

Appeal Decision

Inquiry held between 20 – 23 April 2021

Site visit made on 26 April 2021

by Jonathan Price BA(Hons) DMS DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th July 2021

Appeal Ref: APP/Z1510/W/20/3265895

Land south of Gilda Terrace and north of Flich Way, Rayne Road, Braintree, Essex CM77 6RE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Acorn Braintree Ltd against the decision of Braintree District Council.
- The application Ref 18/01065/OUT, dated 12 June 2018, was refused by notice dated 4 September 2020.
- The proposal seeks outline planning permission for residential development (C3) for up to 120 dwellings, with all matters reserved except access, and the demolition of nos. 27 and 29 Gilda Terrace.

Decision

1. The appeal is allowed and outline planning permission is granted for residential development (C3) for up to 120 dwellings, with all matters reserved except access, and the demolition of nos. 27 and 29 Gilda Terrace at land south of Gilda Terrace and north of Flich Way, Rayne Road, Braintree, Essex CM77 6RE, in accordance with the terms of the application Ref 18/01065/OUT, dated 12 June 2018, subject to the conditions set out in the Schedule attached to this decision.

Preliminary Matters

2. On 22 February 2021, the Council adopted the Braintree District Local Plan 2013-2033 Section 1¹ (S1LP). This replaces policies CS1, CS3, CS4, CS9 and CS11 of Braintree District Core Strategy 2011 (CS). The S1LP provides strategic policies shared with two partner North Essex Authorities (NEA)². The currently adopted development plan now includes the S1LP, along with the extant CS policies and those of the saved Braintree District Local Plan Review 2005 (RLP).
3. The Braintree Section 2 Local Plan³ (S2LP) is currently under Examination. Pending completion of this, I consider that, as agreed by the parties in the planning Statement of Common Ground (SoCG), these emerging policies be afforded no more than limited weight in this decision.

¹ Braintree District Local Plan 2013-2033 Section 1 – North Essex Authorities’ Shared Strategic Section 1 Plan adopted February 2021.

² Colchester Borough Council and Tendring District Council.

³ Section 2 – Publication Draft Local Plan June 2017

4. A Development Parameters plan forms part of the proposal. This would fix the parts of the site intended for housing of up to two-and-a-half storeys, that up to two-storeys and areas of communal open space. A concept masterplan is provided showing how these parameters might later be worked up in more detail, but at this stage this is intended to be illustrative only.
5. The Council's refusal of planning permission was for two reasons. The second was over the lack of a section 106 agreement (s106) securing 30% affordable housing within the scheme, as well as other measures necessary to mitigate its impacts and meet development plan policy requirements. A s106 was subsequently agreed between the appellant and Braintree District and Essex County Councils during the Inquiry and I have since been provided a signed and dated copy of this. The completed s106 addresses the outstanding matters upon which the Council's second reason for refusal was based, which consequently has now fallen away.
6. At the Inquiry, as set out in a specific SoCG⁴, the main parties had agreed over the Council's five-year housing land supply (5YHLS) position. This is now predicated upon the adopted S1LP and a resulting requirement for 5,521 dwellings to be provided in the period 2020-2025. On this basis, the main parties concurred that Braintree currently had a 3.74-year HLS, resulting in a shortfall of 1,388 homes.
7. On 19 May 2021, after the Inquiry and prior to this decision, the Council advised of the imminent publication of a report⁵ setting out Braintree District's 5YHLS position for the period 2021-2026. This shows a HLS of 5.34 years as of 31 March 2021; a material change in circumstances from those set out in the SoCG. This necessitated further consultation of interested Inquiry parties, as to the implications of this to their previous positions. Views from both main parties were requested as to whether those policies most important for determining the appeal remained otherwise out-of-date. My decision takes into consideration the responses to these consultations.
8. On 20 July 2021, an update to the National Planning Policy Framework (the Framework) was published⁶. My decision reflects this, having provided the main parties an opportunity to comment over any implications this might have for their respective cases. The revisions, whilst significant, seek mainly to achieve high quality, beautiful and sustainable buildings and places. Given the outline nature of this appeal scheme, much of what the updated Framework seeks might be securable through approval of reserved matters and has limited bearing on this case.

Main Issue

9. On the basis of the Council's remaining reason for refusal, the main consideration in this appeal is:
 - the effect of the proposal on the character and appearance of the site and surrounding landscape, including as viewed from public vantage points such as Flitch Way, and in respect of the perceived physical separation of development in Braintree and Rayne.

⁴ Statement of Common Ground: Five Year Housing Land Supply 11 March 2021

⁵ Housing Land Supply Braintree District – March 31 2021, published May 2021

⁶ Updated on 20 July 2021

Reasons

Landscape character

10. The appeal site is of some five hectares and comprises part of a larger parcel of agricultural land. This lies to the rear of Gilda Terrace; a section of ribbon housing development running alongside the Rayne Road. To one side of the site is the Sun Lido Square Gardens/Springfields housing estate (Sun Lido). This development lies just beyond Pod's Brook; a river which runs to this side of Braintree. Sun Lido comprises the outward extent of the urban edge on this side of town, with the ribbon of housing in Gilda Terrace projecting beyond this. From this housing, the appeal site is at the start of a substantial gap of mainly undeveloped countryside between Braintree and the next settlement of Rayne.
11. The housing proposed would extend no further towards Rayne than Gilda Terrace. To the rear, it would extend almost up to Flitch Way; the former railway line now serving as a cycling/walking route between Braintree and Bishop's Stortford. The stretch of Flitch Way between Braintree and Rayne is a popular and well-used recreational route for residents of this area.
12. The appeal site comprises a relatively small portion of the much more extensive Brook Green proposal. This more substantial scheme had included land both to the north and south of the Flitch Way and had sought to provide up to 1,500 new homes. The Secretary of State dismissed an appeal⁷ over this larger proposal in June 2019, following an Inquiry held in September 2018, giving considerable weight to the landscape impacts.
13. This appeal is over a substantially smaller development than the Brook Green proposal. In regard to landscape character, the area benefits from no statutory protection. Neither is there any particular landscape designation provided in the current development plan. Therefore, the appeal site does not form part of a valued landscape in the context of Framework paragraph 174 a), in respect of requiring protection and enhancement in a manner commensurate with either its statutory status or an identified quality in the development plan. Nevertheless, the site is within countryside strongly valued by local residents, whereby its intrinsic character and beauty should be recognised, as required by Framework paragraph 174 b).
14. The appeal site falls within the much wider South Suffolk and North Essex Clayland National Character Area⁸. This largely comprises a plateau of gently undulating farmland, traversed by watercourses and containing patches of ancient woodland and long-established vegetated field boundaries. At a finer grain, the appeal site sits within the shallow valley side of Pod's Brook which, at a County level, falls at the extremities of the Blackwater/Brain/Lower Chelmer Valleys Landscape Character Area (LCA) C6⁹. At a District-level, the appeal site falls within LCA A12¹⁰; describing the Pod's Brook River Valley itself. This denotes a narrow, linear area that extends north-westwards from the western fringe of Braintree to Great Bardfield, following the line of Pod's Brook. The higher land to either side falls within LCA B13: Rayne Farmland Plateau.

⁷ Appeal reference APP/Z1510/W/18/3197293

⁸ <https://www.gov.uk/government/publications/national-character-area-profiles-data-for-local-decision-making/national-character-area-profiles>

⁹ Essex Landscape Character Assessment as prepared by Chris Blandford Associates in 2003

¹⁰ Braintree, Brentwood, Chelmsford, Maldon and Uttlesford Landscape Character Assessments – Chris Blandford Associates September 2006

15. The Pod's Brook River Valley LCA had provided a baseline for the appellant's Landscape and Visual Impact Appraisal¹¹ (LVIA). The Council had produced a shadow LVIA¹² of this proposal. In response to this, the appellant had then produced a LVIA addenda, addressing both the County LCA C6 and five additional viewpoints suggested. The total of 16 agreed viewpoints provided the basis for my site visit itinerary.
16. The County and District LCAs treat this river valley landscape consistently. I refer to the latter, which is to a finer grain and referenced in the Council's reason for refusal. LCA A12 comprises a narrow, shallow valley cutting through the surrounding farmland plateau. The valley sides are generally farmed, with irregularly shaped fields, deciduous woodland occupying the valley floor and a vegetation lined Pod's Brook. The LCA notes that, as the river reaches the edge of Braintree, woodland cover is reduced and the valley becomes more open, with larger arable fields sloping down to meet it.
17. The sensitive landscape character elements to the Pod's Brook River Valley are described to include a complex pattern of small pastoral fields and deciduous woodland plantations along the valley floor and deciduous trees which mark the course of the river. The LCA refers to both an overall sense of tranquillity and the valley slope skyline views as being susceptible to harm from development. Whilst the Pod's Brook River Valley is generally characterised by a limited amount of habitation, open views of valley sides and relative tranquillity, this is not so evident here. In this location, the housing at Gilda Terrace and Sun Lido already extend the urban edge of Braintree up to the LCA.
18. This urban edge development has a strong influence on the landscape character of the immediate surroundings, which is at variance with that described generally for this LCA. The appeal site has existing housing along two sides and it is not proposed to extend development any further along these edges. Although outside the boundary defined for LCA A12, this existing housing occupies part of the river valley and strongly influences the landscape character of the immediate surroundings. Unlike the lesser developed areas further to the north, in this part of the LCA there are adjacent areas of housing on both sides of the shallow valley, which form part of the urban edge of Braintree. Whilst the proposal would extend this urban edge further up the outward valley side, this would integrate visually with this existing built up area. In this context, there would be only a limited degree of harm to the landscape character sensitivities described generally for the wider LCA A12.

Visual impact

19. With regard to the visual impact of the proposals, my findings are based on the appellant's LVIA and the photographs with wireline depictions of the indicative development from various viewpoints. These were then seen at first hand at my site visit.
20. The appeal site is not crossed by, nor directly abuts, any public right of way. However, in the Brook Green appeal, the Secretary of State agreed with the Inspector that the loss of views and open outlook from the Flich Way resulted in a major adverse impact.

¹¹ Land to the South of Gilda Terrace, Braintree Landscape and Visual Impact Appraisal March 2020 Arc Ref: A288-RE01 prepared by Arc Landscape Design and Planning Limited.

¹² TLP Landscape and Visual Impact Assessment - 23 March 2021

21. On entering Flitch Way from the built-up edge of Braintree, and after crossing Pod's Brook, there is open countryside to both sides of the path. Views to the wider expanse of farmland to the south are visually more accessible than to the north. To the north there is initially a triangular field between Flitch Way and the Sun Lido estate, and the vegetation along its boundaries helps screen views of this existing housing.
22. After the triangular field, the next one along accommodates the proposed development. From the adjacent sections of Flitch Way there are intermittent views of the rear of properties in Gilda Terrace and Sun Lido, between the intervening vegetation and at a distance across the appeal site. These views would be clearer in mid-winter but are more obscured in the summer with the greater foliage. The proposal brings the current extent of housing significantly closer towards Flitch Way. Despite this, views of the new development would remain fleeting, seen intermittently between the trees and vegetation. Such screening that exists might be strengthened by further planting within the public open space on the south side of the scheme, to be agreed at the detailed landscaping stage.
23. Further along from Braintree, Flitch Way runs within an embankment. This effectively removes views of the appeal site from its main thoroughfare. However, informal paths run up and along this embankment and, from the top, the scheme would be prominent from certain views, seen across the existing fields and towards Gilda Terrace and Sun Lido. These visual impacts would in time be softened by the boundary landscaping proposed.
24. Further along Flitch Way, a footpath branches off and runs alongside the Oak Meadow Nature Reserve on the edge of Rayne. From the viewpoint along this footpath, the indicative wireline profiles indicate that the tops of the proposed houses would be visible. This would be at a distance and on the crest of the intervening arable field that rises away in the direction of Braintree. However, with the softening effects of tree planting along this nearest development edge, including that proposed off-site, the proposal would have a limited visual impact from this point.
25. From the footpath vantage points within countryside further to the south, the housing proposed would be almost entirely screened by the vegetation along Flitch Way, such as to have negligible visual impact. From the other side of Flitch Way and beyond Rayne Road, there are views from the footpath that runs from All Saints Church toward Braintree. From these points the proposed development would have a limited visual impact, being distant and largely concealed by Gilda Terrace. From closer to the site, along Rayne Road, the scheme would in the main be clearly visible only from opposite the proposed site entrance.
26. From points within the built-up outskirts of Braintree, such as on Rayne Road at the junction with Nayling Road, from the footpaths in the new Brookfield Road housing estate and, further away still, from Springwood Drive, there would be distant views of the proposal. The new housing would be visible occupying the upper parts of the grassed field on the opposite side of the Pod's Brook valley. However, such distant views would be framed by the foreground development, such that any degree of adverse visual impact would be small.
27. For immediately adjacent occupiers of Gilda Terrace and Sun Lido, in many cases the development would alter private views from rear windows and back

gardens. However, changes to the outlook from neighbouring properties is an inevitable outcome of accommodating development growth. In respect of these private views, reserved matter approval would provide a means to attend to detailed matters of scale, separation and landscaping so as to address the living conditions for existing and future households.

28. Overall, my conclusion is that the appeal site is relatively well contained visually. The impacts would be localised, and mainly from between the trees along the Flitch Way and at points from informal paths that run along its vegetated margins and embankment. The near boundary of the proposal is set back from the edge of Flitch Way, with the housing then sited behind where the main public open space and the drainage attenuation area are to be provided. Such a layout, secured through the development parameters plan, along with opportunities provided for landscaping, would further reduce the visual impact of the proposed housing. My overall conclusion is that the resulting visual harm would be limited, with the impacts being restricted to intermittent points close to the site boundary from where the housing would be seen.

Perceived physical separation of development in Braintree and Rayne

29. The Council's decision refers to this site forming part of an undeveloped area of land which has long been recognised as playing an important role in maintaining separation between the settlements of Braintree and Rayne. The site was identified as having a low capacity to accommodate new development in the Council's 2015 Settlement Fringes Evaluation¹³, to which I have had regard. In this study the appeal site falls within Parcel 17b, as one of a number that play important roles in preserving the separation between Braintree and smaller settlements in its environs. This evaluation has been reflected in the emerging S2LP, which identifies an area of land between Braintree and Rayne (which includes the application site) as a Green Buffer. Within these Green Buffer zones, emerging Policy LPP 72 would place a restriction upon further development such as that proposed. However, the S2LP is at Examination, such that the conflict with Policy LPP 72 can only be afforded limited weight.
30. Although the proposal would lead to development encroaching within the mainly undeveloped land that separates the two settlements, it would extend no further towards Rayne than Gilda Terrace. It would integrate with the existing built-up edge of Braintree by having development to two sides. Beyond this proposal, there would still remain a substantial amount of intervening countryside. The proposal would, in relative terms, cause limited further harm in reducing the degree of actual or perceived separation between Braintree and Rayne.

Conclusion over landscape character, visual impact and effect on settlement separation

31. The proposal would not extend further beyond the housing along its built-up sides, which would also provide screening. The scheme would lead to the urban edge of Braintree expanding in this location. Although extending further up the shallow valley side, the proposal would cause limited harm to the landscape character of this area, with visual impacts being localised and not far-reaching. An undeveloped gap between Braintree and Rayne would largely be preserved.

¹³ Braintree District Settlement Fringes Evaluation of Landscape Analysis Study of Braintree and environs for Braintree District Council June 2015

32. Any adverse impacts would be most keenly experienced from housing along the site boundary and the adjacent section of Flitch Way. However, the actual views of the housing from the pathway along Flitch Way would be fleeting and capable of being further screened out by boundary planting as this matures. Furthermore, the proposal is already to be set apart from Flitch Way, with the main area of open space located to provide further separation. The housing proposed would not detract significantly from the experience Flitch Way currently provides as a relatively tranquil, tree-lined conduit beyond the built-up area into the countryside.
33. To conclude on the first main issue, the proposal would have limited adverse effects on the character and appearance of the site and surrounding landscape, including as viewed from public vantage points such as Flitch Way, and in respect of the perceived physical separation of development in Braintree and Rayne. Nevertheless, the proposal effects change to the landscape in this location and therefore gives rise to some conflict with S1LP Policy SP 3 and policies CS 5, CS 8, RLP 2, RLP 80 and emerging S2LP Policy LPP 72. This is insofar as, collectively, these restrict development outside settlement boundaries in order to protect and enhance the landscape character of the countryside. I deal with the degree of conflict with these policies, and the weight attached, in the final planning balance.

S106 Agreement

34. The completed s106 provides for various measures. These are the securing of the required 30% affordable housing, the public open space, the Flitch Way improvements and a potential future link to it from the development, financial contributions towards education, primary health care, allotments and outdoor sports, the necessary site access junction improvements, funding towards offsite highway works and the necessary European nature conservation site mitigation payments.
35. I have considered the terms of the s106 against the tests set out in paragraph 57 of the Framework and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010. These tests require that the s106 is necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to it. On the basis of the evidence provided, I am content that the s106 satisfies these tests.

Other Matters

36. Beyond the Council's reason for refusal, consideration has been given to the further matters of concern raised by interested parties at both the application and appeal stages.
37. The new housing will result in increased pedestrian and vehicular movements to and from the site. There is reasonable accessibility to jobs, schools and other services within Braintree, such that private car dependence would not be unduly high. Increased vehicular movements would be safely accommodated by the agreed access measures onto Rayne Road.
38. The local highway authority (LHA) has approved the proposed means of access and raises no objections to the scheme, subject to financial contributions towards Springwood Drive roundabout improvements, enhanced connectivity by foot/cycle to Flitch Way and the provision of residential travel packs. The

proposal would not have an unacceptable impact on highway safety and the residual cumulative impacts on the surrounding network would not be severe. The housing is in a location where appropriate opportunities to promote sustainable transport modes can be taken up. Subject to the contributions secured by the s106 and to the conditions sought by the LHA, the scheme is acceptable in respect of highway safety and capacity and in terms of sustainable transport choices.

39. The additional population would place extra pressure on local health and education provision. However, this would be mitigated by the payments to these services secured through the s106, such that neither factor would weigh materially against the proposal. A further financial contribution towards allotments and outdoor sports would mitigate for increased demand on these facilities.
40. The s106 provides for the contributions necessary to mitigate for off-site recreational impacts on European nature conservation sites. Regarding on-site biodiversity, the development would result in little harm, and construction would be conditional upon adherence to a Construction Environmental Management Plan. To ensure the completed development delivers net benefits in this regard, an agreed Biodiversity Compensation and Enhancement Strategy for protected and priority species could be conditioned. In all, this scheme would be acceptable in respect of its impact upon the natural environment.
41. There are no grounds to find the scheme incapable of providing adequate means of foul and surface water drainage or to result in off-site flooding, and these matters can be satisfactorily addressed through planning conditions.
42. There would be some disruption to, and adverse impacts upon, the living conditions of neighbouring occupiers during the construction period. However, this is to a degree inevitable with any development, would endure for a temporary period and be capable of being ameliorated by conditions limiting operational hours and requiring adherence to an approved Construction Method Statement.

Habitat Regulation Assessment

43. In respect of this proposal's effects upon adjacent coastal sites protected under the Conservation of Habitats and Species Regulations 2017 (as amended), I have considered the Council's Habitat Regulation Assessment (HRA) Record dated 11 August 2020.
44. I agree that the up to 120 dwellings proposed fall within the 22km Zone of Influence (ZoI) established in the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) Supplementary Planning Document¹⁴. This is in terms of increased recreational disturbance to coastal European designated sites, in particular the Blackwater Estuary (Mid-Essex Coast Phase 4) Special Protection Area (SPA) and Ramsar site. Within this ZoI, residents of new housing are considered likely to regularly visit relevant designated sites for recreation.
45. The s106 secures managed open space which, combining with adjoining public rights of way, provides a walking route of at least 2.7km. This includes a link to

¹⁴ Essex Coast Recreational disturbance Avoidance and Mitigation Strategy Supplementary Planning Document (SPD) May 2020

and improvements towards Flich Way. In addition to this, the s106 provides for the financial contribution towards the funding of strategic off-site recreational measures set by the RAMS in order to mitigate indirect impacts upon the adjacent European sites.

46. These avoidance and mitigation measures allow me to conclude that this proposal will not have an adverse effect on the integrity of European sites included within the Essex Coast RAMS Strategy, either alone or in combination with other plans and projects.

Overall planning balance

47. The Council has confirmed that it can now demonstrate a 5YHLS, due to better than expected delivery rates, positive future forecasts from developers and the inclusion of additional sites in the supply. I have no reason to take an alternative view and furthermore the appellant has not disputed this matter. The deeming effect of footnote 8 in paragraph 11 of the Framework, over the policies most important for determining the appeal being out-of-date, is no longer applicable for this reason.
48. Braintree is to be a principal focus for additional growth across the NEA area during the S1LP plan period, through the spatial strategy of Policy SP 3. This provides general support for this proposal, since this envisages further development adjoining the town, relative to its scale, sustainability and existing role. As part of the recently adopted S1LP, full weight is given to the support provided by Policy SP 3. However, this is caveated by stating that future growth will be planned to ensure existing settlements maintain their distinctive character and role, avoid coalescence and conserve their settings.
49. This proposal would not conflict with S1LP Policy SP 3 in regard to the built-up parts of Braintree and Rayne actually coalescing. The further matters of settlement character and setting are addressed by separate policies in the adopted plan. Of these, RLP 80 requires that new development is not detrimental to distinctive landscape features and successfully integrates into these. This is reasonably consistent with the Framework's objectives in paragraph 130 c) for development to be sympathetic to local character, including the surrounding landscape setting. However, the relative degree of visual containment of the proposed housing within the wider landscape, and its close relationship to the Braintree urban edge, limits the actual amount of harm found from the conflict with this policy.
50. There are no grounds for me to find any material harm through conflict with Policy RLP 90. The high standard of layout and design this policy requires are matters which might be achieved through reserved matter approval.
51. Policy CS 8 requires development to have regard to the character of the landscape and its sensitivity to change, over which I have found limited harm. This further requires schemes to enhance the locally distinctive character of the landscape in accordance with the LCA. This part is more onerous than Framework paragraph 174 b), which seeks only that the intrinsic character and beauty of the countryside is recognised, in locations such as this where the site is neither part of a valued landscape nor has statutory protection. Due to this inconsistency with the Framework, reduced weight is attached to the conflict found with Policy CS 8.

52. In falling outside the development boundary currently defined for Braintree, where countryside policies apply and provide it no support, this proposal is clearly in direct conflict with saved Policy RLP 2. The same applies to Policy CS 5, which strictly controls development outside settlement boundaries to uses appropriate to the countryside.
53. There is clearly some tension between the strict confinement of development to within settlement boundaries by policies CS 5 and RLP 2, and the more recent S1LP Policy SP 3, which accepts further housing growth both within and around Braintree. However, decisions over any changes to these boundaries depend on the eventual adoption of the S2LP. Policy SP 3 does not provide a free reign to all proposals adjoining settlement boundaries. The appeal site falls outside the currently adopted development boundary, where policies prioritise the protection and enhancement of rural landscape character. Whilst other policies might weigh in favour, the proposal remains in conflict with the development plan when taken as a whole.
54. The Council acknowledges that the revised HLS position has relied upon the contributions made by a number of sites outside of development boundaries, and that the restrictive nature of policies RLP 2 and CS 5 is not fully in accordance with the Framework. These development boundaries were evidently predicated upon much earlier levels of housing need, dating back to the 2001 Essex and Southend-on-Sea Replacement Structure Plan, and conceived many years prior to the publication of the original 2012 Framework. The conflict with policies RLP 2 and CS 5, over the site falling outside the settlement boundary, is therefore given limited weight, with a finding of a corresponding degree of limited harm.
55. As stated in paragraph 29, the conflict with the restriction upon further development within proposed Green Buffer zones, through emerging S2LP Policy LPP 72, can only be afforded limited weight.
56. In conclusion, I have found the proposal to result in a limited degree of harm to landscape character. However, the conflict with policy as a result of this harm, coupled with the site falling beyond the adopted development boundaries, has led me to conclude this proposal conflicts with the development plan when considered as a whole. As explained, I have given reduced weight to some of the earlier development plan policies, mainly due to some inconsistency with the Framework. Overall, there would be limited harm arising from this proposal from the conflict identified with the development plan as a whole.
57. Turning to the scheme benefits, the more optimistic HLS position reduces these in regard to meeting a general housing need, when compared to the position at the time of this Inquiry. However, achieving a 5YHLS does not indicate a ceiling in provision has been reached. I still give more than moderate weight to the social and economic benefits that up to 120 further dwellings would provide towards the Framework's continuing objective of significantly boosting the supply of homes.
58. It is common ground that there is a significant need for additional affordable housing in Braintree District. The benefits of this scheme in providing 30% as affordable units should, as a minimum, be given significant weight in the planning balance. Based on the evidence, I give very significant weight to the social benefits of this affordable housing.

59. A development of this scale would create appreciable economic benefits through the generation of jobs during the construction period, both directly and indirectly. Furthermore, new residents would purchase the goods and services at local businesses, thereby increasing economic activity. In this respect, I attribute moderate weight to the proposal's local economic benefits.
60. Taken as a whole the social and economic benefits are weighty, when compared to the limited harm arising from the effects on the character and appearance of the site and surrounding landscape. On an even balance, the social and economic benefits would outweigh the limited harm arising from the development plan policy conflict in respect of both landscape character and building in the countryside. This balance is clearly in favour of allowing the appeal, and this then comprises a material consideration of sufficient weight to indicate my decision be otherwise than in accordance with the development plan.

Conditions

61. Suggested conditions were considered at the Inquiry, after which the main parties agreed a revised list addressing the questions raised. These have been assessed against the tests in paragraph 56 of the Framework which requires planning conditions be kept to a minimum and only imposed where necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. For those found to meet these tests, I have in some instances made further amendments, mainly in the interests of brevity and enforceability.
62. Condition 1 applies the standard requirements for outstanding reserved matter submissions, the time limits for these and for commencement of the development. In the interests of certainty, condition 2 specifies the plans approved, including those relating to access. In the interests of highway safety, condition 3 requires the visibility splays at the site access onto Rayne Road to be provided and thereafter maintained as approved.
63. In the interests of biodiversity, condition 4 is necessary to ensure the development accords with an approved Construction Environment Management Plan (CEMP). Measures to protect trees and vegetation during construction could form part of the CEMP or be secured through reserved matter approval. In the interests of both highway safety and the living conditions of nearby residential occupiers, condition 5 is necessary to ensure the development proceeds in accordance with an approved Construction Method Statement.
64. For environmental health reasons, condition 6 is necessary to ensure the development proceeds on the basis of an approved foul drainage strategy. Condition 7 is necessary to ensure adequate surface water drainage arrangements for the development, condition 8 to mitigate any potential site contamination and condition 9 to address any on-site archaeological interest.
65. Condition 10 requires the landscaping and future management of the off-site land to the west of the appeal site, to help assimilate the development acceptably into the landscape. To ensure the development delivers net benefits in this regard, an agreed Biodiversity Compensation and Enhancement Strategy for Protected and Priority species is required by condition 11. To safely illuminate the development without polluting the night sky or harming

protected species, condition 12 requires external lighting be provided in accordance with an approved scheme.

66. Condition 13 is necessary to ensure that, prior to occupation, each dwelling has the approved car and cycle parking and waste/recycling bins storage. To foster the take up of sustainable transport modes, conditions 14 and 15 secure upgraded bus-stops and the provision of residential travel information packs respectively. In the interests of the living conditions of residents living near to the development, condition 16 imposes necessary restrictions over the hours and days for construction and associated activity.

Conclusion

67. Subject to these conditions, and for the reasons set out in preceding paragraphs, I conclude that the appeal be allowed.

Jonathan Price

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Emma Dring of Counsel
She called

Mr Chris Tivey BSc
(Hons) BPI MRTPI

Principal Director Chris Tivey Associates

Simon Neesam BA
(Hons) Dip LA CMLI

Technical Director, The Landscape Partnership

FOR THE APPELLANT:

Matthew Dale-Harris of Counsel
He called

Guy Wakefield MRTPI

Partner at Ridge and Partners Limited

Vanessa Ross

Chartered Landscape Architect at Arc Landscape Design and Planning Limited

INTERESTED PERSONS:

Mr Michael Eldred

Rayne Parish Council

Mrs Emma Wood

No Brook Green Action Group

Ms Sandra Reynolds

Trustee and Secretary, Friends of Flitch Way and Associated Woodland

INQUIRY DOCUMENTS

The following documents were submitted and accepted by the Inquiry:

On behalf of the local planning authority:

Opening statement by Ms Emma Dring

Note on condition relating to blue land by Ms Emma Dring - 22 April 2021

Lead Local Flood Authority (Essex CC) consultation response 3 June 2020

Closing submissions by Ms Emma Dring

On behalf of the appellant:

Opening submissions by Mr Matthew Dale-Harris

Closing submissions by Mr Matthew Dale-Harris

On behalf of both main parties

Jointly signed Statement of Common Ground - 23 March 2021

Draft Unilateral Undertaking with Council's comments.

Amended off-site landscaping condition

Schedule of Conditions

1. Details of the:

- scale of the buildings, including finished ground floor levels above ordnance datum;
- appearance of the buildings;
- layout of the buildings, including footways, open space, car and cycle parking, roads, refuse/recycling bin storage areas and collection points;
- and 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.

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

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

2. The submission of reserved matter applications pursuant to this outline planning permission shall together provide for no more than up to 120 dwellings with all matters reserved except access and the demolition of nos. 27 and 29 Gilda Terrace and shall be carried out in accordance with the following approved plans:

- a. Site Boundary Plan: 1002 Rev A;
- b. Development Parameters plan: 3502;
- c. Proposed Site Access plan: 194918-A01-01 Rev E;
- d. Swept Path Analysis plan: 194918-A01-AT01 Rev D.

3. The site access as shown on drawing 194918-A01-01 Rev E, along with its vehicular visibility splays, shall be constructed and completed prior to first occupation of the development hereby permitted. The visibility splays clear to ground shall be provided before the access is first used by vehicular traffic and shall be retained free of any obstruction at all times.

4. A Construction Environmental Management Plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority prior to site clearance and the commencement of development hereby permitted. The CEMP shall include the following:

- a. Risk assessment of potentially damaging construction activities;
- b. Identification of biodiversity protection zones;
- c. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- d. The location and timing of sensitive works to avoid harm to biodiversity features;

- e. The times during construction when specialist ecologists need to be present on site to oversee works;
- f. Responsible persons and lines of communication; and
- g. Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

5. No development shall take place until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The CMS shall provide for:
- a. The parking of vehicles of site operatives and visitors;
 - b. The loading and unloading of plant and materials;
 - c. Safe access to/from the site including the routing of construction traffic;
 - d. The 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 washing and under-body washing facilities;
 - g. A scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction;
 - h. Measures to control the emission of dust, dirt and mud during construction;
 - i. A scheme to control noise and vibration during the construction phase, including details of any piling operations;
 - j. Delivery, demolition and construction working hours.
 - k. Details of how the approved CMS will be implemented and adhered to, including contact details for individuals responsible for ensuring compliance.

The approved CMS shall be adhered to throughout the construction period for the development.

6. No development shall commence until a foul water strategy has been submitted to and approved in writing by the local planning authority. No dwellings shall be occupied until the works have been carried out in accordance with the foul water strategy so approved.
7. No works except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include:
- a. Measures to limit discharge rates to 4.3 l/s for the 1 in 1 year greenfield runoff rate and 5.0 l/s all storm events up to an including the 1 in 100 year rate plus 40% allowance for climate change, with all relevant permissions to discharge from the site into any outfall

- demonstrated;
- b. Provision to ensure 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;
 - c. Demonstration that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event;
 - d. Final modelling and calculations for all areas of the drainage system;
 - e. The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753, noting that due to the number of dwellings the expected daily traffic movements will be more than 300 and, therefore, the main roads will have a medium pollution hazard rating;
 - f. Detailed engineering drawings of each component of the drainage scheme, showing the depths and side slopes of all features, detention basins with a maximum water depth of 1.2m (or to 2m if sufficient safety measures have been put in, avoiding fencing as much as possible) and detention basins and swales with side slopes of no steeper than 1 in 3;
 - g. A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and the location and sizing of any drainage features;
 - h. A written report summarising the final scheme, the conveyance of surface water and connection into the River Brain and highlighting any minor changes made;
 - i. a plan detailing the maintenance arrangements including yearly logs, responsibilities for different elements of the surface water drainage system, the maintenance activities/frequencies and details of long-term funding arrangements;

The surface water drainage scheme shall subsequently be implemented as approved prior to occupation.

8. Prior to the commencement of development, a comprehensive phase 2 (intrusive) survey shall be undertaken to assess the nature and extent of any contamination on the site and a copy of the survey findings, together with a remediation scheme (if identified as necessary) to bring the site to a suitable condition, shall be submitted to and agreed in writing with the local planning authority. Any remediation scheme required shall then be implemented and completed as approved 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 reassessed 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 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 accordance with the documents and plans comprising the remediation scheme agreed in writing with the local planning authority.

9. No development or preliminary groundworks can commence until a programme of archaeological trial trenching has been secured and undertaken in accordance with a Written Scheme of Investigation, which has been submitted by the applicant, and approved by the local planning authority. Following the completion of this initial phase of archaeological work, a summary report will be prepared and a mitigation strategy detailing the approach to further archaeological excavation and/or preservation in situ through re-design of the development, shall be submitted to the local planning authority.

No development or preliminary groundwork can commence on those areas of the development site containing archaeological deposits, until the satisfactory completion of archaeological fieldwork, as detailed in the mitigation strategy, which has been signed off by the local planning authority.

Following completion of the archaeological fieldwork, the applicant will submit to the local planning authority a post-excavation assessment (within six months of the completion date, unless otherwise agreed in advance with the local planning authority), which will result in the completion of post-excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

10. The development hereby permitted shall not commence until a landscaping and future management plan has been submitted for the off-site landscaping areas identified on drawing number A288 LA 01D, setting out long term design objectives, management responsibilities, funding arrangements, maintenance schedules and identifying proposed species and sizes, plant numbers and densities, soil specification along with details of the protection and maintenance of plants during establishment. The landscaping and future management plan shall thereafter be provided and maintained as approved.
11. Concurrently with the first submission of the reserved matters under Condition 1 of this permission, a Biodiversity Compensation and Enhancement Strategy for protected and priority species (BCES) shall be submitted to and approved in writing by the local planning authority. The BCES shall include:
 - a. The purpose and conservation objectives for the proposed enhancement measures;
 - b. Detailed designs to achieve stated objectives;

- c. A timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- d. Locations of proposed enhancement measures by appropriate maps and plans;
- e. Persons responsible for implementing the enhancement measures;
- f. Details of initial aftercare and long-term maintenance (where relevant).

Prior to occupation, the BCES shall be implemented as approved and the thereafter retained and maintained.

12. Concurrently with the first submission of the reserved matters under Condition 1 of this permission, an external lighting design scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory whilst also providing an appropriate level of lighting for safety and amenity of residents.

Prior to occupation, all external lighting shall be installed in accordance with the specifications and locations set out in the scheme and thereafter maintained in accordance with the scheme.

13. No dwelling hereby permitted shall be occupied until the parking spaces, bin storage areas and, where relevant, collection points for that dwelling have been provided and are available for use and shall be retained in the approved form thereafter.
14. No dwelling hereby permitted shall be occupied until the two bus stops opposite Gilda Terrace have been relocated and upgraded in accordance with details that shall have had the prior written approval of the local planning authority.
15. No dwelling hereby permitted shall be occupied until the details and content of a residential travel information pack, to include measures to promote and raise awareness of local opportunities for sustainable transport, have been submitted to and been approved in writing by the local planning authority and thereafter provided to occupiers of each dwelling.
16. No site clearance, demolition, construction work, starting of machinery or delivery of materials, including vehicular movements relating to the same, shall take place outside the following times:

Monday to Friday 0800 – 1800, Saturday 0800 – 1300 and at no time on Sundays or public/bank holidays.
