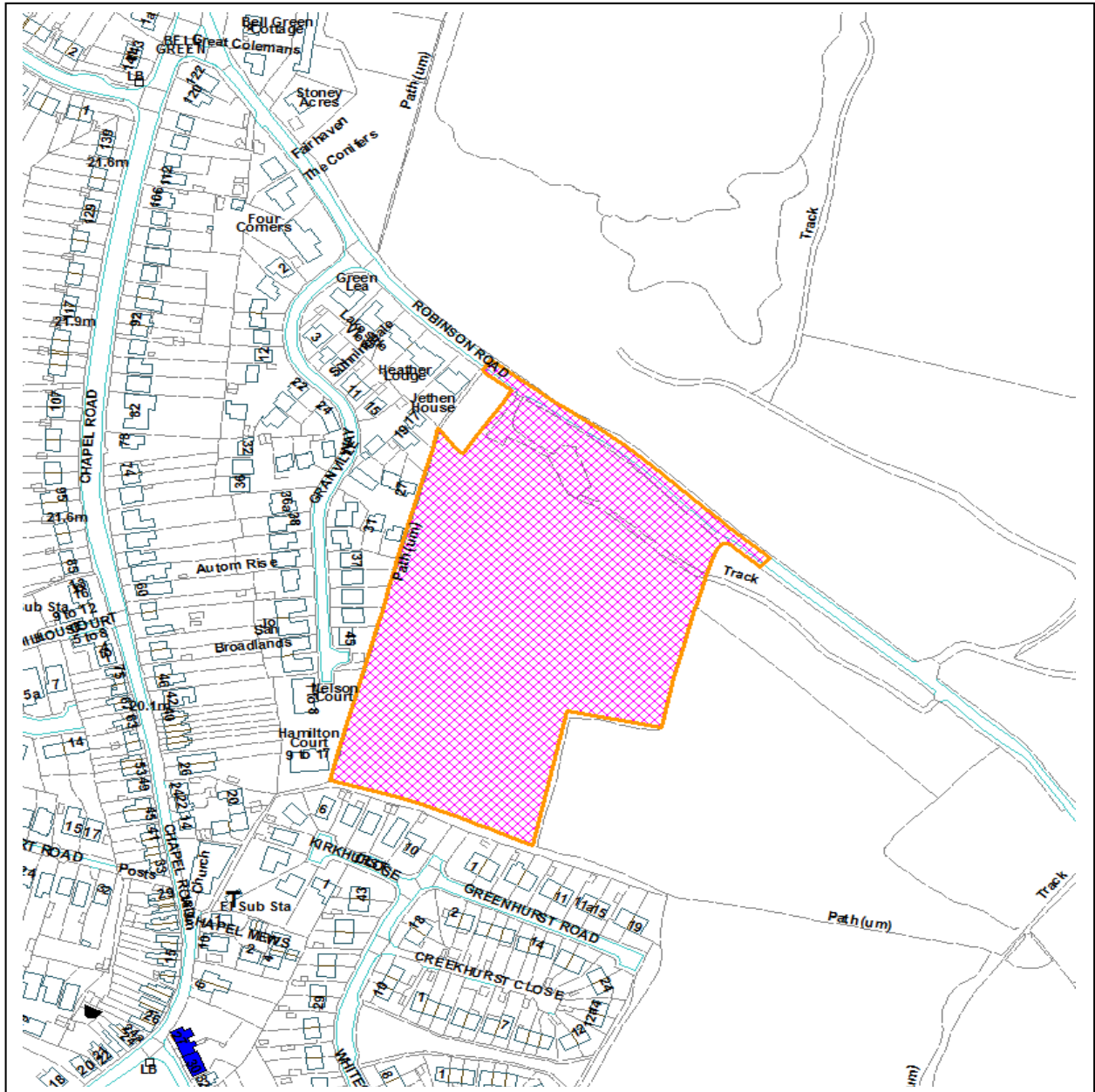


PLANNING COMMITTEE

31 MARCH 2015

REPORT OF THE HEAD OF PLANNING

A.4 PLANNING APPLICATION - 13/01470/FUL – LAND SOUTH WEST OF ROBINSON ROAD, BRIGHTLINGSEA, CO7 0ST



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Application:	13/01470/FUL	Town / Parish: Brightlingsea TownCouncil
Applicant:	Hopkins Homes	
Address:	Land South-West of Robinson Road, Brightlingsea, CO7 0ST	
Development:	Erection of 77 dwellings together with garages, access roads, parking, fencing, walling, public open space, landscaping, drainage, highways infrastructure and other ancillary works.	

1. Executive Summary

- 1.1 The site is adjacent to but outside the town development boundary as defined within the Tendring District Local Plan, 2007 which aims to restrict new development to the most sustainable sites. Outside development boundaries, the Local Plan seeks to conserve and enhance the countryside for its own sake by not allowing new housing unless it is consistent with countryside policies.
- 1.2 Brightlingsea is identified as a town within Policy QL1 of the Tendring District Local Plan (2007) and on this basis it is considered that a modest amount of growth can be supported. Tendring District Local Plan (2007) Policy QL1 sets out that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan. The application site has been identified within the Tendring District Local Plan Proposed Submission Draft (2012) as amended by the Tendring District Local Plan: Pre-Submission Focussed Changes (2014) for residential development. Although the 2012 Local Plan is currently being revised, this residential allocation is likely to remain in any future draft Local Plan. In addition, Brightlingsea has been identified as an 'Urban Settlement' within in Policy SD2 of the draft Local Plan (2012). These settlements will be the focus for the majority of the district's economic growth and contain a good range of local services and facilities with potential for growth in homes and jobs.
- 1.3 The National Planning Policy Framework sets out that applications for residential development should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. It is accepted that Council cannot demonstrate a deliverable 5 year housing land supply and Tendring District Local Plan (2007) Policy QL1, cannot be considered up-to-date as set out in paragraph 49 of the NPPF. As a result the proposed development cannot be refused solely on the basis that a site is outside the development boundary.
- 1.4 Paragraph 14 of the NPPF sets out that where relevant policies are out-of-date planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole. Having regard to paragraphs 14 and 49 of the NPPF, the presumption in favour of sustainable development carries significant weight, it is clear that

the extension to the defined settlement limits that includes this site will remain in any future draft of the Local Plan. Officers conclude that the proposed development would satisfy the 3 dimensions of 'sustainable development' whilst also being able to achieve a development that would comply with Policies QL9, QL10 and QL11 of the Tendring District Local Plan (2007) as well as Policies SD3 and SD9 of the Tendring District Local Plan Proposed Submission Draft (2012).

Recommendation: Approve

That the Head of Planning (or equivalent authorised officer) be authorised to grant planning permission for the development subject to:-

a) Within 6 months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where required)

- Affordable Housing Provision;
- Education Provision; and
- Public Open Space Contribution Provision.

(b) Planning conditions in accordance with those set out in (i) below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning (or the equivalent authorised officer) in their discretion considers appropriate).

Conditions:

1. The development hereby permitted shall begin no later than three years from the date of the permission;
2. Samples of the materials;
3. Hard and Soft landscaping details including tree protection measures;
4. Landscaping - Five year clause;
5. As requested by the Highway Authority;
6. Removal of Permitted Development Rights;
7. Details of Refuse storage/collection areas;
8. Archaeology investigative and report works;
9. Biodiversity enhancement provision and mitigation measures;
10. Site lighting strategy;
11. As requested by the Environment Agency; and
12. Provision of Broadband services.

2. Planning Policy

National Policy:

NPPF National Planning Policy Framework (2012)

Local Plan Policy:

Tendring District Local Plan 2007

- QL1 Spatial Strategy
- QL2 Promoting Transport Choice
- QL3 Minimising and Managing Flood Risk
- QL9 Design of New Development
- QL10 Designing New Development to Meet Functional Needs
- QL11 Environmental Impacts and Compatibility of Uses
- QL12 Planning Obligations
- HG4 Affordable Housing in New Developments
- HG6 Dwelling Size and Type
- HG7 Residential Densities
- HG9 Private Amenity Space
- HG14 Side Isolation
- COM6 Provision of Recreational Open Space for New Residential Development
- COM26 Contributions to Education Provision
- EN1 Landscape Character
- EN6 Biodiversity
- EN23 Development within the proximity of a Listed Building
- EN29 Archaeology
- TR1A Development Affecting Highways
- TR7 Vehicle Parking at New Development

*Tendring District Local Plan: Proposed Submission Draft (2012) as amended by the
Tendring District Local Plan: Pre-Submission Focussed Changes (2014)*

- SD1 Presumption in Favour of Sustainable Development
- SD2 Urban Settlements

SD7 Securing Facilities and Infrastructure

SD8 Transport and Accessibility

SD9 Design of New Development

SD10 Sustainable Construction

PEO3 Housing Density

PEO4 Standards for New Housing

PEO7 Housing Choice

PEO10 Council Housing

PEO22 Green Infrastructure in New Residential Development

PLA1 Development and Flood Risk

PLA4 Nature Conservation and Geo-Diversity

Other guidance

Essex Design Guide

Essex County Council Car Parking Standards - Design and Good Practice

3. Relevant Planning History

3.1 None

4. Consultations

4.1 TDC Housing - Affordable housing provision off-site is appropriate in this instance.

4.2 TDC Public Experience -As the current play facilities and formal open space are not considered adequate to satisfy and additional need it is felt a contribution towards increasing the play facilities and formal open space is relevant and justified to the planning application.

4.3 TDC Public Experience (Environmental Services) - The Environmental Report submitted with the application recommends that no further action is required. This report and its recommendations are accepted.

4.4 TDC Regeneration Team - Recommend conditions in line with draft Local Plan policies PRO2 and PRO3 to ensure that appropriate telecom services are provided to residents and that the developers provide a construction skills and employment plan to assess the opportunities for apprentices and other local employment options on this development.

4.5 Essex County Council Education Services - Essex County Council Education Services have confirmed the need for a financial contribution towards education provision (£78,487 Early Years and Childcare and £131,367 Junior School provision).

4.6 ECC Highways Department - The Highway Authority raises no objection subject to:-

1. Prior to commencement of the development details of a wheel cleaning facility within the site and adjacent to the egress onto the highway shall be submitted to and approved in writing by the Local Planning Authority. The wheel cleaning facility shall be provided prior to commencement and during construction of the development;
2. No commencement of the development shall take place until the planning application drawings have been amended and submitted to and approved in writing by the Local Planning Authority to show the following:
 - a) The garage for plot 73 set back a minimum 6 metres from the adoptable highway
 - b) The bend outside plots 16 – 19 either with an increased centreline bend radius to at least the minimum required for a type 3 road or a speed restraint overhang provided
 - c) The bend outside plots 50 – 52 either with an increased centreline bend radius to at least the minimum required for a type 6 road or a speed restraint overhang provided
 - d) A speed restraint overhang provided at the bend outside plots 53 – 54
 - e) A tabled entrance at both entrances to the type 6 minor access from the type 3 feeder road at the tangent point of the radius kerbs
 - f) 2no. minimum 2 metre wide adoptable footpaths between the estate road layout and the Public Right of Way which runs along the proposal site's western and southern boundary (adjacent plot 16 and 30)
3. No occupation of the development shall take place until the following have been provided or completed:
 - a) A priority junction off Robinson Road to provide access to the proposal site. Junction shall have minimum 6 metre radius kerbs and a minimum 90 x 2.4 x 90 metre clear to ground visibility splay
 - b) Improvements to Robinson Road along the full width of the proposal site frontage. Improvements shall include widening the carriageway to a minimum 5.2 metres, provision of a minimum 2 metre footway on the proposal site side and minimum 1.8 metre verge on the opposite side
 - c) Improvements to the Public Right of Way which runs along the western and southern boundary of the proposal site, between Robinson Road, the proposal site's eastern boundary and Chapel Road (details shall be agreed with the Local Planning Authority prior to commencement of the development)
 - d) Upgrading of the two north bound bus stops in Chapel Road between Bellfield Avenue and Hill House Court to current Highway Authority specification to include but not limited to real time passenger information
 - e) A residential travel plan

f) Residential travel information packs

- 4.7 ECC Archaeological Services -_Recommend conditions due to the potential for surviving below ground archaeology on the site.
- 4.8 Natural England - No objection is raised by Natural England who advises that the proposal, if undertaken in strict accordance with the details submitted, is not likely to have a significant effect on the interest features for which Essex Estuaries SAC and the Colne Estuary (Mid-Essex Coast Phase 2) SPA & Ramsar has been classified. Natural England therefore advises that Tendring District Council is not required to undertake an Appropriate Assessment to assess the implications of this proposal on the site's conservation objectives.
- 4.9 NHS - NHS raised no objection to the proposed development on the grounds that the catchment GP surgery has capacity to accommodate the level of proposed growth.
- 4.10 Essex Wildlife Trust -_No comments received.
- 4.11 Environment Agency - No objection subject to a controlling condition that prevents development from commencing until a surface water strategy scheme has been submitted to, and approved in writing by the Local Planning Authority.
- 4.12 Essex Police Service - No comments received.
- 4.13 Ramblers Association - No comments received

5. Representations

- 5.1 The Parish Council support the principle of development. However, concern was raised that the proposed development would impact negatively upon the residents of Granville Way and therefore Brightlingsea Town council requested that this application should be determined by the Tendring District Council Planning committee. Following subsequent amendments to the revised scheme this objection has now been withdrawn.
- 5.2 8 initial representations have been received objecting to the development. The issues raised are summarised below:
- Increased traffic;
 - Highway safety and access concerns;
 - Loss of a green area;
 - Impact on footpath at edge of development;
 - General noise and pollution;
 - Impact on wildlife and loss of habitat;
 - Loss of privacy;
 - Loss of countryside views from property and footpath;
 - Village infrastructure unable to cope with high density development;
 - Impact on schools, doctors, utilities etc.;
 - Adverse impact on residential and visual amenity;

- Overlooking and overshadowing;
- Overdevelopment of site;
- Construction traffic likely to cause further damage to Robinson Road; and
- Drainage and sewerage concerns.

6. Assessment

6.1 The main planning considerations are:

- Site Context;
- Proposal;
- Principle of Development;
- Housing and Density;
- Layout, Scale and Design;
- Residential Amenity;
- Highways and Parking Issues;
- Impact on Heritage Assets;
- Biodiversity;
- Arboriculture/Landscaping;
- Drainage and Flood Risk;
- Site Contamination; and
- Other Material Considerations (including Section 106 Obligations).

Site Context

6.2 The application site forms a broadly rectangular area of undeveloped agricultural land, of just under 3 hectares in area to the east of the modern residential development off Granville Way and South of Robinson Road, on the eastern edge of the town. The application site has become an informal area of open space used by local residents for recreational purposes.

6.3 The site frontage to Robinson Road, together with the eastern field boundary are both currently delineated and visually enclosed by existing deciduous hedging, whilst that to the south includes more sporadic hedging, interspersed with more significant mature trees. The western boundary of the site is more visually open, currently delineated only by a low post and wire fence. An existing public footpath runs between both the western and southern boundaries of the site and existing residential development beyond.

Proposal

6.4 The application has been submitted for full planning permission, which includes the erection of 77 dwellings together with garages, access (from Robinson Road), parking, fencing, walling, public open space, landscaping, drainage, highways infrastructure and other ancillary works.

6.5 The majority of the proposed dwellings are two-storey in height, with the exception of plots 40 & 41 which are single-storey given their location next to the southern eastern and

existing residential properties. Plots 51, 52, 53, 54, 60, 61, 62 and 63 are 2.5 storeys in height. The housing density equates to approx. 25 dwellings per hectare.

- 6.6 The layout has been designed for a single vehicular and pedestrian access point to be located off Robinson Road in order to serve the development, together with a new frontage footway along the southern side of Robinson Road and a separate pedestrian access into the site at the eastern-most end.
- 6.7 The Councils Enforcement Team received complaints from Brightlingsea residents that two houses on site had reached base level and drainage pipes were ready for installation. Hopkins Homes were asked to immediately halt work on all unauthorised development on site as the land is believed to have archaeological interest and also to be at risk of contamination; uncontrolled development could be harmful. This request was fully complied with by Hopkins Homes.
- 6.8 In response to concerns over contamination land the applicant makes the following statement. *“The site is not contaminated generally. We have to be precautionary, particularly at the Northern boundary of the site but there is no contamination or remediation identified on the site of the limited works implemented to plot 64. We are diligent in regards to the potential for contamination in the north east corner of the site mainly due to historic storage of building materials here from its builders yard use”.*
- 6.9 In response to concerns over unauthorised development and the archaeology interests on site, the applicant makes the following statement. *“The limited plot excavation for foundation trenches has yielded no archaeological interest. The excavated material remains on site but our watching brief did not yield any artefacts or in situ remains. The trial trenching in this area yielded only results in the westernmost edge of trench T6. The westernmost side of trench T8 was blank. Furthermore, this part of the site had been within the sub area of the site surveyed with ground radar as part of a geophysical survey ...again, this area is blank. As such, plots 64 and 65 are in the least interesting part of the site from an archaeological perspective”.*

Principle of Development

- 6.10 The application site is located on the eastern edge of Brightlingsea north of existing residential development in Granville Way. The site is adjacent to but outside the town development boundary as defined within the Tendring District Local Plan, 2007 which aims to restrict new development to the most sustainable sites. Outside development boundaries, the Local Plan seeks to conserve and enhance the countryside for its own sake by not allowing new housing unless it is consistent with countryside policies.
- 6.11 Brightlingsea is identified as a town within Policy QL1 of the Tendring District Local Plan (2007) and on this basis it is considered that a modest amount of growth can be supported. Tendring District Local Plan (2007) Policy QL1 sets out that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan.
- 6.12 The application site has been identified within the Tendring District Local Plan Proposed Submission Draft (2012) as amended by the Tendring District Local Plan: Pre-Submission

Focussed Changes (2014) for residential development. Although the 2012 Local Plan is currently being revised, it is clear that this residential allocation is likely to remain in any future draft Local Plan.

- 6.13 However, given the limited weight that can be applied to the draft Local Plan, and the status of policy QL1, assessment of the principle of development falls to be considered under the NPPF. Chapter 6 of the National Planning Policy Framework (NPPF) has as an objective the delivery of a wide choice of high quality homes. In order to facilitate this objective paragraph 49 of the NPPF says that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. It is accepted that the Council cannot demonstrate a deliverable 5 year housing land supply and as a result officers considered that Policy QL1 Tendring District Local Plan (2007), cannot be considered up-to-date as set out in paragraph 49 of the NPPF. This view has also been supported by the Planning Inspectorate in a number of recent appeal decisions for similar outline schemes.
- 6.14 Based on the above it is considered that, in the absence of up-to-date policies, development proposals cannot be refused solely on the basis that a site is outside the development boundary. Paragraph 14 of the NPPF supports this view when it sets out that where relevant policies are out-of-date planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
- 6.15 On this basis and having regard to paragraphs 14 and 49 of the NPPF, the presumption in favour of sustainable development carries significant weight. As a result the current scheme falls to be considered against the 3 dimensions of 'sustainable development',
- Economic;
 - Social; and
 - Environmental roles.
- 6.16 The sustainability of the application site is therefore of particular importance. In assessing sustainability, it is not necessary for the applicant to show why the proposed development could not be located within the development boundary. Officers consider that the proposal would contribute economically to the area as an increase in the population is likely to support local services and the economy. In terms of the social role, the site is within close proximity of various community services all within walking distance of the site and Brightlingsea is served by various bus routes with links to Colchester, Clacton and other parts of the district. In terms of environmental sustainability Natural England have been consulted and are satisfied that the proposal, if undertaken in strict accordance with the details submitted, is not likely to have a significant effect on the interest features for which Essex Estuaries SAC and the Colne Estuary (Mid-Essex Coast Phase 2) SPA & Ramsar has been classified.
- 6.17 In addition, Brightlingsea has been identified as an 'Urban Settlement' within in Policy SD2 of the draft Local Plan (2012). These settlements will be the focus for the majority of the district's economic growth and contain a good range of local services and facilities with

potential for growth in homes and jobs. Overall officers consider that the application site performs reasonably in terms of the social role within the definition of sustainability.

- 6.18 As a result, development would be comparable with existing development in the locality. On this basis, and given the inclusion of the site within the defined settlement boundary in the draft Local Plan, Officers consider that a more pragmatic approach is justified in this instance to development, as the development of this site can be achieved in keeping with the aims and objectives of National Planning Policy Framework.

Housing and Density

- 6.19 The NPPF requires Councils to significantly boost the supply of housing to address objectively assessed needs and promote a wide choice of high quality housing. Paragraph 49 of the NPPF makes it clear that proposals for housing development should be considered positively in the context of the 'presumption in favour of sustainable development' and Paragraph 47 requires Councils to identify, in any one year, a supply of five years' worth of developable housing land with a degree of flexibility to promote choice and competition in the market for land.
- 6.20 The Council's 2007 Adopted Local Plan was only intended to provide housing land up to 2011 and therefore the housing supply elements of that plan are now out of date and the Council cannot demonstrate a five year supply of housing land. Furthermore, work on the draft Local Plan 2012 has been suspended, given the inadequate projected housing delivery targets identified within that Local Plan.
- 6.21 In the absence of a five year supply of deliverable housing sites, the Council is expected to comply with the NPPF's 'presumption in favour of sustainable development' and, where possible, support proposals for housing development. The application site has been identified for potential residential development in the draft Local Plan, with an indicative number of 120 residential units.
- 6.22 One of the key issues is whether the site can accommodate the level of development proposed in an acceptable manner and whether the density of the site is appropriate to the site and its surroundings. Policy PEO3 of the draft Local Plan requires new residential development to achieve an appropriate housing density that has regard to various factors, including the character of development in the immediate area. The density of this proposal equates to 25 dwellings per hectare. This is considered to be comparable to the character of the area.
- 6.23 Appendix 3 of the draft Local Plan places an indicative number of 120 units on this application site, although it makes it clear that these indicative numbers should not be treated as minimum targets or seen as the maximum limits, and in reality the actual number of dwellings would be derived from careful consideration of the various policies in the draft Local Plan, including the policies on housing choice, space standards, density, layout and open space requirements.
- 6.24 Because the application site is the subject of an allocation in the draft 2012 Local Plan that has previously been approved for public consultation by Full Council, there is already an acceptance that development in this location could be supported. The fact that the draft

Local Plan has been published for consultation, and following comments received the allocation remains within the draft Local Plan through the Pre-Submission Focused Changes (2014), adds further weight to the argument that this application should be approved to ensure compliance with the NPPF and the presumption in favour of sustainable development.

6.25 Policy PEO7 of the draft Local Plan supports the objectives of the NPPF by promoting a mix of housing size, type and tenure on new development sites of 10 units or more, with a preferred mix being:

- 30% of aspirational housing with 4 or more bedrooms meeting larger standards of internal floor area and amenity space;
- 40% of family housing with 3 or more bedrooms;
- 25% of Council Housing to be delivered in the form of community housing managed by a local trust; and
- 5% providing a mix of housing to be determined by the developer in addressing market demand.

6.26 As previously stated, the application as submitted proposes 11 x 2-bed unit, 41 x 3-bed units, 23 x 4-bed units, and 2 x bungalows. It is therefore clear that the intention is to supply mainly family and housing within this development, in line with the draft Local Plan policy.

6.27 Furthermore, Policy PEO10 of the draft Local Plan requires development proposals involving the development of 10 or more dwellings to provide 25% of the new dwellings as affordable units. In exceptional circumstances, where an applicant considers that high development costs on a particular site would undermine the viability of the project, the applicant is required to demonstrate this through the submission of an independently verified financial appraisal (at cost to the applicant but commissioned by the Council). In the event that any viability appraisal evidences that identified contributions would render the scheme as unviable, the Council will consider a lower requirement or none at all, depending on the actual findings of the viability assessment.

6.28 The scheme originally submitted to the Council proposed 20% affordable housing which equated to affordable 15 units. However, this has now been reduced to 11 affordable units to ensure the development is financially viable. The reason for the reduction in affordable housing stems from the decision of Essex County Council to increase the education contribution from £79,000 (original sum sought at pre-application stage) to £209,854. As a result of this increased education contribution Hopkins Homes put forward a financial appraisal that was independently verified to confirm that the proposed scheme would no longer be viable. Therefore, it was considered acceptable for the developer to put forward a lower rate of affordable housing.

Layout, Scale and Design

- 6.29 At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.
- 6.30 With regard to decision taking this means:
- approving development proposals that accord with the development plan without delay; and
 - where the development plan is absent, silent or relevant policies are out of date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted.
- 6.31 The NPPF in Chapter 6 sets out its commitment in terms of the provision of delivering a wide choice of high quality homes.
- 6.32 In support of the overarching aims and objectives of the NPPF the Tendring District Local Plan Proposed Submission Draft sets out the Councils commitment to sustainable development in Policies SD1, SD2 and SD5 while the requirements for good quality design are set out in Policy SD9.
- 6.33 The submitted details show that the development site covers an area of approximately 3 hectares. The development would therefore result in an average housing density of 25 dwellings per hectare, which is considered to be acceptable in this location, and would integrate the development into the existing urban grain.
- 6.34 The site's vehicular entrance is taken from Robinson Road, which has been framed by an appropriate street frontage to Robinson Road with detached two-storey development set back from the highway that create a 'gateway' into the site, and with an internal site layout that creates a hierarchy of streets and places appropriate to the location. The proposed frontage to Robinson Road takes influence from existing building lines of neighbouring properties to the west.
- 6.35 In terms of provision of private amenity space, Policy HG9 of the Tendring District Local Plan 2007 states that private amenity space for houses with three or more bedrooms shall have a minimum of 100 sqm whilst houses with two bedrooms shall have a minimum of 75 sqm. Policy PEO4 of the draft Local Plan requires development proposals for 2, 3 and 4 bedrooms houses to have private amenity space to be at least equal to the total internal floor area of the dwelling. In this instance, all units would meet the policy requirements of policy HG9. However some units would fail the garden space requirements under policy PEO4. It is considered that given the status of the draft Local Plan, and limited weight can be applied to the policies contained within it, on balance the gardens sizes proposed are acceptable, and the proposal creates an acceptable form of development to future users.
- 6.36 Paragraph 61 of the NPPF states that although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations and therefore planning decisions should address the connections between people and the places and the integration of new development into

the built environment. With regards to this application, a public footpath runs along the western and southern boundaries of the site. Concern was raised that the presence of new houses with their backs facing the footpath will create an intimidating and potentially unsafe pedestrian footpath. To overcome this objection, units 27-31 have been re-orientated to create a public frontage which will improve surveillance along the public footpath and foster security, personal safety and deter potential criminal activity.

- 6.37 With regards to design, the building form of the proposed dwellings have been designed in accordance with The Essex Design Guide, whereby the traditional buildings of Essex are normally made up of rectangular (not square) plan forms, with pitched roofs spanning the narrower plan dimension. The properties within the surrounding context also appear to have narrow rectangular building forms, and the building form of the proposed dwellings have been sympathetically designed in order to continue this local pattern.
- 6.38 Furthermore, the roof pitch of the 2-storey dwellings within the site is generally shown to be 45/40 degrees, as recommended within the Essex Design Guide. This results in a reduced overall scale of the proposed scheme, and is in keeping with that of the neighbouring properties.
- 6.39 The applicants have given a general indication of the appearance and use of materials including in the construction of the development which include:
- Render
 - red brick;
 - Buff multi brick;
 - Eternity artificial slate;
 - Red pantile; and
 - Black pantile.
- 6.40 The house types are varied by both design and size, but all follow an Essex Village orientated design approach with the use of natural materials commonly used in traditional Essex houses. This approach helps to demonstrate that the design is suitable within its immediate surroundings and local context.

Residential Amenity

- 6.41 Policy QL11 of the Tendring District Local Plan (2007) and Policy SD9 of the Tendring District Local Plan Proposed Submission Draft (November 2012) states that new development will only be permitted if, amongst other things, the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.42 The main issues to be addressed are the effects of the development upon the residential amenity to occupiers of adjoining properties in Granville Way. Objection has been raised to the scheme in relation to overlooking. At present the site is vacant and it has not been occupied as residential development in the past, and therefore the existing properties, particularly those to the south and west of the site in Granville Way and Kirkhust Close have been afforded a greater degree of privacy than might be expected of other existing dwellings in an urban location.

- 6.43 It is noted that bedrooms and living rooms are deemed to be habitable rooms by the Essex Design Guide, and therefore great care is required to ensure new developments do not impinge adversely on existing amenities by requiring the careful placement of such new windows. The Essex Design Guide states that for the rear-facing habitable rooms, the rear faces of opposite houses where approximately parallel, a minimum of 25 metres between the backs of houses is usually acceptable.
- 6.44 There is considered to be sufficient separation distance between the proposed plots and existing residential properties along the boundaries with Kirkhust Close and Granville Way, with the exception of plot 16 which is located only 22 metres away from the back of 43 Granville Way which may result in an unacceptable degree of overlooking. To overcome this concern plot 16 has been redesigned omitting the first floor window to bedroom 3.
- 6.45 It is therefore considered that the development would not result in any adverse impact upon existing residential amenity by way of overlooking.

Highway and Parking Issues

- 6.46 Paragraph 4 of the NPPF sets out the criteria for promoting sustainable transport and in this regard stipulates in Paragraphs 34 to 36 how this should be approached. The overall aims and objectives of the NPPF are supported by Policies contained within Chapter 7 of the Tendring District Local Plan (2007) as well as by Policies SD8 and PEO4 of the draft Local Plan.
- 6.47 Paragraph 34 indicates that decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. Paragraph 35 further requires that plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people. Therefore, developments should be located and designed where practical to:
- accommodate the efficient delivery of goods and supplies;
 - give priority to pedestrian and cycle movements, and have access to high quality public transport facilities;
 - create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, avoiding street clutter and where appropriate establishing home zones;
 - incorporate facilities for charging plug-in and other ultra-low emission vehicles; and
 - consider the needs of people with disabilities by all modes of transport.
- 6.48 Paragraph 37 stipulates that there should be a balance of land uses within the area so that people can be encouraged to minimise journey lengths for employment, shopping, leisure, education and other activities.
- 6.49 Concerns have been raised with regards to increased vehicular movement along Robinson Road. The accompanying Transport Assessment gives an average traffic generation for a development of private dwellings in the region of 5.259 movements per dwelling per day, i.e. 77 dwellings at 5.259 gives 405 vehicular movements per day. During the morning peak hour, this is broken down into 12 vehicles entering the site and 32

vehicles outbound. The Transport Assessment concludes that additional traffic during the peak hours is unlikely to have a detrimental effect on Robinson Road. Essex County Council as the Highway Authority has been consulted on the proposed development, and they raise no objection subject to standard conditions.

- 6.50 With regards to parking, the adopted 2009 parking standards require residential units with one bedroom to be provided with at least one parking space, whilst residential units with 2 bedrooms or more, to be provided with at least two parking spaces. Furthermore, development sites should provide unallocated visitor spaces at 0.25 spaces per residential unit. These standards can be reduced in sustainable locations. In this instance, the proposed level of car parking is considered to be appropriate for the intended development mix in this sustainable location. The proposed development proposes 117 parking spaces, 63 garages, 9 carports and 9 visitor parking spaces. Based on the above it is considered that the application site would comply with the aims and objectives of the NPPF as well as Local Plan Policies with regard to highway safety and parking requirements.

Impact on Heritage Assets

- 6.51 The enduring physical presence of the historic environment contributes significantly to the character and 'sense of place' of rural and urban environments. Some of this resource lies hidden and often unrecognised beneath the ground in the form of archaeological deposits, but other heritage assets are more visible. Policy PLA6 of the draft Local Plan states that the Council will work with its partners to understand, protect and enhance the district's historic environment by, amongst other things, requiring archaeological evaluation to be undertaken for schemes affecting sites that do or might contain archaeological remains.
- 6.52 The NPPF is clear that when determining applications, Local Planning Authorities (LPA's) should require the applicant to describe the significance of a heritage asset affected, including any contribution made by their setting. The level of detail should be proportionate to the assets importance and no more than is sufficient to understand the potential impact of the proposal on their significance. With regards to these points, the Senior Historic Environment Consultant at Essex County Council has been consulted and has advised a programme of trial trenching followed by open area excavation to be imposed as a condition if planning permission is granted. As outlined earlier in this report Hopkins Homes commenced development without the necessary planning consent in place.

Biodiversity

- 6.53 Policies within Chapter 6 of the Tendring District Local Plan (2007) and Policy PLA 4 of the Tendring District Local Plan Proposed Submission Draft (2012) seek to ensure that where development is likely to harm nature conservation or geo-diversity interests, planning permission will only be granted in exceptional circumstances, where the benefits of the development clearly outweigh the harm caused and where appropriate mitigation measures must be incorporated into the development to the satisfaction of Natural England and other appropriate authorities.
- 6.54 This application is in close proximity to the Colne Estuary Site of Special Scientific Interest (SSSI). This SSSI forms part of the Essex Estuaries Special Area of Conservation (SAC) and the Colne Estuary (Mid-Essex Coast Phase 2) Special Protection Area (SPA) &

Wetland of International Importance under the Ramsar Convention (Ramsar Site). Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the Colne Estuary SSSI. The proposed development site is used by a good population of slow worms and an exceptional population of common lizards. In support of the application a 'Reptile Report' has been submitted. The report concluded:

- By following the translocation methods detailed in Section 4 of this report, it is considered unlikely that individual reptiles will be harmed during construction activities;
- It is recommended that existing reptile habitat around the perimeter of the proposed development is retained and/or enhanced, as there is unlikely to be any suitable, undisturbed reptile habitat within the site on completion of the development; and
- It is considered that through the enhancement and long-term management of the receptor site and perimeter of the proposed development, the current reptile populations will be maintained locally, and potentially enhanced with sensitive habitat management. Such an increase in population status would contribute to the National Biodiversity Action Plan objectives for common lizards and slow worms.

6.55 Suitable conditions will be attached to protect biodiversity in the area.

Arboriculture/Landscaping

6.56 The original layout was considered inappropriate in terms of its relationship to the existing footpath. A condition is recommended to secure details of the indicative landscaping shown on the site layout plan. To overcome this concern, units 27-31 have been re-orientated to create a public frontage which will improve surveillance along the public footpath and foster security, personal safety and deter potential criminal activity.

Drainage and Flood Risk

6.57 The NPPF makes it clear that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, it should be made safe without increasing flood risk elsewhere. Accordingly, Policy QL3 of the Tendring District Local Plan (2007) and PLA1 of the Tendring District Local Plan Proposed Submission Draft (2012) have been informed by these national policy requirements, the findings of Strategic Flood Risk Assessments (SFRA) and advice from the Environment Agency.

6.58 The applicants have submitted a Flood Risk and Drainage Assessment as part of the application. With regards to the information submitted within the FRA, the Environment Agency had issued a holding objection on the grounds that there is insufficient evidence to assess the proposal. However, following the submission of further information the EA have removed their objection to the proposal subject to conditions being imposed upon the planning permission requiring details of infiltration storage features, modelling of the pipe network to demonstrate that the pipe network will not flood, and details of who will adopt and maintain the surface water system for the lifetime of the development.

Site Contamination

- 6.59 The applicants have submitted a Geo-Environmental desk study report, with the application submission. The results conclude that the site is underlain by natural, generally granular strata, likely to be suitable for traditional strip foundations for the construction of the proposed residential development. In the absence of evidence of on-site contamination or elevated concentrations of standard determinants, the on-site soils are of suitable quality for the use at the site and no remediation works are required. Soil gas regime assessment of at least the northern part of the site should be undertaken along with assessment of the soil stockpile materials at the north of the site prior to removal from site or re-use on site. However, the Council's Public Experience Department (Environmental Health) have identified a former land-fill site within 250 metres of the application site and as such have requested a full contaminated land condition for the site to be carried out prior to commencement of development. Development has already commenced but fortunately not on part of the site close to the landfill site. A condition is therefore recommended to require a full contamination report for the site and development as halted.

Other Material Considerations (including Section 106 Obligations)

Planning Obligations

- 6.60 Without prejudice to the determination of the application, discussions have been held with the applicant in order to ensure that social and physical infrastructure would be provided in association with the proposed development. These discussions have taken place in line with the provisions of the Community Infrastructure Regulations and the Development Plan, in particular Local Plan Policy QL12 relating to the completion of Planning Obligations.
- 6.61 The community Infrastructure Levy Regulations transferred the provisions of Circular 05/05 in relation to the completion of Planning Obligations into law. Circular 05/05 has subsequently been withdrawn following the publication of the National Planning Policy Framework. The NPPF advises that Local Authorities....."should consider whether unacceptable development could be made acceptable through the use of conditions or Planning Obligations. Planning Obligations should only be used where it is not possible to address impacts through a planning condition". In this case a signed Legal Agreement has been received in relation to the matters assessed below.

Public Open Space/Play Facilities

- 6.62 Policy COM6 of the Tendring District Local Plan (2007), and Policy PEO22 of the Tendring District Local Plan Proposed Submission Draft (2012) states that proposals for residential development on a site below 1.5 hectares in size (such as in this case), where existing open space facilities are inadequate to meet the projected needs of the future occupiers of the development, requires that a financial contribution shall be made to the provision of new or improved off-site facilities in scale and kind to meet these needs. Details of the contribution required to make the development acceptable under policy COM6/PEO22 are set out in a supplementary planning document issued in May 2008 (SPD). The Open Space Manager confirms that there is currently a deficit of 13.68 hectares of play and formal open space in Brighlingsea. This is broken down as follows:

	Local Plan Requirement	Local Provision
Play Areas	06.52	0.09
Formal Open Space	<u>13.03</u>	<u>5.78</u>
	19.55	6.20

- 6.63 There are two play spaces in Brighlingsea, a Local Area for Play and Skate Park at Promenade Way, Brighlingsea and a Local Equipped Area for Play at Regent Road Recreation Ground. In addition there is also a recreation ground at Lower Park Road. Any additional development in Brighlingsea area will increase demand on already stretched play facilities and formal open space. The Town Council has considered how additional development in the area will affect the provision of play and open space and have proposals in place to deal with the possible increase in population. Proposals have been drawn up to extend this site which would enable the play area to cope with additional usage. The Town Council has also drawn up plans to extend the changing facilities at Bayard Recreation Ground, install outdoor gym equipment at Western Promenade, improve the landscaping and drainage at Lower Park Recreation Ground and purchase additional amenity land.
- 6.64 As the current play facilities and formal open space are not considered adequate to satisfy any additional need it is considered necessary to increase provision in the area and as such, contributions towards play and formal open space are justified and relevant to the planning application. Therefore, a contribution towards obtaining additional facilities is justified firstly to ensure that there are sufficient facilities to serve the new development and secondly to prevent this development and future development within the catchment area from creating further deficiency. As a result, the requirement of public open space contributions is considered to meet the CIL regs. It therefore follows that a legal obligation to secure this payment is justified and without a contribution would increase pressure on existing facilities and be prejudicial to the Council's strategy to establish a comprehensive long-term framework for the development of outdoor playing space provision throughout the District. The applicant has agreed to this contribution and such a commitment forms part of the s106 Planning Obligation.

Affordable Housing

- 6.65 Policy PEO10 of the draft Local Plan says for developments of 10 or more dwellings, the Council will expect 25% of new dwellings to be made available to Tendring District Council to acquire at a discounted value for use as Council Housing, or as an alternative, the Council will accept a minimum 10% if new dwellings to be made available to the Council alongside a financial contribution toward the construction or acquisition of property for use as Council Housing (either on the site or elsewhere in the district) equivalent to delivering the remainder of the 25% requirement. Due to viability issues covered earlier on in this report, the applicant has agreed to provide¹¹ affordable units on site, and such a contribution forms part of the S106 Agreement.

Education Provision

- 6.66 Essex County Council Education Services have confirmed the need for a financial contribution towards education provision (£78,487 Early Years and Childcare and £131,367 Junior School provision).
- 6.67 The applicant has agreed to such a provision and this is reflected in the S106 Agreement terms.

Background Papers

None