

Minutes

Planning Committee 28th September 2021



Present

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

Substitutes

Councillor T Cunningham attended the meeting as a substitute for Councillor F Ricci.
Councillor P Thorogood attended the meeting as a substitute for Councillor N Unsworth.

53 **DECLARATIONS OF INTEREST**

INFORMATION: The following interests were declared:-

On behalf of Members of the Committee, Councillor Mrs W Scattergood, the Chairman of the Planning Committee, declared a joint non-pecuniary interest in Application No. 21/01309/OUT – land South of Brook Street, Colne Engaine as the applicant was related to an Elected Member of Braintree District Council, who was known to them.

On behalf of Members of the Committee, Councillor Mrs Scattergood declared a joint non-pecuniary interest also in Application No. 21/02034/OUT - land South of Bovingdon Road, Braintree as Mr Matthew Wood, who had registered to participate during Question Time and had submitted a written statement, was a former employee of Braintree District Council and he was known to some of them, and also as Essex County Councillor Mrs L Bowers-Flint who had registered to participate during Question Time and had submitted a written statement, was a former Elected Member of Braintree District Council and she was known to them.

Councillor J Abbott declared a non-pecuniary interest in Application No. 20/02127/OUT - land off Brain Valley Avenue, Black Notley as, when serving as Essex County Councillor for Witham Northern Division, he had been contacted by

members of the public about the proposed development, but he had not expressed a view about the matter.

Councillor Abbott declared a non-pecuniary interest also in Application No. 21/00031/OUT - land at Burghey Brook Farm, London Road, Rivenhall End, Rivenhall as a Member of Rivenhall Parish Council, which had submitted representations about the application. Councillor Abbott stated that he had not taken part when the Parish Council had discussed the application.

Councillor K Bowers declared a non-pecuniary interest in Application No. 21/02034/OUT - land South of Bovingdon Road, Braintree as he was married to Essex County Councillor Mrs L Bowers-Flint who had registered to participate during Question Time and had submitted a written statement. Councillor Bowers stated that he had not discussed the application with his wife. Councillor Bowers left the meeting when the application was considered and determined.

Councillor T Cunningham declared a non-pecuniary interest in Application No. 20/02127/OUT - land off Brain Valley Avenue, Black Notley as the application site was within the Ward which he represented as an Elected Member of Braintree District Council; he had received representations from members of the public; and a person who had registered to participate during Question Time and had submitted a written statement was known to him. Councillor Cunningham stated that he had not discussed the application with anyone.

Councillor Mrs G Spray declared a non-pecuniary interest in Application No. 21/01309/OUT – land South of Brook Street, Colne Engaine as her fellow Elected Member for Braintree District Council Three Colnes Ward was related to the applicant. Councillor Mrs Spray stated that she had not discussed the application with either the Elected Member, or the applicant.

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

54 **MINUTES**

DECISION: That the Minutes of the meeting of the Planning Committee held on 14th September 2021 be approved as a correct record and signed by the Chairman.

55 **QUESTION TIME**

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

Application No. 20/02127/OUT - Land off Brain Valley Avenue, Black Notley
Application No. 21/01309/OUT – Land South of Brook Street, Colne Engaine

Application No. 21/02034/OUT - Land South of Bovingdon Road, Braintree

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

56 **PLANNING APPLICATIONS APPROVED**

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

Planning Application No. 21/00384/HH - 1 Scarletts Close, Witham was determined en bloc.

<u>Plan No.</u>	<u>Location</u>	<u>Applicant(s)</u>	<u>Proposed Development</u>
*21/00384/HH (APPROVED)	Witham	Mr and Mrs Barton	Demolition of existing single garage at side and conservatory at rear. Erection of single storey extension to the front and rear. Erection of two storey side extension, 1 Scarletts Close.

<u>Plan No.</u>	<u>Location</u>	<u>Applicant(s)</u>	<u>Proposed Development</u>
*21/01309/OUT (APPROVED)	Colne Engaine	Mr G Courtauld	Outline planning application with all matters reserved for erection of 3 No. dwellings, land South of Brook Street.

57 **SECTION 106 AGREEMENT**

<u>Plan No.</u>	<u>Location</u>	<u>Applicant(s)</u>	<u>Proposed Development</u>
*21/00031/OUT (APPROVED)	Rivenhall	Aquila Estates Ltd	Outline planning permission with all matters reserved for the demolition of the existing dwelling and buildings on the site and the erection of B2/B8 Industrial and distribution units with associated parking,

servicing and landscaping,
land at Burghey Brook
Farm, London Road,
Rivenhall End.

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

- **Workplace Travel Plan** – Financial contribution of £6,132 (index linked) towards a five year period monitoring fee of a Workplace Travel Plan.
- **Public Open Space** – Financial contribution (index linked) towards the provision of new, or improvements to existing areas of amenity greenspace and / or outdoor sports identified in the Council's Open Spaces Action Plan in the town of Witham. The final contribution figure will be in accordance with the prescribed formula and determined at the reserved matters stage taking into account the split of uses and final approved floor area.

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

The Committee approved this application, subject to an additional Condition as follows:-

Additional Condition

16. Concurrently with the submission of any Reserved Matters application for layout pursuant to Condition 1C:
 - A) Details shall be provided for a 3.5m hard surface and sealed cyclepath link through the application site, to allow for the connection to the existing shared pedestrian/cyclepath adjacent to the A12 carriageway; and
 - B) A strategy for how the cyclepath link can connect to the adjacent site (subject to Application Reference 20/00128/OUT), and in turn how this link would indicatively connect to the public highway within the Eastways Industrial Estate. The strategy shall also detail how public access would be secured to allow the use of this cyclepath link and how the link would be maintained.

58 PLANNING APPLICATIONS REFUSED

DECISION: That the undermentioned planning applications be refused for the reasons contained in the Planning Development Manager's report, as amended below. Details of these planning applications are contained in the Register of Planning Applications.

<u>Plan No.</u>	<u>Location</u>	<u>Applicant(s)</u>	<u>Proposed Development</u>
*20/02127/OUT (REFUSED)	Black Notley	Gladman and Mrs K Geraghty	Outline application, with all matters reserved except access, for the demolition of existing farm outbuildings and the erection of up to 90 dwellings (including 40% affordable housing) with community park and public open space, landscaping and sustainable drainage system (SuDS) and a vehicular access point from Brain Valley Avenue, land off Brain Valley Avenue.

Members of the Planning Committee were advised that as an appeal had been lodged with The Planning Inspectorate against the non-determination of this application the Local Planning Authority could not determine it.

The Planning Committee agreed that if it had been able to determine the application it would have been refused for the Reasons contained in the Planning Development Manager's report, subject to the amendment of Reason No. 3. The Reasons for Refusal are as follows :-

- 1 The site is located in the countryside and falls outside of the defined village envelope as identified in the Adopted Local Plan (2005), Adopted Core Strategy (2011) and the Draft Section 2 Plan (2017). The proposal would introduce up to 90 dwellings in the countryside adjacent to an 'other village' with limited services and facilities. While a footway link exists into Braintree, this route is long, unattractive and does not feel overly safe owing to narrow footway widths and vehicle speeds. Moreover, while some public transport facilities exist, most trips to access services and facilities would likely be by the private motor vehicle owing to the frequency of these services, distance and the unattractiveness/safety of walking (to the railway station).

As such, it is considered that the proposed development for up to 90 dwellings would not be proportionate to the services available in the village and would

lead to a significant reliance on the private motor vehicle to access these services elsewhere, contrary to the overall aim of adopted and emerging local planning policy and the NPPF to reduce/limit the need to travel. The development would therefore be contrary to Policy RLP2 of the Adopted Local Plan (2005), Policies CS5 and CS7 of the Adopted Core Strategy (2011), Policies SP1 and SP3 of the Adopted Section 1 Local Plan (2021), Policies LPP1 and LPP44 of the Draft Section 2 Local Plan (2017) and the NPPF.

- 2 The proposal, due to its scale and location, would result in an unacceptable urbanisation of the lower Brain Valley slopes that could not be reasonably mitigated thus having a detrimental impact on the landscape character area of the Brain Valley and wider countryside. The development would therefore fail to appreciate the intrinsic value of the countryside and the function it plays in this particular location, nor would it protect or enhance this valued landscape. The development would therefore conflict with Policies CS5 and CS8 of the Core Strategy (2011), Policy RLP80 of the Adopted Local Plan (2005), Policy LPP71 of the Draft Section 2 Local Plan (2017) and the NPPF.
- 3 The proposal for up to 90 dwellings on a developable area of 2.06ha would result in a density of up to 43.6 dwellings per hectare. It has not been demonstrated that this density of development could be adequately achieved without significant compromises to amenity, design and landscaping (including tree lined streets as required by the National Planning Policy Framework). In any case, up to 43.6 dwellings per hectare would be completely at odds with the prevailing character and density of Black Notley. The proposed development would therefore fail to reflect local distinctiveness and would have a detrimental impact on the character and appearance of the area.

In addition, the 'Community Park' Public Open Space is located in Flood Zone 3A. The open space would not therefore be usable/suitable for large parts of the year. Moreover, the open space is located in a remote part of the site with limited public surveillance, reducing its attractiveness. In addition, the site has a limited open space offering elsewhere (that is not a SUDS feature / also in the flood zone). As such, the site overall would not provide suitable external amenity or recreation for future residents of the development.

The development would therefore be contrary to Policies RLP2, RLP90 and RLP138 of the Adopted Local Plan (2005), Policy CS5 of the Adopted Core Strategy (2011), Policies SP1 and SP3 of the Adopted Section 1 Local Plan (2021), Policies LPP1, LPP53 and LPP55 of the Draft Section 2 Local Plan (2017), and the National Planning Policy Framework.

- 4 Adopted policies and Supplementary Planning Documents applicable to the proposed development would trigger the requirement for:
 - A financial contribution towards outdoor sport, equipped play and allotments
 - On-going maintenance for on-site public open space

- On-site affordable housing
- A financial contribution for additional early years, primary, or secondary school places and local library improvements
- A financial contribution towards off-site visitor management measures for the Blackwater Estuary SPA & Ramsar site and Essex Estuaries SAC
- A financial contribution for the NHS to ensure that the impacts of increased demand for services can be accounted for.

This requirement would be secured through a Section 106 Agreement. At the time of issuing this decision a Section 106 Agreement has not been prepared, or completed.

In the absence of securing such planning obligations the proposal is contrary to Policies CS2 and CS10 of the Adopted Core Strategy (2011), Policy RLP138 of the Adopted Local Plan (2005), Policy SP2 of the Adopted Section 1 Local Plan (2021), Policies LPP33 and LPP53 of the Draft Section 2 Local Plan (2017) and the Open Space Supplementary Planning Document (2009).

Black Notley Parish Council submitted a written statement against this application, which was read to the Committee by Parish Councillor Mrs J Smith prior to the consideration of the application.

<u>Plan No.</u>	<u>Location</u>	<u>Applicant(s)</u>	<u>Proposed Development</u>
*21/02034/OUT (REFUSED)	Braintree	Eastlight Community Housing and George Tanner (Shalford) Ltd.	Outline planning permission with all matters reserved apart from access for up to 70 dwellings and associated development, land South of Bovingdon Road.

In an update to the Agenda report, Members of the Planning Committee were advised that the reference on page 138 to a requirement for an additional burden of soil up to '1m' in height to cap contaminated land at the site should be amended to '600mm'. Members of the Committee were also advised that references to drainage and flooding had been updated. Whilst part of the site was within Flood Zones 2 and 3, the indicative layout showed that built development, including roads and private gardens, would only be within Flood Zone 1. Therefore, a sequential test would not be required and the proposed development would be in accordance with the National Planning Policy Framework, Policy CS8 of the Council's Core Strategy and Policy LPP78 of the Council's Draft Section 2 Local Plan. In the circumstances, it was proposed that the recommended Reason for Refusal No. 4, as set out in the published Agenda report, should be deleted.

It was reported that Essex County Council's SuDS Team was not satisfied that

adequate surface water drainage could be achieved at the site and they had raised a holding objection to the application. Although the applicant had submitted additional information, the SuDS Team had not responded to it. In the circumstances, it was proposed that an additional Reason for Refusal should be agreed. This would replace Reason for Refusal No. 4. If the SUDs Team subsequently confirmed that they had no objection to the application, the Council would not defend the replaced Reason for Refusal No. 4 as part of any appeal process.

The Committee refused this application, subject to the deletion of Reason for Refusal No. 4 and its replacement with the following new Reason for Refusal No. 4:-

Replacement Reason

4. Insufficient information has been submitted in relation to proposals for a sustainable urban drainage system such that it has not been possible for the Local Planning Authority to make an assessment. The proposal is therefore considered to be contrary to the National Planning Policy Framework, Policies RLP78 and RLP80 of the Adopted Local Plan and Policy CS8 of the Adopted Core Strategy.

Councillor Mrs L Bowers-Flint, Essex County Councillor for Bocking Division, submitted a written statement against this application, which she read to the Committee prior to the consideration of the application.

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

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

The meeting closed at 9.18pm.

Councillor Mrs W Scattergood
(Chairman)