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# Appeal Decision

Inquiry held on 11 and 12 October 2022

Site visit made on 18 October 2022

**by R Norman BA(Hons), MA, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date:- 16<sup>th</sup> November 2022**

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## **Appeal Ref: APP/Z1510/W/22/3299178**

### **Land off Bournebridge Hill, Halstead CO9 1GE**

- 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 Gladman Developments Ltd against the decision of Braintree District Council.
  - The application Ref 19/00493/OUT, dated 11 March 2019, was refused by notice dated 18 March 2022.
  - The development proposed is described as: Outline application for up to 200 residential dwellings (including 30% affordable housing), planting, landscaping, public open space and children's play area and sustainable drainage system (SuDS). All matters reserved with the exception of access.
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### **Decision**

1. The appeal is allowed and planning permission is granted for Outline application for up to 200 residential dwellings (including 30% affordable housing), planting, landscaping, public open space and children's play area and sustainable drainage system (SuDS). All matters reserved with the exception of access, at Land off Bournebridge Hill, Halstead, CO9 1GE in accordance with the terms of the application, Ref 19/00493/OUT, dated 11 March 2019, subject to the conditions in the attached schedule.

### **Preliminary Matters**

2. The proposal was submitted in outline with only access committed at this stage. All other matters (scale, appearance, layout and landscaping) are reserved for later consideration. A Development Framework Plan<sup>1</sup> has been provided to show the potential general location of the various elements of the scheme.
3. At the time the Council determined the application, the Development Plan for Braintree comprised the Local Plan Review and Proposals Map (2005), the Core Strategy (2011), the Section 1 Plan (2021) and the Essex Minerals Local Plan (2014). However, Section 2 of the Local Plan was formally adopted on 25 July 2022. This superseded the 2005 Local Plan and the 2011 Core Strategy. I have therefore determined this appeal against the Braintree District Local Plan 2013 – 2033 (Parts 1 and 2) (Local Plan) and the Minerals Local Plan.
4. At the time that the application was determined by the Council, they could demonstrate a 5.1 year housing land supply. However, following the publication of the Five Year Housing Land Supply Position Statement – April 2022, the

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<sup>1</sup> Drawing Number: 726A-03ZA (CD 2.15)

supply had fallen to 4.86 years of deliverable sites. Following this change the Council reviewed its position and confirmed that it would not be defending the appeal on the basis of a lack of a 5-year housing land supply. The Inquiry proceeded with evidence from the Appellant, a statement from the Parish Council and the Council attended to assist with the conditions and legal agreement round table discussions. All written submission from interested parties have also been taken into consideration.

5. Initially there was a Reason for Refusal relating to insufficient information to assess the impact on the Mineral Safeguarding Area. However, prior to the Inquiry the Appellant carried out additional surveys and borehole testing, providing a revised Minerals Resource Assessment<sup>2</sup> which, in my view and that of the parties, satisfactorily addressed this. The Council have confirmed that this no longer remains an outstanding issue<sup>3</sup>.
6. A signed Section 106 Legal Agreement has been provided<sup>4</sup>. I will return to this below.

### **Main Issues**

7. The main issues are:
  - whether the proposed development would be in a suitable location having regard to access to services and facilities; and
  - the effect of the development on the character and appearance of the area and the countryside.

### **Reasons**

#### *Location and Access to Services and Facilities*

8. The appeal site is located to the south east of the settlement of Halstead and it is adjacent to a new housing estate development. The A131 runs alongside the western boundary. The existing site is agricultural land and is undulating in its levels. The proposal would introduce up to 200 residential dwellings into the site. A Development Framework Plan has been provided which shows, in general, that the housing would be located to the northern part of the site to adjoin the existing residential estates, with landscaping and open space located to the southern part of the site. An area of land is also shown as safeguarded for a future bypass.
9. The appeal site falls outside of the development boundary for Halstead and therefore is considered to be located in the countryside for the purposes of section 2 of the Local Plan. This states that areas of the District which are outside development boundaries are considered to be within the countryside and that development is normally restricted to that which supports countryside uses<sup>5</sup>. Policy SP3 of the Local Plan states that existing settlements will be the principal focus for additional growth and development will be accommodated within or adjoining settlements according to their scale, sustainability and existing role, amongst other things.

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<sup>2</sup> Appendix 4 of Mr Dutton's Proof of Evidence

<sup>3</sup> Statement of Common Ground dated 13 September 2022 paragraph 7

<sup>4</sup> Section 106 Agreement between Braintree District Council, Essex County Council, Simon Henry Cooke and Jonathan Simon Cooke and Adam Nicholas Cooke, Swithin Anthony Waterer and Julian Geoffrey Waterer and Gladman Developments Limited dated 12 October 2022

<sup>5</sup> Paragraph 3.8 of the supporting text and Policy LPP1

10. Although in the open countryside, the appeal site adjoins the settlement. The table in Section 2 of the Local Plan<sup>6</sup> classifies Halstead as a Town and within paragraph 3.10 it states that the broad spatial strategy should concentrate development on the town of Braintree, Witham and the A12/Great Eastern Mainline corridor and Halstead. Policies SP3 and LPP1 do not specify a level of growth for each identified settlement or suggest that Halstead should accommodate a smaller amount of growth than the other towns.
11. Within Halstead there are a good range of services and facilities, including shops, employment, community buildings and healthcare. There are a number of public footpaths and routes through the new estate and adjoining estates which provide pedestrian access to the town and surrounding countryside.
12. Manual for Streets and the CIHT document Providing for Journeys on Foot provide guidance on reasonable walking distances and refer to an upper distance of 2km. Manual for Streets also refers to a comfortable walking distance of 10 minutes or around 800 metres to access facilities but recognises that this is not an upper limit<sup>7</sup>.
13. I have been provided with a series of plans showing the location of the services and facilities within Halstead<sup>8</sup>. These include employment facilities, a number of shops, community facilities, healthcare facilities and restaurants and take-aways. These demonstrate that there is a substantial provision and choice to meet the day to day needs of future residents of the proposed development. Furthermore, many of these facilities are located within the 1.2km and 2km walking distances referred to in the various guidance, the closest of which is the East of England Co-op food store near Abels Road which provides a good range of day-to-day products and services including a post office and cash point.
14. In addition to walking, cycling has the potential to also substitute for short car trips, particularly for journeys up to 5km. Taking a 5km distance from the appeal site, additional facilities including Halstead Hospital, the secondary school and the Bluebridge Industrial Estate are accessible. I note that some nearby villages are accessible by cycle although accept that less confident cyclists may not wish to use some of the narrower or busier routes. The proposed development would also make provision for improvements to the cycle network in and around Halstead to encourage cycling as an alternative mode of transport.
15. Manual for Streets also highlights that the propensity to walk is not only influenced by the distance but also the quality of the walking experience<sup>9</sup>. From the appeal site the main facilities within Halstead are accessible by walking or cycling along the main A131 directly into the town, however there are other pedestrian and cycle friendly routes through the adjacent estates and away from the main road which would provide pleasant routes to the various shops and facilities.
16. In addition to walking and cycling, there are also bus stops very close to the appeal site on the A131 and within the adjoining estates. I have been provided with information of the bus services which provide access not only to Halstead

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<sup>6</sup> Pages 78 - 80

<sup>7</sup> Paragraph 4.4.1

<sup>8</sup> Plans LDR1, LDR2, LDR3, LDR4 Proof of Evidence of Mr Regan

<sup>9</sup> Paragraph 6.3.1

but also to the wider area including Braintree and Colchester<sup>10</sup>. In addition, provision would be made for improvements to two bus stops which would be secured by legal agreement.

17. Whilst the site is in a location that would provide suitable walking, cycling and bus links for future residents, I acknowledge that there would be likely to be a significant level of private car journeys. However, I have been provided with evidence that the average commuter distances for Halstead are less than the journeys undertaken in the wider District<sup>11</sup>. In addition, the increase in home working, carpooling and electric and hybrid vehicles may reduce the impacts of the use of the private car to a degree.
18. Consequently, as the appeal site is located outside of the main settlement and in the countryside, it is in conflict with the provisions of Policy LPP1. However, in terms of accessibility to services and facilities, Halsted is well served for many day-to-day needs. There are suitable opportunities for walking and cycling to access the town and there are bus stops nearby. As such, I consider that in physical terms there is good access to the town centre and future residents of the development would be well served by Halstead. Furthermore, Halstead is a focus for development in the local plan and although the appeal site falls outside of the development boundary, I do not find conflict with Policy SP3 as it refers to development being accommodated within or adjoining settlements.

#### *Character and Appearance*

19. The appeal site is agricultural land and land levels fall towards the south away from the settlement. The appeal site is visible to varying degrees from the surrounding public footpaths and residential estates. Policy LPP1 of the Local Plan seeks to ensure that development outside development boundaries will protect and enhance valued landscapes, sites of biodiversity or geological value and soils to protect the intrinsic character and beauty of the countryside.
20. A Landscape and Visual Impact Assessment (LVIA)<sup>12</sup> has been provided which follows the methodology in Guidelines for Landscape and Visual Impact Assessment Third Edition<sup>13</sup> (GLVIA3) and the Council have raised no concerns with the methodology used. The LVIA concluded that the development would not result in any significant adverse landscape and visual effects. I note the LVIA was carried out in 2019 however it has not been indicated to me that there have been extensive changes to the appeal site since this date that would render it outdated or no longer relevant. In addition, I have been provided with an updated assessment of landscape value<sup>14</sup> which concludes that the value of the site and its immediate setting is low-medium.
21. The appeal site is visible from the A131, from Russell's Road, from the properties at the periphery of the new estate and from some longer distance views from a number of public rights of ways (PRoWs). It is noted that the site does not fall within any special landscape designations, although the Bourne Brook runs to the south, and I have been provided with photographs which show the loss of hedgerows from within the site over time and the

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<sup>10</sup> Appendix LDR2 – Bus Timetables and Local Routings – Mr Regan Proof of Evidence

<sup>11</sup> Table LDR 4.1 Average Commuter Distances by Car – Mr Regan Proof of Evidence

<sup>12</sup> Landscape and Visual Impact Assessment – March 2019 (CD 1.6)

<sup>13</sup> CD 10.7

<sup>14</sup> Appendix C Ref APP/DL/6 – Mr Longdin Proof of Evidence

establishment and growth of woodland outside of the appeal site in the surrounding landscape<sup>15</sup>.

22. In short distance views, the appeal site as a result of its openness and land levels would be altered. Based on the evidence before me, I find that in the short distance there would be a minor adverse to negligible residual effect on the landscape character of the site. The proposed siting of the dwellings in the northern half of the site, near the existing built form and away from the Bourne Brook, plus the proposed swathes of green space and landscaping would serve to ensure that the visual impact was not greater.
23. In terms of the public rights of way, PRoW 88-19 runs along the eastern boundary of the appeal site and allows some views into the site through the existing vegetation. The main views from this footpath would be from points close to the appeal site as further along there are intervening buildings, such as Bourne Farm. Furthermore, the site would become more visible in the winter however in the spring and summer months the intervening planting would provide a level of screening. PRoW 88-21 lies beyond PRoW 88-19 and so the development would be less visible from here. PRoW 88-16 is located at some distance from the appeal site, off Russell's Road with little opportunities to view the appeal site due to the distance and areas of trees and woodland.
24. The LVIA has assessed the visual effects at Year 1 and Year 15<sup>16</sup>. Consequently, in this case it is reasonable to accept that through the proposed mitigation, at year 15 the residual effects would be minor adverse to negligible in the short distance, negligible in the wider distance and would provide some beneficial landscaping features through the new planting and mitigation measures.
25. The Council have a number of documents to consider the landscape character of the area including the land around Halstead. The Braintree District Landscape Character Assessment<sup>17</sup> considers Halstead under character area A4(a) Colne River Valley (sub-unit) and F1 Gosfield Wooded Farmland. The appeal site falls within area F1 and in both cases the assessment concludes that the character area has a high sensitivity to change. The Braintree District Settlement Fringes Landscape Capacity Analysis (2007) includes the appeal site within Area H5 and again concludes an overall high landscape character sensitivity and medium to high visual sensitivity and landscape harm<sup>18</sup>. The Braintree District Settlement Fringes Evaluation of Landscape Analysis Study of Halstead<sup>19</sup> was prepared in 2015 and is the latest of the 3 documents. It considers area 5c which includes the appeal site and identifies an overall capacity as medium.
26. It has been identified that all of the three above documents have not been carried out with the most up to date methodology as identified in GLIVIA3 due to their age. Furthermore, I note that they all refer to a wider landscape area with limited focus on the appeal site itself.
27. Considering the changes in the physical landscape and also in the guidance for preparing landscape character assessments since the Council's assessments

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<sup>15</sup> Appendix B: Plans and Aerial Imagery – Mr Longdin Proof of Evidence

<sup>16</sup> Tables 4 – 7 (CD 1.6)

<sup>17</sup> CD 10.2

<sup>18</sup> Table at 3.5.11

<sup>19</sup> CD 10.4

were published, I agree that they are somewhat out of date and that the capacity and sensitivity for development has altered. Accordingly, I find that the LVIA makes a sound assessment of the landscape capacity and sensitivity as being minor adverse to negligible in the main.

28. I accept that the introduction of up to 200 dwellings would fundamentally alter the visual character and appearance of the surroundings, however the Development Framework Plan indicates that the dwellings would be sited in proximity to the existing developed edge of Halstead with the southern half of the site retained open for landscaping, open space and the future provision of the bypass. However, I have taken into consideration the potential mitigation measures and that in several areas views would be transient as people walked or drove by. The Development Framework Plan indicates that the proposed dwellings would be located adjacent to the existing built form, with a green link through the middle, and then the southern part of the site would be provided as green open space and landscaped areas. In addition, the development would include replacement planting, boundary vegetation enhancements. The green infrastructure within the site would account for around 46% of the overall site.
29. At this stage, the scale and appearance of the properties are not committed however the Reserved Matters submissions will give the opportunity to ensure that the dwellings integrate into the surroundings. Based on the indicative Development Framework Plan and the proposed mitigation measures, when considered against the minor level of harm likely to arise to the character and appearance of the area, I find that the visual impact of the proposed development could be suitably mitigated against and the development, over time, would be appropriately assimilated into the existing character and appearance of the area. The location of housing to the north and landscaping to the south would provide a suitable transition between built form and countryside.
30. As such, I consider that, although the proposed development would alter the visual character of the appeal site and immediate surroundings, it would not be unacceptably harmful to the character and appearance of the area. As such, the proposal would comply with Policies SP3 and LPP67 of the Local Plan. These seek to ensure that development maintains the distinctive character of existing settlements, is suitable for the local context, is sympathetic to and not detrimental to the distinctive landscape features of the area and successfully integrates into the local landscape, amongst other things. It would also comply with the National Planning Policy Framework (2021) (the Framework) where it seeks to ensure that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside<sup>20</sup>.

## **Other Matters**

### *Five Year Housing Land Supply*

31. The Five-Year Housing Land Supply Position Statement – April 2022 concluded that the Council can no longer demonstrate a 5-year supply of housing land. It is therefore not in dispute that the Council's housing land supply now sits at 4.86 years. Accordingly, the tilted balance in paragraph 11 (d) of the National

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<sup>20</sup> Paragraph 174 b)

Planning Policy Framework is engaged. I will return to this in the Planning Balance below.

*Legal Agreement*

32. A Section 106 Agreement has been submitted, signed and dated 12 October 2022. It makes provisions to secure affordable housing, open space and amenity areas, 'Yellow Land' to allow for the future provision of the Primary Road, Skylark habitat plots, a healthcare contribution, ecological mitigation, outdoor sports contribution, allotments contribution, community facilities contribution, cycling contribution, education contribution, highways agreements to facilitate the new road and cycleways, land for links to the wider area and refuse collection arrangements. I have been provided with a CIL Statement<sup>21</sup> which justifies the requested contributions and accordingly I am satisfied that the provisions within the Section 106 are reasonable and necessary and meet the relevant tests. I have also considered the form and structure of the document and find that it is legally sound and enforceable.

*Local Objections*

33. A number of objections have been received from the Parish Councils and local residents concerning, in addition to the above matters, the inadequacy of the local facilities for the increase in population, highway safety concerns, disruption to residents during the construction period, impacts on biodiversity, impacts on the living conditions of nearby residents, poor air quality, loss of sunlight and increase in light pollution, the level of development granted already, flooding, potential trespassing and concerns over the committee presentation.
34. I have been provided with little evidence to suggest that the facilities within Halstead would be inadequate for the additional residents, and the Local Plan identifies Halstead as a town with a focus for new growth. Furthermore, the Section 106 legal agreement makes provision for improvements to access routes as well as healthcare and education contributions.
35. In terms of highway safety, I note that the A131 is a busy route at times and the areas within and around Halstead which can be subject to congestion at busy times. The proposal includes details of the proposed access onto the A131 and a Travel Plan<sup>22</sup> and a Transport Assessment<sup>23</sup> have been provided to ensure that there are no severe highway impacts. Furthermore, I have noted the comments of the Local Highway Authority who raise no objection in highway safety terms subject to conditions.
36. I accept that there may be some noise and disruption during the construction period due to the overall scale of the development. The Council have suggested conditions relating to the construction phase in order to control the noise, dust and other related construction issues to a suitable level which I consider would adequately address this. In addition, a Noise Assessment<sup>24</sup> has been provided.
37. The appeal site is currently agricultural land, and although has limited planting within it, has the potential for habitats and wildlife support. The appeal and

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<sup>21</sup> ID5

<sup>22</sup> CD 1.10

<sup>23</sup> CD 1.9

<sup>24</sup> CD 1.12 and CD 2.28

application has been accompanied by a number of ecological reports and surveys<sup>25</sup> which assess the likely species on and around the site and proposes mitigation to protect these. Based on the evidence before me I am satisfied that the impacts on wildlife will not be adverse and there is the opportunity for a net biodiversity gain through the proposed green corridors and landscaping and planting as part of the development. Conditions can be applied to ensure that works are carried out at appropriate times to restrict the impacts on nesting birds and other species. Furthermore, the submitted arboricultural reports have demonstrated that there would be no undue harm to the trees covered by Tree Protection Orders.

38. The proposed development will result in a different outlook for a number of the occupiers of the adjacent properties. Whilst there may be an increase in people walking through the estate paths, I consider that this would not be to a level that would result in the loss of privacy for existing residents. The layout, scale and appearance of the dwellings will be determined at Reserved Matters stage at which point the relationships with existing properties can be fully considered to ensure no adverse impacts on living conditions. I have little evidence before me to suggest that there would be any issues with air pollution and in terms of light pollution, external lighting can be controlled at Reserved Matters stage to ensure it is appropriate for the development. An Air Quality Assessment<sup>26</sup> has also been provided. In relation to trespassing, details of boundary treatments can be secured by condition and detailed matters can be considered at Reserved Matters stage.
39. In relation to the concerns over flooding and drainage, the Appellant has carried out a number of assessments including a Flood Risk Assessment, Foul Drainage Analysis and Indicative Drainage Strategy and the site lies within Flood Zone 1 which is low risk. The development would include the use of SuDS and other infiltration methods such as permeable surfaces. I note the Lead Local Flood Authority have not raised any objection and conditions can be imposed to ensure that the drainage is constructed to ensure the development does not give rise to flooding issues.
40. I note that there has been other residential development approved in and around Halstead. However, I have not been given any policies or documents restricting further development or identifying a maximum level of development for the town. Concerns over the presentation of the application to the Planning Committee is not a matter for me to comment upon.

#### *Ecological and Habitats*

41. The appeal site is located within the 22km Zone of Influence for the Blackwater Special Protection area (SPA) and Ramsar and Essex Estuaries Special Area of Conservation (SAC). Mitigation is available through financial contribution towards the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) SPD<sup>27</sup> as supported by Policy SP2 of the Local Plan. As part of the mitigation measures, the Section 106 Legal Agreement makes provision for a financial contribution for delivery of visitor management, delivery of

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<sup>25</sup> CD 1.7 Ecological Appraisal, CD 2.2 Arboricultural Implication Assessment, CD 2.3 Arboricultural Briefing Note, CD 2.8 Ecological Implication Assessment, Rev A, 2.9 Shadow HRA, CD 2.10 Ecological Briefing Note

<sup>26</sup> CD 1.11

<sup>27</sup> CD 8.3



measures identified in the approved Habitat Regulations (appropriate) Assessment and the provision of 12 off-site Skylark plots.

42. An appropriate assessment has been undertaken and has been approved by Natural England which has raised no objection subject to appropriate mitigation being secured including a financial contribution, high quality semi-natural areas, circular dog walking routes, dedicated 'dogs-off lead' area, signage for the recreation areas, dog waste bins and a commitment to the long-term maintenance and management of these provisions. I am therefore satisfied that, following the appropriate assessment, and in line with the Essex Coast RAMS SPD, the impacts can be satisfactorily mitigated.

#### *Heritage*

43. There are two Grade II Listed Buildings located to the south east of the appeal site – Bushey Leys and Letche's Farmhouse. In addition, the Halstead Conservation Area is located around 1km to the north of the appeal site. An Archaeology and Built Heritage Assessment<sup>28</sup> has been carried out by the Appellant. Letche's Farmhouse is located just under 400m from the appeal site and comprises a late 16<sup>th</sup> century building with later additions. Bushey Leys is located around 330m from the site and is an early 17<sup>th</sup> century building. As a result of their distance from the site, extremely limited views and intervening vegetation the setting of these listed buildings, and the historical integrity of the buildings themselves, would not be harmed as a result of the development.
44. The Halstead Conservation Area would similarly not be harmed due to the intervening vegetation and buildings. Accordingly, I find that the development would not be harmful to either the listed buildings or the conservation area in this instance and their historic merit and setting would be preserved in accordance with Section 66 and 72A of the Planning (Listed Buildings and Conservation Areas) Act 1990.

#### **Planning Balance**

45. On 7 September 2022 the Council published its Five-Year Housing Land Supply Position Statement – April 2022 and the Council can now demonstrate only a 4.86 year supply of housing land. As such, it is agreed between the parties that the tilted balance under paragraph 11(d)(ii) of the Framework applies<sup>29</sup>.
46. I have found a degree of conflict with the Development Plan as a whole due to the appeal site's location outside of the development boundaries for Halstead. This carries weight in the planning balance however this weight is reduced as a result of the tilted balance. It is common ground between the parties that this policy is one of the most important for the determination of the proposal and as such, it can be considered out of date.
47. The proposed development would provide a number of benefits. This would include the provision of up to 140 market dwellings and up to 60 affordable dwellings which would go towards meeting an identified need and towards the shortfall in housing land supply. I therefore give this substantial weight.

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<sup>28</sup> CD 1.13

<sup>29</sup> Statement of Common Ground 13 September 2022 paragraph 5(2)

48. The development would provide over 5 hectares of green accessible space and would have the potential for net biodiversity gain on site through the new planting and landscaping. I give this moderate weight.
49. Social benefits would arise through the contributions towards community infrastructure including the provision of improved cycle networks and bus facilities to which I give moderate weight.
50. Economic benefits would arise through employment during the construction period, which albeit temporary would nevertheless be greater than negligible for a development of this size. Longer term economic benefits would arise from increased expenditure from local residents using the local services and facilities which collectively carry moderate weight.
51. The indicative Development Framework Plan shows a potential route for a new bypass and the Section 106 includes provision to safeguard this route to allow the road to come forward. This would benefit the town of Halstead by providing an improved road network and accessibility. I accept that at this stage the provision of this road is dependent on a number of issues and other areas of land, nevertheless the safeguarding of the land within the appeal site contributes towards the future provision of the road and therefore I consider it to be a benefit which carries moderate weight in the planning balance.
52. Taking all of the benefits into account and weighing them in the tilted balance, which is applied in this instance, I find that the limited harm identified in terms of the conflict with Policy LPP1 is outweighed by the benefits and as such the appeal should succeed.

### **Conditions**

53. I have imposed condition 1 to secure the Reserved Matters submission. I have included a reduction in the standard time limit to 2 years for the submission of the Reserved Matters and 1 year for the commencement of the development in order to give significant weight to the provision of housing in light of the Council's shortfall in housing land supply. Condition 2 lists the approved plans to provide certainty. Condition 3 is necessary to ensure the number of dwellings does not exceed 200 as the description alone is not sufficient to do this. I have referred to the Development Framework Plan to give a general indication of the likely site layout.
54. Condition 4 is necessary in the interests of highway safety. I have imposed conditions 5, 6, 14, 20 and 26 in the interests of protecting and enhancing biodiversity and to ensure the development does not impact adversely on the special protection areas.
55. Conditions 7, 8, 9, 13 and 25 are imposed in the interests of the character and appearance of the area and the development.
56. I have imposed conditions 10, 11, 12, 16, 18, 19, 21 and 28 to ensure that the development is acceptable and safe in terms of the living conditions of existing neighbouring and future occupiers during construction and once occupied.
57. Conditions 15, 22, 23 and 27 are necessary to ensure that suitable drainage arrangements are implemented to protect the surrounding area, residents and future residents from adverse impacts.

58. Condition 17 is necessary to ensure a suitable mix of housing is achieved. The Council suggested a tailpiece to the condition referring to 'unless material considerations indicate otherwise, however I do not consider this necessary or reasonable because I consider that it would introduce the potential for dispute of doubt over the scope of the condition.
59. Condition 24 is necessary to protect any archaeological remains that may be found on site.
60. Conditions 18, 19, 20, 22, 23 and 24 are pre-commencement conditions as it is fundamental for these details to be agreed prior to any works starting on the site and the Appellant is in agreement with these.

### **Conclusion**

61. For the reasons given above, and having had regard to all matters raised, I conclude that the appeal should be allowed.

*R Norman*

INSPECTOR

## Schedule of Conditions

- 1) Details of the (a) appearance, (b) landscaping, (c) layout, and (d) 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.  

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.

The development hereby permitted shall take place not later than 1 year from the date of approval of the later of the Reserved Matters to be approved.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans: Site Location Plan – 726A-25 and Proposed Site Access onto A131 – A111146-SK011 Rev E.
- 3) The submission of reserved matters applications pursuant to this outline planning permission shall together provide for no more than 200 residential dwellings with associated access, parking, drainage infrastructure, landscaping, open space and utilities infrastructure and shall demonstrate general accordance with the Development Framework Plan (726A-03ZA).
- 4) No occupation of the development hereby permitted shall take place until the site access as shown on Drawing A111146-SK03 Revision E, along with its vehicular visibility splays, have been constructed and completed and are available for use. The visibility splays shall be provided before the access is first used by vehicular traffic and shall be retained free of any obstruction at all times.
- 5) Concurrent with the submission of the first reserved matters application, a Biodiversity Net Gain Design Stage Report, in line with Table 2 of CIEEM Biodiversity Net Gain Report and audit templates (July 2021), shall be submitted to and approved in writing by the local planning authority, using the DEFRA Biodiversity Metric 3.1 or any successor.

The content of the Biodiversity Net Gain report should include the following:

- a) Baseline data collection and assessment of current conditions on site;
- b) A commitment to measures in line with the Mitigation Hierarchy and evidence of how BNG Principles have been applied to maximise benefits to biodiversity;
- c) Provision of the full BNG calculations, with detailed justifications for the choice of habitat types, distinctiveness and condition, connectivity and ecological functionality;
- d) Details of the implementation measures and management of proposals;
- e) Details of the monitoring and auditing measures.

The proposed enhancement measures shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

- 6) Concurrent with the submission of any reserved matters relating to landscaping under Condition 1(b) of this decision, a Landscape Ecological Management Plan (LEMP) for that reserved matters area shall be submitted to and approved in writing by the local planning authority.

The content of the LEMP shall include the following:

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

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

- 7) The landscaping scheme required by Condition 1 of this permission shall incorporate a detailed specification of hard and soft landscaping works to include details of the following:
- a) Types and sizes of all plants/trees to be planted on the site;
  - b) Numbers and distances of all plants to be planted on the site;
  - c) Soil specification;
  - d) Seeding and turfing treatment within the site;
  - e) Colour and type of material for all public hard surface areas and private areas visible from the public realm;
  - f) Watering maintenance regime for all areas of new planting;
  - g) Programme and timetable for implementation of the above works. The programme for implementation of the above works shall include details of a scheme of advanced landscape planting of the landscape buffer along the southern boundary and the site

boundary with the A131, to be carried out in the first planting season after the commencement of development.

All planting, seeding or turfing and hard surface areas contained in the approved details of the landscaping scheme shall be carried out in accordance with the approved implementation programme.

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 in accordance with the approved landscaping scheme.

- 8) Concurrent with the submission of the any reserved matters relating to layout and landscaping under condition 1 (b) and (c) of this decision, a scheme for the protection of trees to be retained (the Tree Protection Plan) and the appropriate working methods (the Arboricultural Method Statement) in accordance with BS:5837: Trees in relation to design, demolition and construction – Recommendations (or in an equivalent British Standard if replaced) has been submitted to and approved in writing by the local planning authority.

The scheme shall include:

- a) A detailed survey plan drawn to an adequate scale indicating the height, girth, spread, species and exact location of all existing trees, shrubs and hedges on the site and on land adjacent to the site (including street trees) that could influence or be affected by the development, indicating which trees are to be removed in accordance with BS:5837: Trees in relation to design, demolition and construction – Recommendations (or in an equivalent British Standard if replaced);
- b) A schedule in relation to every tree and hedge identified, listing details of any proposed pruning, felling or other work;
- c) Details of any proposed alterations to existing ground levels, and of the position of any proposed excavation, that might affect the root protection area.

The scheme for the protection of trees to be retained and the development shall be carried out in accordance with the approved details.

- 9) Concurrent with the submission of any reserved matters for layout under condition 1(c) of this decision, details of existing and proposed site levels shall be provided, including the following details:
- a) A full topographical site survey showing existing levels including: the datum used to calibrate the site levels; levels along all site boundaries; levels across the site at regular intervals; and levels of adjoining buildings;
  - b) Full details of the proposed finished floor levels of all buildings, proposed garden levels, proposed levels along all site boundaries; and proposed levels for all hard and soft landscaped surfaces.

The development shall only be carried out in accordance with the approved details.

- 10) Concurrent with the submission of the reserved matters for appearance or layout under Condition 1(a) or (c) of this decision, a Strategy detailing the location and specification of Electric Vehicle Charging Points to be provided shall be submitted and which, as a minimum, shall ensure each new dwelling includes provision for one charging point for each dwelling. Prior to its occupation, each dwelling shall be provided with the electric vehicle charging point in accordance with the approved details.
- 11) Concurrent with the submission of reserved matters for appearance or layout under condition 1(a) or 1(c) of this decision, an updated Noise Assessment Report relating to that reserved matters area shall be submitted. The Noise Assessment Report shall confirm that the noise levels within BS8233 Table 4 for internal noise levels are met, that the external noise level in private external amenity areas shall not exceed 55dB(A) LAeq 16hr and 45dB(A) LAmax shall not be typically exceeded in bedrooms during the night time period of 2300 and 0700 hours. The Noise Assessment Report shall be prepared in accordance with the guidance set out in "ProPG: Planning and Noise: Professional Practice Guidance on Planning and Noise New Residential Development" (May 2017) published by the Association of Noise Consultants, Institute of Acoustics and Chartered Institute of Environmental Health, or relevant successor document. The applicant shall verify that the noise levels are met prior to occupation of residential property.

As necessary, the noise increase from the potential future construction of a highway scheme which offers an alternative vehicular route to the east of Halstead shall also be considered within the assessment.

The assessment will require an accompanying CIBSE TM59 or equivalent overheating assessment for the proposed site layout and internal layout design and where necessary a scheme for alternative means of ventilation to enable optimum living conditions for heating and cooling in all weather and with reference to climate change predictions. The acoustic assessment of the buildings to address the overheating condition shall be undertaken in accordance with the guidance set out in "Acoustics Ventilation and Overheating: Residential Design Guide" (Version 1.2, January 2020) published by the Association of Noise Consultants and Institute of Acoustics, or relevant successor document (or in accordance with Building Regulations Approved Document Part O, where applicable). Noise from any alternative ventilation system will not present an adverse impact on occupants. Noise from any plant and equipment including extract ventilation shall be limited to 10dB(A) below the background noise level measures and expressed as a LA90, 15 minutes from the boundary of the nearest residential property.

- 12) Concurrent with the submission of reserved matters for appearance or layout under condition 1(a) or (c) of this decision, a Refuse Scheme shall be provided including the following details:
  - a) Location of refuse bins and recycling materials – their storage areas and waste/recycling presentation points;
  - b) Appearance of any associate screening or/and enclosures;
  - c) Confirmation that distances travelled by local authority refuse vehicle operatives from the location where refuse vehicles are

intended to stop to the presentation points specified do not exceed 20m each way;

- d) Confirmation of 26 tonne carrying capacity of all roads intended for use by local authority refuse vehicles;
- e) Refuse vehicle swept path analysis for all roads intended for use by local authority waste vehicles.

The development shall be implemented in accordance with the approved details prior to the first occupation of each respective unit of the development and thereafter retained.

- 13) Concurrent with the submission of any reserved matters for appearance or layout under conditions 1(a) or (c) of this decision, a plan for that reserved matters area indicating the location and general design of all walls, fences, other boundary treatments and means of enclosure shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved plans and permanently retained as such thereafter.
- 14) Concurrent with the submission of any reserved matters for layout under condition 1(c) of this decision, a Lighting Scheme designed to promote personal safety, protect amenity and the night-time landscape and biodiversity shall be submitted for that reserved matters area. The Lighting Scheme shall detail the following:
  - a) Details of phasing, location and design of all lighting to be installed within the site during periods of construction and occupation;
  - b) Details of ownership of lighting once the development is occupied and, where relevant, details of its associated maintenance to ensure the lighting is provided in perpetuity thereof in the interests of personal safety;
  - c) Assessment of the impacts of the lighting scheme upon biodiversity which identifies those features on or immediately adjoining the site that are particularly sensitive for bats including those areas where lighting could cause disturbance along important routes used for foraging;
  - d) Provision of appropriate lighting contour plans, isolux drawings and technical specifications to demonstrate which areas of the development are lit and to limit any relative impacts upon the territories of bats.

The approved lighting scheme shall be implemented prior to first occupation of development within that reserved matters area, or if phased, each relevant phase, and shall thereafter be retained and maintained as such in accordance with the approved details. Under no circumstances shall any other external lighting (other than domestic lighting on individual properties) be installed on the site without prior consent from the local planning authority.

- 15) Concurrent with the submission of any reserved matters for layout or landscaping under conditions 1(b) or (c) of this decision, a plan for that reserved matters area indicating the detailed surface water draining scheme for that phase of the development, based on sustainable drainage principles and an assessment of the hydrological and hydro



geological context of the development shall be submitted. The scheme should include but not be limited to:

- a) Limiting discharge rates to 16.3 l/s for all storm events up to and including the 1 in 100-year rate plus 40% allowance for climate change;
- b) 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;
- c) Final modelling and calculations for all areas of the drainage system;
- d) Half Drain Times – Storage should half empty within 24 hours wherever possible;
- e) The appropriate level of treatment for all runoff leaving the site, in line with the CIRIA SuDS Manual C753;
- f) Detailed engineering drawings of each component of the drainage scheme;
- g) A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features;
- h) 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.

- 16) Concurrent with the submission of each reserved matters for the residential dwellings, details of the following relevant to that reserved matters area shall be submitted to and approved in writing by the local planning authority:
  - i. A Confirmation Report from an Approved Inspector or Local Authority Building Control Service that the drawings for all houses and ground floor flats proposed as affordable dwellings and shown on the submitted Affordable Housing Scheme as such (or any revisions of this Scheme subsequently submitted for approval as part of the application) have been designed to comply with Building Regulations 2015 (as amended) Part M(4) Category 2.
  - ii. A Confirmation Report from an Approved Inspector of Local Authority Building Control Service that the drawings for any bungalows proposed as affordable dwellings and shown on the Affordable Housing Scheme (or any revisions of this Scheme subsequently submitted for approval as part of the application) as needing to be compliant with Building Regulations 2015 (as amended) Part M(4) Category 3(2b) have been designed as such.
  - iii. Sufficient detail confirming that the affordable dwellings as shown on the submitted Affordable Housing Scheme (or any revisions of this Scheme subsequently submitted for approval as part of the application) meet or exceed the Technical Housing Standards – Nationally Described Space Standards (2015) criteria.

The affordable dwellings shall only be built in accordance with the approved details and, in the case of plots indicated in the Affordable Housing Scheme to be constructed in accordance with Building Regulations 2015 Part M(4) Category 2 or Building Regulations Part M(4) Category 3(2b), prior to their occupation, written confirmation from an Approved Inspector or local authority building control service shall be submitted to and approved in writing with the local planning authority to certify that they have been built to the agreed standard.

- 17) Notwithstanding the submitted details, the development hereby permitted shall provide for a mix of Market Housing that shall be in accordance with the District's Strategic Housing Market Assessment (2015 or its successor).
- 18) No development on any phase of the development shall commence until an assessment of the risks posed by any contamination within that phase shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner in accordance with British Standard BS 10175: Investigation of Potentially Contaminated Sites – Code of Practice and the Environment Agency's Guidelines for the Land Contamination: Risk Management (LCRM 2020) (or equivalent if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The development shall only be carried out in accordance with the approved details. The assessment shall include:
  - i. A survey of the extent, scale and nature of contamination;
  - ii. An assessment of the potential risks to; a) human health; b) property (existing or proposed) including buildings, crops, livestock, pets, woodland, service lines and pipes; c) adjoining land; d) groundwater and surface waters; e) ecological systems; and f) archaeological sites and ancient monuments.

If following the risk assessment, unacceptable risks are identified from land affected by contamination in that phase, no work on any phase of the development shall take place, until a details land remediation scheme has been completed. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. (The remediation scheme shall be sufficiently detailed and thorough to ensure that after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990). The development shall only be carried out in accordance with the approved scheme. Following the completion of the remediation works and prior to the first occupation of the development, a verification report by a suitable qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority.

- 19) No development shall commence, including any works of demolition, until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The Construction Management Plan shall include the following details:

- a) The provision of parking for operatives and contractors within the site;
- b) Safe access in/out of the site;
- c) Measures to manage the routing of construction traffic;
- d) The storage of plant and materials used in construction of the development;
- e) The storage of top soil;
- f) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- g) Wheel washing and underbody washing facilities;
- 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) A scheme for recycling/disposing of waste resulting from demolition and construction works;
- k) Details of how the approved plan will be implemented and adhered to, including contact details for individuals responsible for ensuring compliance;
- l) Contact details for Site Manager and details of publication of such details to local residents.

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

- 20) No development or preliminary groundworks on any phases shall commence until a Construction Environmental Management Plan (CEMP: Biodiversity) is submitted to and approved in writing by the local planning authority, in accordance with the details contained in the Ecological Impact Assessment (CSA April 2020).

The CEMP (Biodiversity) shall include the following:

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

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

- 21) 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 to 1300 hours;
  - Sundays, Public and Bank Holidays – no work.
- 22) No development or preliminary groundworks shall commence within any phase of the development until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution for that phase of the development has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented as approved.
- 23) No works 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.
- 24) a) No development or preliminary groundworks can commence on any phase of the development until a programme of archaeological evaluation has been secured and undertaken which has been submitted by the applicant and approved in writing by the local planning authority for that phase of the development.
- b) A mitigation strategy for each phase of the development detailing the excavation/preservation strategy shall be submitted to and approved in writing by the local planning authority.
- c) No development or preliminary groundworks can commence on those areas containing archaeological deposits within each phase of the development until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, has been submitted to and approved in writing by the local planning authority for that phase of the development.
- d) within 6 months of the completion of fieldwork within any phase of the development, a post excavation assessment shall be submitted to and approved in writing by the local planning authority for that phase of the development. The assessment will include 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.
- 25) No above ground development shall commence in any phase of the development unless and until samples of the materials to be used on the external finishes of the development within that phase 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.

- 26) Prior to first occupation of the development hereby approved, a Revised Residential Travel Plan together with the contents of Residential Travel Information Packs for sustainable transport (including information as to circular walking routes accessible from the application site) shall have been submitted to and agreed in writing with the local planning authority. The Revised Residential Travel Plan shall be implemented as agreed. The provision of Residential Travel Information Packs shall be distributed as agreed to the owner/s of each dwelling at the point of their first occupation.
- 27) The application or any successor in title must maintain yearly logs of SuDS 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.
- 28) No dwelling hereby permitted shall be occupied until the two bus stops which would best serve the proposed development site have been upgraded in accordance with details that shall have had the prior written approval of the local planning authority.

## **APPEARANCES**

### FOR THE APPELLANT:

Mr Martin Carter of Kings Chambers MA (Oxon) BA (Oxon) Jurisprudence [First Class] instructed by Gladman Developments Limited

He called:

Mr Dick Longdin BSc (Hons), MA, FLI – Partner at Randall Thorp  
Mr Luke Regan MSc Transport Engineering and Planning, HNC Civil Engineering, MCHIT – Associate Director, Tetra Tech  
Mr Peter Dutton BA Hons Environmental Planning and Management MCD, RTPI – Planning Manager, Gladman

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Asitha Ranatunga of Counsel, Cornerstone Barristers instructed by Christopher Paggi, BSc (Hons), Dip in Town and Country Planning, MRTPI – Planning Development Manager, Braintree District Council

He called:

Mr Neil Jones, MSc – Principal Planning Officer, Braintree District Council (Conditions and S106)  
Sarah Hare, LLB – Solicitor at Holmes and Hills LLP (S106)

### INTERESTED PARTIES:

Mrs Amanda Degnan on behalf of Greenstead Green and Halstead Rural Parish Council

**DOCUMENTS RECEIVED PRIOR TO THE INQUIRY**

1. Five Year Housing Land Supply Position Statement – April 2022, received 9 September 2022

**DOCUMENTS RECEIVED DURING THE INQUIRY**

1. Opening Statement of the Appellant – 11 October 2022 (ID1)
2. Opening Statement of the Council – 11 October 2022 (ID2)
3. Parish Council Statement – 11 October 2022 (ID3)
4. Planning Obligation Summary – 12 October 2022 (ID4)
5. CIL Statement – 12 October 2022 (ID5)
6. Table of Suggested Conditions – 12 October 2022 (ID6)
7. Site Visit Routes Plans – 12 October 2022 (ID7)
8. Appellants Closing Submissions – 12 October 2022 (ID8)

**DOCUMENTS RECEIVED AFTER THE INQUIRY**

1. Section 106 Agreement – 12 October 2022