urgency.
- 7 Exclusion of the Public and Press**
To agree the exclusion of the public and press for the consideration of any Items for the reasons set out in Part 1 of Schedule 12(A) of the Local Government Act 1972.

At the time of compiling this Agenda there were none.

PRIVATE SESSION

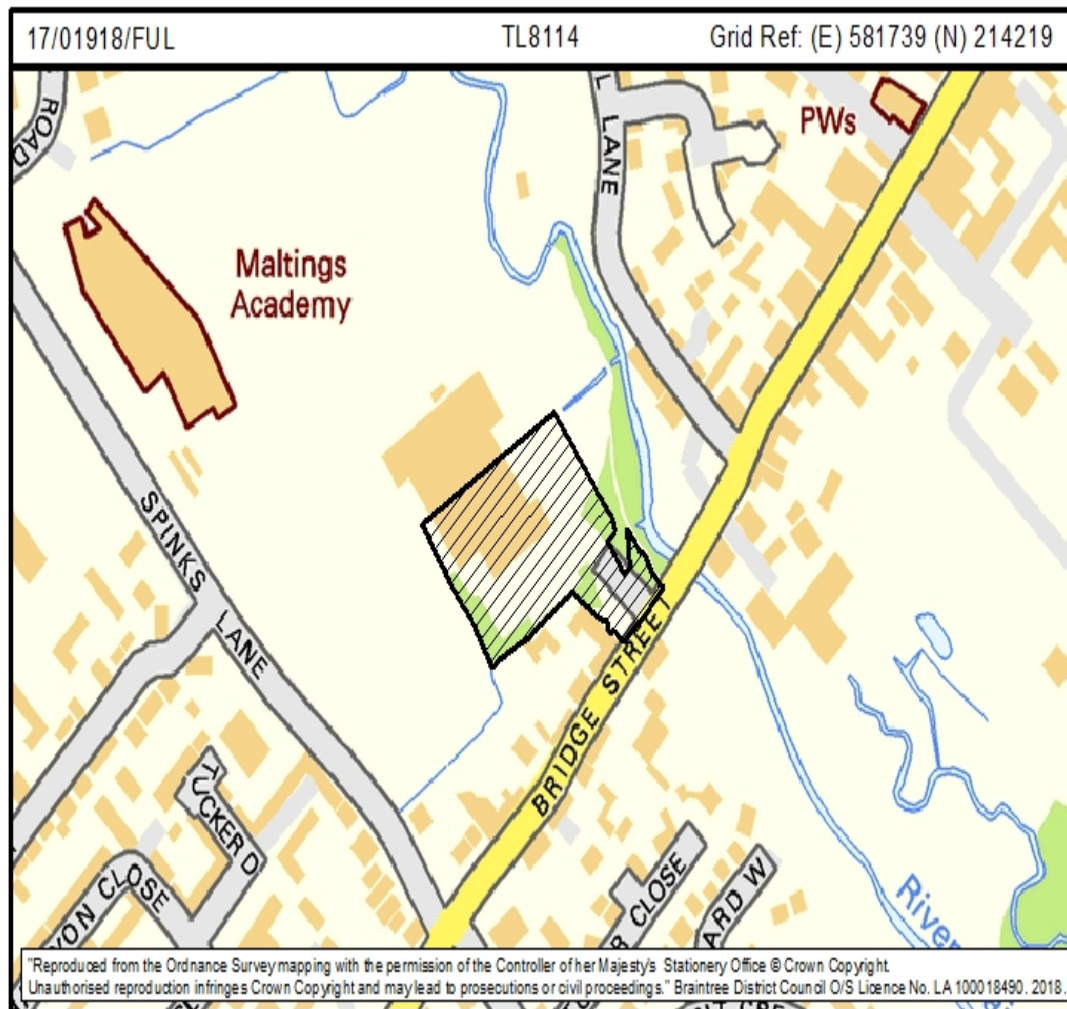
Page

- 8 Urgent Business - Private Session**
To consider any matter which, in the opinion of the Chairman, should be considered in private by reason of special circumstances (to be specified) as a matter of urgency.

PART A

APPLICATION NO: 17/01918/FUL DATE: 03.11.17
 VALID:
 APPLICANT: Mr Mike Devine
 Lidl GmbH, Wellington Parkway, Magna Park, Lutterworth,
 LE17 4XW
 AGENT: Tamsin Cottle
 Jones Lang LaSalle, Fourth Floor Citygate East, Tollhouse
 Hill, Nottingham, NG1 5FS
 DESCRIPTION: Erection of a Foodstore and associated parking
 LOCATION: Former Bramston Sports Centre, Bridge Street, Witham,
 Essex, CM8 1BT

For more information about this Application please contact:
 Mrs Natalie Banks on:- 01376 551414 Ext. 2545
 or by e-mail to: natalie.banks@braintree.gov.uk



SITE HISTORY

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

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 need, which for Braintree is 716 dwellings per annum.

The North Essex Authorities have agreed to produce further evidence to present to the Planning Inspector on the section 1 Local Plan. The authorities

will need to agree with the Planning Inspector a timetable for the completion of this work, but this will result in a delay to the adoption of the Local Plan.

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

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

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

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

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

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

National Planning Guidance

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

Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP36	Industrial and Environmental Standards
RLP51	Cycle Parking
RLP55	Travel Plans
RLP56	Vehicle Parking
RLP64	Contaminated Land
RLP65	External Lighting
RLP80	Landscape Features and Habitats
RLP81	Trees, Woodland Grasslands and Hedgerows
RLP86	River Corridors

RLP90	Layout and Design of Development
RLP95	Preservation and Enhancement of Conservation Areas
RLP111	Retail Development

Braintree District Local Development Framework Core Strategy 2011

CS6	Retailing and Town Centre Regeneration
CS8	Natural Environment and Biodiversity
CS9	Built and Historic Environment

Braintree District Publication Draft Local Plan 2017

SP6	Place Shaping Principles
LPP1	Development Boundaries
LPP16	Retail Site Allocations
LPP44	Sustainable Transport
LPP45	Parking Provision
LPP50	Built and Historic Environment
LPP51	An Inclusive Environment
LPP55	Layout and Design of Development
LPP56	Conservation Areas
LPP67	Natural Environment and Green Infrastructure
LPP69	Tree Protection
LPP71	Landscape Character and Features
LPP78	Flooding Risk and Surface Water Drainage
LPP79	Surface Water Management Plan
LPP80	Sustainable Urban Drainage Systems
LPP81	External Lighting

Supplementary Planning Guidance

External Lighting Supplementary Document
Parking Standards – Design and Good Practice (September 2009)

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 Braintree District Council is the owner of the land, therefore the application cannot be determined under delegated powers.

SITE DESCRIPTION

The former Bramston Sports Centre in Bridge Street, Witham was replaced by the new Leisure Centre building on Spinks Lane to the south west of the site. The old sports centre building was demolished in 2014 and the site cleared. The land is owned by Braintree District Council and has been subdivided to be sold as two separate lots, subject to planning permission. The application site consists of the southern portion, which abuts residential property on Bridge

Court to the south, the new Witham Leisure Centre to the west and the River Walk to the east. It measures approximately 0.08ha. Members will be aware that an appeal against non-determination on the northern part of the site by Churchill Retirement Homes, (application reference 17/01145/FUL) was dismissed, mainly on the grounds of the poor outlook that would be afforded to the potential residents as a result of the design and viability in relation to affordable housing. The Inspector accepted that the site passed the Sequential and Exception Tests set out in the Planning Practice Guidance in relation to Flood Risk.

The River Walk is designated as 'informal recreation' in the Braintree District Local Plan Review and the emerging Draft Publication Local Plan. The Conservation Area Boundary abuts the site to the south and the southern section of the access road is located within the Conservation Area. The entrance to the site, which would be shared with a second potential user is verdant and pleasant and blends with the Witham River Walk. The traffic lights which served to regulate traffic from the old sports centre are still in situ.

The character of the area adjacent to the site is generally 2-storey in height and traditional in form. The largest building nearest the site is the new Leisure Centre which is modernist in style and although it measures 9.2m in height it is set well back from the highway and other nearby development, providing it with a spacious and well-landscaped setting with mature trees.

It is relevant to note that the site is located within Flood Zones 2, 3a and is also partially located within Flood Zone 3b which is the functional floodplain where water has to flow and be stored in times of flood.

Retail development is classified as 'less vulnerable', as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance. Therefore, to comply with national policy any application on this site is required to pass the Sequential and Exception Tests and be supported by a site specific Flood Risk Assessment (FRA).

PROPOSAL

This application seeks full planning permission for the erection of a new A1 retail food store with associated parking. Access to the site is proposed off the existing access at Bridge Street and would be shared with the potential user on the northern part of the site. The site plan indicates that the store would measure approximately 2,200sqm with a net sales area of 1,325sqm. The store would be occupied by Lidl, with parking for 121 cars (including 6 accessible spaces and 8 parent and child spaces). No provision is shown for customer cycles/motorcycles.

Revised plans have been submitted during the course of the application as a result of Officers' concerns that the generic Lidl design was not appropriate in this location due to its close proximity to the Conservation Area and the River Walk. The revised plans show a clean, modern building with minimum signage with the wider elevation facing towards Bridge Street punctuated by

red brick detailing in homage to the smaller scale residential development closer to the site. It would measure approximately 6.3m in height, 80.3m in width and 33.9m in depth. The materials proposed are aluminium for the roof, 'Poroton' Blockwork, with red-brick detailing and aluminium framed windows which are mainly concentrated on the north-east elevation facing towards Mill Lane.

The plans indicate that deliveries to the store would take place at the north-west corner of the site, which backs onto the Witham Leisure Centre. The car parking is laid out mainly to the south of the store with a row of spaces to the front, parallel with Mill Lane. Two electric vehicle charging points are also indicated. The site plan includes 'tracking' details indicating that HGVs would have to pass through the car park as the site has only a single access/egress. The internal area of the store is laid out with the warehousing and prep areas aligned on the western and southern areas of the building. The trolley park is close to the entrance on the south-east corner of the building.

A more sympathetic landscape plan has been submitted, in response to concerns expressed by the Council's Landscape Officer. This includes some tree planting within the centre of the main car park and the use of more native species to blend with the River Walk. The loss of tree cover on both sides of the approach road without a suitable landscape plan was a concern that would initially create a more open aspect than exists at present. However, the existing conifers are not considered to be appropriate and the large willows have succumbed to honey fungus in recent years so that a number have had to be felled by Braintree District Council as their condition posed a safety hazard along this part of the river walk. The established broadleaf trees in front of Bridge Court which are also to be removed are also considered inappropriate to the setting and have become too large for their position near to the group of residential properties, creating a rather dark and damp countenance particularly in the winter months.

The application is accompanied by a suite of documents/reports as follows:

- Design and Access Statement
- Planning and Retail Statement (including retail impact)
- Flood Risk Assessment Reports (since revised)
- Drainage Strategy (since revised)
- Air Quality Assessment (since revised)
- Noise Impact Assessment
- Tree Protection Plan
- Preliminary Ecological Appraisal
- Transport Assessment
- Travel Plan
- Lighting Assessment

CONSULTATIONS

Witham Town Council – raises no objection to the proposal but comments that a number of residual issues have not been resolved, as follows:

- Traffic signals at entrance of the site should be retained;
- ECC Highways should be asked to investigate HGV access to the site, give the 7.5 tonne weight limit;
- Clarity is sought on the number of trees to be removed.

It was also commented that a holistic approach to the redevelopment of the Bramston site would be preferred.

Environment Agency – no objection, subject to conditions and provided that the Council has taken into account the flood risk considerations which are its responsibility. In particular, this includes securing the required flood compensatory storage or wetland area which is outside of the application redline boundary and ensuring that the Sequential Test is passed.

Anglian Water – no objection, subject to condition.

ECC Fire and Rescue – no objection.

ECC Highways – no objection, subject to conditions relating to the provision of the following conditions:

- A minimum 2 metre wide footway along the south-west side of the proposal site access road between Bridge Street and the car park with a minimum 2 metre wide designated route for pedestrians across the car park between the proposal site access road and store entrance;
- A yellow box road marking on the proposal site access road where it meets the adjoining site access road (planning application 17/01145/FUL refers). The development shall be carried out in accordance with the approved drawings and the yellow box road marking shall be retained for the life of the development;
- Upgrade to current Essex County Council specification, the two bus stops which would best serve the proposal site, specifically the Chelmsford bound stop requires pole, flag and timetable frame only; the Witham bound stop requires Raised kerbs (5m), Queensbury 2-bay Arun shelter (to ECC standard build), bus stop flag and timetable
- That the provisions of the submitted Travel Plan are secured by condition.

ECC Highways has also confirmed that the 7.5 tonne weight limit does not relate to the bridge, but to the access road to the site. The actual measurement of Bridge Street is approximately 11.3 metres wide, with the carriageway measuring approximately 6.5 metres wide. It has also been clarified that the traffic lights will be retained.

ECC SUDs – no objection, subject to conditions.

ECC Historic Buildings Consultant – comments that the applicant has addressed the principal concerns raised by his predecessor as much as practically possible given the proposed usage. His predecessor had concluded previously that the proposal would result in less than substantial harm. The exact detailing of signage in this location should be conditioned. To ensure that the visual impact upon the Conservation Area is minimised, conditions should also be imposed regarding materials and landscaping.

BDC Landscape Services – comment that drawing reference 17-080-01 Rev. 'E' has addressed the concerns previously identified regarding the appropriateness and quality of the replacement tree cover. The revised landscaping plan will address these issues and within a reasonable period of time, provide an attractive setting to the site and one that will be more fitting. Conditions are suggested in respect of tree protection and to ensure the development is carried out in accordance with the submitted plan

BDC Environmental Health – concerns are raised with regard to delivery hours, separation arrangements for pedestrians (as per ECC Highways) and delivery vehicles, potential noise from air handling equipment and air quality. In terms of air quality, an objection is raised as the air quality reports submitted by the applicant predict that the development would result in an increase in air pollutant levels and that the air quality objective level at the building façade of a residential property in Bridge Street will not be met.

BDC Economic Development – supports the application as it will create employment opportunities.

REPRESENTATIONS

The Witham and Countryside Society does not object, but raises concerns about the impact on the River Walk. Five letters of representation have been received from local residents objecting to the proposal, summarised as follows:

- Impact on traffic and highways, particularly safety of pedestrians, on Bridge Street;
- Impact of HGVs on Bridge Street and 7.5 tonne weight limit;
- Noise pollution and disturbance which will have an impact on quality of life;
- The air quality assessment makes no reference to Mill Lane residents;
- There is no evidence of need – there must be other sites on the outskirts of Witham;
- Excessive removal of trees/Impact on the River Walk;
- Flood Risk and Surface Water drainage – trees also play their part in mitigating these issues;
- Design is out of character;
- Transport statement is misleading in terms of width of Bridge Street;
- Impact on other retail stores.

REPORT

PRINCIPLE OF DEVELOPMENT

The site comprises derelict land which is undesignated in terms of the Adopted Local Plan and the Draft Local Plan. This site is located within the established Witham Town Development Boundary, where development is acceptable in principle subject to relevant criteria in the Development Plan and the NPPF.

Planning law requires that proposals that accord with the Development Plan must be approved without delay. Paragraph 11 of the revised NPPF states that plans and decisions should apply a presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with an up-to-date development plan without delay or, where there are no relevant plan policies or the policies which are most important for determining the application are out of date, granting permission unless there are policies in the Framework that protect areas or assets of particular importance (footnote 6) or the impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

Paragraph 118 of the revised NPPF states that substantial weight should be given to the value of using brownfield land within settlements for identified needs and support given to appropriate opportunities to remediate derelict land. However, there are other criteria which need to be satisfied to establish that this proposal represents 'sustainable development' as defined in the NPPF, covered further below.

The site is less than 100m away from Witham Town Centre which has an attractive concentration of shops, services and facilities which meet day-to-day needs and is sufficiently close to be considered as 'an edge of centre location'. The Council supports a 'town centres first' policy in alignment with Part 7 of the revised NPPF in order to safeguard the vitality of town centres. Policy CS6 of the Adopted Core Strategy states that the town centres of Braintree, Halstead and Witham will be the primary location for retail, office, leisure and cultural provision in the District.

Policy RLP111 of the Adopted Local Plan applies to all retail development. This states that retail development proposals should:

1. Not individually, or cumulatively with other recent and committed development, materially affect the vitality and viability of any existing town, district, or local centre;
2. Be accessible by a choice of means of transport;
3. Not give rise to unacceptable problems of access, road safety or traffic congestion;
4. Provide car parking and servicing facilities in accordance with the approach set out in RLP56 and to standards and criteria as set out in

- Appendix 3, together with facilities for non-car users;
5. Promote high standards of design and not cause unreasonable loss of amenity to adjoining land uses;
 6. Not materially prejudice the provision of other major land uses, particularly the supply of land for employment, housing and community uses such as open space.

The Planning and Retail Statement describes Lidl's retail philosophy which is centred on simplicity and maximum efficiency. It states that there are a number of factors which distinguish Lidl stores from mainstream convenience retailers. The principal factors are:

- Small store size and localised catchment – Lidl stores do not draw customers from a wide area.
- Restricted number of product lines – Lidl customers tend to also shop at other stores to complement their day-to-day convenience needs.
- Not the 'full retail offer' – Lidl is not a 'one-stop-shop' and does not provide goods and services normally found in the high street.
- Changing comparison goods – Lidl's non-food specials vary widely and change on a twice weekly basis.
- Shorter trading hours – Lidl stores are not 'open all hours'.

The Lidl business model has inherent limits to flexibility as it will only trade from sites on which it is able to operate the fundamental principles of its business. To do this it requires a site of at least 0.5ha and 100+ surface level parking spaces. The route from the site to the town centre is relatively flat with no 'main' roads to cross. There are pavements along the whole route and the town centre shops can be seen from the entrance to the application site and as such it is an accessible, well connected edge-of-centre site.

Paragraph 86 of the revised NPPF states that local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations. Paragraph 87 of the revised NPPF states that when considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre.

In this case, the only sites which could be considered sequentially preferable to the application site are those in the Town Centre. The emerging Draft Local Plan identifies two potential sites at Kings Chase and at the Newlands Precinct. Kings Chase is not only too small, but a letting has apparently been agreed, therefore the site is not suitable or available. With regard to the Newlands Precinct, it is apparent that the existing units are significantly smaller than Lidl's requirements and other land allocated for further development in the locality is unlikely to be of the right size and is not available at this time. It is therefore concluded that the proposal satisfies the sequential test and is therefore considered to be acceptable in this regard.

Paragraph 89 of the revised NPPF states that when assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m² of gross floorspace). This should include assessment of:

- a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).

Policy RLP111 of the Adopted Local Plan pre-dates the revised NPPF and whilst mindful of regeneration and improvements to town centres, it is silent on thresholds. Policy LPP10 of the Draft Local Plan has set out a threshold of 1,500sqm gross floor space triggering the requirement for a Retail Sequential Test in the town centres of Witham and Halstead. However, little weight can be given to this in the light of Paragraph 89 of the revised NPPF which sets out a threshold of 2,500sqm of gross floor space. Therefore, whilst Lidl were not required to undertake a retail sequential test as part of the application, the Statement contains a detailed section on the likely impact of the store on Witham. The report concludes that the complimentary nature of Lidl's retail offer is an important factor when considering the likely impact. Evidence set out in the Statement indicates that on the whole large and small retailers continue to trade successfully alongside Lidl stores all over the UK. The proposal is considered to be acceptable in this respect.

The principle of development is therefore considered to be acceptable.

Design and Heritage

Paragraph 124 of the revised NPPF states that good design is a key aspect of sustainable development which should contribute positively to making places better for people. Planning decisions should aim to ensure that development will function well, be visually attractive as a result of good architecture, layout and with appropriate and effective landscaping.

Part of the site is situated within the Conservation Area which is a designated asset for the purposes of the NPPF. As such, regard must be had for Section 72(1) of The Planning (Listed Buildings and Conservation Areas Act) 1990. This requires that the local planning authority pays special attention to "the desirability of preserving or enhancing the character or the appearance of that area". Paragraph 192 states that in determining applications in Conservation Areas, local planning authorities should take account of the desirability of new development making a positive contribution to local character and distinctiveness. Paragraph 195 states that where a proposed development will lead to substantial harm to or total loss of significance of a designated

heritage asset, consent should be refused. 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.

Policy RLP90 of the Adopted Local Plan, Policy CS9 of the Adopted Core Strategy, and Policies SP6, LPP50 and LPP55 of the Draft Local Plan seek the highest possible standards of design and layout in all new development inter alia to ensure that development responds to local context and provides a good standard of amenity. Policy RLP95 of the Adopted Local Plan and Policy LPP56 of the Draft Local Plan are also relevant as part of the site is within or abutting the Conservation Area. These Policies seek to preserve and enhance the character and appearance of designated Conservation Areas and their settings, including the buildings, open spaces and areas, landscape and historic features and views into and within the constituent parts of designated areas. Applications which fail to preserve or enhance the Conservation Area will be refused.

Revised plans have been submitted which have addressed officers' concerns in relation to the design of the building resulting in a structure and layout that is more responsive to its context in terms of design detailing, landscaping and use of materials. The Historic Buildings Consultant considers that the development will result in 'less than substantial harm' to the Conservation Area meaning that it can be concluded that there is no 'Footnote 6' objection. In accordance with Paragraph 196 of the NPPF this harm should be weighed against the public benefits of the proposal, which is addressed within the Conclusion and Planning Balance section below.

Highway Considerations

Paragraph 108 of the Revised NPPF states that in assessing sites it should be ensured that appropriate opportunities are taken to promote sustainable transport modes, ensure that safe and suitable access can be achieved for all users and that any significant impacts can be mitigated in a cost effective way. Paragraph 111 indicates that developments that generate significant amounts of traffic movement should be supported by a Transport Statement.

Policy CS7 of the Adopted Core Strategy seeks to promote accessibility for all. Traffic and car parking will be carefully managed to encourage sustainable travel. Policies RLP54 and RLP55 of the Adopted Local Plan and Policy LPP44 of the Draft Local Plan require that all proposals for major development will be required to provide a Transport Assessment and Travel Plan.

The Transport Assessment submitted by the applicant states that there are good opportunities to access the site by sustainable modes of transport, including on foot, by bicycle and by bus. Local accident statistics have shown that there are no apparent issues with the design of the highway network surrounding the site. The accident record for the adjacent junctions and along Bridge Street is good and there have been no accidents at the site access.

The vehicle access arrangement for the proposed Lidl store will be via the existing site access from Bridge Street, albeit with suitable improvements to cater better for access by Lidl delivery vehicles and to align with the internal car park layout.

A dedicated delivery bay is proposed adjacent to the building for delivery vehicles. The swept path of a typical 16.5m long articulated delivery vehicle indicates that it could enter and leave the development in forward gears, including when the store is open and the car park is full. A Lidl store delivery frequency is typically one HGV delivery per day. Two HGVs per day may be generated during periods of peak trading such as Christmas and Easter. Refuse and packaging is taken away from the store by the same delivery vehicle on departure which negates the requirement for an additional visit from a refuse collection vehicle.

The traffic capacity of the junction at Spinks Lane/Bridge Street/Howbridge Road/Hatfield Road and the proposed Lidl access onto Bridge Street have been assessed using the software Linsig and ARCADY. The results have shown that both junctions would operate with reserve capacity and are able to accommodate peak levels of traffic, including predicted impacts from the Lodge Farm development.

The Assessment concludes that there is no evidence of any residual cumulative impact resulting from the development proposal that could be categorised as 'severe' in highways terms.

The Travel Plan has reviewed existing transport facilities at the site and has identified a range of measures for implementation by an appointed Travel Plan Coordinator to reduce overall car usage and promote the use of sustainable transport modes. The measures include aiming to achieve the minimum number of single occupancy car journeys to and from the site; raising awareness of alternative modes of transport and promoting walking, cycling, public transport and car sharing.

The site is located a sustainable location being well related to the Town Centre, with bus stops close by. ECC Highways has raised no objection to the proposal or the submitted Travel Plan and Transport Statement in terms of impact on highway safety and the capacity of the local road network. It has been established that the weight limit referred to by the objectors relates to the access road to the site and not the bridge. The traffic lights would also be retained. Whilst the concerns of the objectors in relation to traffic impact are noted, it is concluded that the proposal, subject to the conditions suggested, is satisfactory in terms of highway safety and capacity.

Parking

Policy RLP56 of the Adopted Local Plan and Policy LPP45 of the Draft Local Plan seek to ensure that all new development is provided with sufficient parking in accordance with Essex County Council's Vehicle Parking Standards 2009. For A1 uses, the following is required:

Vehicle Parking Spaces: 1 space per 14sqm = 95 spaces

Accessible Parking: 200 vehicle bays or less = 3 bays.

The parking provision as set out above exceeds the requirements set out in the Standards. However, as no provision has been made for customer cycles and motorcycles a condition to require details to be submitted for approval is included in compliance with Policy RLP51 of the Adopted Local Plan, as it is considered there is sufficient space within the site to secure this facility.

Landscape and Ecology

As referred to earlier in the report, the site is adjacent to the Witham River Walk, a designated area for informal recreation. Paragraph 91 of the revised NPPF stresses the importance of enabling and supporting healthy lifestyles, for example, through the provision of safe and accessible green infrastructure. Paragraph 170 states that decisions should contribute and enhance the natural and local environment by minimising impacts on and providing net gains for diversity and remediating and mitigating despoiled or derelict land where appropriate.

Policy CS8 of the Adopted Core Strategy requires that development must have regard to the character of the landscape and its sensitivity to change. Policy RLP80 of the Adopted Local Plan and Policies LPP67 and LPP71 of the Draft Local Plan state that proposals for new development will be required to include an assessment of their impact on wildlife and should not be detrimental to distinctive landscape features and habitats. Policy RLP81 of the Adopted Local Plan and Policy LPP69 of the Draft Local Plan state that the Council will encourage the retention of locally native trees. Policy RLP86 of the Adopted Local Plan states that development which would harm the open character, nature conservation importance or recreational importance of the floodplains of the River Brain, and others, should not be permitted.

The proposal will involve some disruption to the amenity value and aesthetic of the River Walk as a result of the flood attenuation measures for the wetland area and the necessity of the removal of some of the trees, particularly at the site entrance. However, it is concluded that the landscaping scheme and mitigation will ensure that the development can be successfully integrated and represents an enhancement over time as a result of the introduction of more native species.

Flood Risk and SuDs

As referred to above, part of the site is located within Flood Zones 2, 3a and 3b as set out in Table 1 of the Flood Risk Vulnerability classification set out in the NPPG. Policy CS8 of the Adopted Core Strategy and Policy LPP78 of the Draft Local Plan state that the Council will minimise exposure of people and property to the risks of flooding by following national guidance. Paragraph 155 of the NPPF states that, "inappropriate development in areas at risk of

flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere". Paragraph 157 indicates that the 'sequential approach' should be applied in respect of all development and if necessary, the exception test. The local planning authority is responsible for ensuring that the Sequential and Exception Tests are passed.

Additional information provided by the applicant in response to an initial objection from the Environment Agency indicates that mitigation can be provided entirely within the Lidl 'red-line' boundary, plus the 'wetland' area to the north of the site, which is outside of the red-line plan. Contracts have been agreed to ensure that Lidl will have the right to access third party land to undertake the flood mitigation works. Overall, it is considered that the revised flood mitigation can be delivered and will provide significant net gains over and above the existing situation.

Sequential and Exception Test

The Inspector appointed to the recent appeal at the Churchill site to the north, (reference APP/Z1510/W/17/3188192), held that the individual needs of the business was an acceptable criteria for demonstrating that no other sites were available or suitable for that particular development.

On the basis of this methodology it is not unreasonable to apply the same criteria in relation to flood risk at the Lidl site. Lidl has demonstrated that other sites have been considered in terms of the retail sequential test and the conclusion reached that the alternative sites were not considered acceptable in accordance with the needs of the business. Given that the Environment Agency has raised no objection in terms of the proposed flood mitigation, it is concluded that there is no 'Footnote 6' objection to the proposal in terms of flood risk. ECC SuDs have also raised no objection, subject to conditions. It can be concluded therefore that the Sequential and Exception Test is passed.

Environmental Health Issues

Policies RLP36 and RLP63 of the Adopted Local Plan and Policy LPP73 of the Draft Local Plan seek to ensure that development will not result in an unacceptable impact on the surrounding area as a result of, amongst other things, noise, traffic generation and air pollution.

As referred to above, the Environmental Health Team has raised concerns with regard to pedestrian safety within the car park, the timing of deliveries, noise and air quality which may be affected by HGV vehicle movements generated by the development. Whilst it is considered that most of these issues can be addressed by the suggested conditions, air quality is more problematic as the influence that the planning system can have in relation to activity on the highway is limited.

Paragraph 181 of the NPPF states that 'Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. So far as possible these opportunities should be considered at the plan-making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications. Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan'.

The area has not been identified in the Adopted Local Plan, Adopted Core Strategy or in the Draft Local Plan as an area of concern. It has also not been declared as an Air Quality Management Area and the Government's air quality maps, indicate that air quality problems for the Braintree District are described as low.

The Environmental Health Team's concerns relate to the impact from the increased traffic likely to result from the Lidl scheme. This is also reflected in some of the representations. The applicant's submitted Air Quality Report dated October 2018 which followed on from the original report, has reviewed the base case scenario representing the 'existing' air quality situation in 2017, a 'without development' scenario (2019, the expected year of opening without the proposed development in place but including other committed/consented development); and 'with development' scenario (2019, the expected year of opening with proposed development in place and including other committed/consented development). It is accepted that there is an inherent unreliability of using modelling to predict exceedances of NO₂ concentrations, where the current levels are at or close to the exceedance levels. The only constant from all the submitted reports is that levels at Bridge Street are stated as being close to or above the objective level at which an Air Quality Management Area needs to be declared by Braintree District Council. The exceedances predicted in the reports with the Lidl development indicate that the risk of the need to declare an Air Quality Management Area in the vicinity of the site is slight to moderate.

On the basis of this risk, the concerns are that the existing poor air quality and the prediction that the development will worsen the pollutant levels and that the mitigation measures proposed, such as the Transport Plan, Travel Plan, electric charging points, whilst reducing the overall impact, will not prevent an exceedance. Whilst this issue is acknowledged, citing air quality as an objection to the proposal would be difficult to sustain, given that ECC Highways has stated that the highway network has the capacity to absorb traffic generated by the development. It is relevant to note that on average, Lidl are likely to have a low level of deliveries, usually one per day (2 HGV) movements, except during peak seasons.

It should also be noted that the Government has recently committed itself to reducing emissions as stated in the 'Road to Zero Strategy' published in July 2018 which sets out new measures to clean up road transport by developing, manufacturing and using zero emission road vehicles. The long-term goal is the development and deployment of zero emission vehicles by 2040. In the short-term, according to the Strategy, vehicle emissions from vehicles already on the road will be reduced by increasing the supply and sustainability of low carbon fuels in the UK.

In the light of the likely low level of HGV movements to and from the site, and the applicant's commitment to using the best practical means of reducing the emissions likely to arise from this development, such as the Travel Plan and vehicle charging points, it is considered that withholding consent on the basis of an exceedance of NO2 emissions, could not be sustained.

CONCLUSION & PLANNING BALANCE

The application site is located within the Town Development Boundary for Witham, where development is acceptable in principal. The applicant has demonstrated that the scheme is well designed in terms of the use proposed and the setting of the Conservation Area, and the Retail Sequential Test has been passed, which demonstrates that the proposal would not have a detrimental effect on the Town Centre. Acceptable landscaping can also be achieved to enhance the appearance of the development. ECC Highways has concluded that the development is acceptable in terms of highway safety and capacity and sufficient vehicle parking spaces would be provided.

In terms of the NPPF it is concluded there is no 'footnote 6' objection to the proposal in terms of flood risk, as it is demonstrated that the Sequential and Exception Tests have been passed, or that it would result in an unacceptable impact on the heritage asset, i.e. the Conservation Area, which would mean that the application should be refused as set out at Paragraph 11 of the NPPF.

Accordingly, the application falls to be considered in the light of the 'tilted balance'. Paragraph 7 of the NPPF states that the purpose of the planning system is to contribute towards the achievement of sustainable development, which can be summarised as meeting the needs of the present without compromising the ability of future generations to meet its own needs. Paragraph 8 sets out the three overarching objectives towards achieving sustainable development, namely the economic, social and environmental objectives.

In terms of the economic role, the development will contribute in helping to build a strong, responsive and competitive economy by providing new employment in the area and choice for the consumer. This will not only provide benefits to individual employees but will also enhance economic activity in the locality. This objective will naturally contribute towards the social objective of supporting strong and vibrant communities. With regard to the environmental role, it is considered that the weight that can be attached to

bringing forward a brown field site, the design of the building and the landscaping, the low level of HGV movements, and the mitigation proposed in terms of the Travel Plan and electric charging points is commensurate with the Government's aims of reducing emissions set out in Paragraph 181 of the NPPF and the 'Road to Zero Strategy'. As such, it is considered that these benefits outweigh the dis-benefit of the proposal on the grounds of the small increase in vehicle emissions that is likely to result. The proposal is well-designed, brings forward a brownfield site and complies with adopted and emerging planning policy.

It is therefore concluded that the benefits of the proposal significantly and demonstrably outweighs the dis-benefits of the scheme when assessed against the policies in the Framework taken as a whole. As such the presumption in favour of sustainable development as envisaged by the Framework applies in this case and it is considered that the proposal would constitute sustainable development. There are no other material considerations that indicate a decision other than in accordance with the Development Plan.

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

Tree Plan	Plan Ref: JMK9759-RPS-FIG 2	Version: C
Site Plan	Plan Ref: 7326L-10	Version: H
Floor Plan	Plan Ref: 7326L-11	Version: A
Roof Plan	Plan Ref: 7326L-13	Version: A
Location Plan	Plan Ref: 7326L-15	
Lighting Plan	Plan Ref: O-2086987	Version: A
Elevations	Plan Ref: 7326L 16	
Tree Plan	Plan Ref: GBU-2004	Version: A
Landscaping	Plan Ref: 17-080-01	Version: E

- 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 development shall not be commenced until the approved Flood Risk Assessment (FRA), associated documents and the mitigation measures detailed below have been carried out:
- Flood risk assessment (FRA) prepared by Peter Brett Associates referenced 42027/4001 and dated September 2017.
 - The 'Updated Climate change Flood Levels' Technical Note referenced 39522_TN001, dated 29 November 2016.
 - The Floodplain Storage Mitigation Strategy referenced 39522/4001, Revision A, dated March 2017 which is partially superseded by:
 - The letter from Peter Brett Associates LLP referenced 42027CBH/AH/RMF and dated 10 July 2018.
 - Drawing number: 30481/4021/005, Revision A, dated 14 November 2017 entitled: Comparison of existing and proposed flood extents during different flood events.
 - Drawing number: 30481/4021/006, dated 14 November 2017 entitled: Proposed Floodplain Compensation.
 - Drawing number: 42027/4001/002, Revision B, dated 01 February 2018 entitled: Proposed Flood Compensation Lidl Scheme Only.
 - Drawing number: 42027/4001/005, dated 17 January 2018 entitled: Proposed Floodplain Compensation Combined Lidl and Churchill Sites.
 - Finished ground floor levels are set no lower than 16.99 metres above Ordnance Datum (AOD).

The retail unit shall not be open for trade unless and until the mitigation measures have been fully implemented in accordance with the timing / phasing arrangements embodied within the scheme.

Reason

To reduce the risk of flooding to the proposed development and future occupants.

- 4 Notwithstanding the provisions of Article 3, Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) Order 2015 (including any Order revoking or re-enacting that Order with or without modification) the development hereby permitted shall only be used as a food store and for no other purposes (incidental or otherwise) including any use ordinarily permitted within use class A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (including any Order revoking or re-enacting that Order with or without modification).

Reason

To enable the Local Planning Authority to give due consideration to any other use at the site.

- 5 No above-ground development shall commence unless and until details of all external facing and roofing material to be used in its construction 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. This matter must be dealt with prior to commencement as its requirements relate to details that will need to be in place at the construction stage.

6 The retail unit shall not be open for trade unless and until:

a) A minimum 2 metre wide footway along the south-west side of the proposal site access road between Bridge Street and the car park with a minimum 2 metre wide designated route for pedestrians across the car park between the proposal site access road and store entrance shall be constructed in accordance with details to be submitted to and approved in writing by the local planning authority.

b) A yellow box road marking on the proposal site access road where it meets the adjoining site access road shall be completed in accordance with details to be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and the yellow box road marking shall be retained for the life of the development.

c) Upgrade to current Essex County Council specification, the two bus stops which would best serve the proposal site, the details of which shall be agreed in writing by the Local Planning Authority prior to installation.

Reason

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

7 The development shall comply with the submitted Travel Plan in accordance with current Essex County Council guidance and shall be adhered to at all times.

Reason

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

8 The retail unit shall not be open for trade unless and until the details of the

number, location and design of a covered parking facility for powered two wheelers and bicycles have been submitted to and approved in writing by the local planning authority. The approved facility shall be provided in accordance with the agreed details and retained at all times.

Reason

To ensure appropriate powered two wheeler and bicycle parking is provided in accordance with the Council's adopted Parking Standards and to encourage alternative means of transport to the car.

- 9 The retail unit shall not be open for trade unless and until the details of all gates / fences / walls or other means of enclosure have been submitted to and approved in writing by the local planning authority. The details shall include position, design, height and materials of the enclosures. The enclosures as approved shall be provided in accordance with the submitted details and shall be permanently retained as such.

Reason

In the interests of visual amenity. This matter must be dealt with prior to commencement as its requirements relate to details that will need to be in place at the construction stage.

- 10 The development shall be carried out in accordance with the submitted Landscaping Scheme as set out on Drawing number 17-080-01 E. All areas of hardstanding shall be constructed using porous materials laid on a permeable base unless otherwise agreed in writing by the local planning authority.

All planting, seeding or turfing contained in the landscaping scheme shall be carried out in the first planting and seeding seasons after the commencement of the development unless otherwise previously agreed in writing by the local planning authority.

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

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

Reason

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

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

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.

- 12 Notwithstanding the submitted lighting layout set out on Drawing No. 0-2086987 Rev A, details of the external lighting to the site shall be submitted to, and approved in writing by, the local planning authority prior to installation. The details shall include a layout plan with beam orientation and a schedule of equipment in the design (luminaire type, mounting height, aiming angles, luminaire profiles and energy efficiency measures). All lighting shall be installed, maintained and operated in accordance with the approved details. There shall be no other sources of external illumination.

Reason

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

- 13 The combined noise level of plant/machinery operating at any time shall not exceed 10 dB below the background noise level (LA90, 15min) at any residential property location.

Reason

In the interests of residential amenity.

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

Monday to Friday 0800 hours - 1800 hours
Saturday 0800 hours - 1300 hours

Sundays, Public and Bank Holidays - no work

Reason

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

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

Reason

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

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

Reason

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

- 17 Prior to commencement of the development a construction traffic management plan, to include but shall not be limited to details of vehicle/wheel cleaning facilities within the site and adjacent to the egress onto the highway, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the agreed plan.

Reason

To protect highway efficiency of movement and safety in accordance with policy DM1 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- 18 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. 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.

- 19 The retail premises shall not be open to customers and no deliveries shall be made to the site outside the hours of 08:00 - 22:00 Monday to Saturday including Bank and Public Holidays and 10:00 - 16:00 on Sundays.

Reason

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

- 20 No development shall take place until the following particulars of the detailed surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development.
The scheme should demonstrate compliance with the NSTS and ECC's Sustainable Drainage Systems design Guide, and should include but not be limited to:

- Final modelling and calculations for all areas of the drainage system.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features. As flooding is observed in a 1 in 100 year event +40% climate change within the calculations provided, this should illustrate the maximum extents of the overland flood storage area for this event and provide evidence that surface water accumulation will not impact buildings and adjacent lands.

The scheme shall subsequently be implemented prior to the retail premises being open for trade.

Reason

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

- 21 No development shall take place until a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason

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

INFORMATION TO APPLICANT

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

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

2 Your attention is drawn to the need to discharge conditions before development starts where it is a requirement of the condition/s. Development will be treated as having been commenced when any material change of use or material operation has taken place, pursuant to Section 56 of the Town and Country Planning Act 1990. A material operation means any work of construction in the course of the erection of a building, including: the digging of a trench which is to contain the foundations, or part of the foundations of a building; the laying of any underground main or pipe to a trench, the foundations, or part of the foundations of a building; any operation in the course of laying out or constructing a road or any part of a road; and any work of demolition of a building. If development begins before the discharge of such conditions then those conditions cannot be discharged and a breach of planning control will have occurred, which may result in enforcement action being taken.

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

4 All works affecting the highway to be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and applications for necessary works shall be made to Essex County Council on 0845 603 7631.

5 In seeking to discharge the external lighting scheme condition you are advised that the details submitted should seek to minimise light spillage and pollution, cause no unacceptable harm to natural ecosystems, maximise energy efficiency and cause no significant loss of privacy or amenity to nearby residential properties and no danger to pedestrians or road users. Light units should be flat to ground and timer / sensor controls should also be included as appropriate. The applicant is invited to consult with the local planning authority prior to the formal submission of details.

6 You are advised that the totem and other signs referred to in the submitted drawings will require the benefit of Advertisement Consent and thus have not been considered as part of this application.

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

AGENDA ITEM NUMBER 5b

PART A

APPLICATION NO: 18/00442/OUT DATE VALID: 09.03.18

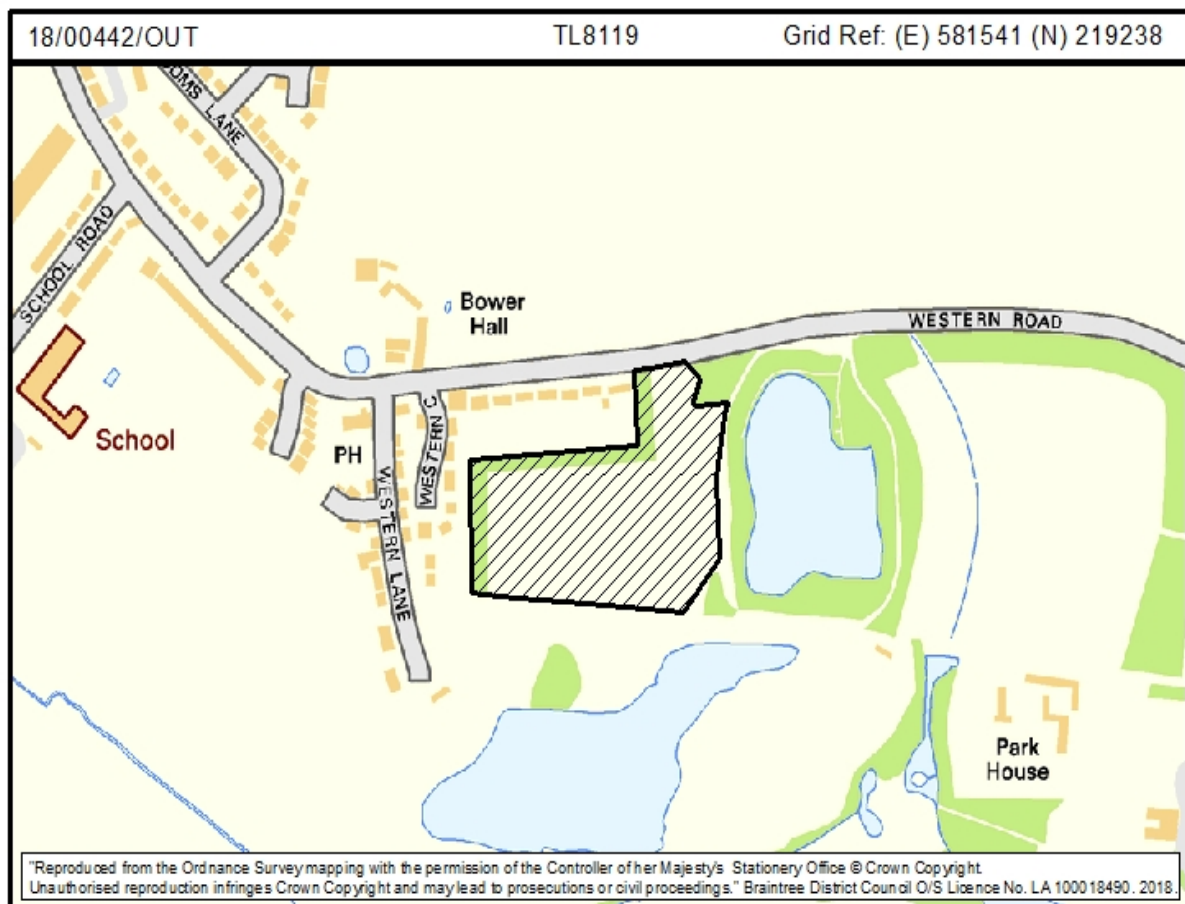
APPLICANT: L A Jordan 1989 Rivenhall Settlement
The Great Lodge (farm Office), Braintree Road, Mr Alan Jordan, Great Bardfield, Essex, CM7 4QD

AGENT: Phase 2 Planning
Mr Matthew Wood, 250 Avenue West, Skyline 120, Great Notley, Braintree, Essex, CM77 7AA

DESCRIPTION: Outline planning application with all matters reserved except access, seeking new residential development of up to 45 new dwellings together with associated off-street car parking, garden amenity space, new access from Western Road, public open space incorporating equipped area of play, and associated development

LOCATION: The Garden Field, Land South Of Western Road, Silver End, Essex

For more information about this Application please contact:
Lisa Page on:- 01376 551414 Ext.
or by e-mail to: lisa.page@braintree.gov.uk



SITE HISTORY

None

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 need, which for Braintree is 716 dwellings per annum.

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

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

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

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

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

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

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

National Planning Guidance

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

Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP7	Housing and Mixed Use Sites
RLP8	House Types
RLP9	Design and Layout of Housing and Mixed Use Areas
RLP10	Residential Density
RLP22	Accessible Housing and Lifetime Housing
RLP49	Pedestrian Networks
RLP50	Cycleways
RLP51	Cycle Parking
RLP52	Public Transport
RLP54	Transport Assessments

RLP56	Vehicle Parking
RLP65	External Lighting
RLP69	Sustainable Urban Drainage
RLP70	Water Efficiency
RLP71	Water Supply, Sewerage & Drainage
RLP72	Water Quality
RLP74	Provision of Space for Recycling
RLP77	Energy Efficiency
RLP80	Landscape Features and Habitats
RLP81	Trees, Woodland Grasslands and Hedgerows
RLP84	Protected Species
RLP90	Layout and Design of Development
RLP91	Site Appraisal
RLP92	Accessibility

Braintree District Local Development Framework Core Strategy 2011

CS1	Housing Provision and Delivery
CS2	Affordable Housing
CS5	The Countryside
CS8	Natural Environment and Biodiversity
CS9	Built and Historic Environment

Braintree District Publication Draft Local Plan 2017

SP1	Presumption in Favour of Sustainable Development
SP3	Meeting Housing Needs
SP5	Infrastructure & Connectivity
SP6	Place Shaping Principles
LPP1	Development Boundaries
LPP17	Housing Provision and Delivery
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
LPP53	Provision of Open Space, Sport and Recreation
LPP55	Layout and Design of Development
LPP60	Heritage Assets and their Settings
LPP67	Natural Environment and Green Infrastructure
LPP68	Protected Species, Priority Spaces and Priority Habitat
LPP69	Tree Protection
LPP70	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP71	Landscape Character and Features
LPP78	Flooding Risk and Surface Water Drainage
LPP79	Surface Water Management Plan
LPP80	Sustainable Urban Drainage Systems
LPP82	Infrastructure Delivery and Impact Mitigation

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

Open Space Supplementary Planning Document

Open Spaces Action Plan

Landscape Character Assessment (2006)

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 and the application is considered to be of significant public interest.

SITE DESCRIPTION

The site consists of an existing paddock measuring approximately 2.59 hectares, sited on the south-eastern edge of Silver End. It abuts existing residential development to the west and a fishing lake to the east. To the north, and on the opposite side of the road is a parcel of land with outline planning permission, which was granted at appeal, for residential development of up to 350 houses (application reference 15/00280/OUT). To the south runs a public right of way, beyond which is open space and a further lake.

The site has a short frontage onto Western Road, wherein the only vehicular access is proposed. The site is located outside of the Conservation Area.

PROPOSAL

The application is in outline form with all matters reserved except for access. The proposal is for up to 45 new dwellings together with associated off-street car parking, garden amenity space, new access from Western Road, public open space incorporating equipped area of play, and associated development.

The application has been submitted with a Flood Risk and Drainage Strategy, Transport Assessment and Road Safety Audit, Preliminary Ecological Appraisal Landscape Visual Impact Assessment and a Phase One Environmental Desk Study. The application represents a departure from the Development Plan and has been advertised accordingly.

CONSULTATIONS

ECC Highways – Do not object to the application. Recommends conditions to secure: - a construction traffic management plan; visibility splays; residential travel information packs; and the upgrade of the pair of bus stops that best serve the development.

ECC Education – Comments that in regards to Early Years and Childcare, there are currently sufficient places within the ward to accommodate the need generated, and in terms of primary and secondary education there is also capacity to meet need. The secondary school is in excess of the statutory walking distances and therefore they seek a financial contribution towards free transport.

ECC Local Lead Flood Authority – Do not object to the application. Recommends conditions to secure: - a detailed surface water drainage scheme and a maintenance plan for the drainage scheme with yearly logs.

ECC Archaeological Advisor – Comments that the site lies within an area of archaeological potential and a condition is recommended to properly provide for archaeological evaluation, assessment and recording.

ECC Ecology Section – No objections subject to securing a financial contribution towards visitor management measures for the Blackwater Estuary SPA/Ramsar site and further biodiversity mitigation and enhancement measures.

BDC Waste Section – No comments.

BDC Environmental Services – No objections. Recommends conditions to secure: - a preliminary contaminated land assessment; hours of working; a dust and mud scheme.

Anglian Water – Comments that the site is within 15 metres of a sewage pumping station and recommend that dwellings not be located within 15 metres to avoid risk of nuisance. Note that the foul drainage from this development is in the catchment of Witham Water Recycling Centre has available capacity. The surface water strategy/flood risk assessment submitted is unacceptable and recommend a condition to address surface water management.

Natural England – No comments.

Essex Police Liaison Officer – Seek the opportunity to assist the developer to achieve Secured by Design.

PARISH COUNCIL

Silver End Parish Council object and comment: -

‘There are currently bees in the field which are an endangered species and any development would mean moving numerous hives. It is outside the village envelope and object to the issue that the proper processes have not been followed. There is a lack of services locally, a flooding risk; there is insufficient infrastructure in the village, poor visibility and sight lines making access onto/off the site difficult.’

REPRESENTATIONS

The application was advertised by way of site notices, newspaper notice and neighbour notification.

1 letter has been received neither objecting to, or supporting the planning application, raising the following comments:-

- Plans are unclear as to impacts from overlooking and security;
- Question the impact to trees and hedges.

11 objection letters have been received from nearby residents, raising the following comments:-

- Currently the village suffers from inadequate infrastructure, crime, poor road surface conditions, rubbish on streets and limited street lighting. Development will add to these problems.
- Schools and GP services already at capacity;
- The amenities in the village are limited (1 small Co-Op, an off license and a chemist);
- Are limited bus services in the village and the nearest train station can only be accessed by car. The surrounding roads are not suitable for cycling;
- Is unsustainable;
- Village has historical significance;
- Density is out of keeping and harmful to heritage;
- Will impact on wildlife including protected species;
- Impact on drainage and flooding;
- Will adversely impact neighbours amenity from noise (during and after construction)
- Highway safety concerns and inadequate parking and cycling provision;

1 letter from Cllr J. Abbott has been received, raising the following objections:

-

- Site is outside the village envelope and within the countryside. Is an unallocated site, previously submitted to the Local Plan but rejected;
- Is adjacent to lakes and woodland of ecological importance. Lighting on this site will impact on the local bat population;
- The access will result in loss of hedgerow and the approach into the village (taken with the site opposite to be developed) will be harmed. The cumulative landscape visual impact on the countryside on the eastern side of the village would be significant;

- Access appears unsafe;
- Future occupiers will likely drive to the village centre to access services, shops, etc. At times the village centre car parking is already full.
- Development offers no on-site community building, public services or long-term employment. Site is poorly connected to essential services with a significant walk to the village centre shops. There is no secondary school in Silver End. There are no regular evening buses or Sunday buses. Poor cycling connections;
- Impact on primary school provision and existing GP practice;
- General concerns regarding the amount of development that Silver End is to accommodate and its capacity to do so. The volume of greenfield development on the edge of the village will change the setting of the Conservation Area.

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, an important material consideration in this case is whether the Council can robustly demonstrate a 5 Year Housing Land Supply. This will affect whether Paragraph 11 of the NPPF is engaged and consequently the weight that can be attributed to the Development Plan.

The Development Plan

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

The application site is located outside of a designated village envelope/town development boundary and as such is located on land designated as countryside in the Local Plan Review (2005) and the Core Strategy (2011).

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

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

The proposed development is therefore considered to be contrary to the Adopted Development Plan and the emerging Draft Local Plan.

5 Year Housing Land Supply

In order to determine whether a given application for a housing scheme should be granted contrary to the provisions of the Development Plan, the Council needs to understand the current housing land supply situation.

In accordance with the PPG, the Council published the housing land supply situation in its Annual Monitoring Report dated 31 December 2017. Following best practice, the Council updated its position on the basis of completion rates in March and June 2018.

However, in July 2018, the Government published a revised NPPF. 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.

By paragraph 73 NPPF, 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. 'Local housing need' is defined as the 'standard method'. The new standard methodology applies a 3 step process as follows:

- Step 1 is the calculation of housing need from the household projections – this derives a baseline target. When new projections are published (usually every 2 years), these should be taken into account and the target recalculated. The 2016 based household projections were published on 20 September 2018;
- Step 2 is an adjustment to take account of affordability, using the most recent published local affordability ratio – this derives a target number of dwellings per annum. New affordability ratios are planned to be published every year. The most recent (2017) local affordability ratios were published in Spring 2018;
- Step 3 caps the level of any increase to 40% over the baseline target. The cap is only applicable if the target number of dwellings per annum, derived from steps 1 and 2, exceeds the baseline target + 40%.

The 5 Year Housing Land Supply target is then calculated as follows: target number of dwellings per annum x 5 years + appropriate buffer (the Council currently accepts that the appropriate buffer for the Braintree District is 20% as required by the NPPF as there has been a significant under-delivery of housing over the previous 3 years).

Since 31st March 2017 the Council has produced quarterly updates on the 5 Year Supply Assessment to assist in the consideration and determination of planning applications. To date, and based on these assessments, the Council within both Committee and Delegated reports, has acknowledged that it is unable to demonstrate a 5 year Housing Land Supply, and as such Paragraph 11 of NPPF (previously Paragraph 14 of the NPPF 2012) is engaged. However, applying paragraph 73 NPPF to its supply, the latest land supply update statement indicates a 5.83 years' supply.

That said, it is important to note that the latest update position is not an annual monitoring report, based on a comprehensive assessment of sites, in accordance with the revised definition of 'deliverable' in the NPPF. That will be done within the 2018 annual monitoring report which is due to be published on 31st December 2018.

In addition, the Council's latest 5 year supply figure of 5.83 years (as at 31st March 2018) must also 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. Whilst the presumption in paragraph 11 of the NPPF is not engaged (due to the presence of a 5 Year Housing Land Supply), until the Council has ascertained that it can demonstrate a robust supply within its annual monitoring report and given the Local Plan context described above, it is considered that only moderate weight can be attached to the policies of the Development Plan which restrict the supply of housing (specifically Policy RLP2 of the Adopted Local Plan and Policy CS5 of the Adopted Core Strategy). This will need to be considered as part of the overall planning balance, along with any benefits and harms identified within the detailed site assessment considered below.

SITE ASSESSMENT

Location and Access to Services and Facilities

Silver End is identified in the Adopted Core Strategy as one of the District's key Service Villages. However, within the emerging Draft Local Plan this is downgraded to a second tier village which are described as '...those which may not serve a wider hinterland but provide the ability for some day to day needs to be met, although they lack the full range of facilities of a Key Service Village. Development of a small scale may be considered sustainable within a second tier Village, subject to the specific constraints and opportunities of that village'.

Members may recall, the application site on the opposite side of the road which proposed up to 350 residential units, and was granted outline planning permission allowed at appeal. (A copy of the Appeal Decision and Report is attached at Appendix 1). At that appeal the Inspector considered the sites location and its availability to services and facilities as an important factor in the consideration of that appeal.

The Inspector concluded that Silver End has a range of local facilities, sufficient to meet most day to day needs. As with the site opposite, future occupiers of the application site would be able to reasonably access these facilities on foot. A legal agreement could secure appropriate and proportionate contributions to mitigate the impact of the proposal on education. Although the availability of employment is somewhat limited, there is reasonable accessibility to employment opportunities in a range of higher order settlements. The Inspector in drawing together all the relevant matters, concluded that *'...the services and facilities needed to serve the proposed development would be available, would have sufficient capacity and would be*

reasonably accessible by sustainable modes of transport. The proposal would services and facilities required to meet the needs of the community are delivered in a timely manner'. Given the relationship and proximity of that appeal site to this current application, and given the reduced scale of the development proposed here, the same conclusion is drawn in terms of the suitability of the sites location and its access to service and facilities and it is not considered that the site is unsustainable and would not conflict with the aims of Policy CS7 of the Adopted Core Strategy, and this weighs in favour the proposal in the overall planning balance.

Layout, Design and Appearance

The NPPF seeks a high quality design as a key aspect to achieving sustainable development. Further, Policy RLP90 of the Adopted Local Plan and Policy CS9 of the Adopted Core Strategy seek to ensure a high quality design and layout in all developments. At the national level, the NPPF is also clear in its assertion (para 124) that 'good design is a key aspect of sustainable development' and that (para 127) developments should 'function well and add to the overall character of the area... are visually attractive as a result of good architecture, layout and effective landscaping... (and should) establish or maintain a strong sense of place'.

On this application, layout, scale, appearance and landscaping are reserved matters. However, the application has been submitted with an indicative layout plan which demonstrate one way in which the application site could accommodate the proposed quantum of development. The application is further supported by a Landscape Visual Impact Assessment (LVIA). The applicant seeks permission for the erection of up to 45 dwellings at a density of approximately 17.37 dwellings per hectare. Whilst no view is given as to the acceptability of the illustrative layout or to the siting of open space, it does demonstrate that the number of units can be achieved on the site, without undue harm to the grain of development in the area and with the dwellings being compliant with the Essex Design Guide in terms of back to back distances and garden size, and the layout demonstrating that parking provision can be made in accordance with the Essex Parking Standards.

Landscape Impact

In regards to landscape impact, the Braintree District Settlement Fringes Evaluation of Landscape Analysis Study of Silver End June 2015, which was produced as part of the New Local Plan Evidence Base, is relevant. This identifies the site within a parcel of land that has medium-low landscape capacity. It considers that it has visual containment formed by good quality hedgerows and tree belts, and the undulating topography provides some visual containment to the existing built development within the Parcel. However, the area provides a strong contribution to the setting of Silver End, has a strong rural character, well maintained landscape features and provides valuable links between the settlement and the surrounding landscape.

Further to the landscape consideration, the application has been submitted with a LVIA, which has been independently assessed. Officers are content that the visual effects are mostly negligible or minor in the landscape. Residents in Western Road and Western Close will suffer minor visual effects, as will road users on Western Road, but this would not be of a level that would result in unacceptable harm or grounds to refuse permission. Although there has been moderate visual effects identified on the footpath adjacent to the south of the site, these are not of such an extent to justify the refusal of the application, wherein the effects could be reduced by the implementation of mitigation measures as described in the submitted LVIA (relating to protecting and enhancing the vegetation on the site's northern, western and southern boundaries, in order to maintain a dense and robust landscape buffer to the perimeter, and to maximise gains for biodiversity and create an attractive setting for the development), and by location of public open space on the southern boundary and south-eastern corner as shown on the Illustrative masterplan (and can be secured on the reserved matters application).

In terms of conclusions on the landscape character effects, the significance of landscape effects is found to be minor and key characteristics of the wider landscape will not be diminished by the development, although there would be a small realignment to the urban edge. Overall therefore, the visual effects of the development and impacts upon the landscape character are minor and with conditions to secure mitigation measures relating to protecting and enhancing the vegetation on the site's boundaries and by ensuring the siting of public open space on the southern and south-eastern corner on the reserved matters application, will ensure that the development would assimilate acceptably.

Heritage

The site is not located within a Conservation Area. However, it is located 0.5 miles to the south-east of the Silver End Conservation Area. Furthermore, there are two other designated heritage assets in the form of listed buildings within the locality. The Grade II Bowers Hall with barns and outbuildings are located to the north-west of the site on the northern side of Western Road, whilst the Grade II* Rivenhall Place is located to the south-east of the site. Given the limited inter-visibility between the site and the Conservation Area and between the site and these listed buildings, and the siting and scale of the development, no adverse impact upon their significance or setting is anticipated.

Impact on Neighbour and Future Amenity

The NPPF requires a good standard of amenity for all existing and future occupants of land and buildings. This is reinforced by Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Draft Local Plan which requires that there be no undue or unacceptable impact on the amenity of any nearby residential properties.

Given the outline nature of the application, detailed layouts and housing types do not form part of the proposal. However, the indicative layout demonstrates one way in which the site could be developed without having an unacceptable impact upon neighbours' amenity from overlooking, loss of light or outlook.

In terms of the impact to future occupiers, this would also be a detailed consideration on the reserved matters application. However, the indicative layout does also demonstrate compliance with the Essex Design Guide in terms of garden sizes and back to back distances between dwellings.

Highway Issues

The application proposes that the dwellings will be served by a new singular vehicular access onto Western Road. The Highways Authority have assessed this and considered it in conjunction with the with approved development opposite, and raise no objections commenting that from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority, subject to Conditions for a construction traffic management plan and visibility splays. Further, the legal agreement should provide for residential travel information packs for each dwelling and to upgrade of the pair of bus stops that best serve the development.

Flood Risk and Surface Water Drainage

The application site is located within Flood Zone 1 (low probability risk of flooding). The applicant has submitted a Flood Risk Assessment and Drainage Strategy in support of their application.

The Local Lead Flood Authority (SUDS) and Anglian Water suggest a number of conditions be imposed on any approval to secure a foul water strategy and a surface water management strategy with maintenance plan and log.

Ecology

The application has been submitted with a Preliminary Ecological Appraisal. This outlines the likely impacts on Protected and Priority species/habitats and details appropriate mitigation measures. Subject to the ecological mitigation and enhancement measures identified in the Preliminary Ecological Appraisal being secured and implemented in full, (and to cover landscaping, method statement for removal of any trees, temporary exclusion fencing provision, precautionary working methods for badgers, bird boxes, a lighting scheme), there would be no adverse impact from the development and the LPA will have demonstrated its compliance with its statutory duties.

The Parish Council have raised concerns regarding the impact of the development on bees. The Preliminary Ecological Appraisal does address invertebrates although does not directly refer to bees. Whilst bees are listed as a Species of Principal Importance in England they are not protected. The site is considered unlikely to currently support significant assemblages of rare

or noted invertebrates due to the common habitats restricting variety and density of micro habitats available.

Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (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. 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 development at 99 units or less that is likely to be approved prior to the adoption of the RAMS, which will require financial contributions for all residential proposals, is comparatively minimal.

It is therefore concluded that the amount of development approved under schemes of 99 unit or less prior to the adoption of the RAMS will 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.

Notwithstanding the above, at the present time, there are no specific costed HRA mitigation 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 for off-site mitigation at relevant European designated sites for schemes of this size

SECTION 106

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

Affordable Housing

Policy CS2 of the Adopted Core Strategy requires developers to provide affordable housing on site with a target of 40% affordable housing provision on sites in rural areas. The application confirms that 40% of the proposed dwellings would be affordable housing; that is housing that is affordable rented and intermediate housing provided to eligible households whose needs are not met by the market. Based on a development of 45 dwellings this would equate to 18 affordable dwellings. The benefits of this aspect of the scheme in

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

Public Open Space

Policy CS10 of the Adopted Core Strategy requires new development to make appropriate provision for publically accessible open space or improvement of existing. The Council's Open Space SPD sets out further details on how these standards will be applied.

A development of this size is required to provide open amenity space on site, and the illustrative masterplan demonstrates that the required amount would be provided. The development would further be required to make a financial contribution towards the off-site provision of, or improvements to, outdoor sports facilities, allotments and equipped playgrounds. These contributions would be secured through the S106 Agreement and the actual payment would be calculated on the number and size of the dwellings constructed. (Based on the plans submitted, the development would provide for £43,499.67 towards outdoor sports facilities, £29,216.16 towards children and young/play equipment and £1380.33 towards allotments). These contribution would be put towards the delivery of such and/or enhancements within the locality of the site. Projects identified within the Open Spaces Action Plan 2018, which would be applicable include the Village Hall Sports Ground and improvements to the tennis courts and multi-use playing surface, signage and information boards, litter and dog waste bins, increased parking and changing facilities and cycle and disability parking, and at the Silver Street Sports which requires signage/information boards and improvements to pitch drainage and cycle and disability parking.

Education

For Essex County Council to meet its statutory duties it must facilitate sufficient places to meet free childcare entitlement demand and ensure a diverse range of provision so that different needs can be met. ECC are contend that there are currently sufficient places within the ward to accommodate early years and childcare need generated, and that there is capacity in regards to primary and secondary schooling. The secondary school is in excess of the statutory walking distance from the development and a developer contribution of approximately £40,569.75 index linked is required towards transport provision for a 5 year period.

Transport

Prior to occupation of the development the two bus stops to the west of the site, located outside and opposite the pub called the western arms, shall be upgraded with details and scope of works to be agreed with the Local Planning Authority.

CONCLUSION AND PLANNING BALANCE

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

Although the Council can currently demonstrate a 5 Year Housing Land Supply (5.83 years as at 31st March 2018), this latest update position, as identified above, is not an annual monitoring report based on a comprehensive assessment of sites in accordance with the revised definition of 'deliverable' in the NPPF. Therefore the current position of 5.83 years does not represent a robust housing supply position. In addition, and as highlighted above, the methodology for calculating 5 year supply under a new Local Plan must add on the backlog from previous years, which will on adoption of the Local Plan, result in a higher 5 Year Housing Land Supply requirement.

The Government's policy objective of significantly boosting the supply of homes as highlighted in Paragraph 59 of the NPPF is an important material consideration in this case, however this in itself is not considered to be sufficient to outweigh the conflict with the Adopted Development Plan as identified above. In contrast, the above factors which affect the robustness of the Council's current 5 Year Housing Land Supply, are also considered to be important material considerations, which in Officers view, justify attributing only moderate weight to the policies of the Development Plan which restrict the supply of housing (specifically Policy RLP2 of the Adopted Local Plan and Policy CS5 of the Adopted Core Strategy).

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 this respect, Silver End has a range of local facilities, sufficient to meet most day to day needs. Future occupiers of the site would mainly be able to reasonably access these facilities on foot and a legal agreement could secure appropriate and proportionate contributions to mitigate the impact of the proposal on secondary education. The site provides for 40% affordable housing and based on a development of 45 dwellings this would equate to 18 affordable dwellings which provides a benefit in terms of social sustainability and to the Council's Housing Land Supply. Some limited weight is also given to the economic benefits during construction. Overall, when considering the planning balance and having regard to the benefits as identified, and having regard to the requirements of the NPPF as a whole, Officers have concluded that the benefits of this proposal outweigh the moderate weight afforded to the conflict with the Development Plan. Officers therefore consider the proposed development would constitute sustainable development and recommend that planning permission is granted.

It is therefore **RECOMMENDED** that subject to:

The applicant entering into a suitable legal agreement pursuant to S106 of the Town and Country Planning Act 1990 (as amended) to cover the following Heads of Terms:

- **Affordable Housing** (40% provision of total dwellings) comprising 20% for Affordable Rent and 10% intermediate tenure; delivered without reliance on public subsidy; all affordable homes that are accessed at ground level should be compliant with either Lifetime Homes standards or equivalent Part M Cat 2 of Building Regulations; all units to be compliant with standards acceptable to Homes England at point of construction.
- **Public Open Space** (financial contribution toward outdoor sports provision, allotments provision and equipped playgrounds to be calculated in accordance with Policy CS10 of the Adopted Core Strategy and the Council's Open Spaces SPD. Financial contributions to be calculated based on the final dwelling mix using the Council's standard Open Spaces Contributions formula. Specific projects to be identified by Officers. Trigger point for payment being prior to occupation of the first unit).
- **Education** (financial contribution towards secondary education transport provision is required based on the County Council's standard formula, index linked to April 2017).
- **Upgrading of bus stops** (The upgrading of the two bus stops which would best serve the application site with details and scope of works to be agreed with the Local Planning Authority. Trigger point being prior to occupation of the first unit).

- **Residential Travel Information Pack** (to be approved by Essex County Council. Trigger point being prior to occupation of the first unit. To include six one day travel vouchers for use with the relevant local public transport operator. Travel Packs to be provided to the first occupiers of each new residential unit).

the Planning Development Manager be authorised to GRANT planning permission 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.

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		
Access Details	Plan Ref: 004	Version: A01
Site Masterplan	Plan Ref: E	

- 1 Details of the:-
 - (a) scale
 - (b) appearance
 - (c) layout; and the
 - (d) landscaping of the site

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

Application for approval of the reserved matters shall be made to the local planning authority not later than 18 months from the date of this permission. The development hereby permitted shall take place not later than [2] years from the date of approval of the last of the reserved matters to be approved.

Reason

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

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

Reason

To ensure that the development is in character with the surrounding area and does not prejudice the appearance of the locality.

- 3 No development shall take place (including any demolition, ground works, site clearance) until a Biodiversity Method Statement for Protected and Priority species has been submitted to and approved in writing by the local planning authority, following the recommendations provided within the Preliminary Ecological Appraisal (Southern Ecological Solutions, February 2018).

The content of the method statement shall include the following:

- a) purpose and objectives for the proposed works;
- b) detailed design(s) and/or working method(s) necessary to achieve stated objectives (including, where relevant, type and source of materials to be used);
- c) extent and location of proposed works shown on appropriate scale maps and plans;
- d) timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
- e) persons responsible for implementing the works;
- f) initial aftercare and long-term maintenance (where relevant);
- g) disposal of any wastes arising from works.

The strategy shall be carried out strictly in accordance with the approved details and shall be retained in that manner 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, s40 of the NERC Act 2006 (Priority habitats & species).

- 4 A Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the local planning authority, following the recommendations provided within the Preliminary Ecological Appraisal (Southern Ecological Solutions, February 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) 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 strategy 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)

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

Reason

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

- 6 A construction traffic management plan, including details of vehicle/wheel cleaning facilities within the site and adjacent to the egress onto the highway, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.

Reason

To protect highway efficiency of movement and safety in accordance with policy DM1 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011

- 7 No occupation of the development shall take place until the following have been provided or completed:
 - a. The site access as shown in principle on the planning application drawings. Access shall include but not be limited to a visibility splay with dimensions of 2.4 metres by 120 metres to the west and 2.4 metres by 120 metres to the east, as measured from and along the nearside edge of the carriageway. The area within each splay shall be kept clear of any obstruction exceeding 600mm in height at all times.
 - b. Residential Travel Information Packs for each dwelling, for sustainable transport, approved by Essex County Council, (to include six one day travel vouchers for use with the relevant local public transport operator)
 - c. The upgrade of the pair of bus stops that best serve the development (all details to be agreed with the Local Planning Authority)

Reason

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

- 8 No occupation of the development shall take place until Residential Travel Information Packs have been issued for each dwelling, for sustainable transport, approved by Essex County Council, (to include six one day travel vouchers for use with the relevant local public transport operator).

Reason

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

- 9 No development 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:
- Limiting discharge rates from the site to as close as reasonably practicable to the greenfield runoff rate from the development for the same rainfall event for the 1 in 1 year 1 in 100 year rainfall events.
 - Provide sufficient surface water storage so that the runoff volume is discharged at a rate that does not adversely affect flood risk and that unless designated to flood, that no part of the site floods for a 1 in 30 year event, and 1 in 100 year event in any part of the building, utility plant susceptible to water within the development.
 - Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
 - Final modelling and calculations for all areas of the drainage system.
 - The appropriate level of treatment for all runoff leaving the site, in line with the CIRIA SuDS Manual C753.
 - Detailed engineering drawings of each component of the drainage scheme.
 - A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
 - A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

Reason

- To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
- To ensure the effective operation of SuDS features over the lifetime of the development.
- To provide mitigation of any environmental harm which may be caused to the local water environment
- Failure to provide the above required information before commencement of works may result in a system being installed that is

not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

- 10 No development shall commence unless 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 approved, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason

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

Failure to provide the above required information 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.

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

Reason

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

- 12 No development shall commence unless 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 103 and paragraph 109 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 shall commence unless and until a comprehensive survey has been 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 approved by the Local Planning Authority. Formulation and implementation of the remediation scheme shall be undertaken by competent persons and in accordance with 'Model Procedures for the Management of Land Contamination, CLR 11'. Further advice is available in the 'Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers'. 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 approved 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. This is required prior to commencement as any ground works may impact upon contamination.

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

Monday to Friday 0800 hours - 1800 hours

Saturday 0800 hours - 1300 hours

Sundays, Public and Bank Holidays - no work

Reason

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

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

Appeal Decision

Inquiry opened on 31 January 2017

Site visit made on 7 February 2017

by David Prentis BA BPI MRTPI

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

Decision date: 21 March 2017

Appeal Ref: APP/Z1510/W/16/3146968

Land off Western Road, Silver End, Essex CM8 3SN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by Gladman Developments Ltd against Braintree District Council.
- The application Ref 15/00280/OUT is dated 27 February 2016.
- The development proposed is up to 350 residential dwellings (including up to 40% affordable housing), introduction of structural planting and landscaping, informal public open space and children's play area, surface water flood mitigation and attenuation.

Decision

1. The appeal is allowed and outline planning permission is granted for up to 350 residential dwellings (including up to 40% affordable housing), introduction of structural planting and landscaping, informal public open space and children's play area, surface water flood mitigation and attenuation at Land off Western Road, Silver End, Essex CM8 3SN in accordance with the terms of the application, Ref 15/00280/OUT, dated 27 February 2016, subject to the conditions set out in the attached schedule.

Preliminary matters

2. The Inquiry sat for 5 days from 31 January to 3 February and on 7 February 2017.
3. The application was in outline with all matters reserved for subsequent approval. It was supported by an illustrative development framework plan. An alternative illustrative development framework plan was submitted in support of the appeal together with illustrative access details showing one way in which the site could be provided with two vehicular access points to Western Road. I have taken this illustrative material into account in reaching my decision.
4. The Council resolved that, had it been in a position to determine the application, it would have been refused for 7 reasons¹ which may be summarised as follows:
 - 1) the site lies outside the development boundary of Silver End and would amount to an unjustified intrusion into the countryside, harmful to the rural setting of the village

¹ The reasons are set out in full in the Council's Statement of Case

- 2) the Council does not accept that the proposal would amount to sustainable development, as defined in the National Planning Policy Framework (the Framework), having regard to:
 - the excessive amount and unsuitable location of the development
 - the lack of availability and capacity of local services
 - adverse landscape impacts
 - harm to the setting of the Grade II listed Bowers Hall, together with its associated curtilage buildings, and to the setting of the Silver End Conservation Area
 - the failure to demonstrate that safe and suitable access could be provided
 - the absence of proposals to enhance the sustainability of the proposal, including in relation to early years/childcare services, funding for school transport and the extension of bus services at the start and end of the day to provide improved access to rail services at Braintree and Witham
 - the failure to demonstrate that mineral deposits at the site cannot be worked economically
- 3) the proposal would enclose Bowers Hall, to the detriment of the setting of the farmstead. It would also be harmful to the character and appearance of the Silver End Conservation Area in that the key eastern approach would assume an inappropriately urban appearance
- 4) the proposals could sterilise a potentially economically workable mineral deposit
- 5) the application does not demonstrate that a safe and suitable access to the public highway could be provided
- 6) the application does not demonstrate that the traffic generated would not adversely affect the functioning of the wider highway network, including junctions at Galleys Corner (A120) and the Rivenhall End junction with the A12
- 7) the absence of planning obligations relating to affordable housing, early years/childcare facilities, primary education, off-site highways works, health care, bus service enhancements and management of open space.

In this decision I refer to these as the putative reasons for refusal (PRR).

5. Statements of Common Ground (SoCG) were agreed between the Council and the appellant in relation to heritage, landscape and planning matters. There were also SoCG agreed between the County Council and the appellant in relation to highways and transport, minerals and education. The Council did not take a different view on any of the matters agreed by the County Council.
6. A Unilateral Undertaking (UU) was submitted at the Inquiry. This was not signed before the end of the Inquiry because of the need for some changes which did not become apparent until the final day. I therefore allowed a period following the Inquiry for a signed version to be submitted. The UU would make

provision for financial contributions to off-site open space, health care, early years/childcare facilities, primary education and school transport for secondary school pupils. The UU also contains provisions relating to arrangements for managing and maintaining green infrastructure, safeguarding land for an early years/childcare facility, an offer to transfer that land to the County Council and the arrangements for implementing a travel plan.

7. The Council submitted written evidence of compliance with Regulations 122 and 123 of the Community Infrastructure Levy Regulations (where relevant) and with the tests for planning obligations set out in the Framework. Further information was provided at the Inquiry in answer to my questions. The need for these obligations was not disputed by any party at the Inquiry and I see no reason to take a different view. I consider that the obligations are consistent with the Regulations and the Framework and have taken them into account in my decision accordingly. I return to some of the individual obligations below.
8. The Council did not pursue PRR1 for reasons explained below. Having considered the illustrative access plan and the highways and transport SoCG, the Council did not pursue PRR5 or PRR6. PRR2 was not pursued insofar as it relates to the capacity of local services, safe and suitable access, early years/childcare services and funding for school transport.
9. The application was accompanied by an Environmental Statement (ES). At the Inquiry the Council confirmed that it was satisfied with the ES. No other party has queried the adequacy of the environmental information and I have taken the ES into account in reaching my decision.
10. In closing, the Council made reference to a High Court judgment in the case of *Watermead*². A Court of Appeal decision in respect of this matter was expected imminently. I therefore allowed a period for any final submissions in the light of that decision. In the event, the Court of Appeal decision was not received in the timescale anticipated. I therefore invited the appellant to make final submissions on the High Court decision, which I have taken into account.

Main issues

11. The main issues are:

- the extent to which the services and facilities needed to serve the proposed development would be available, would have sufficient capacity and would be accessible by sustainable modes of transport
- the effect of the proposal on the character and appearance of the area
- the effect of the proposal on the historic environment
- the effect of the proposal on mineral resources

Reasons

Housing land supply and policy context

12. The development plan includes saved policies of the Braintree District Local Plan Review 2005 (BDLP), the Braintree District Council Core Strategy 2011 (CS) and the Essex Minerals Local Plan 2014 (EMLP).

² *Watermead Parish Council v Aylesbury Vale DC* [2016] EWHC 624 (Admin)

13. The Council and the appellant agreed that the Council is not able to demonstrate a 5 year supply of housing sites, as required by the Framework. There was not agreement over the precise amount of supply, with the Council promoting a figure of 3.8 years and the appellant suggesting that the figure is 3.1 years³. However, the Council and the appellant agreed that the remaining difference between them was not likely to have a material bearing on the outcome of this appeal. Consequently, neither side called detailed evidence on this matter. For the purposes of this decision, I am satisfied that the range is sufficiently narrow that it is not necessary for me to comment further on the difference between the parties. I have approached my decision on the basis of a range of 3.1 to 3.8 years.
14. In accordance with paragraph 47 of the Framework, it follows that relevant policies for the supply of housing are not to be considered up-to-date. PRR1 refers to CS policy CS5 and BDLP Policy RLP 2. These policies seek to protect the countryside by restricting development outside settlement boundaries. The Council accepts that these are relevant policies for the supply of housing and that is the reason why it did not pursue PRR1. In my view the Council was right to take this approach. Having regard to the housing land supply position, only limited weight should be attached to the conflict with these policies.
15. The Council has started work on the preparation of a new local plan (eLP). Consultation on the draft eLP took place in 2016. The Council and the appellant agree that it should be given limited weight at this early stage of preparation, a view which I share.

Availability and accessibility of services and facilities

16. The CS defines Silver End as a Key Service Village – one of 6 such settlements in the District. They are described as:

...large villages with a good level of services, including primary schools, primary health care facilities, convenience shopping facilities, local employment, frequent public transport to higher order settlements and easy access by public transport to secondary schools.
17. The Council argued that the characteristics of Silver End have changed since the CS was prepared and that this designation will not be carried forward into the eLP. However, the eLP is at an early stage and little weight can be attached to what it may ultimately say about Silver End. To my mind the CS provides the starting point although it is also necessary to go on to consider how things may have changed since it was adopted in 2011. Moreover, I attach little weight to CS Policy CS1 which sets out levels of housing provision for the key settlements over the period 2009 to 2026. That is a relevant policy for the supply of housing which is not to be regarded as up-to-date.
18. One factor which has changed is the level of local employment. A local Councillor gave evidence that employment opportunities within Silver End are now more limited following the closure of some locally important businesses. On the other hand, Silver End is relatively close to employment opportunities in both Witham and Braintree, which are two of the three main towns in the District.

³ The disagreement related to whether the Liverpool or the Sedgefield approach should be used in the calculation

Education facilities

19. Many of the written representations draw attention to pressures on primary education facilities. The appeal scheme would generate a requirement for about 105 primary school places. Silver End Primary School is located about 500m from the site entrance on Western Road. The school has recently been expanded to accommodate planned growth in the area and is unlikely to be able to accommodate children from the appeal site. The County Council has commented that further expansion is unlikely to be possible unless additional land can be made available. However, the County Council states that there is a reasonable degree of confidence that Cressing Primary School, which is about 2.5 miles away, could be expanded to provide sufficient primary school places to serve the appeal proposal. The UU would secure a proportionate contribution to the provision of additional school places. The UU allows for expansion either at Cressing or at Silver End, although the evidence suggests that expansion at Cressing is more likely to be achievable.
20. In the light of the UU, neither the Council nor the County Council maintained an objection in relation to primary education. Even so, one consequence of the appeal proposal would be that some primary school children from Silver End would need to travel to Cressing. As that is a journey which is unlikely to be walkable I regard this as a disadvantage of the appeal scheme.
21. There are secondary schools with capacity to serve the appeal scheme in Witham and Braintree. School transport is currently provided from Silver End and the County Council has confirmed that pupils from the appeal site would be eligible for such transport⁴. The UU provides for a contribution to the additional costs of school transport which would arise as a result of the location of the appeal site, which is a little over 3 miles from the nearest secondary school. I therefore consider that this is a location which has easy access to secondary schools by public transport.
22. The County Council has identified a shortage of early years/childcare facilities in Silver End. It is proposed that a new facility would be provided within the appeal site. The County Council assesses that the appeal scheme would generate a need for around 31 places and that the smallest viable unit would be a 56 place facility. The UU makes provision for a suitable area of land to be safeguarded for this purpose and offered to the County Council. Further provisions would address practical issues such as access and utilities. There would also be a proportionate financial contribution to the cost of constructing the new facility.
23. The new facility would require planning permission in its own right and further funding would be needed. However, having regard to the scale of the appeal site I see no reason why the design and layout of the proposed housing scheme could not satisfactorily accommodate the suggested facility. The Council and the County Council are satisfied that the UU addresses the need generated by the appeal scheme and I share that view. Being within the site, the facility would be highly accessible to the new residents and I have no doubt that it would promote social wellbeing.

⁴ Document LPA4, paragraph 7.8

Health care

24. There is a GP practice located centrally within Silver End, which is combined with the practice of the St Lawrence Surgery, Braintree. Several of the written representations have expressed concerns about the pressures on GP services. Responding to the application, NHS England sought a proportionate financial contribution to the cost of providing additional health facilities. The UU would secure an appropriate contribution to provision either at Silver End or at the St Lawrence Surgery.

Access to other facilities within Silver End

25. Local shopping facilities are available at the Broadway, where there is a convenience store and post office, newsagent/off-licence, pharmacy and a hot food takeaway. Other community facilities near the Broadway include a library, a sports ground and the memorial gardens. At the Inquiry the Council agreed that Silver End has facilities which are sufficient to meet the day to day needs of most people. That seems to me to be a fair assessment. There is no reason to think that the capacity of any of these services would be insufficient to cope with additional use by new residents of the appeal scheme.
26. The highways and transport SoCG notes that the walk time from the site access to the shops would be about 12 to 13 minutes. This is characterised as a '*convenient walk or cycle ride*'. Of course it is also necessary to factor in additional walk time within the site, which would vary according to the location of any given property. I note that Manual for Streets (MfS) states that walkable neighbourhoods are characterised by having a range of facilities within a 10 minute walk. However, MfS makes clear that this is not an upper limit. Moreover, it is relevant to consider the nature of the walking route. In this case I saw that this would be mainly flat, passing through pleasant residential areas with adequate footways and lighting. I see no reason to disagree with the SoCG insofar as it relates to the site access and the southern part of the site.
27. Having said that, the SoCG does not specifically address the northern part of the site which is at some distance from Western Road. The alternative development framework shows a potential pedestrian link from the western side of the site to Daniel Way. The link exists presently on an informal basis but the appellant informed the Inquiry that there is an area of privately owned land between the site boundary and the public highway. Discussions with the owner of that land are in progress. The Council argued that, if planning permission were to be granted, it should be subject to a Grampian condition requiring the provision of a pedestrian/cycle link at this point. The appellant agreed that such a condition could properly be imposed if it were found to be necessary, whilst maintaining that it would not be necessary because (in the appellant's view) the site would be sufficiently accessible without it.
28. If a link to Daniel Way were provided, houses in the northern part of the site would be likely to have walk times to the centre of Silver End which would be comparable to those from houses in the southern part of the site. Without such a link the walk times would be significantly extended. I consider that this would be a real disincentive to making trips within the village on foot. In the terms of the Framework, the scheme would fail to take up the opportunities for

sustainable transport modes⁵. In my view a Grampian condition is necessary to make the development acceptable in planning terms.

Access to services and facilities in other settlements

29. Silver End lies between Braintree and Witham, two of the three main towns in the District. These higher order centres provide a range of opportunities for employment, shopping and leisure activities. Witham is on the railway line from Ipswich to London, which also provides rail services to Chelmsford and Colchester. There is a bus service running between Braintree and Witham which stops in Western Road, close to the proposed access. This offers a reasonably frequent service, Monday to Saturday. The buses run until the early evening, with the last bus from Witham leaving at around 19.30hrs. These services would provide a reasonable level of accessibility for those travelling to the nearby towns for work, shopping and leisure activities at these times. The proposals include measures to relocate and upgrade the bus stops which could be secured by a condition.
30. PRR2 and PRR7 refer to the need to extend bus services into the evening period. The Council's main concern under this heading was that people commuting to London by rail from Witham may choose to drive to the station because of the lack of evening bus services. That may well be the case for a proportion of rail commuters, depending on their working hours and place of work. However, there was no evidence before the Inquiry to show that this would apply to such a large number of people that it would be an important factor in this case. Nevertheless, the lack of evening and Sunday bus services would also limit public transport accessibility for some work and leisure trips and this should be recognised as a disadvantage.
31. A local Councillor gave evidence that the nature of local roads is such that relatively few people would choose to cycle as a means of travelling outside the settlement of Silver End. From what I saw of the local road network I have no reason to doubt that evidence.

Conclusions on the first main issue

32. Silver End has a range of local facilities, sufficient to meet most day to day needs. Subject to the Grampian condition referred to above these would be reasonably accessible on foot. The UU would secure appropriate and proportionate contributions to mitigate the impact of the proposal on early years/childcare facilities, primary education and health care. Although the availability of employment in Silver End is more limited than it was at the time it was designated as a Key Service Village, there is reasonable accessibility to employment opportunities in a range of higher order settlements.
33. The need for some children to travel out of Silver End to attend a primary school in a nearby village is a disadvantage, as is the lack of bus services in the evenings and on Sundays. However, drawing together all of the above factors, I consider that the services and facilities needed to serve the proposed development would be available, would have sufficient capacity and would be reasonably accessible by sustainable modes of transport. The proposal would accord with CS Policy CS11 which seeks to ensure that the infrastructure,

⁵ The Framework, paragraph 32

services and facilities required to meet the needs of the community are delivered in a timely manner.

The effect of the proposal on the character and appearance of the area

34. The site comprises two fields separated by a ditch and a hedgerow. The northern field is used as horse paddocks and the southern field is in arable production. To the west is modern residential development on the edge of Silver End. Bowers Hall, a Grade II listed farmhouse set in a large curtilage, adjoins the south west corner of the site. Most of the former farm buildings, including a large 19th century barn, are in separate occupation and are used for the storage of cars. To the south the site has a frontage to Western Road, which is bounded by a substantial hedgerow. There is a ribbon of 20th century development fronting the southern side of Western Road for around half the length of the appeal site frontage. There is open farmland to the east and north east and, to the north west, there are extensive residential curtilages of properties fronting Sheepcotes Lane.
35. The site falls gently from west to east towards a watercourse along the eastern boundary. Public Footpath 53 (FP53) runs close to Western Road along the full extent of the southern edge of the site inside the boundary hedge. Beyond the site it continues eastwards across the next field before turning north on slightly higher ground which is at a similar elevation to the western edge of the appeal site. From this section of FP53 there are panoramic views of the appeal site and the eastern edge of Silver End.

Landscape character

36. The site lies within the 'Central Essex Farmlands' landscape character area as identified in the Essex Landscape Character Assessment. The characteristics described in that document are similar to those in the more local Landscape Character Assessment for Braintree District which places the site in the 'Silver End Farmland Plateau' character area. The key characteristics described in the latter document include gently undulating farmland, irregular predominantly large agricultural fields marked by sinuous hedgerows, small woods and copses, a scattered settlement pattern, a network of narrow winding lanes and a mostly tranquil character.
37. The Council and the appellant disagreed as to whether the site should be regarded as part of a valued landscape, as that term is used in the Framework. The site is not subject to any landscape designations. Whilst this is one indication of its value, it is not determinative. The *Guidelines for Landscape and Visual Impact Assessment Third Edition* (GLVIA3) set out a range of factors that can help in identifying valued landscapes which I have taken into account⁶. The Council emphasised that the site is representative of the wider landscape character area, that it has recreational value and that it has historic and cultural interest associated with the adjoining listed buildings. It was suggested that, together, these factors indicate that the site should be regarded as a valued landscape.
38. The site forms part of an undulating agricultural landscape and includes a large field with some good hedgerows. There are some trees and copses nearby, although tree cover within the site itself is limited. There is a single oak which

⁶ Box 5.1

is subject to a Tree Preservation Order and there are other trees within the hedgerows. The character of the site is also affected by the edge of the built-up area of Silver End and by traffic on Western Road. It is not particularly tranquil and has few landscape features other than the boundary hedgerows. Thus, whilst it exhibits some of the characteristics of the *Silver End Farmland Plateau*, in my view it is not a particularly important example.

39. A public footpath traverses the site which provides the residents of Silver End with an opportunity to experience the countryside. That adds some recreational value. There are glimpsed views of the roofscape and chimney of Bowers Hall. These are heavily filtered by trees even in winter views. In visual terms there is only a limited connection between the Hall and the appeal site. The roof of the 19th century barn is a more distinctive feature. However, in the elevated views from FP53 to the east it is the modern housing development along the skyline which dominates and catches the eye. In my view the adjoining listed buildings have only a limited effect on the landscape value of the appeal site. My overall assessment is that, while the site has some scenic quality, it does not possess any characteristics which make it other than a pleasant but essentially ordinary tract of rural landscape. I do not think that it should be regarded as a valued landscape for the purposes of the Framework.
40. The Council has carried out an assessment of the capacity of land around Braintree to accommodate development⁷. This work identified a distinction between the two fields comprising the appeal site. The northern field was assessed as having a close physical and visual relationship with adjoining housing at Silver End and the small-scale and enclosed nature of the land was contrasted with the more open character of the adjoining farmland. This part of the site was described as having a medium-high capacity to accommodate development. The southern field is within an area which is assessed as having a medium-low capacity to accommodate development. However, the southern field is only part of a much larger parcel of land described in the Council's study as Parcel 2c. Within that much larger parcel, the appeal site is the part most closely related to the existing built form of Silver End. It is therefore likely to have a higher capacity than the parcel as a whole.
41. The appeal scheme would result in the loss of characteristic features of the landscape, including agricultural land and some hedgerows. The most notable hedgerow loss would be on the Western Road frontage where most of the existing substantial hedgerow would need to be removed to create visibility splays. The new housing would result in the loss of the current open character and would be locally prominent. There would also be some additional highway infrastructure with the introduction of right turn lanes and footways on the northern side of Western Road and the formation of two access roads into the site.
42. The alternative development framework shows one way in which green infrastructure could be an integral part of the design. This is an illustrative drawing. Nevertheless, I see no reason why the Council could not secure an appropriate response to the landscape context at reserved matters stage. The development framework shows substantial areas of open space along the eastern edge of the site and around Bowers Hall. Development is shown to be set back from Western Road sufficiently for a replacement hedge to be planted

⁷ Braintree District Settlement Fringes: Evaluation of Landscape Capacity Analysis Study for Braintree and Environs 2015

behind the visibility splays required for the new accesses. In the main the existing hedgerows are shown as being retained and reinforced with new planting. The TPO oak is shown as being retained as a feature of the layout. There are therefore opportunities for the mitigation of landscape impacts to be integrated in the design of the scheme.

43. The landscape and visual impact assessment (LVIA) submitted with the application assessed the effect of the proposal on landscape character as a moderate adverse impact. Having regard to all the above factors, I agree with that conclusion.

Visual impacts

44. The Council and the appellant agreed that the visual impacts of the proposal would be localised. It was also agreed that the main visual receptors would be the occupiers of residential properties adjoining the western edge of the site and people using FP53. There would be significant changes to the views from houses backing on to the site. However, the scale, location and orientation of the proposed houses would be controlled at reserved matters stage. No doubt full consideration would be given to any potential impacts on the living conditions of the adjoining residents as part of that process. There is no reason to think that satisfactory living conditions could not be maintained.
45. There would be a significant impact on the views experienced by users of FP53. The current open views across the site to the north would be curtailed and the path would skirt a housing estate rather than being in the countryside as it is now. On the other hand, these effects would mainly be experienced within the approximately 350m of FP53 which lies within the site. Once past the site, the effect would diminish over a relatively short distance. The appeal scheme would be clearly seen from the section of FP53 which runs northwards. The effect would be to bring the edge of the built-up area, which is already apparent on the skyline, closer to the viewer. Even so, this part of FP53 would still provide the experience of being in the open countryside, much as it does now.
46. The Council and the appellant disagreed over the effectiveness of mitigation. I agree with the Council that the loss of openness would be a permanent effect on landscape character. With regard to the effect on views, the Council was concerned that planting proposed along the eastern site boundary would not be effective because it would be at a lower level than the appeal site. The agreed landscape sections which were provided during the course of the Inquiry are helpful in assessing this point. Although the eastern edge is the lowest part of the site, the changes in level are not great. Moreover, to my mind the design objective of new planting here would not be to hide the proposal. Rather, the intention would be to help to integrate the new development into its surroundings in a way which is sympathetic to the existing landscape character. The sections show that, in time, the proposed planting could be of sufficient height to be effective. The details of mix of species and density of planting would be determined at reserved matters stage.

Conclusions on second main issue

47. To summarise, the proposal would result in moderate harm to landscape character and there would be some significant adverse visual impacts,

- particularly for users of FP53. However, the visual impacts would be localised and mitigation could be achieved as part of the detailed design of the scheme.
48. CS Policy CS8 seeks to ensure that development proposals have regard to the character of the landscape and its sensitivity to change. Amongst other matters proposals should enhance the natural environment by creating green networks to link urban areas to the countryside. Policy CS9 promotes good design and the protection of the historic environment, requiring development to respect and respond to local context. BDLP Policy RLP 80 seeks to protect distinctive landscape features and to ensure that development is integrated into the local landscape. Policy RLP 81 encourages the retention and planting of native trees and hedgerows and Policy RLP 90 seeks a high standard of layout and design.
49. The alternative development framework shows one way in which these policies could be addressed, insofar as it can at this outline stage. Ultimately compliance with these policies could only be secured at reserved matters stage. On the basis of the information before me I see no reason why the policies could not be complied with. I have not identified any inherent conflict with them.

The effect of the proposal on the historic environment

50. Although there are numerous heritage assets in the locality the Council and the appellant agreed that the heritage assets which require detailed consideration in this case are Bowers Hall and barns, the Bowers Hall moat and the Silver End Conservation Area. I share that view.

Bowers Hall and barns

51. Bowers Hall is a Grade II listed building. The listing description records that it is a timber framed structure dating from the 17th century and that the interior has exposed beams and original doors and panelling. The Hall also has a large chimney stack with a moulded brick cap which is a prominent feature. The Hall has both historic and architectural interest as an example of the vernacular architecture of the period. The listing description also includes '*barns and outbuildings to the south east*'. The most prominent of these is a large early 19th century⁸ threshing barn built on a north/south axis in the south east corner of the complex. A lower barn, of similar age, was built on a north west/south east axis between the threshing barn and the Hall. Other outbuildings are thought to be of little heritage significance and some may post-date the listing.
52. The threshing barn is of historic interest due to its impressive scale, its timber frame construction and the evidence it holds regarding the agricultural technology of the 19th century. The Hall and the barns were originally an isolated farmstead. Their survival as a recognisable farm group adds to both their individual and their collective interest. All of the above factors contribute to the significance of the designated heritage assets.
53. The coherence of the farmstead has been eroded by changes in ownership and land use. There is no longer any agricultural use and the Hall is a private dwelling. The threshing barn, and the spaces around the barns and outbuildings, are in separate ownership and are used for storing cars. There appears to have been a deliberate attempt to reinforce the separation of the two land uses through subsequent changes. A modern 4 bay garage with

⁸ This date was ascertained by map evidence but it is understood that the building may be older

accommodation above has been built between the Hall and the barns. The style of this building is sympathetic to the barns but its scale and siting have the effect of enclosing the Hall and separating it from the historic farm buildings. The Hall has a separate access and drive which is partially screened from the car storage operation by a fence and tall hedge.

54. The Hall is set within extensive grounds which include gardens, paddocks, stables and the former moat. (The moat is discussed further below). The grounds contribute to its significance because they enable the Hall to be seen as a free-standing structure in a sylvan setting. In addition, there is a pond and paddocks which may be vestiges of the former agricultural role of the farmstead. This is an aspect of the setting which can be seen in views from Western Road. The views from Western Road provide a good opportunity to appreciate the scale of the decorative chimney stack in relation to the roof of the Hall. The threshing barn can also be seen from Western Road.
55. The appeal site adjoins the boundary of the Hall complex and is within its setting. Historic mapping shows that the southern field of the appeal site was in the same holding as the Hall in 1839 although the association may well be older. It seems probable that the threshing barn was built to process grain from land which included a significant part of the appeal site. During the early 20th century Bowers Hall and its land (including the appeal site) were bought by the Silver End Development Company. This purchase was intended to supply food to the garden village which was being constructed at Silver End at that time.
56. In assessing the contribution the appeal site makes to the significance of the Bowers Hall complex the first point to note is that the ownership link and the functional link are no longer in existence. Moreover, since the separation of the barns from the Hall, changes to the immediate surroundings of the Hall have tended to reinforce its enclosure. Nevertheless, the appeal site remains in agricultural use and immediately adjoins the former farmstead. The current land use therefore adds something to the ability to understand and appreciate the significance of the listed buildings.
57. As noted above, the visual links between the appeal site and the listed buildings are not strong. Only the chimney and part of the roof of the Hall can be seen, and then only in filtered views. The roof of the threshing barn is a more prominent feature⁹. The most important views are those from the westernmost section of FP53. In these relatively close views the impressive height and scale of the barn can be appreciated. The chimney stack of the Hall is visible. The listed buildings can also be picked out in longer views from FP53 to the east of the appeal site. At this range the chimney stack is hard to discern. Whilst the threshing barn can be seen it is a minor element in a panoramic view. These middle distance views add little to the ability to experience the heritage assets.
58. The main effect of the appeal scheme would be to remove the agricultural land use which was formerly associated with Bowers Hall. The Council emphasised the cumulative nature of this effect. This once isolated farm group now has 20th century development to the west and south. The appeal scheme would introduce new housing to the north and east, separating the Hall and barns

⁹ Views of the lower barns and outbuildings are very restricted

from the open countryside. That would have a negative impact on the significance of the heritage assets.

59. The illustrative alternative master plan shows ways in which impacts on views could be mitigated. A buffer of open space, around 30m wide, is suggested adjacent to the eastern and northern boundaries of Bowers Hall and barns. This layout would help to reinforce the sense of the Hall as a free-standing building which could be seen in the round within a predominantly green setting. The suggested separation distance would avoid any sense of the Hall being hemmed in by modern development. Moreover, the layout could preserve the closer views from FP53 which enable the height and scale of the threshing barn to be appreciated. Indeed, some additional views may be obtained from within the open space. The extent to which such views would be preserved and/or created would depend on the amount and type of planting around this part of the appeal site boundary, a matter which would be determined at reserved matters stage.
60. It must be acknowledged that views from further back in the appeal site would be impacted by new development or curtailed altogether. In addition it is likely that the middle distance views from the east would be lost. That said, I have commented above that the middle distance views add little to the ability to experience the heritage assets in any event.
61. My overall assessment is that the scheme would not preserve the setting of the listed buildings at Bowers Hall and barns. The effect on the setting of the listed buildings would result in some harm to the significance of the listed buildings. In assessing the degree of harm, it must be noted that setting is only part of the significance of any heritage asset. In this case the fabric and architecture of the assets are important aspects of their significance which would be unaffected by the proposal. Moreover, the coherence of the farm group as a whole (albeit somewhat eroded), that part of the setting which falls within the curtilage of the Hall and barns and the views from Western Road would all be preserved. Insofar as views from within the appeal site contribute to setting, mitigation could be incorporated in the scheme at reserved matters stage.
62. For all these reasons I conclude that the proposal would result in less than substantial harm to the significance of Bowers Hall and barns. I would characterise the degree of harm as minor. Nevertheless, mindful of the relevant statutory duty¹⁰, I attach considerable importance and weight to this harm. The Framework requires the harm to be balanced against the public benefits of the proposal¹¹. I return to that balance in the conclusion to my decision.
63. BDLP Policy RLP 100 seeks to protect listed buildings and their settings. In that there would be some harm to the setting of the Hall and barns, this policy would not be complied with. However, the policy is not consistent with the approach to the historic environment set out in the Framework which requires harm to heritage assets to be balanced against public benefits. I therefore attach limited weight to the conflict with Policy RLP 100 and greater weight to the advice in the Framework.

¹⁰ Planning (Listed Buildings and Conservation Areas) Act 1990, section 66

¹¹ The Framework, paragraph 134

Bowers Hall moat

64. The moat is a non-designated heritage asset. The Essex Historic Environment Record (HER) identifies it as a Medieval feature. The moat appears on historic maps up to 1938 and the HER indicates that it was filled during the 1940s. Today there is a raised platform in the centre of the former moat with a depression to one side. Otherwise there is little evidence of the moat to be seen above ground. No building within the formerly moated enclosure has been identified. Nevertheless, the moat has evidential value in that it indicates the likely location of the precursor to the 17th century Hall. For the same reason, it has group value as part of the Bowers Hall complex – thereby adding to the significance of the listed buildings. The moat may contain archaeological evidence of past occupation and, if so, that would add to its significance.
65. The significance of the moat is mainly understood through historical records. To the extent that it can be experienced at all as a visible physical feature, this can only be done from within the northern part of the Hall complex. Even though the appeal site immediately adjoins the northern section of the moat, it makes no material contribution to the ability to experience the heritage asset. If buildings were constructed close to the boundary this could potentially disturb archaeological deposits. However, the alternative development framework shows that there would be an open space buffer at this point. Subject to appropriate mitigation being included in the layout, which could be secured at reserved matters stage, the appeal scheme would have no impact on the significance of the moat. Nor would there be any impact on the contribution that the moat makes to the significance of the Hall complex as a whole.

Silver End Conservation Area

66. The Silver End Conservation Area Appraisal (CAA) notes that the Silver End Garden Village was developed from 1926 to 1932 by Francis Crittall to provide a new factory and housing for his workers. The conservation area has both historic and architectural interest. Planned as a garden village, and containing a concentration of early Modern Movement houses, it is an example of new ideas in town planning and architecture which were current at that time. A significant amount of new housing development took place to the east of the conservation area during the latter part of the 20th century. This eastwards expansion included the land between the conservation area and Bowers Hall. The appeal scheme would not have any direct impact on the conservation area and would be separated from it by modern housing development. Consequently, mindful of the relevant statutory duty¹², I find that the character and appearance of the conservation area would be unaffected by the appeal scheme and would thus be preserved.
67. The main disagreement between the Council and the appellant related to the weight to be attached to any impact on the setting of the conservation area. There are two ways in which the appeal site may contribute to the significance of the conservation area. First, there is a historic association in that the appeal site forms part of a larger area of land purchased by the Silver End Development Company in order to supply food to the garden village. Second, one of the approaches to the conservation area is via Western Road. The Council argued that the rural character of this approach is important to the

¹² Planning (Listed Buildings and Conservations Areas) Act 1990, section 72

understanding of the origins of the conservation area as a planned settlement in the countryside.

68. The historic association no longer exists and can only be understood by reference to documentary records. In addition, the appeal site is separated from the conservation area by intervening 20th century housing. In my view the ability to understand this association would not be materially affected one way or the other by the outcome of the appeal.
69. The CAA identifies a number of significant views, of which almost all are internal to the designated area. There is one identified significant view out over countryside which is adjacent to the primary school. That is a view to the south of the village which would be unaffected by the appeal scheme. I saw that the settlement has been designed such that views along the main thoroughfares are generally terminated by buildings. The CAA does not identify any important designed views into or out of the designated area. To my mind the nature of this particular conservation area is such that the setting makes only a limited contribution to its significance as a designated heritage asset.
70. Even so, the approach along Western Road does add (to some extent) to the ability to understand the origins of the garden village. The importance to be attached to that contribution should reflect the fact that this is only one aspect of the setting of the conservation area as a whole. There are other approaches to the conservation area and other locations where the designated area is much closer to the countryside. The appellant calculates that the distance along Western Road from the south west corner of the appeal site to the conservation area is about 280m¹³. Modern housing is already readily apparent along this part of Western Road. Moreover, there is already a more or less continuous run of 20th century ribbon development on the south side of Western Road opposite the appeal site¹⁴. For all of these reasons I consider that the contribution that the appeal site makes to the significance of the conservation area is very limited.
71. Turning to the impact of the appeal scheme, the alternative development framework shows one way in which this could be mitigated by setting back the development along Western Road and reinstating a new hedgerow behind the new visibility splays. Subject to appropriate detailed design, which could be secured at reserved matters stage, my overall assessment is that the effect of the appeal scheme on the significance of the conservation area would be so limited that it should attract little weight in the planning balance. In that there would be some harm (however minor) to the setting of the conservation area there would be conflict with Policy RLP 95 which seeks to preserve the settings of conservation areas. However, like Policy RLP 100, this policy is not consistent with the Framework. For the same reason, I attach limited weight to the conflict with Policy RLP 95 and greater weight to the advice in the Framework.

Conclusions on the third main issue

72. The main impact on the historic environment would be minor harm to the significance of Bowers Hall and barns. In the terms of the Framework this would be less than substantial harm. There would be no harm to the

¹³ The figure was not disputed

¹⁴ This extends about half way along the appeal site frontage

significance of the Bowers Hall moat. The harm to the significance of the Silver End Conservation Area (resulting from a change in its setting) would be so limited that it should attract little weight in the planning balance.

The effect of the proposal on mineral resources

73. The appeal site is located within a Minerals Safeguarding Area (MSA) where EMLP Policy S8 seeks to safeguard mineral resources of national and local importance. The policy sets out a consultation requirement for proposals, such as this, which are for more than 5ha of development within an area which is safeguarded for sand and gravel. The policy goes on to state that proposals which would unnecessarily sterilise mineral resources should be opposed. Where the local planning authority considers that surface development should be permitted, the policy requires that consideration is given to prior extraction of minerals.
74. Borehole data was submitted in support of the appeal. The minerals SoCG records that the County Council¹⁵ and the appellant agree that the northern field within the appeal site is unlikely to contain a viable deposit of sand and gravel. It also notes that the southern field contains a sand and gravel deposit around 10m in depth. Allowing for a 100m buffer zone between the excavation and residential properties, and a 20m buffer to other boundaries, it is agreed that the southern field could yield around 657,000 tonnes of sand and gravel. The appellant accepted that this volume is sufficient to be of economic importance. The main disagreement between the Council and the appellant related to the practicalities of prior extraction.
75. I accept the appellant's evidence that there would be significant practical difficulties in extracting the minerals from the appeal site. First, there would be limited space for processing the sand and gravel on site. Whilst the northern field might offer a possibility for processing it is close to several residential properties. In theory the minerals could be processed at the nearby Bradwell Quarry but there is no obvious reason why the owners and/or operators of that large and established facility would be agreeable to importing a competing source of sand and gravel. The need for processing could be reduced by dry-screening the minerals but that would reduce the market for them.
76. A second difficulty is the lack of a good means of road access for an aggregates operation. The Council's evidence accepted that the road links are '*not ideal*'. This is because of weight/height restrictions on the southern route to the A12. Consequently, all the HGV traffic would need to pass through the village of Silver End to the west of the site. The possibility of a haul road linking to the existing Bradwell Quarry was suggested but this would be subject to the agreement of other owners and/or operators which, as noted above, may not be forthcoming.
77. There would also be significant doubts about the suitability of the site for housing if prior extraction were to take place. If the full depth of sand and gravel were extracted this would leave a deep and steep-sided bowl shape¹⁶. The land could perhaps be re-profiled using material from within the site. However, I accept the appellant's calculation that this would still leave a

¹⁵ The County Council is the Mineral Planning Authority – the Council accepted the content of the SoCG

¹⁶ The minerals SoCG included a scenario in which only 5m depth of mineral would be extracted, leaving a smaller void. However, at the Inquiry no party suggested that, in practice, this would be a likely scenario.

depression up to 7m deep. That seems to me to be an unattractive proposition as a potential housing site. A further possibility explored at the Inquiry was that the excavation could be filled (or partially filled) with inert waste. That scenario would significantly increase the number of HGV movements imposed on the local road network. Moreover, there is some doubt regarding the availability of a sufficient supply of inert fill material.

78. Drawing together all of the above points, it appears to me that, on balance, prior extraction is unlikely to be a practical solution to the potential sterilisation of mineral reserves at this site. In my view there was sufficient information before the Inquiry to satisfy the policy requirement for prior extraction to be considered before permission is granted for surface development.
79. At the Inquiry there was discussion about whether a hypothetical planning application for prior extraction would be found to be in conflict with EMLP Policy S6. The disagreement between the parties on this point turned on alternative interpretations of the policy. However, as there is no such application before me it is not necessary for me to come to a finding in relation to Policy S6. My conclusions on prior extraction have been reached by reference to the evidence before the Inquiry on the practical considerations pertaining to the appeal site.
80. It is also appropriate to consider the timescale for prior extraction because it is relevant to the overall planning balance. At the Inquiry the Council's minerals witness accepted that excavation and infilling could take up to 10 years. Even if there were no infilling, extraction could take 4 to 6 years¹⁷. These figures were not disputed by the appellant's minerals witness and I see no reason to doubt them.

Conclusion on the fourth main issue

81. It is common ground that a mineral deposit of economic importance would be sterilised by the appeal scheme. However, the requirement of EMLP Policy S8 to consider prior extraction has been satisfied. If the proposal is found to be acceptable in principle then Policy S8 would not provide a reason for withholding planning permission.
82. The Council placed emphasis on paragraph 144 of the Framework, together with related advice in Planning Practice Guidance. This paragraph states that local planning authorities should give great weight to the benefits of mineral extraction. It is important to bear in mind that the EMLP was adopted in 2014 and post-dates the Framework. It can therefore be assumed that it is consistent with the Framework and that the EMLP does indeed give great weight to the benefits of mineral extraction. I return to the interaction between paragraphs 144 and 14 of the Framework in the concluding section of my decision.

Other matters

Social and economic considerations

83. There is currently a shortage of deliverable housing land in the District, with the identified supply being around 3.1 to 3.8 years. The Council and the appellant agreed that the appeal site could make a significant contribution to addressing this deficit. This is an important factor weighing in support of the

¹⁷ Inspector's note – these estimates were given by Ms Tomalin in answer to questions from Mr Carter

appeal. The Strategic Housing Market Assessment has identified a need for over 200 affordable dwellings per year, a figure which is well above the recent rate of delivery. The ability of the scheme to deliver 40% of the units as affordable housing is a further important positive factor.

84. Whilst it has been identified that health and education facilities are under pressure, appropriate mitigation would be secured through the UU. Provision of land for an early years/childcare facility within the appeal site would meet the needs of the appeal scheme and would also facilitate the provision of additional capacity. This would be beneficial to the wider community.
85. The scheme would bring economic benefits in terms of investment and employment during the construction phase. The new residents would generate additional expenditure within the local economy. Whilst there would be a loss of productive agricultural land, this would not be the best and most versatile land as defined in the Framework. My overall assessment is that the proposal would bring significant social and economic benefits to which I attach substantial weight.

Environmental considerations

86. The application was supported by an Ecological Appraisal and by the ES. The site is not subject to any nature conservation designations. Much of the site comprises arable and pastoral land of limited conservation value. One important hedgerow (as defined in the Hedgerow Regulations) has been identified, which would be retained and enhanced. The majority of the hedgerows would be retained although the substantial hedgerow along the southern boundary would need to be removed. Bat activity has been identified, particularly along the eastern boundary. There are also some notable breeding bird species. Other protected species have been considered and their presence is thought to be unlikely.
87. The illustrative alternative development framework shows how mitigation could be integral to the layout of the site, with linear habitat features being retained and enhanced with new green infrastructure. The attenuation basins could be designed to maximise their potential to enhance biodiversity. The Ecological Appraisal identifies specific mitigation measures in relation to bats and breeding birds.
88. The ES considers the impact of Bradwell Quarry and a proposed waste facility on the proposed houses, concluding that there would be no significant adverse effects.
89. Overall, the scheme would have some adverse impacts on habitats and species. However, I consider that appropriate mitigation could be secured through the reserved matters and through conditions. Subject to that, the adverse impacts are likely to be fully mitigated and there may be some modest gain to biodiversity. I conclude that impacts on biodiversity should not weigh significantly for or against the appeal.

Other matters raised in the representations

90. Those who spoke at the Inquiry and those who made written representations raised a number of concerns, many of which have been covered above. One point raised by several people is the scale of the proposed development, particularly when considered alongside other planned development at Silver

End. Attention was also drawn to the amount of housing under consideration at other locations in the surrounding area. Such concerns are understandable. Nevertheless, the Council's evidence explains why its current assessment of housing need is well above the level of need reflected in the CS. The evidence also sets out some of the measures the Council is taking to address the need for housing in the District.

91. Concerns were also expressed regarding highway safety and the capacity of the highway network. The application was supported by a transport assessment and there was a SoCG on highways matters. The illustrative access drawing shows one way in which the site could be provided with vehicular access to Western Road. I saw that, subject to the removal of the hedgerow, it would be possible to achieve the necessary visibility splays. The highway authority is satisfied that the proposed junctions would operate safely and I see no reason to take a different view. The SoCG notes that the traffic generation and distribution set out in the transport assessment is agreed by the highway authority and that the modelling of key junctions in the wider network has shown that there would not be any severe traffic impacts.

Conclusions

The development plan

92. The proposal relates to a greenfield site, outside the settlement boundary of Silver End. As such it would conflict with CS policy CS5 and BDLP Policy RLP 2. These policies seek to protect the countryside by restricting development outside settlement boundaries. It would also conflict with Policies RLP 100 and RLP 95 because there would be some harm to the settings of Bowers Hall and barns and the Silver End Conservation Area. I have not identified any conflict with Policies CS8, CS9, CS11, RLP 80, RLP 81 and RLP 90 which relate to landscape, historic environment, infrastructure, trees and design. Nor have I identified conflict with EMLP Policy S8 in relation to prior extraction of minerals. Nevertheless, the conflict with Policies CS5, RLP 2, RLP 100 and RLP 95 leads me to conclude that the proposal should be regarded as being in conflict with the development plan as a whole.

Other material considerations

93. The Council cannot demonstrate a 5 year supply of housing sites. In accordance with the Framework it follows that relevant policies for the supply of housing are not to be regarded as up-to-date. I note that the Council is taking steps to boost the supply of housing. Nevertheless, having regard to the current housing land supply position, I consider that only limited weight should be attached to the conflict with Policies CS5 and RLP 2.
94. BDLP Policies RLP 100 and RLP 95 seek to protect listed buildings, conservation areas and their settings. However, the policies are not consistent with the approach to the historic environment set out in the Framework which requires harm to the significance of heritage assets to be balanced against any public benefits. I therefore attach limited weight to the conflict with Policies RLP 100 and RLP 95 and greater weight to the advice in paragraph 134 of the Framework, which I turn to next.
95. The failure to preserve the setting of Bowers Hall and barns is a matter of considerable importance and weight, notwithstanding my conclusion that the

degree of harm would be minor. For the reasons given above, I consider that the effect of the appeal scheme on the setting of the conservation area, and hence on its significance, would be so limited that it should attract little weight in the planning balance. I attach substantial weight to the significant social and economic benefits which would flow from the delivery of new housing, including affordable housing. These public benefits would, in my view, be sufficient to outweigh the harm to the significance of the heritage assets. The proposal would therefore accord with the Framework insofar as it relates to the historic environment.

96. I now return to paragraph 144 of the Framework which I referred to under the fourth main issue. Amongst other matters, it states that local planning authorities should not normally permit other development proposals in mineral safeguarding areas where they might constrain future use for these purposes. For the reasons given above I consider that there would be significant practical difficulties in extracting the minerals from the appeal site. It appears to me that the appeal scheme is unlikely to constrain potential future use of the site for mineral extraction because mineral extraction is unlikely to happen in any event. I do not regard the appeal scheme as being in conflict with the Framework as it relates to minerals.
97. Having regard to my finding that the appeal site is not a '*valued landscape*', together with my conclusions on the historic environment and minerals, my overall conclusion is that this is not a case where there are specific policies of the Framework that indicate that development should be restricted. In these circumstances paragraph 14 of the Framework requires the adverse impacts to be weighed against the benefits.
98. For the reasons given above, I consider that the main adverse impacts would be the sterilisation of a mineral resource, the harm to the setting of Bowers Hall and barns and harm to the landscape. With regard to minerals, it is relevant to bear in mind that this is neither a preferred site for mineral extraction (as identified in the EMLP), nor is it a reserve site. Whilst the site is within a MSA, I attach only limited weight to this factor because prior extraction is unlikely to be a practical solution here. Moreover, even if it were a practical solution, the timescales involved would negate (or largely negate) the benefit of an early contribution to housing delivery.
99. I have concluded that the proposal would result in moderate harm to landscape character and that there would be some significant adverse visual impacts, particularly for users of FP53. However, the visual impacts would be localised and mitigation could be achieved as part of the detailed design of the scheme. I have commented above on the degree of harm to the setting of the listed buildings.
100. Turning to the benefits, I attach substantial weight to the social and economic benefits of the delivery of housing, including affordable housing. The provision of land for an early years/childcare facility would also be a benefit to which some weight should be attached. My overall assessment is that the adverse impacts would not significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole. Consequently, material considerations indicate that permission should be granted notwithstanding the conflict with the development plan.

Conditions

101. The Council and the appellant submitted a Comparison Table of suggested conditions on which there was a wide measure of agreement. I have considered those suggestions in the light of Planning Practice Guidance and in some cases I have merged conditions or adjusted detailed wording to reflect that guidance and in the interests of clarity.
102. Conditions 1 to 3 are standard conditions for outline planning permissions. I have reduced the standard time periods because the ability to make an early contribution to housing delivery has been an important matter in this case. Conditions 4 and 5 limit the amount and height of the development to ensure that it is consistent with the parameters envisaged when the assessments supporting the application were carried out. Condition 6 requires details of levels in the interests of the character and appearance of the area. Condition 7 seeks compliance with parking standards to ensure that proper provision is made for the vehicles of the occupiers.
103. Condition 8 requires a scheme of archaeological investigation in order to protect the archaeological potential of the site. Condition 9, which deals with potential contamination, is needed to manage risks of pollution. Condition 10 requires a Construction Management Plan to be approved. This is necessary in the interests of highway safety, amenity, air quality and managing risks of pollution and flooding during the construction process. Condition 11 requires details of tree protection measures in the interests of biodiversity and the character and appearance of the area. Conditions 12 and 13 deal with the protection of habitats and nesting birds and condition 14 requires submission of a Landscape and Ecology Management Plan, all in the interests of protecting and enhancing the biodiversity of the site.
104. Condition 15 requires approval of details of noise mitigation to protect the living conditions of future occupiers. Conditions 16 and 17 deal with details of surface water drainage, and subsequent maintenance thereof, in the interests of managing risks of flooding and pollution. Condition 18 sets out matters to be included in the landscape reserved matters submission in the interests of the character and appearance of the area. Condition 19 requires approval of details of external lighting in the interests of mitigating impacts on biodiversity and protecting the character and appearance of the area. Condition 20 relates to details of refuse and recycling storage in the interests of sustainable development.
105. Condition 21 seeks to ensure that 40% of the units are delivered as affordable housing, in accordance with development plan policy and the Framework. The Council and the appellant agreed the principle of the condition but suggested alternative drafting. I have preferred the appellant's drafting which, whilst less prescriptive, appears to me to cover those matters which are important in terms of securing the policy objective of delivering affordable housing. I also note that the appellant's drafting is similar to conditions used in other appeal decisions which were before the Inquiry¹⁸.
106. Condition 22 requires the new access to be built as a first operation on site in the interests of highway safety. Condition 23 requires provision of a pedestrian/cycle link to Daniel Way. For reasons discussed more fully under the

¹⁸ CD11.2 – APP/C1625/A/13/2207324, condition 20 and CD11.5 – APP/X0360/2209286, condition 12

first main issue, I consider that this condition is necessary to ensure that the scheme would take up the opportunities for sustainable transport modes. Conditions 24, 25 and 26 require provision of bus stop enhancements, a footway along Western Road and a pedestrian crossing. These conditions are also needed in the interests of promoting sustainable transport modes. Condition 27 requires new planting to be set back from the visibility splays in the interests of highway safety. Condition 28 requires any diversion Order for FP53 (if needed) to be obtained at an early stage to ensure continued accessibility and safety for those using the path.

107. Some conditions require matters to be approved before the start of development. This is necessary for conditions 8 to 12 and 28 because these conditions address impacts arising during construction. It is necessary for conditions 14 to 16, 21 and 23 because these conditions may affect the design and/or layout of the development.

David Prentis

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Paul Shadarevian and Matt Lewin	of Counsel, instructed by Braintree District Council
He called	
Adrian Gascoyne	Head of Place Services, Essex County Council
FSA MCIfA	
Gill Wynne-Williams	Managing Director, Wynne-Williams Associates
BA(Hons) DipLA CMLI	
Claire Tomalin	Principal Planner, Minerals and Waste Planning Team, Essex County Council
BSc MTP MRTPI	Planning Consultant
Terry Hardwick	
BSc MA MRTPI	

FOR THE APPELLANT:

Martin Carter	of Counsel, instructed by Peter Dutton of Gladman Developments Ltd
He called	
Stephen Barry	Technical Director, Wardell Armstrong LLP
BSc MBA FRICS CGeol	
Gail Stoten	Heritage Director, Pegasus Group
BA(Hons) MCIfA FSA	
Jonathan Berry	Partner, Tyler Grange LLP
BA(Hons) DipLA CMLI	
AIEMA MArborA	
Peter Dutton	Senior Planner, Gladman Developments Ltd
BA(Hons) MCD MRTPI	

INTERESTED PERSONS:

Cllr Philip Hughes	Member of Silver End Parish Council
Cllr James Abbott	Member of Braintree District Council and Essex County Council
BSc(Hons)	
Blaise Gammie	Education Department, Essex County Council
<i>Local residents</i>	
Robert Gordon	
Jonathan Barker	
Colin White	

DOCUMENTS SUBMITTED AT THE INQUIRY

	<i>Documents submitted by the Local Planning Authority</i>
LPA1	Appearances
LPA2	Opening submissions
LPA3	Extract from EMLP
LPA4	Statement of Compliance with the CIL Regulations
LPA5	Open Spaces Action Plan
LPA6	Closing submissions
LPA6(a)	Bovis Homes & Miller Homes v SSCLG [2016] 2952 (Admin)
LPA6(b)	Watermead Parish Council v Aylesbury Vale DC [2016] EWHC 624 (Admin)

	<i>Documents submitted by the appellant</i>
GLD1	Appearances
GLD2	Opening submissions
GLD3	Draft UU (day 1)
GLD4	Draft UU (day 5)
GLD5	Closing submissions
GLD5(a)	Supreme Court Practice Direction
GLD5(b)	Forest of Dean DC v SSCLG [2016] EWHC 421 (Admin)

	<i>Agreed documents</i>
LPA/GLD1	Conditions – comparison table (day 1)
LPA/GLD2	Planning SoGC
LPA/GLD3	Landscape SoCG
LPA/GLD4	Note on calculations for re-profiling solutions
LPA/GLD5	Landscape sections
LPA/GLD6	Conditions – comparison table (day 5)

Other documents
Bundle of letters submitted by Cllr Abbott

DOCUMENTS SUBMITTED AFTER THE INQUIRY

GLD6	Completed Unilateral Undertaking dated 8 February 2017
GLD7	Addendum to closing submissions dated 17 February 2017

Schedule of conditions

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 2 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 1 year from the date of approval of the last of the reserved matters to be approved.
- 4) The submission of reserved matters applications pursuant to this outline planning permission shall together provide for no more than 350 dwellings, public open space, landscaping, surface water attenuation and associated infrastructure.
- 5) No building erected on the site shall exceed three storeys in height, with the exception of any rooms within the roof space.
- 6) Any reserved matters application relating to the scale and layout of the development shall be supported by a plan or plans that provide full details of all finished floor levels of all buildings, expressed relative to existing site levels and Ordnance Datum.
- 7) Car parking across the development shall be provided in accordance with the minimum standards set out in the '*Essex Parking Standards: Design & Good Practice*' (2009), which are adopted by the local planning authority for the assessment of planning applications.
- 8) No development or preliminary ground works shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
- 9) No development shall take place until a comprehensive survey to assess the nature and extent of any contamination on the site has been carried out and a report of the survey findings together with a remediation scheme to bring the site to a suitable condition (in that it represents an acceptable risk) has been submitted to and approved in writing by the local planning authority. Formulation and implementation of the remediation scheme shall be undertaken by competent persons and in accordance with '*Model Procedures for the Management of Land Contamination, CLR 11*'. The remediation scheme shall be implemented and completed prior to the commencement of the development hereby approved.

Notwithstanding the above, should contamination be found that was not previously identified it shall be reported immediately to the local planning authority. The site shall be re-assessed in accordance with the above and a further remediation scheme shall be submitted for the approval in writing of the local planning authority. The further remediation scheme

shall be implemented and completed prior to the first occupation of any part of the development hereby approved.

Following completion of the remediation scheme a validation report undertaken by competent persons confirming that the remediation has been carried out in accordance with the documents and plans comprising the approved remediation scheme shall be submitted to the local planning authority.

- 10) No development shall take place, including any ground works or site clearance, until a Construction Management Plan (CMP) has been submitted to and approved in writing by the local planning authority. The CMP shall provide for the following all clear of the highway:
- a. the parking of vehicles of site operatives and visitors
 - b. loading and unloading of plant and materials
 - c. safe access to/from the site
 - d. storage of plant and materials used in constructing the development
 - e. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - f. wheel and underbody washing facilities
 - g. measures to control the emission of dust and dirt during construction
 - h. a scheme for recycling/disposing of waste resulting from demolition and construction works
 - i. a scheme to control noise and vibration during the construction phase, including details of any piling operations
 - j. a scheme for safeguarding public rights of way
 - k. hours of demolition and construction work, including the operation of plant and machinery, the delivery of materials and the removal of waste
 - l. a scheme to minimise the risk of off-site flooding caused by surface water run-off and/or groundwater

The approved CMP shall be adhered to throughout the construction period.

- 11) No development shall take place, including any ground works or site clearance, until details of the means of protecting trees, shrubs and hedges within and adjacent to the site has been submitted to and approved in writing by the local planning authority. The details shall be generally in accordance with recommendations of the tree mitigation strategy set out in the Arboricultural Assessment submitted by FPCR dated November 2016 and shall include the protection of roots from injury or damage prior to or during the development works. The local planning authority shall be notified in writing at least 5 working days prior to the commencement of development on site. The approved means of protection shall be installed prior to the commencement of any building or engineering works or other activities on the site and shall be adhered to throughout the construction period.
- 12) No development shall take place, including any ground works or site clearance, until details of the means of protecting retained habitats on site have been submitted to and approved in writing by the local planning

authority. The details shall be generally in accordance with the recommendations of the FPCR Ecology Appraisal. The approved means of protection shall be installed prior to the commencement of any building or engineering works or other activities on the site and shall be adhered to throughout the construction period.

- 13) No clearance of trees and shrubs in preparation for (or during the course of) development shall take place during the bird nesting season (March - August inclusive) unless a bird nesting survey has been submitted to and approved in writing by the local planning authority. If such a survey reveals the presence of any nesting birds, then no development shall take place within those areas identified as being used for nesting during the period specified above.
- 14) No development shall commence until a Landscape and Ecology Management Plan (LEMP) has been submitted to and approved in writing by the local planning authority. The LEMP shall include the provision of nest/roost sites for bats and birds together with arrangements for long term habitat management. Development shall be carried out in accordance with the approved LEMP prior to the first occupation of any dwelling house hereby approved and shall be permanently retained as such thereafter.
- 15) No development shall commence until a scheme for protecting the development from environmental noise has been submitted to and approved in writing by the local planning authority. The scheme shall be generally in accordance with the Noise Assessment produced by Wardell Armstrong dated July 2015. No dwelling hereby approved shall be occupied until any noise protection measures relevant to it have been carried out in accordance with the approved scheme.
- 16) No development shall commence until a surface water drainage scheme has been submitted to and approved in writing by the local planning authority. If the development is undertaken in phases then no phase shall commence until a scheme for that phase has been so approved. The scheme shall be based on sustainable drainage principles and an assessment of the hydrological and hydro-ecological context of the development. The approved scheme shall be implemented in accordance with the timing/phasing arrangements embodied within it, or within any other period agreed in writing by the local planning authority, and shall thereafter be permanently managed and maintained as such.
- 17) Prior to first occupation of any dwelling hereby permitted, a maintenance plan for the surface water drainage system shall be submitted to and approved in writing by the local planning authority. The plan shall identify who is responsible for the various elements of the surface water drainage system, the maintenance activities and frequencies required and the methods of reporting and logging such activities. Thereafter the surface water drainage system shall be permanently maintained in accordance with the approved plan.
- 18) Any scheme of landscaping submitted pursuant to Condition 1 of this planning permission shall incorporate a detailed specification of all soft and hard landscaping works, including all fences and walls. This shall include details of all plant/tree types and sizes, planting numbers and distances, soil specification, seeding and turfing treatment, areas of

wildflower grassland, colour and type of material and method of laying for all hard-surface areas.

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

All planting, seeding or turfing contained in the approved landscaping details shall be carried out in the first planting and seeding seasons after completion of the relevant phase of the development, unless otherwise previously agreed in writing by the local planning authority.

All hard surface areas agreed as part of the scheme shall be carried out before the first occupation of the dwelling to which the hard landscaping relates.

Any trees and 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.

- 19) All applications for approval of reserved matters submitted pursuant to Condition 1 of this planning permission relating to the appearance, layout and scale of buildings (whether this is for the development as a whole or for a particular phase) shall be accompanied by a Lighting Scheme. The Lighting Scheme shall comprise a layout plan and manufacturer's technical details of the external lighting to be installed, including a schedule of luminaire types, mounting, height, aiming angles, luminaire profiles and energy efficiency. No dwelling shall be occupied until the external lighting relevant to that dwelling is available for use. All external lighting shall be installed, maintained and operated in accordance with the approved details and there shall be no other sources of external illumination unless otherwise agreed in writing by the local planning authority.
- 20) All applications for approval of reserved matters submitted pursuant to Condition 1 of this planning permission relating to the appearance, layout and scale of buildings (whether this is for the development as a whole or for a particular phase) shall be accompanied by details of the location and design of the refuse bins and recycling materials separation, storage areas and collection points. Where the refuse collection vehicle is required to go onto any road, that road shall be constructed to take a load of 26 tonnes. No dwelling shall be occupied until the refuse bins and, where applicable, storage areas and collection points, for that dwelling have been provided and are available for use.
- 21) No development shall take place until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:

- i) the numbers, type and location on the site of the affordable housing provision which shall consist of not less than 40% of the dwellings
 - ii) the tenure, which shall be split 70% affordable rented and 30% intermediate with the dwellings distributed across the site (and if the scheme is undertaken in phases across each phase of development)
 - iii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing, with no more than 80% of the open market dwellings being occupied before the affordable housing is completed and available for occupation (this timing will apply to each phase if the scheme is undertaken in phases)
 - iv) the arrangements for the transfer of the affordable housing to a Registered Provider or for the management of any affordable housing if no Registered Provider is involved
 - v) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing including arrangements (where appropriate) for the subsidy to be recycled for alternative affordable housing provision
 - vi) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced
 - vii) that the affordable homes are built to the standards set by the Homes and Communities Agency at the time of development
- 22) The site access (or accesses) shall be constructed to at least base course level, with the provision of suitable visibility splays, in accordance with a detailed design which has been approved as a reserved matter pursuant to Condition 1 before the commencement of any other part of the development hereby approved.
- 23) No development shall commence until a scheme for the provision of a pedestrian/cycle way linking the pedestrian/cycle routes within the site to Daniel Way has been submitted to and approved in writing by the local planning authority. The pedestrian/cycle way shall be provided in accordance with the approved scheme prior to the occupation of any dwelling hereby approved (or, if the development is undertaken in phases, in accordance with an implementation programme forming part of the approved scheme) and shall thereafter be permanently retained as such.
- 24) Before first occupation of any dwelling hereby approved, the existing bus stop on the eastbound carriageway of Western Road shall be relocated and upgraded in accordance with a detailed design and specification to be submitted to and approved in writing by the local planning authority. The relocated bus stop shall be in a position outside the visibility splays and the detailed design and specification shall provide for a raised kerb (to provide level access), a shelter, a flag, real time passenger information and road markings. Before first occupation of any dwelling hereby approved, the bus stop opposite the site on the westbound carriageway of Western Road shall be upgraded by the provision of real time passenger information in accordance with a specification to be submitted to and approved in writing by the local planning authority.
- 25) Before first occupation of any dwelling hereby approved, a 2m wide footway shall be provided across the Western Road frontage of the site to

the west of any new access to be provided into the site to link to the existing footway on Western Road to the west of the site. If there is to be more than one access into the site, the required footway shall extend between the access points to be formed. The footway shall be provided in accordance with a detailed design and specification to be submitted to and approved in writing by the local planning authority and shall make appropriate connection with Public Right of Way 53 Silver End.

- 26) Before first occupation of any dwelling hereby approved, a pedestrian crossing on Western Road shall be provided as part of the access arrangements to be approved as a reserved matter pursuant to Condition 1. This shall include a pedestrian refuge, with associated dropped kerbs and tactile paving, and shall be located in the vicinity of the access (or accesses) to be provided and the bus stops serving the site.
- 27) Any new boundary planting to the Western Road frontage of the site shall be planted a minimum of 1 metre back from the highway boundary and from the line of any visibility splay required to be provided to serve the access (or accesses) into the site, whichever is the further.
- 28) In the event that it should be necessary to divert Public Right of Way 53 Silver End, no development hereby approved shall be commenced until such time as an Order securing the diversion of the existing definitive right of way has been secured.

End of conditions

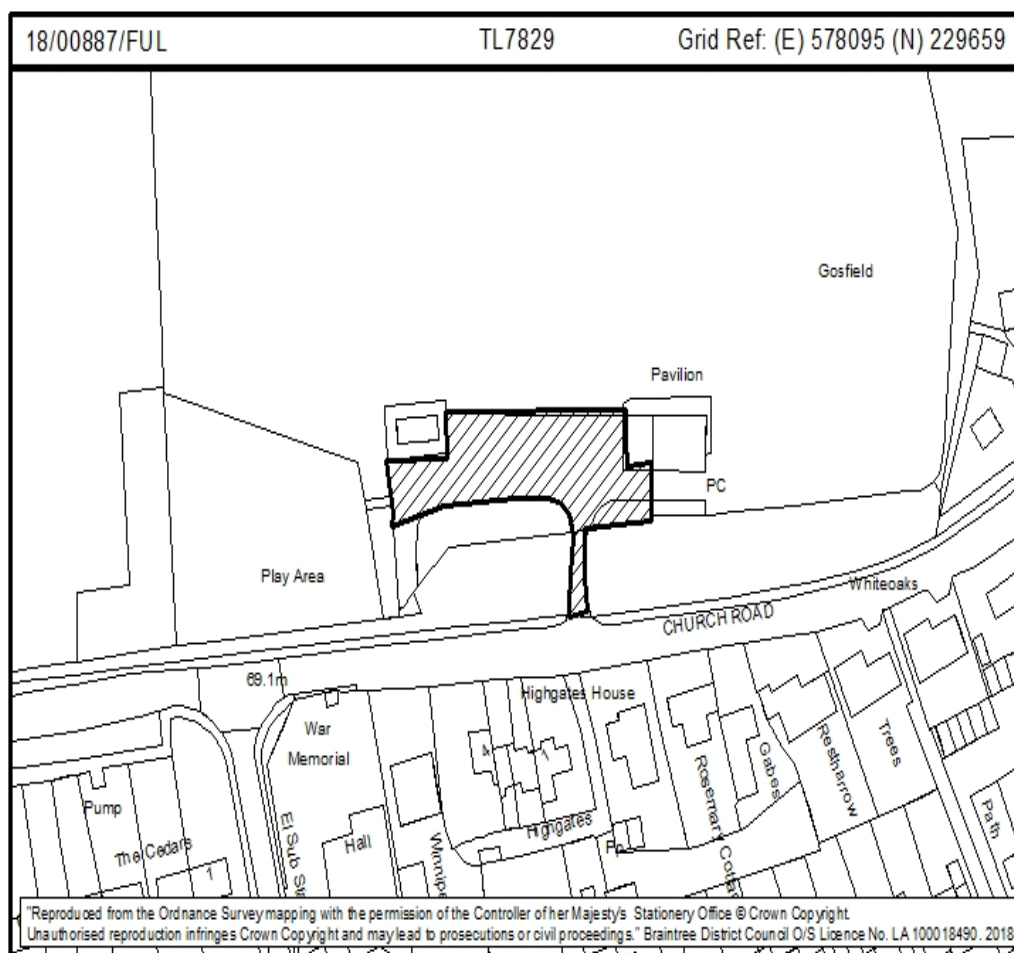
PART A

APPLICATION NO: 18/00887/FUL DATE: 19.06.18
 VALID:
 APPLICANT: Gosfield Foundation Community Interest Company
 Mrs Joanne Beavis, Gosfield Village Shop, Playing Field,
 Church Road, Gosfield, Essex
 DESCRIPTION: Retention of prefabricated building for use as a village
 shop allowed under temporary permission 14/01086/FUL
 for a further period of 3 years.
 LOCATION: Playing Field, Church Road, Gosfield, Essex

For more information about this Application please contact:

Mr N Jones on:- 01376 551414 Ext. 2523

or by e-mail to: neil.jones@braintree.gov.uk



SITE HISTORY

03/00573/FUL	Erection of sports pavilion	Granted	26.06.03
04/00876/FUL	Extension to car park to provide disabled parking bays	Granted	11.08.04
99/00760/FUL	Demolition of existing pavilion and erection of new sports pavilion	Granted	16.09.99
08/02305/FUL	Installation of a children's climbing frame within playground	Withdrawn	18.02.09
14/01086/FUL	Erection of a prefabricated building to be used as a village shop	Granted	20.10.14
14/00256/DAC	Application to discharge condition no: 6 of approved application 14/01086/FUL - Erection of a prefabricated building to be used as a village shop	Granted	26.11.14

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 need, which for Braintree is 716 dwellings per annum.

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

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

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

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

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

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

It should also be noted that the Council was previously working on a Site Allocation and Development Management Plan (the ADMP). This plan was subject to extensive public consultation in 2013 and 2014. The ADMP was not however submitted to the Planning Inspectorate, due to the decision to begin work on a new Local Plan, to take into account the most up to date

Government guidance. However parts of the ADMP have been rolled forward into the Draft Local Plan. It is therefore considered that it would be consistent with the provisions in paragraph 48 of the NPPF, to afford more weight in decision making to the parts of the Draft Local Plan which have been rolled forward from the ADMP, due to the more advanced stage reached by those elements.

National Planning Guidance

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

Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP11	Changes of Use Affecting Residential Areas
RLP36	Industrial and Environmental Standards
RLP56	Vehicle Parking
RLP62	Development Likely to Give Rise to Pollution or the Risk of Pollution
RLP80	Landscape Features and Habitats
RLP81	Trees, Woodland Grasslands and Hedgerows
RLP90	Layout and Design of Development
RLP95	Preservation and Enhancement of Conservation Areas
RLP97	Changes of Use in Conservation Areas
RLP100	Alterations and Extensions and Changes of Use to Listed Buildings and their settings
RLP103	Parks and Gardens of Special Historic Interest
RLP127	Additional Village Shopping
RLP128	Maintenance of Rural Services and Facilities
RLP151	Protection of Community Services
RLP103	Parks and Gardens of Special Historic Interest

Braintree District Local Development Framework Core Strategy 2011

CS5	The Countryside
CS6	Retailing and Town Centre Regeneration
CS9	Built and Historic Environment
CS8	Natural Environment and Biodiversity

Braintree District Publication Draft Local Plan 2017

SP1	Presumption in Favour of Sustainable Development
SP4	Providing for Employment and Retail
SP6	Place Shaping Principles
LPP1	Development Boundaries
LPP45	Parking Provision
LPP50	Built and Historic Environment
LPP55	Layout and Design of Development
LPP60	Heritage Assets and their Settings

LPP65	Local Community Services and Facilities
LPP69	Tree Protection
LPP73	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP56	Conservation Areas

INTRODUCTION/REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

The application is being reported to the Planning Committee in accordance with the Council's Scheme of Delegation as the applicant is an elected Member of Braintree District Council.

SITE DESCRIPTION

The application site is located centrally to the village of Gosfield within the Conservation Area but beyond the village development boundary, as defined in the Adopted Local Plan (2005).

The site is situated within a car park area which serves Gosfield Playing Fields. It stands on the southern side of the fields close the playground and adjacent to the single storey sports pavilion. The car park and site is accessed off Church Road which runs to the south of the site. On the southern side of Church Road there are residential dwellings along with the Maurice Rowson Community Hall which stands to the south west of the site, at the junction with Nuns Meadow.

The pre-fabricated building, the subject of this planning application, is in situ and currently operating as a village shop.

PROPOSAL

Planning permission is sought for the retention of the pre-fabricated building for use as a village shop for a further 3 years. The Council granted temporary planning permission for the change of use of land for the siting of a pre-fabricated building for this purpose on the 20th October 2014 (application reference 14/01086/FUL). The temporary planning permission has now expired.

The current planning application was validated on the 19th June 2018. The applicant has stated that the retention of the building for a further 3 years would allow for a full planning application to come forward to build a new permanent shop.

CONSULTATIONS

ECC Historic Buildings Consultant – No objection

It is considered pertinent also to note the Historic Building Consultant's comments on the original application reference 14/01086/FUL which states

that ‘.....it has to be recognised that this would be an ugly building, located at the edge of a registered historic designed landscape, opposite two listed buildings on the other side of the road and in a conservation area. It seems a pity that a simple weatherboard prefabricated shed could not serve the required purpose. However, with a strict time limit attached to the application, I would not object to it’

BDC Environmental Health – No objections

BDC Landscape Team – No response

Gosfield Parish Council – No response

REPRESENTATIONS

Nearby neighbours have been notified and a site notice was displayed on the shop itself.

46 letters of support have been received from residents of Gosfield and the wider area, summarised as follows:-

- The shop is an essential service within the village
- Its loss would be devastating
- The volunteers do a marvellous job
- The shop has become a community hub and provides much more than just a shop
- The shop and volunteer service has become an extremely important aspect for the health and social well-being for members of the village, reducing feelings of isolation, particularly for the elderly members of the community who volunteer to help in the shop
- Surprised that planners do not support the retention of the shop

REPORT

Principle of Development

The site is located outside the designated village development boundary and therefore is an area where countryside planning policies would apply. Furthermore the site is also located within a Registered Park and Garden associated with Gosfield Hall, the extent of which covers a wide area to the west of Gosfield.

A building of this type, i.e. a utilitarian pre-fabricated temporary building, in a sensitive location such as described above would not normally be given officer support, however due consideration was given in 2014 to the potential benefits of the proposed shop for the community, in line with the National Planning Policy Framework (NPPF) which states that Planning Authorities should promote the retention and development of local services and community facilities in villages, including shops. Furthermore, Policy RLP127 of the Adopted Local Plan states that the Council will support the provision of

additional shopping facilities in villages providing there are no overriding environmental or highway constraints.

The proposed change of use of land and provision of a building to provide a shop was subsequently granted planning permission for a 3 year temporary period, on the basis and understanding by planning officers that this would allow time for the Community Interest Group to confirm whether there is a viable need for a shop, explore a more permanent solution and ultimately to generate monies from shop sales or other sources towards the funding of a permanent building.

Financial information has been submitted with the application, specifically relating to the approximate gross income generated from the sale of goods within the shop, as follows:-

2015 - £45,000.00
2016 - £85,000.00
2017 - £100,000.00

The applicant states that planning permission is being sought for a further 3 years because it can now demonstrate that the shop 'pilot' has been a success both financially and in terms of social value and would now like an additional 3 years to remain trading on site whilst a full planning application comes forward to build a new village shop and a 'Fighting Fund' created to raise funds for a permanent shop in a similar method that it used to purchase the current portable building.

As part of the consideration for this planning application, officers have sought to understand the extent of funds generated to date, from the sale of goods to be allocated towards the funding of a permanent building. Following two requests for this detail, despite generating significant levels of income over the last 3 years, it would appear that no funds have been raised which have been earmarked for the funding of a new permanent building. Moreover, it is unclear how the income generated has been spent on the day-to-day operation of the enterprise. This information has recently been requested from the applicant but has not been forthcoming. If any additional information is received from the applicant, members will be updated at Planning Committee.

Furthermore, during the temporary grant period for the building, officers have encouraged discussions with the Community Interest Company to investigate a permanent solution. The applicant has indicated that one option might be to extend the playing field pavilion for the purpose of the shop operating therein, which would also require the relocation of existing toilets to a new building to be erected elsewhere at the Recreation Ground. To date, there have been no requests for advice through the pre-application service with officers to gauge opinion on permanent solutions, something which is particularly important given the sensitivities of the site (Conservation Area designation, proximity of TPO trees, Registered Park and Garden Status of the site) and therefore, the

indications are that no substantive progress has been made to seek a permanent solution.

In terms of the appropriateness of renewing a temporary permission, Paragraph 3 in the 'Use of Planning Conditions' in the National Planning Policy Guidance (PPG) provides a clear indication of how the Government expects Councils to determine proposals for the renewal of temporary permissions as laid out here:-

"It will rarely be justifiable to grant a second temporary permission – further permissions should normally be granted permanently or refused if there is clear justification for doing so. There is no presumption that a temporary grant of planning permission should be granted temporarily".

In the case of this application, the temporary planning permission was granted on the 20th October 2014 and allowed the shop to open and trade for three years from the date it opened. Following the involvement of the planning enforcement team, this planning application was submitted on the 9th May 2018 and validated on the 19th June 2018.

As indicated above, the proposals for the original planning application were the subject of careful consideration regarding constraints, i.e. the siting of the proposed portacabin in the countryside, within the Gosfield Conservation Area and a Registered Park and Garden. On the basis of the appearance of the portacabin in such a sensitive location, temporary planning permission was granted to allow time for the investigation of a permanent solution and the raising of funds to pay for a permanent building.

As stated above, it would appear that no work has been made on seeking a realistic permanent solution; despite generating substantial income in the last 3 years whilst in operation, no funds have been allocated for the provision of a permanent building and there have been no substantive permanent alternatives put to officers. Extending the pavilion and erecting new public toilets at that site would require planning permission. This indicates to officers that there is no realistic and forthcoming end in sight; indeed the planning permission has expired and the shop remains open now.

Officers recognise the positive impact of the shop for the village in terms of convenience, community, social and wellbeing aspects and the need for a shop in Gosfield is not disputed and would support the retention of a shop on a permanent basis.

However, officers must also take account of national policy guidance, as indicated above; no justification has been provided by the applicant to grant a second temporary permission – there has been no movement forward to seeking a permanent solution, which was expected during the 3 year period. Had the Community Interest Company made realistic headway with raising funds, obtaining planning permission and constructing new premises, officers may be in a position to support a further temporary period with a realistic

prospect that a permanent solution would be provided. Unfortunately, however, this is not the case.

Therefore the principle of a prefabricated building, given its siting in the countryside, Conservation Area and a Registered Park and Garden is not an appropriate form of development and its retained presence would not be in accordance with the abovementioned policies

Design, Appearance and Layout

Policy RLP90 of the Adopted Local Plan and Policy LLP55 of the Local Plan Review (2017) requires a high standard of layout and design in all developments, large and small, and designs should recognise and reflect local distinctiveness and be sensitive to the need to conserve local features of architectural, historic and landscape importance, particularly within Conservation Areas and proximity to parks and gardens of historic interest.

Policy RLP95 of the Adopted Local Plan and Policy LLP56 of the Local Plan Review (2017) states that the Council will preserve and encourage the enhancement of the character and appearance of conservation areas and their settings, including the buildings and open spaces.

Policy RLP103 of the Adopted Local Plan and Policy LPP60 of the Local Plan Review (2017) states that development will not be permitted which would materially detract from the historic character, or setting, of sites included in the English Heritage Register of Parks and Gardens of Special Historic Interest.

As indicated above, the design and appearance of the building is a utilitarian, bland form of development with no architectural merit and although it is located in a fairly discreet location adjacent a tree belt and the existing pavilion, this does not outweigh the poor appearance, which is inappropriate in such a sensitive location. The Historic Buildings Consultant's comments are noted in this respect and no objection has been raised. However the previous comments received for 14/01086/FUL identified that the building is inappropriate at the edge of a registered historic park and garden, opposite two listed buildings on the other side of the road and in the Conservation Area. No objection was raised at that stage, on the basis that temporary planning permission was sought. It is therefore considered that the continuation of the building's presence in such a sensitive location can be considered to cause harm to the setting of the heritage assets, the Registered Park and Garden and wider Conservation Area. In accordance with paragraph 196 of the National Planning Policy Framework (NPPF, 2018), the harm identified is considered to be 'less than substantial'. It is not considered that the public benefits of retaining this prefabricated building outweigh the harm identified. In this respect, and as indicated earlier in this report, officers would be supportive of a permanent building which is in keeping with the surroundings to serve as a village shop.

Impact on Neighbour Amenity

Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Draft Local Plan states that there shall be no undue or unacceptable impact on the amenity of any nearby residential properties.

Whilst the shop is adjacent to an established residential area, it is within the playing fields and close to the village hall where activity is to be expected. There is a greensward between the shop and the road and the houses on Church Road which provide a reasonable degree of separation.

The Environmental Health team raise no objection and Officers are unaware of any significant problems that neighbours have encountered since the shop opened.

CONCLUSION

The application seeks permission for the retention of a pre-fabricated building for a further 3 years following expiry of the temporary planning permission 14/01086/FUL.

The Officer report to Planning Committee in 2014 discussed the principle of using a pre-fabricated building to provide the Community Shop. Officers considered that a building of this type and appearance would not usually be something that the Council would support in a sensitive location such as a Conservation Area and close to listed buildings opposite the site in Church Road. However the report concluded that a temporary permission should be granted but stated that *'Officers would not consider this to be a permanent solution to providing a community shop it does present a temporary solution and one which allows the community group time to establish the viability of a business and to plan for a permanent solution'*.

Officers understood that the building was intended to be temporary and the applicant was advised that if the shop is successful and is to continue it would be necessary to find a suitable permanent premises within the village. The temporary permission was therefore intended to allow the Community Group to become established; to demonstrate that the shop can be viable; and to find a more suitable permanent location within the village.

It is not considered that sufficient justification has been provided in line with NPPG guidance for a further granting of temporary planning permission for the structure. There has been no progress made to seek a realistic permanent solution, which was expected to take place during the 3 year temporary period.

As previously stated in the report there are no substantive plans in place to relocate the shop to permanent premises within the village. Finding a permanent premises will take some time as it is likely that planning permission will be required and the funding secured. The shop has been trading for three

years and Officers have requested details of funds that the shop has generated which can be put towards the provision of permanent premises but at the time of writing this report that information has not been provided and there is no certainty that funding is or will be available. Whilst Officers acknowledge that the Community Shop provides social benefits national planning guidance is clear. It states '*It will rarely be justifiable to grant a second temporary permission – further permissions should normally be granted permanently or refused if there is clear justification for doing so*'. Officers do not consider that the specific circumstances of this case would warrant the rarely justifiable circumstances that would warrant a further planning permission being granted. The guidance suggests that if a further planning permission is to be granted it should be granted on a permanent basis. Given the sensitivities of the site (Conservation Area; proximity of Listed Buildings; Registered Parks & Garden status) Officers certainly do not consider that the use of this pre-fabricated building should be granted permanent planning permission. As identified above, it is considered that the proposal would give rise to less than substantial harm to the designated heritage assets and that this harm is not outweighed by the public benefits of the proposal.

As such, the retention of the building for a further period represents an inappropriate form of development within the countryside and would cause harm to the setting of heritage assets, the Registered Park and Garden and the Conservation Area, and that with no certainty over the provision of appropriate permanent premises in the future Officers cannot support the buildings retention and therefore recommend refusal.

RECOMMENDATION

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

- 1 The proposed retention of the temporary building for a further period would be contrary to national planning policy as set out in the National Planning Policy Framework and the supporting Planning Practice Guidance which states that it will rarely be justifiable to grant a second temporary permission and that further permissions should normally be granted permanently or refused if there is clear justification for doing so. A temporary permission was granted by the Council given the particular circumstances of the applicant.

In this case, no clear justification has been put forward to support the granting of planning permission for a further temporary period or for the permanent retention of the temporary building in this location. In addition, the continued retention of the prefabricated building by reason of its siting, materials and design would result in an unacceptable form of development, given the location within the countryside, Gosfield Conservation Area, a Registered Park and Garden and nearby heritage assets. It is out of keeping with the existing Pavilion building, and out of character with the surrounding

area to the detriment of the visual amenities of the locality. The proposal is therefore considered to be contrary to the NPPF, Policies RLP2, RLP90, RLP95, RLP100 and RLP103 of the Adopted Local Plan and Policies CS5 and CS9 of the Adopted Core Strategy, and Policies LPP1, LPP50, LPP55 and LPP60 of the Draft Local Plan (2017).

SUBMITTED PLANS

Location Plan, Proposed Plans, Proposed Site Plan
Proposed Plans

Plan Ref: PK04-12
Plan Ref: GEO001

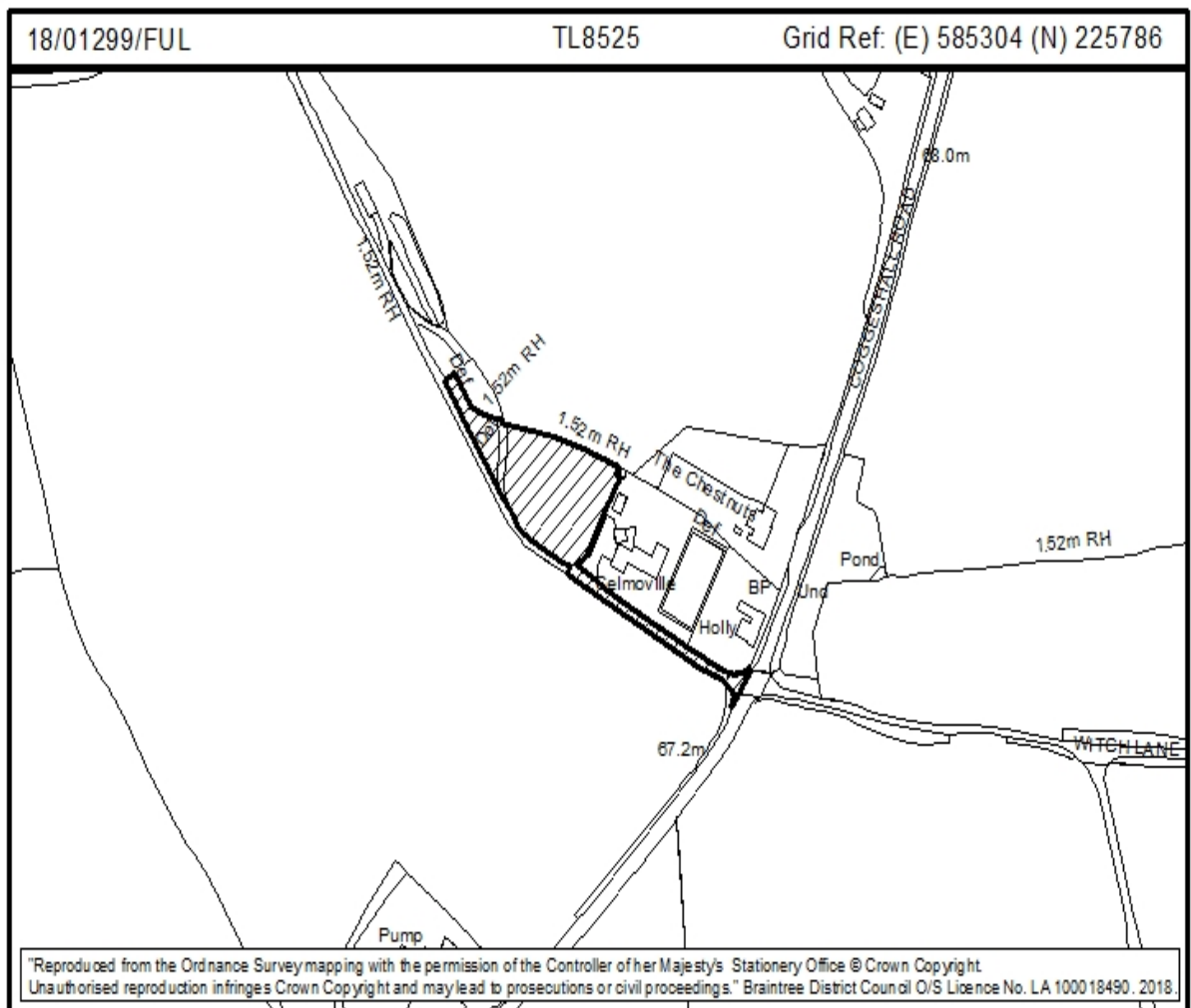
CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

AGENDA ITEM NUMBER 5d

PART A

APPLICATION NO: 18/01299/FUL DATE: 17.07.18
 VALID:
 APPLICANT: The Rare Breed Meat Company Ltd
 Mr G Blackwell, Herons Farm, Colne Road, Coggeshall,
 Colchester, Essex, CO6 1TQ
 AGENT: Nigel Chapman Associates
 Mr Nigel Chapman, Kings House , Colchester Road,
 Halstead, Essex, CO9 2ET
 DESCRIPTION: Rural Worker Dwelling and Garage.
 LOCATION: Land West Of Cemolville, Colne Road, Coggeshall, Essex

For more information about this Application please contact:
 Lisa Page on:- 01376 551414 Ext.
 or by e-mail to: lisa.page@braintree.gov.uk



SITE HISTORY

None

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 need, which for Braintree is 716 dwellings per annum.

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

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

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

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

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

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

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

National Planning Guidance

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

Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP12	Permanent Agricultural Dwellings
RLP56	Vehicle Parking
RLP74	Provision of Space for Recycling
RLP80	Landscape Features and Habitats

RLP90 Layout and Design of Development

Braintree District Local Development Framework Core Strategy 2011

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

Braintree District Publication Draft Local Plan 2017

SP1 Presumption in Favour of Sustainable Development
SP6 Place Shaping Principles
LPP1 Development Boundaries
LPP40 Rural Workers Dwellings in the Countryside
LPP45 Parking Provision
LPP50 Built and Historic Environment
LPP55 Layout and Design of Development

INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is being reported to the Planning Committee, in accordance with the Councils scheme of delegation, as the agent is a relative of a Council employee.

SITE DESCRIPTION

The application site is located outside of any village settlement boundary and is therefore located within the countryside. The site is triangular in shape and forms an existing paddock adjoining the chalet bungalow dwelling of Cemolville. The site is level with a mature tree/hedgerow and drainage ditch along its northern boundary. The other site boundaries are open. There is an existing vehicular access from the site onto Colne Road.

PROPOSAL

This application seeks full planning permission for the erection of a 4 bed dwelling and detached double garage. The property would be occupied as an agricultural workers dwelling in connection with the established rare breed meat company located at Herons Farm. Vehicular access would utilise an existing access onto Colne Road.

CONSULTATIONS

Consultees

Highways – Recommend refusal. Comment that the applicant does not appear to control sufficient land to provide the required vehicular visibility splays at the existing access with Colne Road B1024, of 215metres x

2.4metres x 215metres. The lack of such visibility would result in an unacceptable degree of hazard to all road users to the detriment of highway safety. The proposal would intensify the use of an existing access which has deficiencies in visibility and which is not in accordance with current safety standards and the intensification of that conflict and interference would lead to a deterioration in the efficiency of the through road as a traffic carrier to the detriment of highway safety.

Parish Council

Coggeshall Parish Council comment that if approved they seek a condition to be imposed to ensure that the dwelling forms part of the overall business and cannot be sold in the future as a separate property.

REPRESENTATIONS

The application was advertised by way of site notice and neighbour notification. No representations have been received.

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, an important material consideration in this case is whether the Council can robustly demonstrate a 5 Year Housing Land Supply. This will affect whether Paragraph 11 of the NPPF is engaged and consequently the weight that can be attributed to the Development Plan.

The Development Plan

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

The application site is located outside of a designated village envelope/town development boundary and as such is located on land designated as countryside in the Local Plan Review (2005) and the Core Strategy (2011).

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

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

However, whilst a new dwelling in such a countryside location is considered contrary to the Adopted Local Plan and the emerging Draft Local Plan, there is provision within Policy RLP12 of the Adopted Local Plan and Policy LPP40 of the Draft Local Plan for agricultural workers dwellings.

5 Year Housing Land Supply

In order to determine whether a given application for a housing scheme should be granted contrary to the provisions of the Development Plan, the Council needs to understand the current housing land supply situation.

In accordance with the PPG, the Council published the housing land supply situation in its Annual Monitoring Report dated 31 December 2017. Following best practice, the Council updated its position on the basis of completion rates in March and June 2018.

However, in July 2018, the Government published a revised NPPF. 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.

By paragraph 73 NPPF, 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. 'Local housing need' is defined as the 'standard method'. The new standard methodology applies a 3 step process as follows:

- Step 1 is the calculation of housing need from the household projections – this derives a baseline target. When new projections are published (usually every 2 years), these should be taken into account and the target recalculated. The 2016 based household projections were published on 20 September 2018;
- Step 2 is an adjustment to take account of affordability, using the most recent published local affordability ratio – this derives a target number of dwellings per annum. New affordability ratios are planned to be published every year. The most recent (2017) local affordability ratios were published in Spring 2018;
- Step 3 caps the level of any increase to 40% over the baseline target. The cap is only applicable if the target number of dwellings per annum, derived from steps 1 and 2, exceeds the baseline target + 40%.

The 5 Year Housing Land Supply target is then calculated as follows: target number of dwellings per annum x 5 years + appropriate buffer (the Council currently accepts that the appropriate buffer for the Braintree District is 20% as required by the NPPF as there has been a significant under-delivery of housing over the previous 3 years).

Since 31st March 2017 the Council has produced quarterly updates on the 5 Year Supply Assessment to assist in the consideration and determination of planning applications. To date, and based on these assessments, the Council within both Committee and Delegated reports, has acknowledged that it is

unable to demonstrate a 5 year Housing Land Supply, and as such Paragraph 11 of NPPF (previously Paragraph 14 of the NPPF 2012) is engaged. However, applying paragraph 73 NPPF to its supply, the latest land supply update statement indicates a 5.83 years' supply.

That said, it is important to note that the latest update position is not an annual monitoring report, based on a comprehensive assessment of sites, in accordance with the revised definition of 'deliverable' in the NPPF. That will be done within the 2018 annual monitoring report which is due to be published on 31st December 2018.

In addition, the Council's latest 5 year supply figure of 5.83 years (as at 31st March 2018) must also 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.

Whilst the presumption in paragraph 11 of the NPPF is not engaged (due to the presence of a 5 Year Housing Land Supply), until the Council has ascertained that it can demonstrate a robust supply within its annual monitoring report and given the Local Plan context described above, it is considered that only moderate weight can be attached to the policies of the Development Plan which restrict the supply of housing (specifically Policy RLP2 of the Adopted Local Plan and Policy CS5 of the Adopted Core Strategy). This will need to be considered as part of the overall planning balance, along with any benefits and harms identified within the detailed site assessment considered below.

SITE ASSESSMENT

Location and Access to Services and Facilities

The application site is located outside of any village settlement boundary and is therefore located within the countryside. As the application seeks permission for a permanent agricultural dwelling, Policy RLP12 of the Adopted Local Plan and Policy LPP40 of the Draft Local Plan is relevant, which outlines that applications for new agricultural dwellings should satisfy set criteria, relating to a full time functional need which could not be fulfilled by another dwelling on the unit or any other existing accommodation in the area which is suitable and available.

A Planning Statement has been submitted with the application detailing the operation of the Farm and making a justification in terms of compliance with policy. This Statement outlines that the business was established in 1995. The overall site is of some 169.34 hectares with Mr H Blackwell, who lives at Herons Farm, being fully employed at the farm, mainly in the arable farming

element at the holding. Since 2012, the applicant, Mr G Blackwell, has had responsibility for the day to day management of the business for the non-arable farming element. The free range bird roaming areas amount to 9.4 hectares and contain a total of 5500 free range turkeys, 2000 geese, 500 chickens. Overall at the site, it is stated that there are 28 full time and 12 part time employees with 20 seasonal workers over the Christmas period.

The Statement addresses Policy RLP12 of the Adopted Local Plan in terms of the need for a person to be on site full time. It outlines that Mr G Blackwell runs the Herons Farm Rear Breed Meat business and starts work at 4am and would normally finish 5.30pm, but needs to manage a range of staff shift patterns (the site operates an outside catering business with staff and cooking such as cooking hog roast pigs and there is a need for someone to be on site in the early morning and late in the day), with a need for all temporary staff to be supervised. Further, there is a need for a person to be on site to deal with power surges and power cuts or alarms going off in the early morning if fridges stop working. There is also a need for security and welfare management of the birds and given the high value produce, having the applicant close by is essential for this level of care and supervision. They outline that the proposed dwelling, located 450 metres to the north-east of Herons Farm, would provide that 24 hour supervision.

In response to this stated need, it is clear that the use has been operating for a number of years with only the existing dwelling at Herons Farm being present. It is unclear why now there needs to be a permanent presence in the locality. The site is at such a distance that there wouldn't be a natural surveillance over the land and would not provide the security sought. The chosen site is close such that occupiers would be readily accessible at short notice should alarms be triggered, but has not been evidenced why a dwelling within Earls Colne (as is the existing situation) or Coggeshall, located around 2.5 miles away, would not be at a distance where persons could be at hand within a few minutes' drive. Other measures could be engaged to provide the required security, in addition to the surveillance of the existing farmhouse located at Herons Farm. There has been no evidence submitted of previous security breaches. It is therefore concluded that there is no functional need for a full time person to be on site at all times and that any need for a person to 'readily at hand' could be met by a dwelling sited within nearby towns and villages.

Within Policy RLP12 of the Adopted Local Plan there is also a requirement that if it is established that a new dwelling is essential to support a new farming activity whether on a newly created agricultural unit or an established one, it should, for the first three years, be provided by a caravan, a wooden structure which can be easily dismantled or other temporary accommodation. Although the use is established (and has been for in excess of three years and has been evidenced to be profitable), the proposal for a permanent 2 storey, detached 4 bed property is in conflict with this.

In summary therefore, in terms of the principle of development, Officers are not persuaded that there is a functional and essential need for a full time

person to be on site at all times, and the proposed permanent dwelling would be contrary to Policy RLP12 of the Adopted Local Plan. The principle of the development is therefore not supported.

Layout, Design and Appearance

The dwelling would be sited 450 metres to the north-east of Herons Farm, and between 320 metres and 820 metres from the land used for bird roaming areas. It is located adjacent to Cemolville but is otherwise open on its other 3 boundaries. The site is currently on an area of land which is open and undeveloped. The development would therefore result in an incursion into the countryside and would have a harmful impact upon the open rural character and appearance of the site and wider locality. Further in regards its layout, whilst Holly Cottage has a pleasing relationship with Coggeshall Road and the adjacent property of Cemolville fronts onto the access road, the proposed dwelling does not relate well to this access road or the adjoining dwelling and is sited at an awkward angle. Its siting does not lend itself to providing any surveillance over the land related to the need for this application.

Notwithstanding the above, in terms of detailed design, the proposed dwelling would appear as a traditional farm house style with brick plinth and rendered walls with a clay peg tile roof. This would be of high quality and would relate well to the design of adjoining development. The accommodation provides a reception room, study, kitchen/family room, utility and four bedrooms. The size of the accommodation is stated to be commensurate with applicant's current and future needs for his family (in accordance with Policy RLP12), however, the accommodation in terms of ground floor living accommodation and study size is generous and some of the bedrooms equally are quite large. A detached double garage is proposed for the dwelling which is sited to not appear cramped or congested on its plot and is of an acceptable design.

Impact on Neighbouring Residential Amenities

The layout of the dwelling would provide for acceptable amenity for future occupiers. Equally the siting of the property with the neighbour at Cemolville would ensure that this neighbouring property (understood to be owned by the grandparents of the applicant), would not be unacceptably impacted upon by overlooking, light, outlook or similar.

Highway Considerations

The development would utilise an existing vehicular access onto Colne Road. County Highway have raised objections that the development cannot achieve the required visibility splays of 215metres x 2.4metres x 215metres. (It would appear that visibility splays of only 32.3metres to the north can be achieved). The lack of such visibility and intensification of use of an existing access which has deficiencies in visibility and which is not in accordance with current safety standards would result in an unacceptable degree of hazard to all road users to the detriment of highway safety. Whilst the existence of an access in this location is a matter of fact and therefore some degree of conflict and

interference to the passage of through vehicles already occurs, the intensification of that conflict and interference which this proposal would engender would lead to a deterioration in the efficiency of the through road as a traffic carrier to the detriment of highway safety.

Notwithstanding the objections in terms of highway safety, the application includes a double garage and driveway, which is acceptable for the 4 bed property. Adequate turning provision is provided.

Flood Risk

The site lies within Flood Zone 1, the lowest zone of flood risk and as such flood risk is not considered a constraint to the development.

Contamination

The site appears to have been used as a paddock and similar and is not considered to contain any contamination. Although the application seeks a sensitive end use it is not considered reasonable to require a contamination survey or report.

Ecology

Given the site characteristics, it is not anticipated that the proposal would result in adverse impact to protected species.

Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) / Habitat Regulations Assessment (HRA)

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. 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 development at 99 units or less that is likely to be approved prior to the adoption of the RAMS, which will require financial contributions for all residential proposals, is comparatively minimal.

It is therefore concluded that the amount of development approved under schemes of 99 unit or less prior to the adoption of the RAMS will 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.

Notwithstanding the above, at the present time, there are no specific costed HRA mitigation 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 for off-site mitigation at relevant European designated sites for schemes of this size.

CONCLUSION AND PLANNING BALANCE

As set out within Paragraph 47 of the NPPF, planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In this case the application site is located outside of a designated village envelope/town development boundary and is therefore located within the countryside, where new development is strictly controlled to uses appropriate within the countryside. However, whilst a new dwelling in such a countryside location is considered contrary to the Adopted Local Plan and the emerging Draft Local Plan, there is provision within Policy RLP12 of the Adopted Local Plan and Policy LPP40 of the Draft Local Plan for agricultural workers dwellings.

Although the Council can currently demonstrate a 5 Year Housing Land Supply (5.83 years as at 31st March 2018), this latest update position, as identified above, is not an annual monitoring report based on a comprehensive assessment of sites in accordance with the revised definition of 'deliverable' in the NPPF. Therefore the current position of 5.83 years does not represent a robust housing supply position. In addition, and as highlighted above, the methodology for calculating 5 year supply under a new Local Plan must add on the backlog from previous years, which will on adoption of the Local Plan, result in a higher 5 Year Housing Land Supply requirement.

The Government's policy objective of significantly boosting the supply of homes as highlighted in Paragraph 59 of the NPPF is an important material consideration in this case, however this in itself is not considered to be sufficient to outweigh the conflict with the Adopted Development Plan as identified above. In contrast, the above factors which affect the robustness of the Council's current 5 Year Housing Land Supply, are also considered to be important material considerations, which in Officers view, justify attributing only moderate weight to the policies of the Development Plan which restrict the supply of housing (specifically Policy RLP2 of the Adopted Local Plan and Policy CS5 of the Adopted Core Strategy).

The site lies outside of any village settlement boundary and is therefore sited within the countryside, within an area of development restraint. Whilst Policy RLP12 allows provision of agricultural workers dwellings, there is a requirement to satisfy set criteria, relating to a full time functional need which could not be fulfilled by another dwelling on the unit or any other existing accommodation in the area. Officers have assessed the site operation for the

business and are not persuaded that there is a functional and essential need for a full time person to be on site at all times. The proposed permanent dwelling thereby be contrary to Policy RLP12 of the Local Plan and Policy LPP40 of the Draft Local Plan and the principle of the development is therefore not supported.

The proposed dwelling is sited on an open and undeveloped site and would result in an incursion into the countryside and would, together with its awkward siting and relationship with adjoining dwellings, have a harmful impact upon the open rural character and appearance of the site and wider locality.

Furthermore, the development cannot provide for the required visibility splays onto Colne Road, wherein the intensification of use of this existing access would result in an unacceptable degree of hazard to all road users to the detriment of highway safety.

RECOMMENDATION

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

- 1 The site is located in the countryside where Policy RLP2 of the Adopted Local Plan and Policy CS5 of the Braintree District Core Strategy requires that development outside town development boundaries, village envelopes and industrial development limits will be strictly controlled to uses appropriate to the countryside, in order to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside. Whilst agricultural workers dwellings are permitted in the countryside, they need to meet the criteria of Policy RLP12 of the Adopted Local Plan. The proposed development has failed to demonstrate that there is a clearly established existing functional need for a full-time worker to reside at the application site or that any functional need could not be fulfilled by other existing accommodation in the area. Further, the application seeks a permanent dwelling contrary to the provisions of Policy RLP12. The proposed development is thereby contrary to Policies RLP2, RLP12 and RLP90 of the Braintree District Local Plan Review, Policies CS5, CS8 and CS9 of the Braintree District Core Strategy and Policies LPP1, LPP40, LPP50 and LPP55 of the Braintree District Publication Draft Local Plan.
- 2 The proposed dwelling is sited on an open and undeveloped site and would result in an incursion into the countryside and would, together with its awkward siting and relationship with adjoining dwellings, have a harmful impact upon the open rural character and appearance of the site and wider locality. The proposed development is thereby contrary to Policies RLP12, RLP80 and

RLP90 of the Braintree District Local Plan Review, Policies CS8 and CS9 of the Braintree District Core Strategy and Policies LPP40, LPP50 and LPP55 of the Braintree District Publication Draft Local Plan.

- 3 The proposed development fails to achieve the required visibility splays onto Colne Road. The intensification of use of this existing access would result in an unacceptable degree of hazard to all road users to the detriment of highway safety. This would be contrary to Policy RLP90 of the Braintree District Local Plan Review, Policy CS9 of the Braintree District Core Strategy, Policies SP1 and LPP55 of the Braintree District Publication Draft Local Plan and Policies DM1 and DM4 contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

SUBMITTED PLANS

Location Plan	Plan Ref: 18/102
Block Plan	Plan Ref: 18/102
Proposed Floor Plan	Plan Ref: 18/102/P1
Proposed Floor Plan	Plan Ref: 18/102/P2
Roof Plan	Plan Ref: 18/102/P3
Proposed Elevations	Plan Ref: 18/102/P4
Garage Details	Plan Ref: 18/102/P5
Location Plan	Plan Ref: 18/102/P6

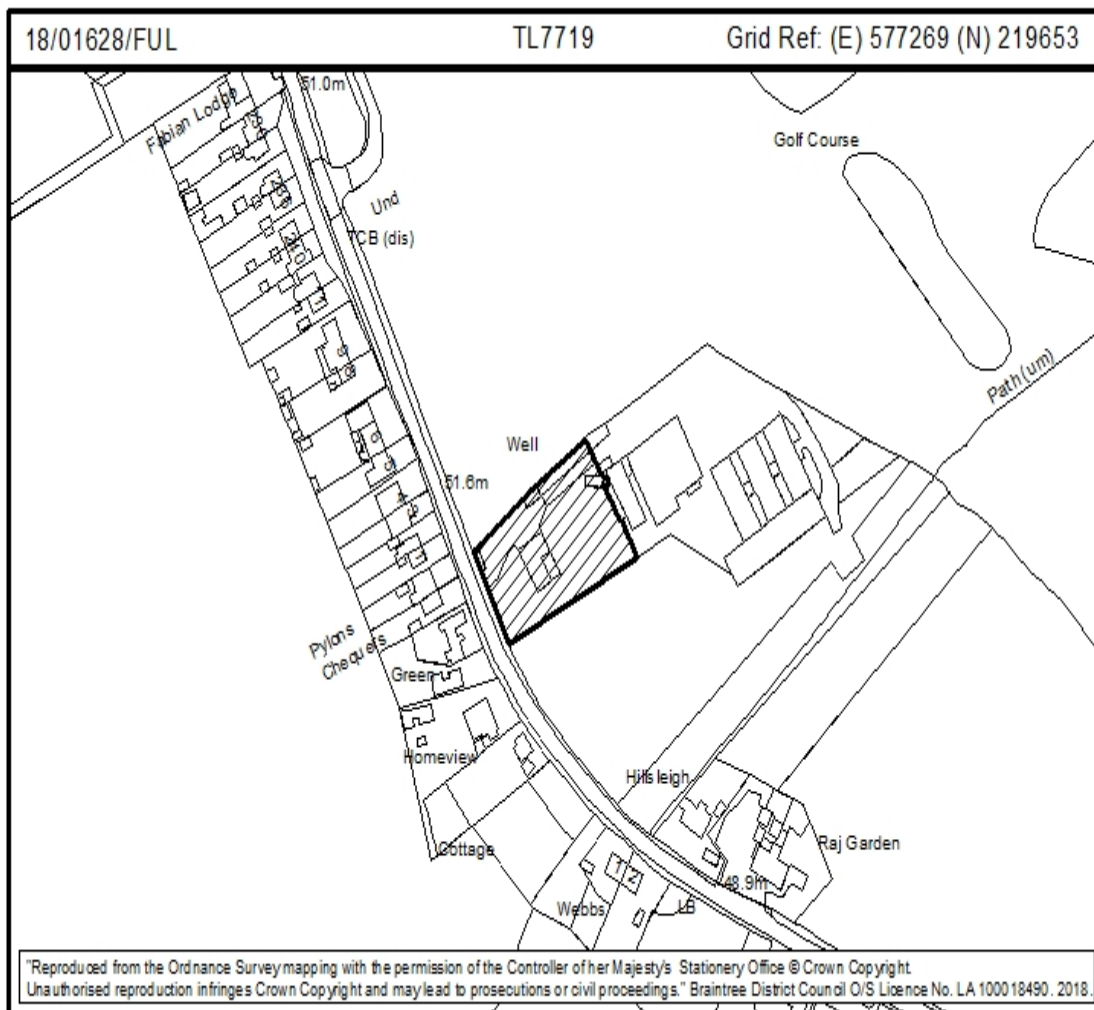
CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

AGENDA ITEM NUMBER 5e

PART A

APPLICATION NO: 18/01628/FUL DATE: 05.09.18
 VALID:
 APPLICANT: Mr & Mrs Charles Blatch
 Homeview, The Green, White Notley, Essex, CM8 1RF
 AGENT: Mr Andrew Stevenson
 Andrew Stevenson Associates, 21A High Street, Great
 Dunmow, CM6 1AB
 DESCRIPTION: Proposed replacement dwelling with associated
 landscaping. (Resubmission of refused application
 18/01019/FUL).
 LOCATION: Green Farm, The Green, White Notley, Essex, CM8 1RG

For more information about this Application please contact:
 Mr Andrew Martin on:- 01376 551414 Ext.
 or by e-mail to: andrew.martin@braintree.gov.uk



SITE HISTORY

18/00075/REF	Proposed replacement dwelling with associated landscaping		
14/00367/ELD	Application for an Existing Lawful Development Certificate relating to an agricultural occupancy condition	Granted	15.05.14
16/02097/FUL	Erection of replacement dwelling with associated landscaping	Withdrawn	31.01.17
17/00681/FUL	Erection of replacement dwelling with associated landscaping	Refused	11.09.17
17/02030/PLD	Application for a proposed lawful development certificate - Proposed single storey side and rear extensions	Withdrawn	21.12.17
17/02031/PLD	Application for a proposed lawful development certificate - Alterations of existing roof	Withdrawn	21.12.17
18/00048/PLD	Application for a proposed lawful development certificate - Alterations of existing roof form	Granted	02.03.18
18/00049/PLD	Application for a proposed lawful development certificate - Proposed single storey side and rear extensions	Granted	02.03.18
18/01019/FUL	Proposed replacement dwelling with associated landscaping	Refused	17.07.18

POLICY CONSIDERATIONS

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

The Council is currently working on a Draft Local Plan, which was approved by the Council unanimously for consultation on the 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 need, which for Braintree is 716 dwellings per annum.

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

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

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

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

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

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

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

National Planning Guidance

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

Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP15	Replacement of Dwellings in the Countryside
RLP56	Vehicle Parking
RLP69	Sustainable Urban Drainage
RLP80	Landscape Features and Habitats
RLP90	Layout and Design of Development

Braintree District Local Development Framework Core Strategy 2011

CS5	The Countryside
CS9	Built and Historic Environment

Braintree District Publication Draft Local Plan 2017

SP1	Presumption in Favour of Sustainable Development
SP3	Meeting Housing Needs
SP6	Place Shaping Principles
LPP1	Development Boundaries
LPP39	Replacement Dwellings in the Countryside
LPP44	Sustainable Transport

LPP45	Parking Provision
LPP50	Built and Historic Environment
LPP51	An Inclusive Environment
LPP55	Layout and Design of Development
LPP71	Landscape Character and Features

Other Material Considerations

Site Allocations and Development Management Plan
Essex Design Guide
Essex Parking Standards

INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is reported to the Planning Committee as a Member has requested that the application should be subject to consideration by the Planning Committee.

SITE DESCRIPTION & PLANNING HISTORY

The application site is a single-storey bungalow, within a large plot of land, on the west side of Witham Road in White Notley. There is a golf course to the north of the site, a group of agricultural buildings to the east, and open fields to the south.

The east-side of Witham Road, in the context of the application site, is defined by a ribbon of residential development. Primarily this ribbon of residential development consists of two-storey semi-detached dwellings, which are varied in design and appearance.

The existing bungalow was constructed in 1982 as an agricultural worker's dwelling (reference number P/BTE/0192/82/FL/N). The condition relating to the agricultural occupation condition was removed in 2014, through a Certificate of Lawfulness of Existing Use, as it was demonstrated that the dwelling had not been occupied in accordance with the agricultural occupation condition for a period of 10 years or more (14/00367/ELD).

Prior to the current application there have been three other applications for a replacement dwelling on the same site. On each occasion the proposed dwelling has been larger than the existing bungalow, whilst the size of the dwelling proposed has been progressively reduced in size.

The first application proposed the largest replacement dwelling but the application was withdrawn prior to determination (reference number 16/02097/FUL). A further application was submitted, for a replacement dwelling of a reduced size, but it was refused by the Planning Committee (reference number 17/00681/FUL).

Application 17/00681/FUL was refused on the basis that the replacement dwelling would have had a greater and more intrusive impact on the landscape than the existing bungalow. Additionally, it was concluded that the proposed design would have only exaggerated the overall massing of the replacement dwelling, to the detriment of the open character of the countryside.

Following the above refusal another application was submitted and subsequently refused (reference number 18/01019/FUL). Essentially the application was refused as the previous refusal reasons had not been overcome. This was because the changes to the design and scale of the replacement dwelling were limited, representing only a very modest 2.27% reduction in floor space when compared to the replacement dwelling previously refused.

PROPOSAL

This application seeks to demolish the existing bungalow and construct a part two-storey and part one-and-a-half storey dwelling with associated landscaping.

When comparing this application to the most recent refusal (reference number 18/01019/FUL) the evident changes are:

- The removal of the single-storey open-sided lean-to
- Overall width of the dwelling has been reduced by 50cm
- Use of a four-paned window on the ground-floor, instead of a three-paned window, within the front elevation of the northernmost gable-end
- Increase in the roof pitch of the front and rear gable-ends
- Reduction in height of the rear portion of the proposed dwelling, by stepping the ridge and eaves height down by approximately 30cm, with an articulated south-east side-elevation and a seamless north-west side elevation
- Inclusion of two separate cat-slide dormers to the rear, instead of the single larger cat-slide dormer previously proposed, and a reduction in the number of the first-floor windows within the rear gable-ends.

Essentially, the changes primarily address the detailing of the proposed dwelling, rather than its overall size and massing. Notably, the size and massing of the dwelling has been reduced in a very limited capacity by reducing the overall width by 50cm, increasing the pitch of the gable-end roofs, reducing the ridge and eaves height by approximately 30cm towards the rear, and the removal of the open-sided lean-to.

CONSULTATIONS

Essex County Council Highways Authority – no objections raised.

White Notley Parish Council – no response received.

REPRESENTATIONS

Seven letters of support have been received from local residents, the comments are summarised as follows:

- The proposed dwelling has been designed to overcome the previous reasons for refusal
- The proposed dwelling would enhance the appearance of the locality in contrast to the existing bungalow which is unattractive
- What could be constructed under permitted development would be more harmful than the dwelling proposed.

Two general letters have been received in relation to the application. One of which simply raises no objection to the application, whilst the other raises the following points:

- There are inconsistencies between the application form and drawings, with regards to the number of existing and proposed bedrooms
- The existing access to the farm would be retained, meaning it will be accessed via the application site
- Reference, within the design and access statement, to the 'cessation' of the farming activities at Green Farm infers that the agricultural buildings will become redundant. The farm buildings do not provide an attractive setting for the new dwelling.

REPORT

Principle of Development

Policy RLP2 of the Adopted Local Plan and Policy LPP1 of the Draft Local Plan state that new development will be confined to the areas within Town Development Boundaries and Village Envelopes.

The application site is not located within a Town Development Boundary or a Village Envelope. Subsequently, the proposed development is located in the 'countryside', where national and local planning policies are restrictive towards new development.

Notwithstanding the above, the principle of replacement dwellings in the countryside is established under Policy RLP15 of the Adopted Local Plan, subject to the proposal meeting all of the following criteria:

1. The existing dwelling is a habitable, permanent dwelling of conventional construction;
2. The existing building is substantially intact;
3. The size and shape of the replacement dwelling is compatible with the size and shape of the plot on which it stands;
4. The replacement dwelling would not have a greater impact or be more intrusive in the landscape than the original dwelling by virtue of its siting, scale, height, character and design;
5. The existing dwelling is not a building of architectural or historical value, which is capable of renovation.

The above criteria are also reflected in Policy LPP39 of the Draft Local Plan, however, there are the additional requirements that a replacement dwelling must not be significantly larger than the original dwelling and that it should be positioned on or close to the footprint of the existing dwelling.

With regards to compliance with the above policy criteria, the proposal is considered to satisfactorily meet criteria 1, 2, 3, and 5 of Policy RLP15 of the Adopted Local Plan. As aforementioned, the proposal would need to meet all of the criteria set out in Policy RLP15, with criteria 4 to be discussed in the following section on design, appearance and layout.

Design, Appearance and Layout

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 then goes on to cite good design as a 'key aspect of sustainable development'.

Paragraph 127 of the NPPF details that planning policies and decision making should ensure that developments are, amongst other matters, sympathetic to local character and history, including the surrounding built environment and landscape setting.

Furthermore, Paragraph 127 of the NPPF makes specific reference to the need for development to contribute to and enhance the natural and local environment, including recognising the intrinsic character and beauty of the countryside.

Policy CS8 of the Adopted Core Strategy sets out that development must have regard to the character of the landscape and its sensitivity to change.

Policy CS9 of the Adopted Core Strategy, Policy RLP90 of the Adopted Local Plan and Policies LPP50 and LPP55 of the Draft Local Plan reflect the NPPF, by seeking the highest possible standards of design and layout in all new development, including the need for the overall design of buildings to reflect or enhance the area's local distinctiveness, whilst maintaining harmony with the character and appearance of the surrounding area.

Witham Road, within the context of the application site, is characterised by a ribbon of development on its west-side and a more open rural character on its east-side. The application site is on the east-side of Witham Road where there is a low density of built form, with a golf course to the north of the site, a group of agricultural buildings to the east, and open fields to the south.

The ribbon of development, on the west-side of Witham Road, is an extended row of predominantly two-storey dwellings. The row of dwellings constitute their own distinct character which contrasts with the open and rural character on the east-side of Witham Road.

The existing bungalow is relatively standard in design, appearance and layout for a dwelling of its typology. It has an elongated front elevation, a modest ridge height, and a simple pitched roof.

Given the bungalow's siting, within the open rural context on the east-side of Witham Road, it is highly prominent in its setting. The prominence of the bungalow is exaggerated further by its close proximity to the highway and its subsequent emphasis in public views when travelling northwards on Witham Road. The agricultural buildings, to the rear of the site, are less prominent when viewed from public vantages due to their significant set back from the highway.

The design of the proposed dwelling references a traditional 'H-shaped farmhouse' layout. There would be two-storey elements to the front, sides, and rear of the dwelling, integrated with a one-and-a-half storey central compartment. With regards to the architectural detail, there would be gable-ends to the front and rear, a jettied first-floor overhang to the front, and dormer windows distributed across all of the elevations.

The application of a traditional style to the elevational design of the proposed dwelling is not considered to be compatible with the amount of internal space proposed. This is evident from the use of a large central flat roof section, resulting in a false pitch roof design, as a means of maintaining a lower ridge height whilst simultaneously providing additional floor space.

Further, the elevational proportions between the ground and first-floor are unbalanced, with the first-floor being the larger of the two. The outcome of this is a top-heavy dwelling with a very compacted ground-floor and limited regularity between the ground and first-floor windows in terms of siting, proportions, and emphasis.

Subsequently, the proposed dwelling is not considered to be of a good design and cannot accommodate the level of habitable space sought, without either being more intrusive in form or contrived in its composition.

It is understood that the replacement dwelling would be set further back from the highway in an attempt to reduce its visual prominence. However, the new dwelling would represent a 119% increase in floor space when compared to the existing bungalow, with a 20% height increase when measured from the original bungalow ridgeline to the maximum height of the new dwelling.

Consequently, setting the dwelling further back within the plot would have a limited impact, particularly in terms of reducing its visual prominence within Witham Road.

Limited changes have been made following the previous refusal in an attempt to reduce the overall size of the dwelling. Most notably the lean-to side extension has been removed, the overall width has been reduced by 50cm, and the rear portion of the roof has been reduced in height by 30cm.

The remainder of the changes made, following the previous refusals, relate to the architectural detailing with changes to windows, dormer designs, and roof pitches.

Overall the proposal does not adequately address the previous concerns with regards to compliance with criteria 4 of Policy RLP15 of the Adopted Local Plan. This is because both of the past refusal reasons primarily relate to the greater height, scale and massing of the dwelling in contrast to the existing bungalow. Therefore, given the limited changes to overall size of the proposed dwelling, the current proposal does not overcome the conflict with the development plan.

Landscaping has been proposed to the front of the site, which has been indicatively shown on the submitted Block Plan, in the form of tree planting on the southern boundary, hedge planting, boundary fencing, and hard surfacing. It is intended that the landscaping would soften the impact of the proposed replacement dwelling. Notwithstanding this, the proposed landscaping is not considered to mitigate against the overall scale, bulk and design of the replacement dwelling and its resulting harm to the open character of the countryside.

In summary, the proposed two-storey dwelling would be greater in height, scale and massing than the existing bungalow. The replacement dwelling would therefore have a greater impact and be more intrusive in the landscape than the original bungalow. Further, the traditional style of the new dwelling is incompatible with the amount of internal space proposed, resulting in a contrived composition which is not considered to be good design. This would only serve to exaggerate the prominence of the proposed dwelling and its harm to the open and intrinsic character and beauty of the countryside.

The proposal would subsequently be contrary to the policies and objectives of the NPPF, Policies RLP15 and RLP90 of the Adopted Local Plan, Policies CS5, CS8 and CS9 of the Adopted Core Strategy and Policies LPP39, LPP55 and LPP71 of the Draft Local Plan.

Impact on Neighbour Amenities

The NPPF seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Similarly, Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Draft Local Plan both emphasise the need to protect the amenity of nearby properties, by preventing any loss of privacy, increase in overshadowing, loss of light, or overbearing impact.

Due to the siting of the proposed dwelling, and its separation from neighbours, there would not be any harm to the amenity of nearby residential properties.

Highway Issues

Policy RLP56 of the Adopted Local Plan requires off-street parking provision to be provided in accordance with the Council's adopted Vehicle Parking Standards (VPS).

The access into the site from Witham Road would be unchanged. Moreover, there would be sufficient space within the site to accommodate at least two parking spaces, in accordance with the VPS.

Essex Highways have returned no objection to this application.

To conclude there would be no unacceptable highways impact as a result of the proposed development.

Other Matters

As noted within the design and access statement, and as evidenced by the number of support letters, this proposal and the previous iterations have been viewed favourably by local residents. This was also mentioned on several occasions when application 17/00681/FUL was discussed at planning committee on the 29 August 2017.

Pertinently, whilst the aesthetic appearance of the proposed dwelling in relation to the existing bungalow is subjective, the policy consideration in this instance does not relate to whether the new dwelling would or would not be more attractive than the bungalow. Instead the policy test is that the replacement dwelling must 'not have a greater impact or be more intrusive in the landscape than the original dwelling by virtue of its siting, scale, height, character and design'.

In light of the above policy consideration, the proposal cannot be considered compliant with Policy RLP15 of the Adopted Local Plan, as it would replace a modest bungalow with a large dwelling.

It is also relevant that the Planning Practice Guidance to the National Planning Policy Framework states:

‘Local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless it is founded upon valid material planning reasons’ (Paragraph: 016 Reference ID: 21b-016-20140306).

Therefore, the support received for the proposal, in terms of its aesthetic improvement over the existing bungalow and site, does not justify recommending that the application is approved.

Likewise, the private interests of the applicant and their family cannot be taken into account as a material consideration in the determination of this application.

A further suggestion put forward within the Design and Access Statement is that the recent certificates of lawfulness granted, for a number of extensions to the bungalow, represent a significant and viable ‘fallback position’.

Permitted development is a material consideration in some cases. Primarily, this is where the permitted development rights given by The Town and Country Planning (General Permitted) Development Order 1990 (as amended) comprise an element of the development proposed, such as an extension or change of use.

In the context of this application it is not considered that permitted development would be a material consideration of any weight. This is because no element of the proposal would constitute permitted development. The fact that the existing bungalow could be enlarged is immaterial as the proposal is not for enlargements to the existing bungalow it is for a new dwelling.

Fundamentally, the existing bungalow cannot be extended under permitted development to be commensurate with the proposed dwelling in terms of siting, scale, height, character and design. Aesthetic appearance does not form part of this judgement.

Elevational drawings, and a photograph, of an agricultural dwelling approved at Wisdoms Field in Coggeshall have been provided in support of the application (reference number 16/01094/FUL). The reference is intended to demonstrate that other dwellings have been approved of a similar style in the district. Despite this, it is well established that each application must be assessed on its individual merits, and in any event the dwelling at Wisdoms Field was not a replacement dwelling and was subject to a different policy context.

Moreover, the dwelling at Wisdoms Field was traditionally proportioned without a central flat roof section, whereas the current and previous proposals at Green Farm appear to be a hybrid of a farmhouse and a chalet style dwelling.

A comment has been received relating to inconsistencies between the application form and drawings. This is likely to be a drafting error and is not considered to be critical to the determination of this application, as more importantly the existing and proposed floor plans clearly highlight the changes in the number of bedrooms.

In addition, the fact that the farm to the rear would still be accessed through the application site is not a concern, it would simply be a continuation of the existing arrangement. Equally, the comment regarding the cessation of the agricultural site to the rear is not material to the determination of this application, as the buildings are located outside of the application site.

PLANNING BALANCE & CONCLUSION

Paragraph 8 of the NPPF defines sustainable development as having three overarching interdependent objectives as follows:

- a) an economic objective - to help build 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;
- b) 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
- c) an environmental objective – to contribute to protecting and enhancing our natural, built and historical 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 conducting a planning balance it is necessary to weigh the benefits of the proposed development against the resulting harm.

The proposal would provide an economic benefit during construction.

With regard to the Council's housing supply the application would not result in the net gain of a dwelling on the site and would therefore make no contribution towards the housing need in the District.

In terms of harm, the replacement dwelling would have a greater impact and be more intrusive in the landscape than the original bungalow, with a contrived design that would not be compatible with the amount of internal space proposed. The resulting effect is a dwelling of significant bulk with gable wings disguising an unduly large central section with a flat roof.

It is therefore considered that the benefits of the proposed development would not outweigh the harm identified.

Although some changes have been made to the proposal following the previous applications the changes made are minor in nature and the proposal is not markedly different to the previously refused applications, nor does it overcome the harm identified above.

Subsequently, the proposal is contrary to the policies and objectives of the NPPF, Policies RLP15 and RLP90 of the Adopted Local Plan, Policies CS5 and CS9 of the Adopted Core Strategy and Policies LPP39 and LPP55 of the Draft Local Plan.

The proposal represents an unacceptable form of development and is therefore recommended for refusal.

RECOMMENDATION

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

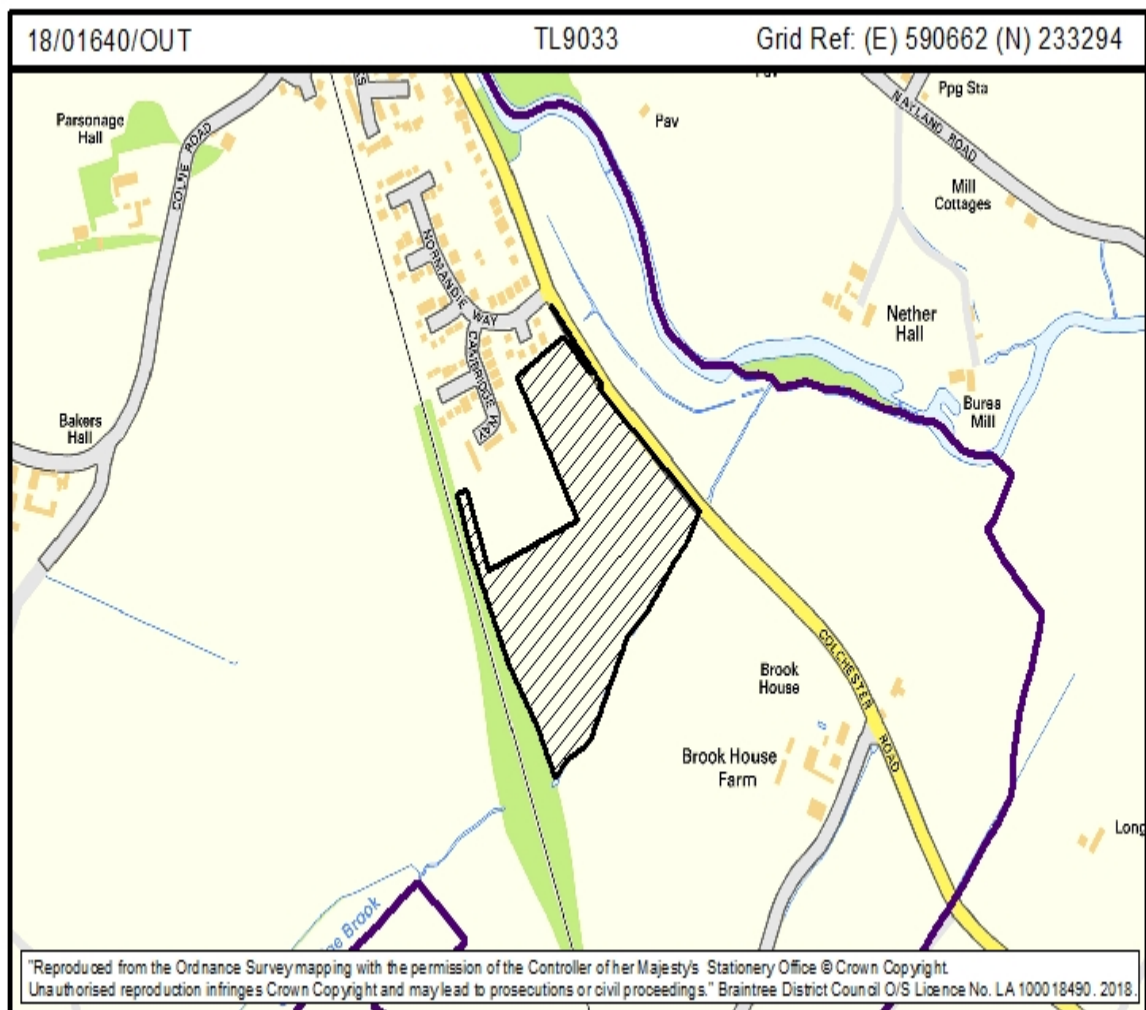
- 1 The proposed two-storey dwelling would be significantly greater in height, scale, and massing than the existing bungalow. The replacement dwelling therefore have a greater impact and be more intrusive in the landscape than the original bungalow. Further, the traditional style of the new dwelling is incompatible with the amount of internal space proposed, resulting in a contrived composition which is not considered to be good design. This only serves to exaggerate the prominence of the proposed dwelling and its harm to the open character of the countryside. Consequently, the proposal would also be contrary to the policies and objectives of the NPPF, Policies RLP15 and RLP90 of the Adopted Local Plan, Policies CS5, CS8 and CS9 of the Adopted Core Strategy and Policies LPP39, LPP55 and LPP71 of the Draft Local Plan.

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

PART A

APPLICATION NO: 18/01640/OUT DATE: 18.09.18
 VALID:
 APPLICANT: Gladman Developments
 Gladman House, Alexandria Way, Congleton Business Park, Congleton, CW12 1LB, UK
 DESCRIPTION: Outline planning application for the erection of up to 98 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from Colchester Road. All matters reserved except for means of access.
 LOCATION: Land Off, Colchester Road, Bures Hamlet, Essex

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



SITE HISTORY

18/00057/REF	Outline planning application for the erection of up to 98 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from Colchester Road. All matters reserved except for means of access.		
17/02291/OUT	Outline planning application for the erection of up to 98 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from Colchester Road. All matters reserved except for means of access.	Refused	26.06.18

POLICY CONSIDERATIONS

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

The Council is currently working on a Draft Local Plan, which was approved by the Council unanimously for consultation on the 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 need, which for Braintree is 716 dwellings per annum.

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

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

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

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

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

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

It should also be noted that the Council was previously working on a Site Allocation and Development Management Plan (the ADMP). This plan was subject to extensive public consultation in 2013 and 2014. The ADMP was not however submitted to the Planning Inspectorate, due to the decision to begin work on a new Local Plan, to take into account the most up to date

Government guidance. However parts of the ADMP have been rolled forward into the Draft Local Plan. It is therefore considered that it would be consistent with the provisions in paragraph 48 of the NPPF, to afford more weight in decision making to the parts of the Draft Local Plan which have been rolled forward from the ADMP, due to the more advanced stage reached by those elements.

National Planning Guidance

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

Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP9	Design and Layout of Housing and Mixed Use Areas
RLP10	Residential Density
RLP36	Industrial and Environmental Standards
RLP49	Pedestrian Networks
RLP56	Vehicle Parking
RLP50	Cycleways
RLP53	Generators of Travel Demand
RLP54	Transport Assessments
RLP55	Travel Plans
RLP62	Development Likely to Give Rise to Pollution or the Risk of Pollution
RLP64	Contaminated Land
RLP69	Sustainable Urban Drainage
RLP71	Water Supply, Sewerage & Drainage
RLP72	Water Quality
RLP80	Landscape Features and Habitats
RLP84	Protected Species
RLP88	Agricultural Land
RLP90	Layout and Design of Development
RLP94	Public Art
RLP106	Archaeological Excavation and Monitoring
RLP138	Provision of Open Space in New Housing Developments
RLP163	Infrastructure and Community Facilities
RLP100	Alterations and Extensions and Changes of Use to Listed Buildings and their settings
RLP67	Flood Risk in Undeveloped Areas

Braintree District Local Development Framework Core Strategy 2011

CS1	Housing Provision and Delivery
CS2	Affordable Housing
CS5	The Countryside
CS7	Promoting Accessibility for All
CS8	Natural Environment and Biodiversity
CS9	Built and Historic Environment

CS10	Provision for Open Space, Sport and Recreation
CS11	Infrastructure Services and Facilities

Braintree District Publication Draft Local Plan 2017

SP1	Presumption in Favour of Sustainable Development
SP2	Spatial Strategy for North Essex
SP3	Meeting Housing Needs
SP7	Development & Delivery of New Garden Communities in North Essex
LPP1	Development Boundaries
LPP17	Housing Provision and Delivery
LPP33	Affordable Housing
LPP50	Built and Historic Environment
LPP53	Provision of Open Space, Sport and Recreation
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
LPP74	Climate Change
LPP72	Green Buffers
LPP56	Conservation Areas
LPP44	Sustainable Transport
LPP78	Flooding Risk and Surface Water Drainage
LPP80	Sustainable Urban Drainage Systems
LPP82	Infrastructure Delivery and Impact Mitigation

Supplementary Planning Guidance

Affordable Housing Supplementary Planning Document (2006)
 Essex Design Guide for Mixed Use and Residential Areas (2005)
 External Lighting Supplementary Document
 Open Space Supplementary Planning Document
 Open Spaces Action Plan
 Parking Standards – Design and Good Practice (September 2009)

Other Guidance

Landscape Character Assessment (2006)

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 development is considered to

be of significant public interest and represents a departure from the Adopted Development Plan.

The Planning Committee are advised that this application is a resubmission to address the reason for refusal on the earlier scheme (application reference 17/02291/OUT).

SITE DESCRIPTION

The application site lies within the countryside, adjacent to the village envelope of Bures Hamlet. The site is located to the south of Bures Hamlet and is 5.6ha in size. To the north of the site is existing housing in Cambridge Way and Normandie Way. To the east is Colchester Road and beyond this is the River Stour and its valley floor. The site is bounded to the west by a railway track which serves the Sudbury branch line. The southern boundary of the site is marked by the Cambridge Brook.

The River Stour is the demarcation between Braintree District Council and Babergh District Council. Further eastwards is the Dedham Vale and Stour Valley Area of Outstanding Natural Beauty and the site lies within a proposed extension of the AONB.

The site comprises of agricultural land and is located in an elevated position, on the valley side.

A small portion of the site is located within Flood Zone 3.

PROPOSAL

This application seeks Outline Planning Permission, with all matters reserved except access, for the development of up to 98 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from Colchester Road.

All matters are reserved with the exception of the main vehicular site access which would be off Colchester Road and include a potential footway to link to the existing footway that runs a small way along Colchester Road from Normandie Way.

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

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

- Planning Statement;
- Air Quality Report;
- Soils and Arboricultural Quality Report;

- Badger Survey Report;
- Archaeological and Built Heritage Assessment;
- Design & Access Statement;
- Development Framework Plan
- Ecological Report;
- Flood Risk Assessment;
- Framework Travel Plan;
- Landscape and Visual Impact Appraisal;
- Noise Impact Assessment;
- Socio-Economic Sustainability Statement;
- Statement of Community Involvement;
- SUDS Checklist;
- Transport Assessment;
- Tree Survey and Arboricultural Impact Assessment
- Foul Sewerage and Utilities Statement
- Topographical Survey

The density of the development would be approximately 32 dwellings per hectare over an area of 3.1ha. The development framework plan also indicates public open space (including an equipped play area), amenity space, enhanced boundary planting, landscaping, potential garden extension for properties in Normandie Way and a SuDs feature.

This application follows an application determined earlier this year (17/02291/OUT). The application remains the same as the earlier application with regards dwelling numbers and site area. The applicant's indicate that a number of amendments have been made to the scheme since the refusal in June 2018, these include the inclusion of bungalows, revised attenuation basin and a revised indicative road layout. The Development Framework Plan, submitted with the application, indicates an area of land for the potential extension of gardens for properties in Normandie Way and an area outside the red line has been marked as a potential area for recreation land. It should be noted that both of these elements would require planning permission and at the time of writing, no such applications have been received by the Council.

CONSULTATIONS

Emergency Planning – No comments received.

BDC Ecology – No objections. Conditions suggested.

BDC Waste Services – No comments.

BDC Landscape Services – No comments received.

ECC Highways – No objection. Requires conditions to be imposed regarding the submission of a construction management plan, specific construction of the new access on to Colchester Road, upgrade of two bus stops to serve the

development, provision of a footway between Normandie Way and the development and Residential Travel Information Packs.

Essex Police Architectural Services – No comments received.

Anglian Water – No objection. Informatives suggested.

ECC SuDs – No objection. Conditions suggested.

BDC Housing Research and Development – In accordance with Policy CS2 of Adopted Core Strategy, the outline proposal for up to 98 residential dwellings requires 40% to be provided as affordable housing which would equate to 39 affordable dwellings. This is acknowledged in the submitted Planning Statement, which accompanies the application.

ECC Independent Living – No comments received.

NHS – In its capacity as the primary healthcare commissioner, NHS England has identified that the development will give rise to a need for additional primary healthcare provision to mitigate impacts arising from the development.

The capital required through developer contribution (£10,000) would form a proportion of the required funding for the provision of capacity to absorb the patient growth generated by this development.

Natural England – “It has been identified that this development falls within the ‘Zone of Influence’ (Zol) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). We advise that you must undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation, consulting with Natural England where necessary. You should not grant permission until such time as the HRA has been undertaken and the conclusions confirmed.

The site of the proposed development is approximately 1.7km from the boundary of the Dedham Vale AONB. The proposal would not have a significant effect on the views out of the AONB, however, it does fall within the boundary of the proposed AONB extension (the Stour Valley Project Area). This area was identified in the Alison Farmer Associates (AFA) Report (Special Qualities of the Dedham Vale AONB Evaluation of Area Between Bures and Sudbury) commissioned by the Dedham Vale AONB Partnership and is therefore at least of local landscape importance. For this reason, we strongly advise that you take into account the advice provided by the AONB Partnership.

The identification of this area is not currently a material consideration in relation to planning decisions, since Natural England has not yet considered it in relation to potential AONB status, although discussions are ongoing. However, the area is within the scope of the AONB Management Plan and is therefore a valued landscape as per Paragraph 109 of the National Planning

Policy Framework (NPPF), which highlights the need to protect and enhance valued landscapes through the planning system. The development site must be considered in its own right regarding impact on landscape, aside from the potential AONB designation.”

ECC Archaeology – No objection. Conditions suggested.

BDC Building Control – No comments received.

Campaign for the Protection of Rural England – No comments received.

BDC Land Drainage – No comments received.

Natural Grid – No comments received.

Environment Agency – No objection in flooding terms.

Essex Police Wildlife – No comments received.

North East Essex Badger Group – No comments received.

SCC Education – No comments received.

Essex Place Services Historic Buildings and Conservation Consultant - Concludes that the development will cause harm to historic assets (the full text of the consultation response is set out within this Report under the heading Impact upon the Historic Environment).

Colchester Borough Council – No comments received.

ECC Education – A development of this size can be expected to generate the need for up to 8.8 early years & childcare (EY&C). An additional 8.8 places would be provided at an estimated total cost of £153,313.60 at April 2018 prices.

This proposed development is located within the priority admissions area of Earls Colne Primary School which is part of the Braintree Group 7 Primary Forecast Group set out in Essex County Council’s document ‘Commissioning School Places in Essex’. The School has space for 379 pupils and is at or close to capacity in some year groups. Demand for school places in the area is rising significantly, as demonstrated by higher numbers in the lower year groups. According to our latest forecasts, the School will require 20 additional spaces by the academic year 2021/22.

The nearest Essex school to the site is at Chappel but this school would need expansion. Therefore payment of the primary school contribution will be required. However, bearing in mind a small surplus (less the need to retain 5%), in this case we agree to discount 6 places, and request payment for 23.4 pupils.

An additional 23.4 places would be provided at an estimated total cost of £357,575.40 at April 2018 prices. This equates to £15,281 per place and so, based on demand generated by this proposal set out above, a developer contribution of £357,575.40 index linked to April 2018, is sought to mitigate its impact on local primary provision.

The development would generate 19.6 secondary school places however data shows there is currently capacity at secondary level to meet the demand of this development.

Please note both primary and secondary pupils will need transport from this location. The cost for providing primary transport would be £371,469 index linked to April 2018. The cost of providing secondary transport would be £67,963 index linked to April 2018.

Sport England – The proposed development does not fall within either our statutory remit, or non-statutory remit and therefore Sport England has not provided a detailed response in this case,

Babergh District Council – Raise concerns about the impact the proposal would have on the local highway network, doctor's surgery and wider landscape.

Dedham Vale and Stour Valley Project – Objection

“The AONB team would question the need for this development at this location given that the site has not been allocated for residential growth in the adopted Core Strategy nor in the Publication Local Plan for Braintree. We consider that the proposal fails to satisfy the requirements of paragraph 170 of the NPPF by failing to recognise the location of the proposed development as a Valued Landscape. The proposal will not enhance the aims and objectives of the adopted Core Strategy for Braintree as identified above.

We consider that the scale and siting of the proposal will do little to conserve and enhance the valued landscape associated with Stour Valley Project Area or protect the existing landscape character and does not respect the existing settlement form. It has the potential to extend development into the countryside to the south east of Bures which is contrary to Braintree Local Plan policy and to encroach into the Stour Valley Project Area which is contrary to policies in the Dedham Vale AONB & Stour Valley Management Plan 2016-21, as endorsed by Braintree District Council and to section 8.27 of the Publication Local Plan for Braintree.

We question whether the sports provision element of the scheme would be deliverable as the land earmarked for sports provision is not available for such a use.

In conclusion we consider that for the reasons set out above, that this level of development at this location would result in an unacceptable and permanent change to this part of the Stour Valley Project Area which is a Valued

Landscape and to the landscape character and visual amenity of the existing community in the vicinity of the proposed development site.”

REPRESENTATIONS

Bures Hamlet Parish Council (22.10.2018) – Object:

- The additional traffic through the village with increased road safety implications
- The new access road onto the B1508 in an area of poor visibility
- Additional parking problems in the already congested area of Station Hill
- The lack of capacity on the commuter trains limiting their use
- The lack of retail facilities in the village with the consequential need to travel elsewhere for any food shopping
- The limited health services available
- If the village primary school were unable to accommodate all the additional children then this would result in some pupils being educated at Earls Colne as the proposed development is in the catchment area for that village school
- The proposed development would be extremely visible in the landscape and therefore unacceptably intrusive into an area which is being seriously considered as part of the extension of the local Area of Outstanding Natural Beauty, a policy which the local authority fully supports.

Bures St Mary Parish Council (15.10.2018) – Object:

- A development of 98 houses would have a serious adverse impact on the character of the neighbourhood.
- If the proposed development were permitted the extension to the ANOB would not be possible.
- Increased traffic on the B1508 could cause damage to timber framed building in the village
- The proposed development is both out-of-scale and out of character for the village of Bures.

Alphamstone and Lamarsh Parish Council (9.10.2018) – Object on the following grounds:

- Site lies outside the Development boundary for Bures Hamlet
- Special Landscape area and falls within a candidate area of the AONB extension
- Harmful to the intrinsic character and beauty of the countryside
- Unsustainable development as there are limited facilities in Bures Hamlet.
- Increased use of the private car

Bures Hamlet Parish Council and Bures St Mary Parish Council (15.10.2018)
– Strongly object:

- We feel it is important to emphasise our unity and our highly important role in representing Bures residents. At a Joint Planning Committee meeting of Bures Hamlet and Bures St Mary Parish Councils it was once again agreed that a development of 98 dwellings would have a serious adverse impact on the character of the neighbourhood.
- Petition with 500 signatures has been submitted to the Planning Inspectorate
- If the proposed development were permitted the extension to the ANOB would not be possible.
- Increased traffic on the B1508 could cause damage to timber framed buildings in the village
- Increased traffic would be dangerous to pedestrians
- Unmanageable strain on the services and facilities in the village
- The proposed development is both out-of-scale and out of character for the village of Bures.

313 representations received objecting to the proposal and making the following comments:

- D and A clearly shows something of interest in terms of archaeological nature.
- Doctors and school could be full and are controlled by SCC.
- Insufficient services for 98 new dwellings
- Poor road links
- Development would be out of keeping with the countryside and the proposed extension of the AONB
- It will damage the tourist throughput if the AONB is not extended
- Gladman are targeting Braintree as they see the planning department is in disarray with regards housing delivery.
- No additional parking at the nearby railway station
- Parking generally in Bures is poor
- Too close to the river and known problems with Anglian Water
- Empty properties and other brownfield sites in the village
- Questions the need for additional houses in this hamlet
- No local jobs
- Increase traffic could be dangerous
- Low broadband speed
- Gladman's recent questionnaire is biased in their favour
- Gross overdevelopment of the site
- Harm to local wildlife
- Bures St Mary have already contributed to housing supply
- Limited public transport options
- No large shops in Bures
- Loss of prime agricultural land
- Site regularly floods

- Disturbance during construction
- Insufficient utilities in the village to serve the development
- The land is Green Belt and should only be built on in very special circumstances
- The development will be far from discrete and will visually look like urban sprawl.
- This site is within the area governed by the Stour Valley Management Plan.
- Gladman are taking advantage of Braintree DC's inability to meet their 5 year land supply
- Double the size of the village
- Petition with 600 signatures has been sent to the Planning Inspectorate
- Development is on higher land and would be clearly visible from much of the village
- Increased pollution from more cars
- There is a strong need for the provision of sheltered accommodation in the village to enable elderly people to remain in their community which could lead to the freeing up of housing for local families
- New junction would not be safe
- Harm to an important valued landscape
- Concern that matters agreed by a s106 agreement will not be honoured
- An attempt to confuse local residents
- Increase in local crime
- No need for extra sports facilities
- Financial contributions should be required for services in Suffolk

2 representations in support have also been received.

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, an important material consideration in this case is whether the Council can robustly demonstrate a 5 Year Housing Land Supply. This will affect whether Paragraph 11 of the NPPF is engaged and consequently the weight that can be attributed to the Development Plan.

The Development Plan

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

The application site is located outside of a designated village envelope/town development boundary and as such is located on land designated as countryside in the Local Plan Review (2005) and the Core Strategy (2011).

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

The application site is not proposed for allocation for development in the emerging Local Plan. The proposed development is therefore contrary to the Draft Local Plan, in particular Policy LPP1 of the Draft Local Plan which states

that outside development boundaries development will be strictly controlled to uses appropriate to the countryside.

The proposed development is therefore considered to be contrary to the Development Plan and the emerging Draft Local Plan.

5 Year Housing Land Supply

In order to determine whether a given application for a housing scheme should be granted contrary to the provisions of the Development Plan, the Council needs to understand the current housing land supply situation.

In accordance with the PPG, the Council published the housing land supply situation in its Annual Monitoring Report dated 31 December 2017. Following best practice, the Council updated its position on the basis of completion rates in March and June 2018.

However, in July 2018, the Government published a revised NPPF. 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.

By paragraph 73 NPPF, 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. 'Local housing need' is defined as the 'standard method'. The new standard methodology applies a 3 step process as follows:

- Step 1 is the calculation of housing need from the household projections – this derives a baseline target. When new projections are published (usually every 2 years), these should be taken into account and the target recalculated. The 2016 based household projections were published on 20 September 2018;
- Step 2 is an adjustment to take account of affordability, using the most recent published local affordability ratio – this derives a target number of dwellings per annum. New affordability ratios are planned to be published every year. The most recent (2017) local affordability ratios were published in Spring 2018;
- Step 3 caps the level of any increase to 40% over the baseline target. The cap is only applicable if the target number of dwellings per annum, derived from steps 1 and 2, exceeds the baseline target + 40%.

The 5 Year Housing Land Supply target is then calculated as follows: target number of dwellings per annum x 5 years + appropriate buffer (the Council currently accepts that the appropriate buffer for the Braintree District is 20% as required by the NPPF as there has been a significant under-delivery of housing over the previous 3 years).

Since 31st March 2017 the Council has produced quarterly updates on the 5 Year Supply Assessment to assist in the consideration and determination of planning applications. To date, and based on these assessments, the Council within both Committee and Delegated reports, has acknowledged that it is unable to demonstrate a 5 year Housing Land Supply, and as such Paragraph 11 of NPPF (previously Paragraph 14 of the NPPF 2012) is engaged. However, applying paragraph 73 NPPF to its supply, the latest land supply update statement indicates a 5.83 years' supply.

That said, it is important to note that the latest update position is not an annual monitoring report, based on a comprehensive assessment of sites, in accordance with the revised definition of 'deliverable' in the NPPF. That will be done within the 2018 annual monitoring report which is due to be published on 31st December 2018.

In addition, the Council's latest 5 year supply figure of 5.83 years (as at 31st March 2018) must also 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.

Whilst the presumption in paragraph 11 of the NPPF is not engaged (due to the presence of a 5 Year Housing Land Supply), until the Council has ascertained that it can demonstrate a robust supply within its annual monitoring report and given the Local Plan context described above, it is considered that only moderate weight can be attached to the policies of the Development Plan which restrict the supply of housing (specifically Policy RLP2 of the Adopted Local Plan and Policy CS5 of the Adopted Core Strategy). This will need to be considered as part of the overall planning balance, along with any benefits and harms identified within the detailed site assessment considered below.

SITE ASSESSMENT

Site Location and Designation

Policy RLP2 of the Adopted Local Plan states that 'new development will be confined to areas within Town Development Boundaries and Village Envelopes. Outside of these areas countryside policies will apply'.

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

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

Policy RLP53 of the Adopted Local Plan states that major new development proposals that are likely to generate significant levels of travel demand will only be permitted where:

- Direct public transport services exist, or there is potential for the development to be well served by public transport
- The layout of the development has been designed to ensure that access to existing or potential public transport lies within easy walking distance of the entire site.

Paragraph 108 of the NPPF states ‘in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users; and
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.’

The strategy set out in the Emerging 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 Braintree, planned new garden communities, Witham and the A12 corridor, and Halstead”.

The proposed site was submitted to the Council as part of the ‘Call for Sites’ exercise (site reference number: BURE 165).

It was decided at Local Plan Sub-Committee on 15th December 2016 that the site referred to as BURE 165 should not be allocated for residential development. The recorded minutes state: *‘In discussing Sites BURE165 - Land at Colchester Road, Bures Hamlet and BURE166 – Land South of Cambridge Way, Bures Hamlet, Members of the Sub-Committee noted that both of these sites had been allocated for residential development. However, it had subsequently been reported that such development could impact on local infrastructure, particularly the provision of primary education and on the proposed extension of the Dedham Vale Area of Outstanding Natural Beauty. Furthermore, land at Site BURE166 was protected by a covenant for open space, or agricultural use. In the circumstances, it was proposed that the*

residential development allocation should be removed from both sites.'
Minutes from Local Plan Sub-Committee 15th December 2016, page 74

Bures Hamlet is classed as a Second Tier village in the Draft New Local Plan. Second Tier villages are described as: *'those which may not serve a wider hinterland but provide the ability for some day to day needs to be met, although they lack the full range of facilities of a Key Service Villages. Development of a small scale may be considered sustainable within a second tier Village, subject to the specific constraints and opportunities of that village.'*

It is necessary to consider the proposal having regard to the NPPF in terms of sustainable development and to assess whether there are any other material planning considerations and benefits arising from the proposed development (such as helping the District Council meet demand for housing supply and the provision of Affordable Housing) that are outweighed by any identified adverse impacts of the proposed development.

Bures Hamlet and Bures St Mary lie either side of the Stour River and although they sit in two different counties (Essex and Suffolk) the two settlements are read as one with regards services. A public house, hairdressers, delicatessen, train station are located in Bures Hamlet and a primary school, church, post office, doctors surgery, recreation ground and community centre are located in Bures St Mary. However the village does not offer any professional services such as banks.

The village is served by a number of bus services. There is a regular bus service connecting Bures to Colchester and Sudbury Monday to Saturday. There is a school service that links Bures with Bury St Edmunds. No buses run on a Sunday. An hourly train service between Bures and Sudbury and Bures and Marks Tey operates between 5.40am and 11.30pm Monday to Friday, between 6.30am and 11.30pm, on Saturdays and between 7:50am and 10:50pm on Sundays.

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

In this regard Officers do not object to the proposed development in terms of its location. In Officers opinion, a reason for refusal based on the sustainability of the location would prove difficult to defend.

Sustainable Development

The application is supported a report entitled 'Socio-Economic Sustainability Statement'.

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

an economic 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.

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

(1) Economic Impacts

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

Creation of jobs - The report suggests a construction spend of some £10.4 million. This will contribute to the creation of jobs both directly and indirectly during construction of the development and indirectly through increased on-going demand for goods and services as a result of the occupation of the proposed dwellings. The report suggests that the proposed development could help to sustain 89 full time equivalent jobs during the construction phase spread over a three year build out and some 97 full time equivalent jobs in

associated industries. This could also contribute towards supporting the local labour force. It also contends that the proposal would encourage 5 local residents to seek construction employment.

Contribution to local economy - up to 98 residential dwellings could be home to 235 new residents, with 120 of them being economically active, bringing increased spending power to Bures Hamlet of just under of £3 million. The benefits of increased household expenditure to the local economy would be enhanced and ensure the long term economic competitiveness of Bures Hamlet.

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

Reduce the cost of housing - redress this imbalance by offering a wider range of house types which are more affordable thus encouraging young families to the area.

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

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

It is noted that Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. New Homes Bonus payments are listed as one form of 'local financial consideration'. Officers do not consider that the payment of New Homes Bonus is a material consideration as the payment is not necessary to make the proposed development acceptable in planning terms. Reference to this payment is therefore for information only and Members should not consider this as being a material consideration when determining this application.

(2) Social Impacts

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

Provision of Market Housing - Boosting the supply of land for housing. The development proposal is not required to contribute to the District's 5 year supply of housing land and furthermore the environmental harm in terms of impact on the landscape is such that the site would not have been selected for housing development.

Choice of homes - The proposed development of up to 98 net additional dwellings will provide a balanced mix of dwellings providing a choice of type and size in response to the identified housing demand and market assessment for Braintree. New homes in Bures Hamlet will enable people to access the housing market locally rather than being forced to move away due to lack of available housing.

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

Provision of Affordable Housing - The application proposals would deliver 40% affordable homes (up to 39 dwellings), as required by Policy CS2 of the Adopted Core Strategy.

Public Open Space Provision - The development proposals provide new public and informal open space, a recreational route around the development, a landscape setting and an equipped children's play area.

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

The environmental impacts of the proposal are dealt with later in this report within the section entitled Landscape and Visual Impact.

Design, Appearance and Layout

Paragraph 124 of the NPPF 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 states that developments should aim to 'establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit'.

Policy CS9 of the Adopted Core Strategy states that 'the Council will promote and secure the highest possible standards of design and layout in all new development'.

This is an outline application where design, layout and landscaping are reserved matters. The application includes a Development Framework Plan that indicates the key aspects of the design and layout, such as access, public open space and landscape features, SuDs features, and equipped play areas. It is indicated that the density of the development of 98 dwellings would be 32 dwellings per hectare.

Officers are concerned as to whether this is an efficient use of the land, given that the developable area within the site is relatively small. The constraints of the site dictate buffers to the railway line for the protection of amenity and an area which falls into flood zones.

The Framework Plan submitted as part of the application illustrates an apparent isolation of the proposed development from the village with a proposed open space that segregates the proposal from the existing edge of settlement and leaves existing back gardens exposed to an area of public activity. The Design and Access Statement illustrates a scheme that has little in common with the village it should relate to, given the proposed density of 32 dwellings per hectare, it does however demonstrate that the number of dwellings can be accommodated on the site.

Officers acknowledge that the number of units sought can be accommodated on the developable land as shown, however officers have concerns regarding the indicative layout. Nonetheless this application is seeking outline permission and these details would be considered further at the Reserved Matters stage.

Landscape and Visual Impact

Paragraph 170 of the NPPF is a policy firmly aimed at protecting the environment, landscape character and biodiversity of the countryside. Policy CS8 of the Adopted Core Strategy states that development must have regard to the character of the landscape and its sensitivity to change and where development is permitted it will need to enhance the locally distinctive character of the landscape in accordance with the landscape character assessment. Policy RLP80 of the Adopted Local Plan states that development that would not be successfully integrated into the local landscape will not be permitted. These policies are relevant when considering the landscape impact of this proposal.

The emerging Draft Local Plan includes policies which are relevant to this site. Policy LPP1 seeks to control development outside of development boundaries to uses appropriate to the countryside to protect the intrinsic character and beauty of the countryside. Policy LPP72 seeks to protect defined areas between settlements and requires proposals to demonstrate that the development is located on an area which has the least detrimental impact on the character of the countryside and does not reduce the visually sensitive buffer between settlements or groups of houses.

The site is within the Stour River Valley Character Area as defined and described in the 2006 Braintree Landscape Character Assessment.

The key characteristics of the Stour River Valley Character Area are:

‘a patchwork of pasture and woodland of the valley sides and meadows...on the valley floor which would be sensitive to changes in land management’

‘The secluded and relatively tranquil character of the network of quiet rural lanes and public rights of way is also sensitive to change’

‘The skyline of the valley slopes is visually sensitive, with potential new development being highly visible within views across and along the valley floor. Views to the valley sides from adjacent Landscape Character Areas are also sensitive. There is a relatively strong sense of historic integrity within the character area as a result of the presence of historic features (such as derelict water mills and churches), meadows within the valley floor and also isolated historic farmsteads and structures’

‘Overall this character area has relatively high sensitivity to change’

The site and surroundings are typical of this character description.

The Landscape Character Assessment provides the following landscape planning guidelines:

- Consider the visual impact of new residential development and farm buildings upon valley slopes
- Maintain cross-valley views and characteristic views along the valley
- Ensure any new development on valley sides is small-scale, responding to historic settlement pattern, landscape setting and locally distinctive building styles

The site overlooks the Rolling Valley \ Farmlands area, as defined in the Suffolk Landscape Character Assessment. This landscape is described as a ‘rich and varied landscape with its concentration of prosperous medieval towns and villages’ and as retaining ‘its historic patterns, to both the agricultural and built environment’.

Babergh and Mid Suffolk Councils have jointly published Landscape Guidance in 2015, a document which summarises the key landscape features and provides key design principles amongst which are: ‘Maintain the distinctive settlement pattern, ensuring the sense of separation between settlements is maintained’

In summary: the landscape baseline studies describe the area as characteristic of the local landscape character and sensitive as a receptor landscape for development. The importance of maintaining views and retaining the pattern of settlements within the countryside is emphasised.

Dedham Vale Area of Outstanding Natural Beauty (AONB) and Stour River Valley Project

The site and its surrounding countryside are representative of the landscape character of the area and it has been included in a candidate area for the extension of the Dedham Vale Area of Outstanding Natural Beauty (AONB).

The site is within the area of the Dedham Vale AONB and Stour Valley Management Plan 2016-2021. The management plan is required by the Countryside and Rights of Way Act (CRoW) and is adopted as statutory policy by the local authorities where the AONB is located. The Management Plan describes the Dedham Vale and Stour Valley as a 'nationally important asset'.

The plan describes a vision for the area as 'a distinctive landscape with agriculture and wildlife at its core that retains its natural beauty and special qualities, which is conserved and enhanced by a wide-ranging partnership. It is an area where residents feel a strong sense of belonging, visitors are welcomed to enjoy the countryside and the heritage is understood and appreciated by all'

From these planning guidelines, the key considerations for this site are its potential visual impact, any impact on views, impact on settlement pattern and ensuring that the landscape setting in the area is maintained without detriment to the Stour River Valley.

Sections 88 and 89 of the CRoW Act state that each Local Authority or Conservation Board shall prepare and publish a Management Plan for their AONB. Management Plans are adopted statutory policy of the Local Authorities within which the AONB is located and have been recognised as a 'material consideration' in the planning decision making process. In terms of the application of the Management Plan for the Dedham Vale AONB & Stour Valley in this case, it is considered that a recent appeal in Steeple Bumpstead is relevant to the current application.

The pertinent points in the appeal decision (APP/Z1510/W/17/3173352) which are considered to apply to this application are as follows:

"44. Dedham Vale Area of Outstanding Natural Beauty (AONB) lies some 25 km to the east. (In the case of Bures, this distance is considerably less, at c 1.5km) Nonetheless, the Stour Valley, which includes Steeple Bumpstead and Bumpstead Brook and land immediately around the settlement, is within the Stour Valley Project Area. This is important because the area is included in the Dedham Vale AONB and Stour Valley Management Plan 2016-2021. There are aspirations to increase the extent of the AONB along the Stour Valley, although not nearly as far as Steeple Bumpstead.

45. I note that when determining the planning application the Council made no reference to the management plan. Nonetheless, substantial reference has been made to it during the appeal, I note that there has been an objection on landscape grounds from the AONB and SRV project team, and these matters are material to my consideration of the proposal. I have paid careful attention to the management plan which in its opening paragraph identifies the combined area as one of England's finest landscapes with riverside meadows, picturesque villages and rolling farmland.

46. Throughout the management plan it refers frequently to the combined area. Much of the Stour Valley Project Area is identified as sharing similar characteristics to the AONB. It is predominantly rural with a medieval settlement pattern. There are patterns of woodland on valley sides with the river running through it and a scattering of historic picturesque villages.

47. Although not shown on any proposals map the Stour Valley Project is established and staffed, assessment has been made of the area's landscape within it and principles set for management objectives. New housing is welcomed where it sits well with the patterns of historic villages and where it contributes to the natural beauty and special qualities of the AONB and the Stour Valley. It should reflect the natural beauty of the Stour Valley and be of an appropriate scale, conserve historic features and reflect the local character. Whilst it is not a local designation in terms of CS policy CS8, because it is not on the proposals map, nonetheless I attribute the inclusion of the area in the management plan significant weight.

48. LP Policy RLP80 amongst other matters requires development not to be detrimental to the distinctive landscape features and habitats of the area such as trees, hedges, woodlands, grasslands, ponds and rivers. Development that would not successfully integrate into the local landscape will not be permitted.

49. Paragraph 109 of the Framework identifies that the planning system should contribute to and enhance natural and local environments by amongst other matters protecting and enhancing valued landscapes. The term valued is not defined. There have been several hundred objections from local residents, some of whom gave evidence at the Inquiry. I am in no doubt from the many representations about this matter that the landscape south of Steeple Bumpstead is held in high regard locally."

To summarise, it is considered that this appeal decision confirms that the Dedham Vale AONB & Stour Valley Management Plan 2016-2021, and its policies should be treated as a material consideration in the determination of this application. It is considered that the Management Plan Policies are not met by the development proposal as it conflicts with the following requirements:

- Support development that contributes to appropriate economic development and contributes to the conservation and enhancement of the AONB and Stour Valley
- Protect the area and its setting from developments that detract from its natural beauty and special qualities including its relative tranquillity
- Support the aspiration to extend the AONB boundary to the west of its existing limit
- Maintain the local distinctiveness of the AONB and Stour Valley
- Support development that contributes to the conservation and enhancement of local character
- Promote the appeal and distinctiveness of villages to help develop the visitor attractiveness

Visual Impact of the Proposed Development

The Landscape and Visual Impact Assessment submitted with the application considers the landscape effects of the development and the potential visual impact. The report includes an appraisal of the planning context, assessment of the visibility of the site, a field appraisal of the landscape and visual impact of the development and commentary on mitigation measures. The report follows the methodology set down in the Guidelines for Landscape and Visual Impact Assessment (3rd Edition) and provides an appropriate level of information for a development of the size proposed.

The site is visible from the B1508 and from the footpaths across the Stour valley to the east and from the rising ground on the other side of the valley. To the north of the site visibility is restricted by the built-up area of the village and to the west by the railway line and intervening vegetation. On this basis, the landscape and visual impact of the development will be most notable, as assessed by the Council's Landscape Consultant, from the east, north east and south east in views across the valley, both near and middle-distance views will be impacted by the development.

The submitted assessment considers the relationship between the site and the existing settlement of Bures Hamlet and notes that the proposed development will extend the settlement of Bures closer to that of Mount Bures. The applicant's point out that there are no views of Mount Bures from the site because of intervening topography and vegetation. The two settlements are separated by a swathe of farm land which runs from the valley floor and up the valley sides between the two built up areas. The distance between the settlements is only 0.65 km at present, if the development were built then this would reduce to approximately 0.5km between the built-up areas and from some viewpoints on the valley floor the view of the two settlements will be apparently closer. This would be a landscape character impact and contrary to the Babergh and Mid Suffolk Landscape Guidance for the character area which identifies that the sense of separation between settlements should be maintained.

The submitted assessment notes that *'the Cambridge Brook would form a definitive boundary to the southern part of the village, with the public open space along the Brook providing an attractive village edge on the approach from the south east.* The Brook flows from the south west down the valley side and passes through the site on route to the Stour in the flood plain below. In terms of the landscape character along the Brook, the development would change this from an entirely agricultural setting to a setting with a housing development to one side and the Brook would no longer flow thorough open countryside from source to its confluence with the River Stour.

The submitted assessment also makes reference to the potential development of sports facilities on the recreation land adjacent to the site: *'The proposed sports facilities within the indented field, would provide a resource for the village, and would not be an incongruous addition, close to the edge of the settlement. By developing the site and the adjoining field in this way a strong*

relationship will be established between the new housing and the rest of the existing settlement.'

A sports ground is already laid out on the valley floor next to the community centre. It is not known whether there is a demand for more sports facilities in the village or whether the development of sports facilities and car parking on the Braintree recreation land would be supported by the local community. There would be a landscape character impact in developing the recreation land for car parking and sports facilities. The recreation land has the potential to be used as a public access open space which could be lower key than a sports ground and give access to enjoy the land in a setting in keeping with the existing rural village edge. There are existing panoramic views from the recreation land out across the Stour Valley which would be lost if the development proceeded and this potential impact is not considered in the applicants LVIA.

On this basis, the landscape and visual impact of the development will be notable in the local area and the views from the footpaths in the Stour Valley will be impacted by the development. Views from the housing to the north of the site will also be affected.

The Emerging Draft Local Plan

Policy LPP1 of the emerging Draft Local Plan sets the site outside of the defined development boundaries for the area and Policy LPP72 of the emerging draft Local Plan seeks to protect areas between settlements.

The development proposals would have the effect of reducing the extent of open countryside between Bures Hamlet and Mount Bures which lies to the south west of the site. Although the proposed development would not result in a coalescence of the settlements it would erode and compromise the value of the landscape of the valley slopes between the settlements. The development, therefore can be considered contrary to these draft policies.

Evaluation of Landscape Value

The submitted Landscape and Visual Impact Assessment assesses the landscape 'value' of the application site and its immediate environs.

The importance of the landscape value assessment has become heightened since the publication of the NPPF (2018) where in paragraph 170 it states that 'planning policies and decisions should contribute to and enhance the natural and local environment by: 'protecting and enhancing valued landscapes, geological conservation interests and soils'.

The presence of having 'valued' landscape characteristics can be given more weight when assessing if an application can be refused on landscape grounds. The assessment of whether a site is a valued landscape is usually based on one of the methods set down in the 'Guidelines for Landscape and

Visual Impact Assessment' published by the Landscape Institute and Institute of Environmental Management and Assessment (third edition).

These value assessments evaluate a range of factors (landscape condition and quality, scenic quality, rarity, representativeness, conservation interests, recreation value, perceptual aspects and associations with cultural or historical events / figures) and draw conclusions as to whether a landscape is a 'valued landscape' based on the assessment.

The site currently has no public access, is not used directly for recreational purposes and has no planning designations. It is part of the landscape setting for the well-used footpaths through the Stour Valley including the St Edmund long distance footpath, which connects Brandon in Suffolk with Manningtree in Essex via the Stour Valley and Dedham Vale AONB.

The site and its surrounding countryside are representative of the landscape character of the area and it has therefore been included in a candidate area for the extension of the Dedham Vale AONB.

The site is within the area of the Dedham Vale AONB and Stour Valley Management Plan 2016-2021. The management plan is required by the Countryside and Rights of Way Act and is adopted as statutory policy by the local authorities where the AONB is located. The management plan describes the Dedham Vale and Stour Valley as a '*nationally important asset*'. The plan describes a vision for the area as '*a distinctive landscape with agriculture and wildlife at its core that retains its natural beauty and special qualities, which is conserved and enhanced by a wide-ranging partnership. It is an area where residents feel a strong sense of belonging, visitors are welcomed to enjoy the countryside and the heritage is understood and appreciated by all*'

The applicants have assessed the landscape 'value' of the site as medium, the sensitivity as medium and quality of the site as medium. The submitted assessment concludes that the development would have a medium (slight adverse) impact on the townscape and landscape in the immediate area of the site and a slight adverse change in the wider landscape character.

This conclusion does not give sufficient weight to:

- the value of the site (which is considered to be high due to its scenic quality, condition, representativeness and importance in terms of the enjoyment by residents and visitors of the Stour Valley)
- the sensitivity of the site (which is considered to be high in terms of the contribution that it makes to the Stour Valley landscape; its position within an area covered by the Dedham Vale AONB and Stour Valley Management Plan and its placement in the countryside as part of the belt of agricultural land which separates the settlements of Bures Hamlet and Mount Bures).
- The impact of the proposed development on the countryside south of Bures Hamlet which is within the Management Plan area and in which

the site plays a role in the wide-ranging views from the valley floor across the valley sides where the development would be located.

The site and its surroundings are a sensitive landscape and one which is of high value. This is reflected in the descriptions in the landscape baseline studies and in the Management Plan for the Dedham Vale AONB and Stour Valley. The inclusion of the site and its surroundings within the candidate area for an extension to the AONB and the detailed research which has been undertaken as background to this proposal add weight to the sensitivity of the site and its setting in this part of the Stour valley.

The development of 98 dwellings and associated infrastructure would have an adverse visual impact on the Stour Valley landscape. The site is elevated above the Colchester Road and holds a key position in the swathe of countryside which separates the settlements of Bures Hamlet and Mount Bures. It is visible from footpaths and thoroughfares within the valley and from the Bures St Mary Conservation Area. The development of the site would be contrary to the emerging Draft Local Plan Policies LLP1 and LLP72.

In terms of landscape character, the applicants have assessed the site as having medium quality. Their assessment of effects is slight adverse to moderate adverse overall.

The position of the site on the valley sides, its significance in terms of separating Bures Hamlet from Mount Bures and the status of the site as part of the candidate area for the AONB extension lead the LPA to assess the site as having a high landscape value and a high quality. The effect of the development of the site would be a substantial adverse change to the landscape in this sensitive location.

Conclusion on Landscape Impacts

There would be an impact of the development on the local landscape; this includes both a visual impact to various receptors – views from nearby houses on Normandie Way, views from footpaths and properties in the valley and a perception that the site has been developed.

Mitigation planting could alleviate these visual impacts to some extent but the overall effect would be of a developed site with peripheral landscaping rather than open countryside on the valley slopes.

In terms of landscape character, the applicants have assessed the site as having medium quality and sensitivity and the wider area as having medium quality and sensitivity, with the exception of the Dedham Vale AONB, which they have assessed as very high sensitivity. Their assessment of effects is slight adverse to moderate adverse overall.

This assessment, in the view of the Council's commissioned landscape consultant, does not properly consider the role that the site plays as part of the setting for the Stour Valley and as the setting for the villages of Bures

Hamlet and Mount Bures. The position of the site on the valley sides, its significance in terms of separating Bures Hamlet from Mount Bures and the status of the site as part of the candidate area for the ANOB extension results in the site being assessed as having a high landscape value and a high quality. The effect of the development of the site would be a substantial adverse change to the landscape in this sensitive location. Overall, the site is considered to represent a valued landscape in the terms of the NPPF.

In an appeal decision from July 2017 (APP/Z1510/W/16/3160474 land at West Street, Coggeshall) the Inspector found that 'a site might be important because of its position in the landscape as part of it rather than being important, rather like the pieces of a jigsaw puzzle'. The appeal for residential development was dismissed in that case. In a similar way, the site has importance as the buffer between settlements and as part of the wider landscape in the Stour Valley.

The development of the site would be contrary to the emerging Local plan Policies which are concerned with landscape character and with settlement setting. It would result in adverse impacts upon the visual amenity of the Stour Valley.

To conclude, having reviewed the impact on the landscape character, the visual amenity of the Stour Valley and having considered the local and national planning policies, it is considered that the proposal would cause landscape harm that would result from the development of the site, contrary to Policies CS5 and CS8 of the Adopted Core Strategy, Policy RLP80 of the Adopted Local Plan and Policies LLP1 and LLP72 of the emerging Draft Local Plan.

Impact on Neighbour Amenity

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.

Existing properties in Normandie Way back onto the site and are those which would be closest to the development. Whilst their outlook would change significantly as a result of the development, private views are not protected through the planning system. Although the design and layout of the development is not known at this stage, it is accepted that it could be designed so that the development would not result in an unacceptable loss of privacy or amenity to neighbouring dwellings. The Development Framework Plan shows an area of informal and amenity green space to the rear of the existing properties and details would be needed at the detailed design stage to ensure that the amenities of all properties that abut the site are safeguarded.

Impact Upon the Historic Environment

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 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.

Policies RLP90 and RLP100 of the Adopted Local Plan and Policies LPP56 and LPP60 of the Draft Local Plan seek to conserve local features of architectural, historic and landscape importance and the setting of listed buildings. Policy CS9 of the Adopted Core Strategy requires developers to respect and respond to the local context particularly where proposals affect the setting of a listed building.

The consultation response from the Council's Historic Buildings/Conservation Advisor states:

"The site of the proposed development is south of Bures which is intersected by the River Stour and demarcates the boundary between Babergh District Council and Braintree District Council. As such, the settlement is separated into two adjoining Conservation Areas – Bures Hamlet and Bures St Mary. Whilst it is important that the two designations are considered simultaneously, this consultation is orientated towards assessing the impact of the proposed upon the Bures Hamlet Conservation Area (CA) and those heritage assets which reside within Braintree District.

Approaching from the south-east along Colchester Road, the Conservation Area and historic core of the village is currently detached from its open landscape by twentieth century development which has extended along Colchester Road. This has caused a degree of harm to the historic village by altering how the conservation areas are experienced and interpreted. This harm is perceivable from Colchester Road and the public footpaths which traverse the valley, cutting across the low lying flood plains and allowing the settlement to be experienced within its historic landscape setting.

The proposed development will extend the existing twentieth century residential sprawl further to the south-east, resulting in the historic core of the settlement being further detached from its open landscape whilst also further encapsulating the low lying flood plains of the River Stour which provides the village core's immediate setting. Travelling along Colchester Road, the perceived impact of the development can be reduced (though not eliminated) at detailed design stage through the implementation of a robust landscaping buffer along this route (taking into account winter views). The harm will, however, remain perceivable from the public footpaths to the north of the site where the continued band of residential sprawl will detract from how the conservation areas are experienced and interpreted by contributing to the sense of enclosure of the surrounding landscape. For the purposes of planning, this harm would be considered less than substantial and cumulative to that which has already incurred (to both conservation areas).

With regards to the Grade II listed Brook House, the proposed development would result in less than substantial harm to the heritage asset by the further encroachment of residential development into the asset's setting.

The harm to designated heritage assets within the district of Babergh has not been assessed although it is noted that the development is likely to cause a degree of harm to Bures Hall Farmhouse.

On balance, it is concluded that the proposed development would result in less than substantial harm to the Bures Hamlet and Bures St Mary Conservation Areas, as well as to numerous heritage assets within the valley.

Whilst at the lower end of less than substantial, it is considered that this level of harm to the heritage assets should be afforded considerable importance and weight, and it is concluded that the harm the proposal would have does not outweigh the public benefits of the proposals.

Highway Issues

Paragraph 109 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

A plan showing the proposed vehicular access from Colchester Road (a classified road) is provided within the Transport Assessment. The submitted plan shows that visibility splays of 43m metres can be achieved in both

directions. The speed limit in the location of the proposed access is where it changes from 60mph to 30mph when entering the village. The plan indicates that the 30mph speed limit will be located further south west along Colchester Road.

With the National Planning Policy Framework in mind, particularly paragraph 32, the Highway Authority has reviewed the planning application and supporting Transport Assessment against its own Development Management Policies to ensure the proposal site can be accessed safely, any additional trips would not be detrimental to highway safety and capacity and to ensure as far as possible the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.

Having reviewed the Transport Assessment, the Highway Authority is content with its conclusions.

The Highway Authority has also used its own knowledge of the highway network and information it holds in this regard to ascertain whether the network would be able to accommodate the proposal, further what, if any, improvements would be needed. Subject to the content of its recommendation as detailed above, the Highway Authority is satisfied the proposal would not be detrimental to highway safety.

A number of letters have raised concerns regarding the safety of Colchester Road and the impact the additional vehicular movements will have on it.

Although there are many objections from third parties regarding the safety of Colchester Road, the Highway Authority has confirmed that the proposals are acceptable from a highway and transportation perspective and the proposals are therefore considered to be in accordance with Policy RLP53 of the Adopted Local Plan and Policy LLP44 of the Emerging Draft Local Plan.

Trees and Ecology

Policy RLP80 of the Adopted Local Plan states that proposals for new development will be required to include an assessment of their impact on wildlife and should not be detrimental to the distinctive landscape features and habitats of the area such as trees, hedges, woodlands, grasslands, ponds and rivers. Development that would not successfully integrate into the local landscape will not be permitted. All new development will be expected to provide measures for any necessary mitigation of their impact upon wildlife and for the creation and management of appropriate new habitats. Additional landscaping including planting of native species of trees and other flora may be required to maintain and enhance these features.

Policy 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. Where appropriate, the Planning Authority will impose conditions and/or planning obligations to:

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

The site comprises an arable field with narrow field margins of limited intrinsic ecological importance. The site is bounded by Cambridge Brook to the south-east, a wooded railway embankment to the southwest and hedgerows to the north-east and north-west. The scheme seeks to retain hedgerows and other habitats where practicable, with substantial landscape enhancements proposed to buffer the adjacent watercourse and railway embankment.

An off-site active badger sett has been confirmed adjacent to the site as well as a slow worm population within boundary scrub. Protective measures and mitigation have been proposed to address ecological impacts to these protected species and comply with relevant legislation. Precautionary measures have also been set out in respect of safeguarding nesting birds during construction.

Opportunities for ecological enhancement have been included within the scheme to create habitats of importance within public open space and structural landscaping. These include new boundary planting and a wetland SuDs feature.

Based on the successful implementation of the mitigation measures as set out in the submitted document, no significant adverse effects are predicted as a result of the proposed development. Mitigation and enhancement measures could be secured via appropriately worded planning conditions.

Habitats Regulations Assessment /The Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy

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 for the Blackwater Estuary SPA and Ramsar site.

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.

Drainage and Flood Risk

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

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

A Flood Risk Assessment (FRA) has been submitted with the application and identifies the site as being largely located within Flood Zone 1 (low risk). An area along the south eastern boundary is located within Flood Zone 2 and 3 (medium to high risk respectively). The area of fluvial (river) flooding corresponds also with an extent of surface water flooding.

The FRA has considered the potential impact of the development on surface water runoff rates, given the increase in impermeable areas post-development. These rates have been calculated, and it has been demonstrated that surface water can be managed such that flood risk to and from the site following development will not increase. This will be achieved through restricted greenfield discharge rates and an appropriately sized detention basin, with pumped outfall to watercourse. The FRA indicates the proposed development would be operated with minimal risk from flooding and would not increase flood risk elsewhere. The development should therefore not be precluded on the grounds of flood risk and surface water drainage.

Following the submission of amended and additional information the Lead Local Flood Authority (LLFA) at Essex County Council do not raise an objection to the proposal subject to a series of conditions as noted above.

It is therefore considered that the application complies with Policy CS8 of the Adopted Core Strategy, Policies RLP67 and RLP69 of the Adopted Local Plan and emerging Local Plan Policies LLP78 and LPP80.

SECTION 106 AGREEMENT

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

Affordable Housing – Policy CS2 of the Adopted Core Strategy states that for developments of this size, affordable housing will be provided on-site with a target of 40% affordable housing provision on sites in rural areas. Subject to confirmation from the Council's Housing Enabling Officer on the mix, this could be secured through a S106 Agreement if the application were acceptable in all other respects.

Education – Essex County Council has requested a contribution of £153,313.60 towards Early Years and Childcare provision, £357,575.40 towards local primary provision, £371,469 towards primary transport and £67,963 towards secondary school transport.

Health – NHS England advise that the development is likely to impact the GP practice within the vicinity of the application site and that the practice do not have sufficient capacity to meet the demand arising from a development of this size. A financial contribution was therefore requested of £10,000 to mitigate the impacts of the proposal.

It is acknowledged that local residents have raised concerns with regard to the impact of the development on the schools and healthcare services provided locally. However, both the Essex County Council as Education Authority and the NHS previously considered that financial contributions would allow them to carry out the necessary infrastructure improvements to mitigate against the impacts of this development.

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

The Council's Open Space SPD sets out further details on how these standards will be applied. A development of this size would be expected to make provision on-site for informal and amenity open space and an outdoor equipped play area.

A financial contribution would be sought for outdoor sport and allotments. The provision/ contribution is based upon a formula set out in the SPD and is

currently not determined given the application is in outline form. There is also a requirement to secure the on-going maintenance of any public open space provided on site. These aspects could be secured through a S106 Agreement.

Subject to the above matters being incorporated into a legal agreement to ensure their provision, the development would be made acceptable in these respects. No such agreement is in place at the present time and therefore the development fails to satisfactorily mitigate the impacts of the development on local infrastructure and is contrary to Policies CS2, CS10 and CS11 of the Adopted Core Strategy, Policy RLP138 of the Adopted Local Plan and Policy LLP82 of the Draft Local Plan.

Other Matters

Loss of Agricultural Land – Paragraph 170 of the Framework states that “Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land.” BMVL encompasses land within grades 1, 2 and 3a. The application identifies the grade of the agricultural land is mostly 2 with a small area in the north east corner of the site being 3a. The Natural England Agricultural Land Classification Maps indicate that the whole site falls within grade 3. The vast majority of agricultural land within this part of Essex falls within grade 2 agricultural land and this site is likely to fall within the classification of Best and Most Versatile Agricultural Land (BMVL). However, it is inevitable that some development of such land will be necessary in order to meet the District’s housing requirements.

Contaminated Land – The Geoenvironmental Report submitted to support the application confirms that further work is required to be undertaken to ensure the land is suitable for residential development. This can reasonably be controlled by condition on any grant of consent.

Noise – A noise screening report has been submitted in support of the application. This identifies that whilst being in a rural area the site would be impacted by road and railway noise. The report advises that acoustic fencing, uprated glazing and ventilation should be incorporated into the detailed scheme to help screen noise but does not consider that the current noise climate would cause significant impact on residential amenity.

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

Foul Drainage – A report submitted with the application indicates that foul water drainage for the system will be constructed and connected to the existing public sewerage network which is owned and operated by Anglian Water. Anglian Water has advised that existing sewerage system at present has available capacity for these flows.

CONCLUSION & PLANNING BALANCE

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

Although the Council can currently demonstrate a 5 Year Housing Land Supply (5.83 years as at 31st March 2018), this latest update position, as identified above, is not an annual monitoring report based on a comprehensive assessment of sites in accordance with the revised definition of 'deliverable' in the NPPF. Therefore the current position of 5.83 years does not represent a robust housing supply position. In addition, and as highlighted above, the methodology for calculating 5 year supply under a new Local Plan must add on the backlog from previous years, which will on adoption of the Local Plan, result in a higher 5 Year Housing Land Supply requirement.

The Government's policy objective of significantly boosting the supply of homes as highlighted in Paragraph 59 of the NPPF is an important material consideration in this case, however this in itself is not considered to be sufficient to outweigh the conflict with the Adopted Development Plan as identified above. In contrast, the above factors which affect the robustness of the Council's current 5 Year Housing Land Supply, are also considered to be important material considerations, which in Officers view, justify attributing only moderate weight to the policies of the Development Plan which restrict the supply of housing (specifically Policy RLP2 of the Adopted Local Plan and Policy CS5 of the Adopted Core Strategy).

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).

It is acknowledged that the provision of market and affordable housing would bring social and economic benefits. It is also recognised that the building of houses generates economic benefits through the construction process and also the spending power of the residents. This is applicable to housing development generally and the benefit should be given some weight.

The proposed development would deliver public benefits (i.e. the contribution to the housing supply shortfall; the provision of affordable housing, short term construction related employment).

Paragraph 196 of the NPPF advises that where a development will lead to less than substantial harm this should be weighed against the public benefits. In this case it is concluded that the level of harm to the heritage assets would be less than substantial and therefore should be afforded considerable importance and weight. It is therefore considered that this level of harm would weigh against the public benefits of the proposals.

It is concluded that the site has importance as the buffer between settlements and as part of the wider landscape in the Stour Valley that development on the site would result in an unacceptable detriment to a valued landscape which would not be outweighed by the benefits of the development. The development is contrary to the NPPF, Policies RLP2 and RLP80 of the Adopted Local Plan, Policies CS5 and CS8 of the Adopted Core Strategy and Policies LPP1 and LPP72 of the Emerging Draft Local Plan.

Finally, a S106 Agreement has not been secured to ensure the delivery of affordable housing and public open space and financial contributions towards health services and school places in order to mitigate the impacts of the development.

When considering the planning balance and having regard to the benefits as identified above, and having regard to the requirements of the NPPF as a whole, Officers have concluded that the benefits of this proposal do not outweigh the harm of the proposal and the conflict with the Development Plan. Officers therefore consider the proposed development does not constitute sustainable development and recommend that planning permission is refused.

RECOMMENDATION

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

1 The application site sits outside the Village Envelope of Bures Hamlet in the open countryside where residential development is restricted. The site has importance as the buffer between settlements and as part of the wider landscape in the Stour Valley that development on the site would result in an unacceptable detriment to a valued landscape which would not be outweighed by the benefits of the development. The development is contrary to the NPPF, Policies RLP2 and RLP80 of the Adopted Local Plan Review, Policies CS5 and CS8 of the Adopted Core Strategy and Policies LPP1 and LPP72 of the Emerging Draft Local Plan.

2 The proposed development would extend the existing twentieth century residential sprawl, resulting in the historic core of the settlement being further detached from its open landscape, whilst also further encapsulating the low lying flood plains of the River Stour which provides the village core's immediate setting therefore causing less than substantial harm to the Conservation Area.

Furthermore the proposed development would result in less than substantial harm to the Grade II listed Brook House by the further encroachment of residential development into the asset's setting.

Whilst the level of harm in this case would be less than substantial harm, taking into account the cumulative impact upon the designated heritage assets, the benefits of the proposal do not outweigh the harm to the identified. The proposal is therefore contrary to the NPPF, Policies RLP90 and RLP100 of the Adopted Local Plan, Policy CS9 of the Adopted Core Strategy and Policies LLP50 and LLP60 of the Draft Local Plan.

3 Policy CS2 of the Braintree District Core Strategy states that affordable housing will be directly provided by the developer within housing schemes. Policies CS10 and CS11 of the Core Strategy and Policy RLP138 of the Local Plan Review require proposals for new residential development to provide or contribute towards the cost of improvements to community facilities and infrastructure appropriate to their location.

Braintree District Council has adopted an Open Space Supplementary Planning Document (SPD) which sets out the process and mechanisms for the delivery and improvement of open space in the Braintree District.

The proposed development would trigger the requirement for:

- The delivery of 40% affordable housing on site;
- A financial contribution towards childcare, early years and primary and secondary school places and transport;
- A financial contribution towards primary health services;

- The provision, maintenance and delivery of public open space, outdoor sports and allotments.

These requirements would need to be secured through a S106 Agreement. At the time of issuing this decision a S106 Agreement had not been prepared or completed. As such the proposal is contrary to the above policies and adopted SPD.

SUBMITTED PLANS

Location Plan	Plan Ref: CSA/3465/110
Framework Plan	Plan Ref: CSA/3465/114

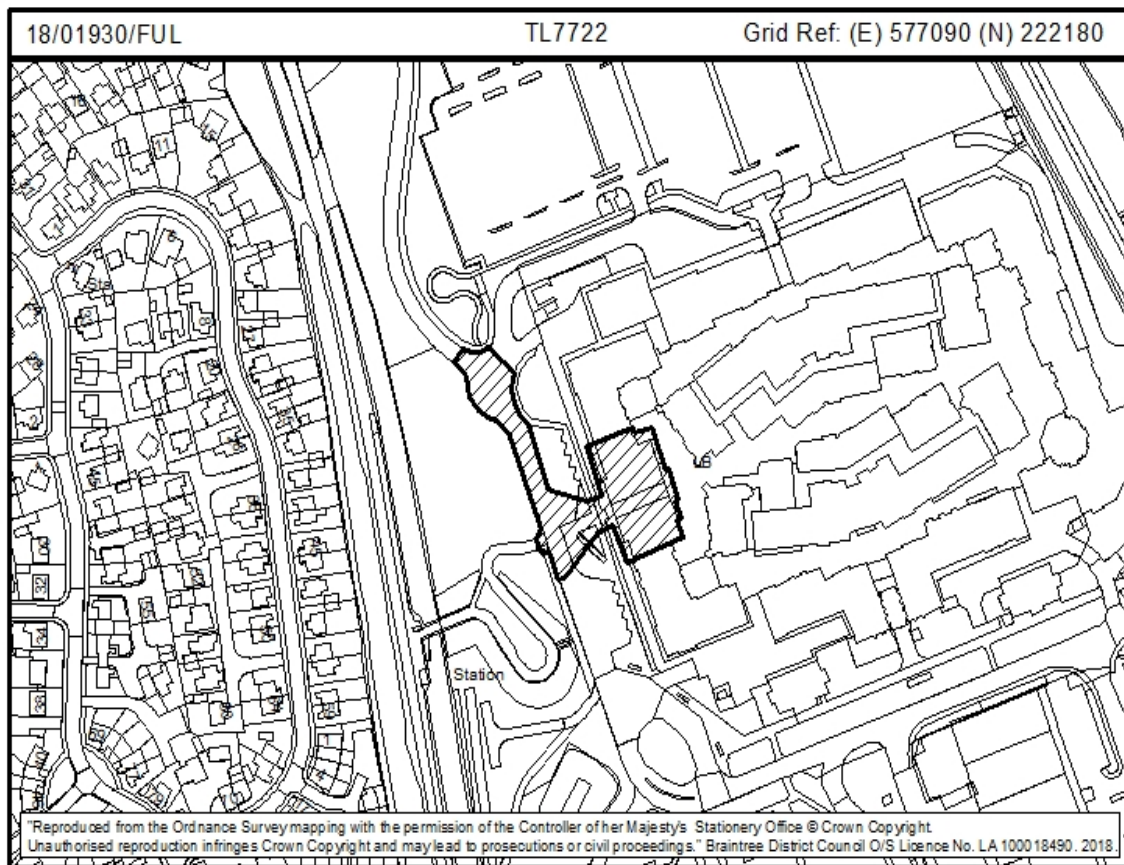
CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

AGENDA ITEM NUMBER 5g

PART A

APPLICATION NO: 18/01930/FUL DATE: 26.10.18
VALID:
APPLICANT: Land Securities
C/O Agent
AGENT: Mr Kieron Gregson
Carter Jonas, One Chapel Place, London, W1G 0BG
DESCRIPTION: Part demolition of Unit C1/4 and B8 and construction of new anchor unit incorporating retail at ground floor and a storage only mezzanine. Works include alterations to the rear service yard, relocation of existing cycle rack to the southern entrance, new shopfront to Unit B8, creation of footpath along western approach heading to the northern entrance from train station and landscaping works.
LOCATION: Freeport Village, Charter Way, Braintree, Essex

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



SITE HISTORY

93/00031/NONDET	Partial redevelopment of Retail and Business Park; erection of a retail food store within Class A1 with associated car parking, landscaping, petrol filling station, highway works including the completion of the Chapel Hill Link Road	Appeal Dismissed	08.04.94
06/00017/REF	Add two no. uplighters to pylon sign granted consent under 05/01674/ADV	Appeal Allowed	13.06.06
13/00002/REF	Continued use of eight car parking spaces (previously ancillary parking to Freeport shopping centre) for the stationing of a temporary pod structure associated with car assessment (by way of visual inspection) and subsequent purchase with any cars purchased removed from site by daily collection	Appeal Dismissed	06.06.13
00/00274/FUL	Erection of permanent awning	Granted	08.06.00
00/01158/FUL	Erection of buildings to accommodate ancillary accommodation	Granted	19.12.00
00/01159/FUL	Proposed change of use of Units N and P to retail and erection of additional retail units (Blocks Y and Z)	Granted with S106 Agreement	31.07.01
01/00570/FUL	Erection of leisure unit and realignment of service road	Granted	02.07.01
01/01657/ADV	Erection of four flag poles	Granted	21.11.01
04/01846/FUL	Variation of restrictive user conditions on 97/225/FUL & 00/1159/FUL. Proposed change of use of indoor play area from Class D2 to B1; management offices to Class A1; Bradwells unit from Class A3 to A1 & maintenance store to Class A1	Granted	16.12.04
04/02099/FUL	Provision of swimming pool, associated parking,	Granted with S106	23.05.05

	commuter parking, reconfiguration of entrances to factory outlet centre and existing parking and servicing arrangements	Agreement	
88/00163/P	Development Of Land For Industrial, High Technology, Retail Warehouse And Leisure Uses	Deemed Refused	20.07.88
88/00941/P	Development Of Land For Industrial, High Technology, Retail Warehouse And Leisure Uses	Refused	28.06.88
92/01160/OUT	Erection of Retail Superstore, Car Park and Service Yard, and Petrol Filling Station, together with Provision of Road Links.	Withdrawn	20.03.02
93/00032/OUT	Partial redevelopment of existing Retail and Business Park; erection of a retail food store with associated car parking, landscaping, petrol filling station and highway works including the completion of the Chapel Hill Link Road	Withdrawn	20.03.02
93/00033/OUT	Partial redevelopment of existing Retail and Business Park; erection of a retail food store with associated car parking, landscaping, petrol filling station and highway works including the completion of the Chapel Hill Link Road		28.10.97
93/00344/OUT	Partial redevelopment of Retail and Business Park; erection of a retail food store within Class A1 with associated car parking, landscaping, petrol filling station, highway works including the completion of the Chapel Hill Link Road		25.05.93
93/00414/OUT	Partial redevelopment of Retail and Business Park; erection of a retail food store within Class A1 with associated car parking,	Withdrawn	11.08.93

93/01056/OUT	landscaping, petrol filling station, highway works including the completion of the Chapel Hill Link Road Proposed Business Centre, Industrial Park and Food Superstore incorporating the provision of the Chapel Hill Link Road	Withdrawn	20.03.02
94/00326/OUT	Proposed Business Centre, Industrial Park, Food Superstore and provision of Chapel Hill Link Road		12.09.94
95/00409/OUT	Proposed commerce centre, non-food retail warehousing, construction of Chapel Hill link road, parking and other access roads	Granted with S106 Agreement	16.12.96
97/00224/FUL	Completion of Chapel Hill Link Road, including sound attenuation measures	Granted with S106 Agreement	31.03.98
97/00225/FUL	Demolition of part existing retail warehouse park, replacement with leisure & retail village, including ancillary Class D2 & A3 uses, Class D2 & Class A3 development, associated landscaping, rail halt, sound attenuation, car parking, servicing and access roads	Granted with S106 Agreement	31.03.98
99/00379/FUL	Proposed increase in size to 2 no. free standing food units (Pizza and Burger Bars on original approved proposal)	Granted	05.05.99
99/00587/FUL	Ancillary facilities comprising soft play area and male creche	Granted	07.06.99
99/01491/ADV	Display of illuminated site identification and shopping mall directories	Granted	27.09.00
99/01497/ADV	Display of various shop signs to units	Granted	20.10.00
05/01674/ADV	Erection of free standing non illuminated pylon sign	Granted	07.10.05
05/01754/FUL	Proposed amendments to 04/02099/FUL - amendments to Northern	Granted	27.10.05

05/01755/FUL	Entrance to Outlet Centre Amendments to siting and design of swimming pool building and associated changes to car parking approved under planning permission ref. 04/02099/FUL	Granted with S106 Agreement	19.12.05
05/02249/ADV	Add two no. uplighters to pylon sign granted consent under 05/01674/ADV	Refused then allowed on appeal	31.01.06
10/00003/SCR	Screening Opinion - Footbridge		13.07.10
11/00755/FUL	Variation of condition no. 32 of approved application 04/01846/FUL (to allow the sale of books)	Granted	25.08.11
12/01214/FUL	Continued use of eight car parking spaces (previously ancillary parking to Freeport shopping centre) for the stationing of a temporary pod structure associated with car assessment (by way of visual inspection) and subsequent purchase with any cars purchased removed from site by daily collection	Refused then dismissed on appeal	01.11.12
17/00219/FUL	Reconfiguration of a service yard wall and associated landscaping	Granted	28.04.17
17/01200/NMA	Application for a non- material amendment to vary Condition 4 of planning permission 17/00219/FUL - reconfiguration of a service yard wall and associated landscaping	Pending Considerati on	
18/02047/FUL	Re-modelling of existing shopfronts in accordance with the submitted Design Code throughout the centre.	Pending Considerati on	
18/02048/FUL	The formation of a new slip road and associated access improvements off Millennium Way / B1018 (including enhancements of the Millennium Way / B1018	Pending Considerati on	

roundabout); extension to the existing northern car park to create up to additional 400 car parking spaces; amendments to the southern car park entrance and exit; and associated landscaping improvements

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 need, which for Braintree is 716 dwellings per annum.

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

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

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

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

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

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

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

National Planning Guidance

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

Braintree District Local Plan Review 2005

RLP2 Town Development Boundaries and Village Envelopes

RLP49	Pedestrian Networks
RLP50	Cycleways
RLP51	Cycle Parking
RLP53	Generators of Travel Demand
RLP54	Transport Assessments
RLP56	Vehicle Parking
RLP62	Development Likely to Give Rise to Pollution or the Risk of Pollution
RLP63	Air Quality
RLP64	Contaminated Land
RLP65	External Lighting
RLP66	Flood Risk in Developed and Urban Areas
RLP77	Energy Efficiency
RLP80	Landscape Features and Habitats
RLP81	Trees, Woodland Grasslands and Hedgerows
RLP90	Layout and Design of Development
RLP91	Site Appraisal
RLP92	Accessibility
RLP93	Public Realm
RLP112	Town Centre Uses
RLP113	Shopping Areas

Braintree District Local Development Framework Core Strategy 2011

CS6	Retailing and Town Centre Regeneration
CS7	Promoting Accessibility for All
CS8	Natural Environment and Biodiversity
CS9	Built and Historic Environment
CS11	Infrastructure Services and Facilities

Braintree District Publication Draft Local Plan 2017

SP1	Presumption in Favour of Sustainable Development
SP4	Providing for Employment and Retail
SP6	Place Shaping Principles
LPP1	Development Boundaries
LPP10	Retailing and Regeneration
LPP13	Freeport Outlet Centre
LPP44	Sustainable Transport
LPP45	Parking Provision
LPP50	Built and Historic Environment
LPP51	An Inclusive Environment
LPP55	Layout and Design of Development
LPP67	Natural Environment and Green Infrastructure
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
LPP77	Renewable Energy within New Developments
LPP78	Flooding Risk and Surface Water Drainage
LPP80	Sustainable Urban Drainage Systems
LPP81	External Lighting

Other Material Considerations

Site Allocations and Development Management Plan
 External Lighting Supplementary Planning Document
 Essex Parking Standards Design and Good Practice 2009

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 application site measures approximately 0.29ha and consists of three existing retail units (no's C1; C4 and B8) in Freeport Shopping Village. The units are currently occupied by the retailers Next; Bench and The North Face. The site also includes a small area of front and rear curtilage to these units and a section of the Freeport access road which runs parallel to the unit's rear elevation.

The site forms part of the existing built form of Freeport Shopping Village and other existing units directly adjoin it to either side. The site frontage forms part of the internal circular shopping mall with Freeport Village whilst to the rear it is orientated towards the Freeport access road (Charter Way).

In terms of the wider context there is existing residential development to the west on the far side of the Braintree railway line whilst to the north and south lies further commercial development.

PROPOSAL

The applicant seeks full planning permission for the part demolition of the existing retail units and the construction of a new anchor unit incorporating retail at ground floor and storage only at mezzanine level. This would result in two of the existing units being merged to form a single unit.

The proposed development would also include alterations to the rear service yard, the relocation of an existing cycle rack, a new shopfront to Unit B8, the creation of a footpath along the western approach heading to the northern entrance from the train station and new signage and landscaping works.

The proposal would result in a gross internal floor area increase of 467sqm with the anchor unit consisting of an enlarged combination of the previous two units occupied by Next and Bench which would sit alongside the upgraded North Face Unit. The anchor unit itself would be occupied by Polo Ralph Lauren. The proposal would generate 10 full-time and 10 part-time jobs.

This application forms the first stage in the applicant's plans (as new owner of the outlet centre) for the substantial overhauling and upgrading of Freeport Shopping Village. Two further planning applications have also been submitted to cover works to the wider site and the general principle of these design and layout upgrades are supported at Officer level. The anchor store application has been submitted first due to commercial deadlines which the applicant is required to adhere to, however it has been carefully designed to fit into the wider plans for the outlet centre.

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

- Design and Access Statement;
- Planning Statement;
- A full set of drawings;
- Sustainability Statement;
- Transport Assessment.

CONSULTATIONS

BDC Environmental Health

No objection subject to conditions relating to the following due to the proximity of residential dwellings to the west of the site:

- Hours of working;
- Hours of vehicular movements linked to construction;
- No burning of construction refuse;
- Submission of Construction Management Plan for approval;
- Submission of piling noise/vibration for approval if piling to be used.

ECC Highways

No objection subject to conditions requiring a new section of footway on the western side of Charter Way and a relocated pedestrian crossing on Charter Way as show, in principle, on the submitted drawings. Also require the updating of Freeport's Travel Plan to take the proposal into consideration.

Essex Police

No objection. No concerns having reviewed the application details.

ECC SUDs

As this does not constitute a major application we have no further comments to make.

Request that the use of standard SUDs conditions and informatives is considered if relevant for the development.

Anglian Water

No response received.

REPRESENTATIONS

No representations were received.

REPORT

Principle of Development

The application site is located within Freeport Outlet Shopping Village, an area which has no specific allocation under the Adopted Local Plan. Adopted Policy CS6 of the Adopted Core Strategy is however applicable and states that the town centres of Braintree, Halstead and Witham will be the primary location for retail use within the District. It also states that retail proposals will be based on the sequential approach.

Policy LPP13 of the Draft Local Plan specifically seeks to allocate Freeport Village as a factory outlet centre which shall be maintained for the purpose of a discount shopping outlet centre. Although not yet adopted Policy, the emerging Policy does indicate the Council's intended direction of travel in policy terms.

The applicant's proposal is designed to bring an 'anchor' store into the shopping village. The anchor store would still be a discount factory outlet store but would contain what the applicant considers to be a particularly high end retailer which would act as an anchor for the overall shopping village and attract customers from a particularly wide catchment area.

In terms of the need for a Retail Impact Assessment, the NPPF and Policy LPP10 of the Draft Local Plan require development proposals of over 2,500sqm to undergo such an assessment. The current proposal would result in a gross internal floor area increase of 467sqm and sits significantly below this threshold. No Retail Impact Assessment is therefore required.

With regard to the Sequential Test, Policies RLP112 and RLP113 of the Adopted Local Plan, Policy LPP10 of the Draft Local Plan and paragraph 86 of the NPPF require such a test for development proposals for retail

development outside of the defined town centre areas of Braintree, Halstead and Witham.

The Planning Practice Guidance provides further guidance stating that it should be demonstrated that the suitability of more central sites has been considered as well as whether there is scope for flexibility in the format/scale of the proposal to enable it to be accommodated in a central location.

In this case, the proposed development is specifically for an anchor store for the outlet centre shopping village. By its very nature it must be located within the existing outlet centre to function as such. Officers do not therefore consider that a specific formal Sequential Test is necessary and it is accepted that the proposal for a factory outlet anchor store could not be located in any other location in terms of existing sites or development opportunities.

Overall, the general principle of the proposed development is considered acceptable.

Design, Layout and Landscaping

Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Draft Local Plan require a high standard of design and layout in all developments. Policy CS9 of the Adopted Core Strategy requires 'the highest possible standards of design and layout in all new development'. At the national level, the NPPF is also clear in its assertion (para 56) that 'good design is a key aspect of sustainable development' and that (para 58) developments should 'function well and add to the overall character of the area...establish a strong sense of place....are visually attractive as a result of good architecture and appropriate landscaping'.

The applicant proposes to construct a new anchor store retail unit. In order to achieve this the partial demolition of the existing units would be required, along with the re-configuration of the roof slope and the elevations of the existing building.

The applicant underwent extensive pre-application advice and worked closely with BDC Officers to produce a high quality design which will meet the requirements of both the NPPF and Policy RLP90 of the Adopted Local Plan.

The new anchor store building is proposed as a landmark store which would be clearly visible from key viewpoints both within and outside Freeport Shopping Village. It is located on the central east to west axis of the shopping village and will provide a clear focal point.

In terms of its design, the applicant has sought a building which will be seen as *'a crisply contemporary, but sensitive insertion within the established context'*. The building has a converted barn theme and would stand taller than the existing buildings, but not excessively so. It would present a strong gable frontage to the interior of the shopping centre using high quality materials and

would also include flat roofed elements to either side which would integrate with the existing built form.

The proposed materials include curtain wall glazing, grey metal frames to the main gable portal and oak cladding with roof tiles to match the existing. The flat roofed buildings would use multi-coloured buff brick with dark grey fenestration.

To the rear, what is currently a bland service elevation would be greatly improved. Again a strong gable would be presented to the public realm with high quality materials such as oak cladding and grey metal cladding to the main portal. There would also be a number of windows to the adjacent flat roofed elements to create a more active frontage.

Overall this is considered to be a well-designed high quality building which will have the gravitas to act as a landmark anchor store whilst still having the ability to integrate successfully with its existing surroundings.

As part of the above works a new shopfront is also proposed to the existing North Face (Unit B8) store with a new gable frontage being created, extensive glazing and a rendered front. Again Officers consider that this is a high quality design proposal which is supported.

Other Elements

The applicant also proposes a number of other elements to the scheme consisting of:

- Alterations to the rear service yard including formation of a new entrance from Charter Way;
- Re-location of the existing cycle rack to a position closer to the southern entrance to the outlet village;
- Landscape improvements;
- New signage and associated landscape works to direct visitors arriving by train to the southern entrance; and
- A new pedestrian path along the western side of Charter Way.

The applicant proposes to create a new service access to the anchor unit from Charter Way. The existing pedestrian crossing on Charter Way would be relocated to allow a vehicular access point to be created in its place from Charter Way to the rear of the Anchor Store unit, where a sliding gate to the service area would be installed. Some adjustments to the existing landscaping would be required with the removal of some low level planting and small trees. The existing cycle shelter would also be removed and would be re-located closer to the southern entrance to the shopping village but within the application site boundary.

It is also proposed to construct a new footway along the western side of Charter Way, to provide improved access from the station. This path would lead to the new pedestrian crossing which would in turn link to the existing

footway network. A new welcome sign would be positioned at the beginning of this footway to aid legibility for pedestrians arriving from the station. This is not objectionable in principle but would require a separate application for advertisement consent.

Policy RLP81 of the Adopted Local Plan and Policy LPP69 of the Draft Local Plan encourages landowners to retain, maintain and plant native trees and hedges. In terms of the landscape improvements, the existing low level ornamental planting and two existing trees positioned in front of the anchor store location would be removed. The new landscape scheme would include ten new young Birch trees in free standing planters underplanted with grasses which would replace these trees, along with planters containing grasses and wildflowers. The applicant also proposes improved landscaping adjacent to the new vehicular access to the anchor store service area from Charter Way. A condition is recommended to cover the detail of this.

Highways and Parking

The proposed development would generate an additional gross internal floor area of 467sqm. The Essex Parking Standards would require a maximum of 24 new parking spaces for an increase of this size in a standard A1 retail unit. For stand-alone shopping centres however, the guide states that consideration should be made on a case by case basis. Existing parking for Freeport Outlet Centre consist of 716 spaces in the northern car park and 952 in the southern car park. The adjacent Braintree Retail Park site also contains 586 spaces with an extant planning permission to increase this to 656 spaces.

The applicant does not propose any new parking under the current proposal. However, another application is currently pending consideration for a major extension to the existing Outlet Centre car park with an increase of around 400 spaces. It is clearly the applicant's intention therefore to provide a significant increase in parking provision for the outlet centre. Although this is a material planning consideration (given that a valid application for this car park extension is pending) the current application must be considered on its own merits.

Officers note that 300sqm of the 467sqm increase in floorspace would be used for storage only rather than shop floorspace. In addition to this, the proposal is for a modest extension to an existing established unit and not for a new unit or a more substantial extension. It is therefore considered that reliance on the existing parking provision at Freeport Outlet Centre is acceptable. It is also noted that the applicant has every intention of significantly enlarging the existing car park, subject to the pending planning application being found to be acceptable.

In terms of vehicular movements, the applicant has submitted a Transport Assessment in support of their application which has been assessed by ECC Highways. The Statement identifies that the proposed development would generate approximately 9 additional vehicle movements during the Friday PM peak (1700 – 1800hrs) and 17 additional vehicle movements during the

Saturday peak hour (1200 – 1300hrs). One HGV would also visit the site per week for scheduled deliveries during off peak hours only. This would be supplemented by courier deliveries but these would not involve HGV's.

The Transport Assessment concludes that the number of vehicle movements the proposed development would create would have no material impact on the highway network and ECC Highways have no objection to the proposal.

Amenity

Policies RLP90 and RLP118 of the Adopted Local Plan and Policy LPP55 of the Draft Local Plan also require that the impact of the proposal on the amenity of the area must be acceptable. In this case the proposal is for an extension to an existing retail unit on a well-established outlet shopping centre. There are no residential properties adjacent to the site and the proposed development is in accordance with the established use of the site.

The closest dwellings are located to the west, approximately 120m from the site and are positioned on the far side of the Braintree Railway Line. The Council's Environmental Health Officer has requested a number of conditions to ensure the amenity of the occupiers of these dwellings is protected during the construction phase of the proposed development.

Overall, it is not considered that the proposal would have a detrimental impact upon the amenity of the area.

Other Matters

Flood Risk and Surface Water Drainage

The application site is located in Flood Zone 1, where there is a low risk of flooding.

Essex County Council were consulted as the Lead Local Flood Authority and offered no specific comment as the application is not for major development. It was requested that the use of their standard drainage conditions was considered and utilised if appropriate. Given that the proposal constitutes an extension to an existing unit Officers do not consider that there is a requirement for such conditions.

S106 Agreement

The outlet centre has a complex history in terms of s106 Agreements with a number of Agreements currently in place. Under the other two larger planning applications which cover the wider site it is the applicant's intention to agree a single new s106 Agreement which would cover the Outlet Centre as a whole. Officers are in agreement that this would be a sensible approach and that it would, if the Authority is minded to grant planning permission ensure that a new, clearly applicable and easy to reference s106 Agreement is in place for the Outlet Centre site.

For the purposes of the current anchor store application it is proposed to issue a Deed of Release which would apply until the above described new s106 Agreement was in place. The Deed of Release will apply to the new anchor store development only, with the existing legal agreements remaining in place for the rest of the Outlet Centre site, again until the new s106 Agreement is in place if planning permission is granted for the associated pending applications.

The Deed of Release is necessary because the existing s106 Agreements for the site placed restrictions on the individual size of retail units permitted within the Outlet Centre and the overall retail floorspace allowed which would be breached by the current proposal.

Officers consider that the breaches would not be significant and that the proposed Deed of Release is acceptable.

CONCLUSION

The applicant has recently acquired Freeport Outlet Centre and is in the process of seeking planning permission for a major upgrading and improvement to the site via a number of planning applications. The first stage in this process is the current planning application which seeks permission for the partial demolition of the identified existing units and the erection of a new anchor store building.

The proposed building is a well-designed, high quality proposal which would kick start the regeneration of the Outlet Centre site and complies with adopted and emerging planning policy. It would also generate 10 full-time and 10 part-time jobs and would have demonstrable benefits particularly in terms of the economic aspect of sustainable development.

Overall the proposal is considered to represent a sustainable development which will have the ability to act as a catalyst to the further regeneration of Freeport Outlet Centre.

RECOMMENDATION

It is therefore RECOMMENDED that subject to:

The proposed Deed of Release being agreed between the Local Planning Authority and the Applicant

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

Alternatively, in the event that a suitable Deed of Release 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.

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

Proposed Floor Plan	Plan Ref: A-00-003	Version: C
Roof Plan	Plan Ref: A-00-006	
Roof Plan	Plan Ref: A-00-007	
Landscape Masterplan	Plan Ref: A-00-008	
Existing Block Plan	Plan Ref: A-00-002	Version: C
Location Plan	Plan Ref: A-00-001	Version: C
Proposed Floor Plan	Plan Ref: A-00-004	Version: A
Proposed Floor Plan	Plan Ref: A-00-005	Version: A
Proposed Sections	Plan Ref: A-01-001	Version: A
Existing Elevations	Plan Ref: A-02-001	
Proposed Elevations	Plan Ref: A-02-002	Version: B
Existing Elevations	Plan Ref: A-02-003	
Proposed Elevations	Plan Ref: A-02-004	Version: A

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

Reason

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

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

Reason

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

- 3 No above ground development shall commence unless and until samples of the materials to be used on the external finishes of the proposed development 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 Prior to first occupation of the development hereby approved details of all gates/walls or other means of enclosure shall be submitted to and approved in writing by the local planning authority. The details shall include position, design, height and materials of the enclosures. The enclosures as approved shall be provided prior to the occupation of the development hereby approved and shall be permanently retained as such.

Reason

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

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

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

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

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

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

Reason

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

- 6 Details of any proposed external lighting to the site shall be submitted to, and approved in writing by, the local planning authority prior to installation. The details shall include a layout plan with beam orientation and a schedule of equipment in the design (luminaire type, mounting height, aiming angles, luminaire profiles and energy efficiency measures). All lighting shall be installed, maintained and operated in accordance with the approved details. There shall be no other sources of external illumination.

Reason

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

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

Monday to Friday - 08:00-18:00 hours

Saturday - 08:00-13:00 hours

Sunday - No work

Bank Holidays - No work

Reason

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

- 8 There shall be no vehicular movements to, from or within the premises outside the following times:-

Monday to Friday 0800 hours - 1800 hours

Saturday 0800 hours - 1300 hours

Sundays and Bank Holidays no vehicular movements

Reason

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

- 9 Prior to the commencement of the development, the applicant must provide a detailed construction management plan detailing how the developer intends to ensure that the following matters are managed on the development site in relation to:

i. Noise The developer should have regard to BS:5228- Part 1 - Code of practice for noise and vibration control on construction and open sites.

ii. Dust - The developer should have regard to BS:5228- Part 2 - Code of practice for noise and vibration control on construction and open sites.

iii. Air Quality.

Reason

To protect the amenities of the occupiers of nearby residential properties and the surrounding area. The details are required prior to the commencement of development to ensure that residents' amenity is safeguarded from the outset.

- 10 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 in consultation with the Head of Environmental Services 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.

- 11 The anchor store shall not commence trading until a detailed scheme for the proposed new section of footway on the western side of Charter Way between the rail station and the northern car park and the relocated pedestrian crossing facility on Charter Way as shown in principle on the planning application drawings has been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details prior to the commencement of trading at the anchor store.

Reason

To ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.

- 12 No trading shall take place from the anchor store until Freeport's overall Travel Plan has been updated to take the proposal into account and submitted to and improved in writing by the Local Planning Authority.

Reason

To ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.

- 13 Prior to the commencement of trading from the anchor store details for the re-location of the existing cycle store shall be submitted to and approved in writing by the Local Planning Authority. The re-location of the cycle store shall be completed in accordance with the approved details.

Reason

To ensure the proposal site is accessible by more sustainable modes of transport such as cycling.

- 14 The anchor store hereby permitted and as shown on the approved drawings listed above shall be used only as a restricted A1 Use Class retail outlet store selling only factory outlet goods defined as the retail sale by either manufacturers selling their branded seconds, surplus stock, or discounted lines all at discounted prices or, other retailers selling rejects, returned goods, seconds, clearance goods and surplus stock directly supplied to them by such manufactures all at discounted prices. The sale of food is not permitted and any change of use from the specified restricted A1 use is not permitted either within Use Class A1 or to another Use Class or Sui Generis Use.

Reason

To ensure that the unit is used only for a use which is in keeping with the wider Freeport Outlet Shopping Centre to avoid any detrimental impact upon the vitality and viability of Braintree Town Centre.

CHRISTOPHER PAGGI - PLANNING DEVELOPMENT MANAGER