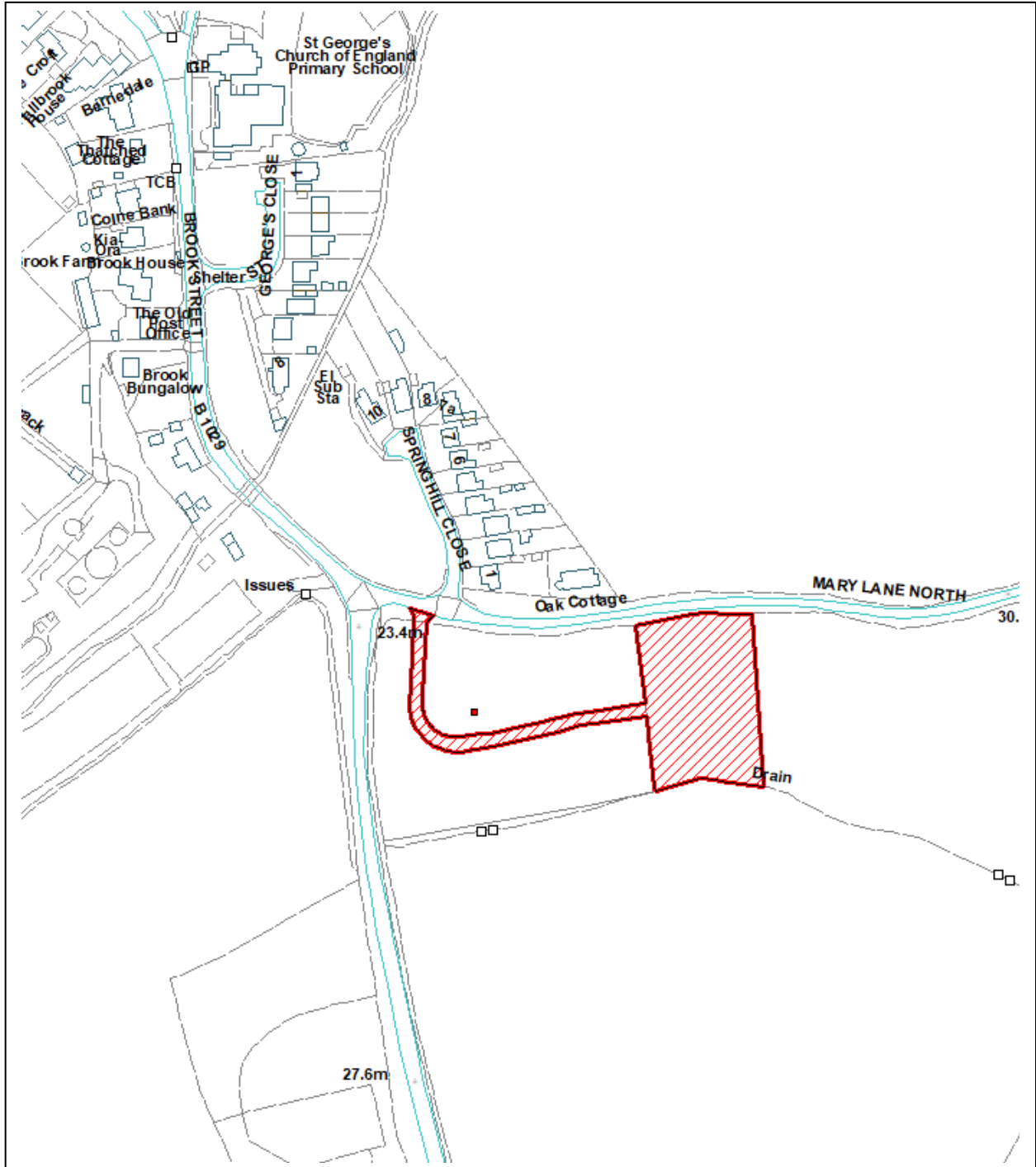


PLANNING COMMITTEE

6<sup>th</sup> June 2023

REPORT OF THE DIRECTOR OF PLANNING

**A.1 PLANNING APPLICATION – 22/01010/FUL – LAND AT BADLEY HALL FARM ROBINSON CLOSE GREAT BROMLEY ESSEX CO7 7HU**



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<b>Application:</b>	22/01010/FUL	<b>Town / Parish:</b>	Great Bromley Parish Council
<b>Case Officer:</b>	Amy Lang	<b>Agreed EOT:</b>	6 December 2023
<b>Applicant:</b>	Orwell Housing Association		
<b>Address:</b>	Land at Badley Hall Farm Robinson Close Great Bromley Essex CO7 7HU		
<b>Development:</b>	Proposed erection of 9 no. dwellings, comprising 6 no. affordable and 3 no. market houses.		

## 1. **Executive Summary**

- 1.1 This application is before Members at the request of Councillor Scott due to concerns with parking provision, surface water flooding, loss of privacy to existing residents and highway safety issues.
- 1.2 This planning application has been submitted on behalf of Orwell Housing for the proposed development of 9 no. dwellings (comprising 6 no. affordable and 3 no. market houses) on land at Badley Hall Farm, Great Bromley.
- 1.3 The proposal would be served by the existing access, through the existing Robinson Close development approved as an affordable housing rural exception site under application references 16/00782/OUT & 18/00974/DETAIL, comprising of 24 units, including 16 affordable dwellings.
- 1.4 The site is outside, but directly adjacent to the Great Bromley Settlement Boundary, and the majority of the site benefits from a Permission in Principle (PiP) under planning reference 21/00150/PIP, for the erection of 9 dwellings. A full application is made as the red lined site area has increased by 0.1ha to that originally approved under the PiP application. The scheme is submitted as a 'rural exception housing' scheme.
- 1.5 This application essentially seeks permission to extend the existing Robinson Close housing development. Although the red lined site area has increased slightly, the principle of development for 9 dwellings on the majority of the application site has been established through the PiP approval. For the reasons given in the main body of the report below, it is considered that the slight increase in site area would not amount to any significant visual or landscape harm beyond the extent of development already assessed through the approved PiP.
- 1.6 The Parish Council have raised concerns with the development due to the lack of local need for affordable homes. However, the Council's Housing Register shows that there are currently 251 households who would like to be offered a property in the village of Great Bromley. Given the rural exception nature of the development proposal the recommendation is subject to a legal agreement including a clause for a sequential approach to finding occupants for the affordable housing units who meet the definition of a "Local Person" (set out below).
- 1.7 The application is supported by the necessary technical reports to demonstrate that the development is acceptable in terms of ecology, trees and drainage. The Highway Authority raise no objection.
- 1.8 The application is therefore recommended for approval.

**Recommendation:** Approval, subject to S106 agreement

- 1) On appropriate terms as summarised below and those as may be deemed necessary to the satisfaction of the Planning Manager to secure 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:

- **RAMS financial contribution** of of £156.76 per dwelling x 9 units = £1,410.84 (index linked) toward recreational disturbance at the Colne Estuary (Mid-Essex Coast Phase 2) Special Protection Area (SPA) and Ramsar sites;
- **On-site affordable housing provision** of 6 units (2 x rented, 4 x Shared ownership) to be managed by Orwell Housing. No requirement for an option in the s106 for the Council to purchase the units; and,
- **Affordable housing occupation** - No affordable housing unit shall be occupied other than by a “**Local Person**”. In the event that, following a marketing period of two months, a Local Person cannot be found to occupy an affordable housing unit, the Landowner (only if they are an approved body) may offer the affordable housing unit to residents or workers in the “**Surrounding Parishes**” who would qualify as a “Local Person”. In the event that, following a further marketing period of one month (beyond the initial two months) a Local Person in the Surrounding Parishes cannot be found, the unit may be offered to residents or workers in any other location within the **Tendring District**. In the event that, following a further marketing period of one month (beyond the initial two months and subsequent one month) a qualifying person from within the Tendring District cannot be found, the affordable unit may be offered to any person considered by the landowner to be **in need of such accommodation**; and,

**Local Person means:**

- *A resident of Great Bromley who has lived there for a continuous period of three years or more, or a former resident of Great Bromley who had lived in the Parish for a continuous period of three years or more within the preceding five years; or*
- *A direct relative, partner or dependant(s) of a resident of Great Bromley who has lived there for a continuous period of three years or more (for the purposes of this qualification a direct relative means parent(s) or child(ren)); or*
- *Any person who is and has been working in the Great Bromley Parish for a continuous period of three years or more.*

**Surrounding Parishes means:**

- *the parishes of Little Bromley, Ardleigh, Little Bentley, Frating, Elmstead and Great Bentley.*

- 2) That the Planning Manager be authorised to grant planning permission upon completion of the legal agreement subject to conditions as stated in Section 8.2 or varied as is necessary to ensure the wording is enforceable, precise and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained.
- 3) The informative notes as may be deemed necessary.

**Or;**

- 4) That in the event of the Planning obligations or requirements referred to in Resolution (1) above not being secured and/or not secured within 6 months, that the Director for Planning be authorised to refuse the application on appropriate grounds at their discretion.

## 2. **Planning Policy**

The following Local and National Planning Policies are relevant to this planning application:

### **National:**

National Planning Policy Framework 2021  
National Planning Practice Guidance

### **Local:**

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (adopted January 2021)

SP1	Presumption in Favour of Sustainable Development
SP3	Spatial Strategy for North Essex
SP4	Meeting Housing Needs
SP6	Infrastructure & Connectivity
SP7	Place Shaping Principles

Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022)

SPL1	Managing Growth
SPL2	Settlement Development Boundaries
SPL3	Sustainable Design
HP5	Open Space, Sports and Recreation Facilities
LP1	Housing Supply
LP2	Housing Choice
LP3	Housing Density and Standards
LP4	Housing Layout
LP5	Affordable Housing
LP6	Rural Exception Sites
PPL1	Development and Flood Risk
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
PPL10	Renewable Energy Generation and Energy Efficiency Measures
CP1	Sustainable Transport and Accessibility
DI1	Infrastructure Delivery and Impact Mitigation

Supplementary Planning Guidance

Essex Design Guide

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

### **Status of the Local Plan**

Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force.

In relation to housing supply:

The Framework requires Councils boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five

years of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, to account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible or if housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, Paragraph 11 d) of the Framework requires granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole (what is often termed the 'tilted balance').

The Local Plan fixes the Council's housing requirement at 550 dwellings per annum. On 19 October 2021 the Council's Strategic Housing Land Availability Assessment (SHLAA) updated the housing land supply position. The SHLAA demonstrates in excess of a six-and-a-half-year supply of deliverable housing land. On 14 January 2022 the Government published the Housing Delivery Test (HDT) 2021 measurement. Against a requirement for 1420 homes for 2018-2021, the total number of homes delivered was 2345. The Council's HDT 2021 measurement was therefore 165%. As a result, the 'tilted balance' at paragraph 11 d) of the Framework does not apply to applications for housing.

### 3. **Relevant Planning History**

#### Directly adjacent site:

16/00782/OUT	Outline planning application with all matters reserved for the erection of 24 new dwellings, including affordable housing and the provision of additional church and school overflow parking within the new site for approximately 30 no. private cars.	Approved	08.03.2017
18/00974/DETAIL	Reserved matters applications for the erection of 24 new dwellings, including affordable housing and the provision of additional church and school overflow parking within the new site for approximately 30 no. private cars.	Approved	17.09.2018
18/01856/DISCON	Discharge of condition 3 (Materials) of application 18/00974/DETAIL.	Approved	17.12.2018
18/01946/DISCON	Discharge of conditions 4 (Archaeology), 5 (Environmental Protection), 9 (Estate Roads and Footways), 17 (Bicycle Storage), 18 (Construction Method Statement), 19 (Vehicular Turning Facility), 26 (Surface Water Drainage), 27 (Off-Site Flooding), 28 (Maintenance Plan) and 30 (Foul Water Drainage) of approved application 16/00782/OUT.	Approved	20.03.2019
19/00240/OUT	Vary condition 24 of approved planning application 16/00782/OUT.	Approved	21.05.2019

The condition requests a footway of 2.5m, see drawing for alternative proposal.

19/01263/DISCON	Discharge of condition 4 (Archaeology) of approved application 16/00782/OUT.	Approved	07.10.2019
20/00504/DISCON	Discharge of conditions 1 (archaeology), 3 (cables), 19 (Travel Information Pack) and 22 (Construction details) for approval 19/00240/OUT.	Approved	12.05.2020

Current application site:

21/00150/PIP	Permission in Principle for a residential development of nine dwellings.	Approved	08.06.2021
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**4. Consultations**

- 4.1 Below is a summary of the comments received from consultees relevant to this application proposal. Where amendments have been made to the application, or additional information has been submitted to address previous issues, only the latest comments are included below.
- 4.2 All consultation responses are available to view, in full (including all recommended conditions and informatives), on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.

<p><b>Local Lead Flood Authority - ECC SuDS</b></p> <p>Thank you for the above consultation. As the site is less than 1ha in area, and lies in Flood Zone 1, we consider that its impact on flood risk is negligible, and we therefore do not wish to comment further.</p>
<p><b>Ecology - Essex County Council Place Services</b></p> <p>No objection subject to securing:</p> <ul style="list-style-type: none"> <li>a) a proportionate financial contribution towards Essex Coast RAMS</li> <li>b) biodiversity mitigation and enhancement measures</li> </ul> <p>We have reviewed the Ecological Survey (JP Ecology, April 2022) and Bat Activity Survey (JP Ecology, September 2022) relating to the likely impacts of development on designated sites, protected and Priority species &amp; habitats and identification of appropriate mitigation measures. We are now satisfied that there is sufficient ecological information available for determination of this application.</p>
<p><b>Archaeology - Essex County Council Place Services</b></p> <p>An archaeological evaluation has been completed for the above site, the evaluation uncovered no further evidence associated with the medieval activity revealed to the west of the site. No further archaeological investigation will be required for the above application. An evaluation report has been submitted and approved. There will be no requirements for an archaeological condition on the above application.</p>

### **Essex County Council Highways**

The information submitted with the application has been fully assessed by the Highway Authority and conclusions reached based on a desktop study in conjunction with a site visit. It is noted that the site will be accessed from the current cul-de-sac, Robinson Close that serves several other dwellings and is situated south of Mary Lane North. It is noted that the proposed site will be near to existing bus stop infrastructure situated in Brook Street. The proposal conforms to the Essex Planning Officers Association (EPOA) parking standards, which ECC applies to development proposals. The EPOA standards are for one space per one bedroom dwelling and two spaces for two or more-bedroom dwellings. Considering these factors, from a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to conditions.

### **Anglian Water Services**

The Planning & Capacity Team provide comments on planning applications for major proposals of 10 dwellings or more, or if an industrial or commercial development, 500sqm or greater. However, if there are specific drainage issues you would like us to respond to, please contact us outlining the details.

### **Environmental Protection**

No objection subject to conditions.

### **Public Realm**

- Play Space Deficit of 0.88 hectares
- Formal Play deficit 0.27
- Leap and Open Space provided at Hare Green located 4.2 miles away

Since the original request for a contribution, the Parish Council have added some additional play equipment and made improvements to the only play area at Hare Green. This is adequate enough to cope with some additional development in the area. Therefore, no contribution is being requested from this planning application on this occasion. Should the development increase in size a contribution maybe required.

### **Housing Services (summarised from several correspondence with officers)**

- I am unable to help with figures relating to the parish of Great Bromley as whole as areas are listed on the Housing Register application on the basis of village rather than the wider parish.
- On this application there have been a few conversations with Orwell Housing Association who are proposing to take the site on. The Council can utilise six units and there is a demand for affordable rented housing in the village.
- We have updated our housing demand spreadsheet for Great Bromley which demonstrates that there are 251 households currently on the Council's Housing Register who have indicated they would like to be offered a property in the village. Whilst it is notable that only two of the households currently reside in the village it is clear that the provision of further affordable housing in this location will contribute towards meeting the demand that we see on the Housing Register from those that live in other villages and from more urban settings.

#### **Officer Comment:**

- *Whilst it is acknowledged that there are 251 households currently on the Council's Housing Register who have indicated they would like to be offered a property in the village, officers acknowledge that the relevant part of policy LP6 states that rural exceptions housing*

*provision should 'offer long term security of tenure to existing residents within the relevant Parish needing separate accommodation in the area and other persons with strong local connections within the Parish in terms of employment or longstanding family, or previous residence links and who require accommodation in the area'. This has been addressed in the 'Assessment' section below.*

- With regard to satisfying the requirements in LP6 in respect of local need, based on the fact that only two applicant households currently live in the village it would suggest that there is insufficient demand from within the village currently to fill six affordable homes. The parish council in conjunction with the Rural Communities Council for Essex are currently looking to undertake a housing needs survey in the village that will more accurately inform us about the level of need for affordable housing. It may be prudent to await the outcome of this survey before a decision is made on this application.
- Setting aside the LP6 requirements and based on general housing demand in the district the proposed tenure mix on this application is acceptable, specifically six affordable homes for rent and three homes for outright sale.
- A 100% affordable tenure with a size mix in proportion with the demand would be acceptable, say:
  - 2 x 1 bed
  - 2 x 2 bed
  - 1 x 3 bed
  - 1 x 4 bed

No need for any option in the s106 for the Council to purchase the units. The Parish Council are looking to undertake a Housing Needs Survey that will better inform the demand figures although that will take several months to complete.

- The Parish Council have suggested there is enough affordable housing in the village but our demand data paints a different picture.
- The difference between now and the PIP application is the demand from within the village, i.e. those on the Housing Register seeking housing in the village and already living there. In 2020 there were eight households whereas now there are two. In 2021 an estimated six households had a strong local connection to the village.

## **5. Representations**

### **5.1 Parish Council Consultation**

Great Bromley Parish Council object to this application for the following reasons:

- The site is clearly an overdeveloped site and encroached on grade one agricultural land.
- The few facilities in the village could not support more residents.
- Affordable housing is already being provided with the Hamilton Lodge development.
- Lack of provision for visitor parking.
- Loss of privacy and overlooking properties.
- Flooding issues.
- Outside of the settlement boundary.
- Dangerous highway and negative impact on the junction of Brook Street and Parsons Hill. Orwell Housing have not complied with planning conditions relating to landscaping on the Robinson Close development.



- The Council is planning to work closely with the Rural Community Council of Essex to undertake a Housing Needs survey to establish local demand and potentially create a Rural Exception Site scheme bespoke to our community needs.

Call in / Fred Nichols concerns (following site meeting on 21 February 2023):

- Obligations required under previous approval (upgrade footpath for better access to school) not done.
- Path floods and people / children have to walk on the road.
- No local need.
- No facilities.
- Wrong location.
- Housing need met at Hamilton Lodge.
- Adjacent properties flood.

## 5.2 Public Consultation

12 letters of representation and objection have been received. The concerns raised can be summarised as follows:

- Additional traffic with increased levels of noise, air and light pollution.
- Already dangerous junction in Mary Lane North - an increase in traffic would make these lanes a real danger for residents, pedestrians, riders and car drivers.
- There are already 60+ houses being built at Hamilton Lodge which will meet the affordable housing needs of the area.
- TDC can demonstrate a 5-year supply of Deliverable Housing Sites.
- Outside settlement boundary.
- Set a harmful precedent for further development (area retained for future access to field beyond).
- Unsustainable location.
- No economic benefit to the community.
- Inadequate public transport.
- Use of private vehicles will increase.
- Development of a Greenfield site.
- Will put further strain on our school and GPs.
- Great Bromley has very limited employment opportunity. No employment opportunities created by the development.
- Detrimental to the character of Great Bromley.
- 'Effectively Phase II of Robinson Close' – should be assessed as a major development as together it exceeds 10 dwellings.
- Out of keeping in this quiet, rural setting.
- Harm to residential amenities from overlooking, loss of privacy and noise disturbance.
- Residents were advised that there were no plans to build more houses.
- Will increase our flood risks in Robinson Close.
- The existing foul drainage is insufficient and will only worsen with these added households.
- Harm to wildlife.

## 6. Assessment

6.1 The main considerations relevant to the assessment of this application can be summarised as follows:

- Site Description and Context;
- Planning History;
- Proposed Development;
- Principle of Development;

- Scale, Layout and Appearance;
- Parking, Accessibility and Highway Safety;
- Trees and Landscaping;
- Residential Amenities;
- Biodiversity and Protected Species;
- Sustainable Drainage and Foul Sewage Disposal;
- Environmental Protection;
- Renewable Energy Generation and Energy Efficiency Measures;
- Archaeology;
- Planning Obligations secured via S106 agreement; and,
- Other Matters.

### Site Description and Context

- 6.2 The application site extends approximately 0.4 hectares in size comprising existing agricultural land (part of Badley Hall Farm), located to the south of Mary Lane North, directly to the east of Robinson Close (also formerly part of Badley Hall Farm), within the Parish of Great Bromley. The agricultural land classification is Grade 3.
- 6.3 The site forms part of a larger agricultural field that extends to the south and east. The site slopes gently from east to west.
- 6.4 To the west, beyond Robinson Close, is Parsons Hill which provides the main access route through the village of Great Bromley. The northern and southern boundaries of the site are enclosed by mature trees/hedges, whilst the eastern boundary is open.
- 6.5 Opposite Robinson Close is Springhill Close, a cul-de-sac of detached bungalows. To the rear of Springhill Close, almost opposite the application site is an unconnected bungalow fronting Mary Lane North.
- 6.6 The site is located outside, but directly adjacent to the Great Bromley Settlement Boundary as defined within the adopted Tendring District Local Plan 2013-2033 and Beyond.

### Planning History

#### **Robinson Close**

- 6.7 As set out above, there is relevant planning history for both the current application site, and the directly adjoining site to the west, being the existing Robinson Close development.
- 6.8 Robinson Close comprises 24 dwellings, 16 of which were delivered as affordable homes. The development was approved by Members at Planning Committee on 7 September 2016 as a rural exception site under application reference 16/00782/OUT. The reserved matters were approved under delegated powers on 17 September 2018, under planning application reference 18/00974/DETAIL.
- 6.9 Application 16/00782/OUT was approved subject to a number of conditions, including Condition 24 requiring an improved footpath link, linking the development site to the main facilities within Great Bromley to the north. Condition 24 of 16/00782/OUT required:

*24 Prior to the occupation of any of the proposed dwellings the footway from the tangent with Mary Lane North (northern side) along Brook Street north and north westerly over the junction with St Georges Close and to the pedestrian gate at St Georges school shall be extended to the full width of the highway wherever possible or to a minimum of 2.5m in width and being provided entirely at the applicant/Developers expense including tactile paving, pram crossings, new kerbing, surfacing, drainage, any adjustments in levels and*

*any accommodation works to the footway and carriageway channel and making an appropriate connection in both directions to the existing footway to the specifications of the Highway Authority.*

*Reason - To make adequate provision for the additional pedestrian traffic generated within the highway as a result of the proposed development in accord with Policy DM 9 of the Highway Authority's Development Management Policies February 2011.*

- 6.10 Due to ownership issues and existing water course routes, the minimum footpath width of 2.5 metres required by Condition 24, was not achievable in some places. Application reference 19/00240/OUT was submitted and approved varying Condition 24 subject to a substitute condition stipulating that the footpath shall be constructed to the full width of the highway wherever possible or to a maximum of 1.8 metres in width, as per the accompanying revised 'footpath widening works' drawing number PA\_04.
- 6.11 The legal agreement secured at outline stage under planning permission reference 16/00782/OUT contains a mechanism which allows it to be applied to subsequent section 73 applications (variation of condition applications). The Council were able to rely upon the original legal agreement as part of the approved variation under application reference 19/00240/OUT. All other aspects of the outline permission remained as approved.

### ***Application Site Area***

- 6.12 The vast majority of the application site benefits from a Permission in Principle (PiP) under planning reference 21/00150/PIP, for the erection of 9 dwellings. The scope of PiP is restricted to location, land use and amount of development (similar to an Outline Planning Application). In the event that a PiP application is approved then other matters (such as detailed design) are considered at the Technical Details Consent (TDC) stage (similar to a Reserved Matters Application).

### **Proposed Development**

- 6.13 This planning application has been submitted on behalf of Orwell Housing for the proposed development of 9 no. dwellings (comprising 6 no. affordable and 3 no. market houses).
- 6.14 The proposed scheme seeks to deliver 3 no. 2-bed dwellings and 6 no. 3-bed dwellings. The application site extends to approximately 0.4 hectares (excluding the access) amounting to a density of 22.5 dwellings per hectare. The development would be accessed via Mary Lane North, through the existing Robinson Close development.
- 6.15 Following discussions between the Council's Housing Team and Orwell Housing, it has been agreed to secure the affordable units as 2 x rented 4 x shared ownership (6 units in total).
- 6.16 The scale and appearance of the proposed scheme has been designed to appear as a continuation of the neighbouring site in Robinson Close. The proposed dwellings incorporate contemporary detailing within a traditional form.
- 6.17 The front boundaries facing the street and the rear boundaries backing on to the countryside will be enclosed by soft landscaping.
- 6.18 A full application is made as the red lined site area has increased by approximately 0.1ha to that originally approved under the PiP application.
- 6.19 This development will be seen as an extension to the existing Robinson Close housing development.

### Principle of Development

- 6.20 As set out within the 'Status of the Local Plan' above, planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (NPPF).
- 6.21 Paragraph 11 of the NPPF states that decisions should apply a presumption in favour of sustainable development. For decision-taking this means approving development proposals that accord with an up-to-date development plan without delay, unless adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
- 6.22 Relevant material considerations in this instance include the planning history for the site including, in this case, a 'fall-back' position due to the existence of the PiP approval mentioned above and elsewhere in this report, and the recent appeal decision at a nearby site in Frating. These are covered in further detail below.

### **Location**

- 6.23 Adopted Local Plan Section 1 (TDLPS1) Policy SP3 sets out the broad strategy for the location of new housing in the district. It states that development will be accommodated within or adjoining existing settlements according to their scale, sustainability and existing role.
- 6.24 Adopted Local Plan Section 2 (TDLPS2) Policy SPL1 defines each settlement for the District. To encourage sustainable patterns of growth, each settlement listed in SPL1 is defined within a 'Settlement Development Boundary' (SDB) as shown on the relevant Policies Map and Local Map.
- 6.25 Adopted Local Plan Section 2 (TDLPS2) Policy SPL2 states that, within the defined SDBs, there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local Plan policies. Outside of SDBs, the Council will consider any planning application in relation to the pattern and scales of growth promoted through the Settlement Hierarchy in TDLPS2 Policy SPL1 and any other relevant policies in this plan. The first part of TDLPS2 Policy LP6 (Rural Exception Site) states that affordable housing may be permitted on sites adjoining the Settlement Development Boundaries of a 'Rural Service Centre' or 'Smaller Rural Settlement', as defined by the settlement hierarchy, as an exception to normal settlement policy to meet a specific identified local need that cannot be otherwise met. It goes on to state (under 'content of schemes') that (such) proposals shall cater primarily for local needs, however to assist with the economic viability of the overall development and provide an incentive to landowners to release their land, a maximum of one in three dwellings in the overall development can be provided for sale or rent on the open market.
- 6.26 As such, when read as a whole, these policies do not preclude the principle of new residential development on sites 'adjoining' the settlement boundaries, subject to a consideration of the patterns and scales of growth set out within the settlement hierarchy.
- 6.27 The site is located outside of but directly adjacent to the settlement boundary of Great Bromley as identified on the adopted Policies Map. Policy SPL1 categorises Great Bromley as a 'Smaller Rural Settlement'.
- 6.28 The TDLPS2 outlines that 'smaller rural settlements' are the least sustainable settlements, with fewer services and facilities provided. Nonetheless, Great Bromley has a primary school, a church, a village hall, a boxing gym and farm shop. These provide employment opportunities, together with other commercial uses at the nearby Hazelwood Estate. Furthermore, there is a Costcutter that is reasonably accessible to the residents of Great Bromley located on the Harwich Road / Frating Road crossroad.

- 6.29 In terms of public transport accessibility, there is an hourly bus service to much larger settlements including Colchester, Manningtree, Alresford and Frinton. There are bus stops located on Brook Street to the north accessible by footways.
- 6.30 TDLP Section 2 Paragraph 3.3.1.4.4 outlines that 'smaller rural settlements' can accommodate growth of up to 10 dwellings. In this case, the settlement has a small range of services and facilities as well as employment opportunities (comparative to the small size of the village). Furthermore, there would not necessarily be an over-reliance on the private motor vehicle, given the availability of regular bus services to much larger settlements further afield.
- 6.31 Taking all of these case-specific considerations into account, the provision of 9 dwellings, is considered to be of a scale of growth which would be appropriate to the settlement of Great Bromley. As such, given that the site adjoins this settlement, the proposed development would accord with the Council's strategy for this type of residential development. Insofar as the principle of development is concerned, the proposal would therefore comply with TDLP Section 1 Policy SP3 and TDLP Section 2 Policies SPL1 and SPL2, as well as the relevant sections of Policy LP6.
- 6.32 The above assessment insofar as the principle of development is concerned is consistent with the recent appeal decision at Land Between Fieldside and Eltone, Frating Road, Great Bromley (development of 5 dwellings) refused by the Council on 5 October 2021 under planning application reference 20/01055/FUL and allowed on appeal on 18 May 2023 under appeal reference APP/P1560/W/22/3292186.
- 6.33 The principle of residential development on the site is therefore accepted subject to all other relevant policies and guidance.

### ***Rural Exception Scheme***

- 6.34 An exemption to TDLP2 Policy SPL2 (new residential development outside of the defined SDBs) is provided through the Rural Exception Site TDLP2 Policy LP6. To enable the delivery of affordable housing in rural areas, the Rural Exception Scheme (RES) allows small developments on sites which abut or is well-related to the Settlement Development Boundary of a 'Rural Service Centre' or 'Smaller Rural Settlement' as defined by the spatial hierarchy. These can come forward as an exception to normal settlement policy. Such schemes are intended to meet the housing needs of local people unable to afford accommodation in the villages where they live or have close local family or employment ties.
- 6.35 Policy LP6 states that, affordable housing may be permitted on sites adjoining the Settlement Development Boundaries of a 'Smaller Rural Settlement', as defined by the settlement hierarchy, as an exception to normal settlement policy to meet a specific identified local need that cannot be otherwise met. To justify this form of development, applicants must demonstrate a shortage of affordable housing, where provision would offer long term security of tenure to existing residents within the relevant Parish needing separate accommodation in the area and other persons with strong local connections within the Parish in terms of employment or longstanding family, or previous residence links and who require accommodation in the area.
- 6.36 The policy also states that proposals will need the support of the relevant Parish or Town Council and be expected to meet all of the following criteria:
- ***Evidence of Local Need***  
*The proposal must include detailed and up-to-date evidence of local need for affordable housing within the Parish, proven to the satisfaction of the District Council. The detail of any planning application should show that the number of affordable homes will not exceed the number, size and tenure genuinely required to meet the identified local housing need.*

- **The Content of Schemes**  
*A proposal shall cater primarily for local needs. However, to assist with the economic viability of the overall development and provide an incentive to landowners to release their land, a maximum of one in three dwellings in the overall development can be provided for sale or rent on the open market.*
- **Secure Arrangements**  
*Secure arrangements must be in place, before the granting of planning permission, that:*
  - a. *ensure that all the affordable homes within the scheme remain exclusively for local need through control of occupation during the lifetime of the development and that the low-cost benefits of the housing provision pass on to subsequent occupants meeting the criteria of local need;*
  - b. *ensure that the necessary long-term management of the scheme is permanently secured; and provide that where a vacated affordable home in the scheme cannot be filled by persons in local need within the Parish, that the home is made available over within Tendring District on the same basis of need to secure its occupation.*
- **Location and Environmental Considerations**  
*The proposal shall have no significant material adverse impact on biodiversity and geodiversity (including designated sites), landscape (including designated landscapes), the historic environment, residential amenity, highway safety, or the form and character of the settlement to which it adjoins.*

6.37 In the case of application 21/00150/PIP, the application, as originally submitted, sought permission in principle for 5 units. As set out within the officer's delegated report, in order to facilitate a more efficient use of the land and provide a greater number of affordable housing units to meet the local need, the amount of residential development was increased from five to nine units during the determination of the application (please see planning officer and housing officer email exchange from application 21/00150/PIP scanned to this current application file as background information dated, 1 June 2021).

6.38 Within the email exchange between the planning officer and housing officer, the housing officer confirmed that:

*There remains a demand for rural exception site housing in Great Bromley (the 8 affordable rented homes on the previous application did not meet the demand) and I estimate there are currently 6 households on the housing register that would qualify for housing in the village on the basis of strong connections with the village. In some sense, this would appear to be a "Phase II" development of the site that was delivered last year as per the attached S106 agreement.*

6.39 The scheme was subsequently amended from 5 units to 9 units. At the time, the identified demand for a further 6 affordable units in Great Bromley was considered to provide the necessary evidence to support the development of the site for 9 dwellings. The development proposal was assessed on this basis and considered acceptable in all other regards. Insofar as application 21/00150/PIP is concerned, the LPAs planning system shows no recorded objection from Great Bromley Parish Council and only a single letter of objection from a nearby resident.

### **Fall-back Position**

6.40 The 'fall-back' position principle is established in case law. In summary, the relevant legal principles were set out in R v Secretary of State for the Environment and Havering BC (1998) EnvLR189. In that case Mr Lockhart-Mummery QC, sitting as a Deputy High Court Judge, accepted submissions that there were three elements to the fall-back test:

*"First whether there is a fall-back use, that is to say whether there is a lawful ability to undertake such a use; secondly, whether there is a likelihood or real prospect of such occurring. Thirdly if the answer to the second question is "yes" a comparison must be made between the proposed development and the fall-back use."*

- 6.41 As mentioned at paragraph 6.18 above, a full application has been submitted in this instance as the extent of the red lined site area has increased slightly by 0.1ha to that originally approved under the PiP application. A Technical Details Consent (TDC) can only follow a PiP application with an identical red lined site area.
- 6.42 Application 21/00150/PIP remains extant, and a TDC application could be submitted at any time securing the details for the previously approved 9 dwellings, thus allowing the erection of 9 dwellings on the site. Consequently, there remains a realistic prospect which is to execute a development proposal for 9 dwellings on a slightly smaller site (subject to a TDC approval). This 'fall-back' position is a material consideration of significant weight in the consideration of this application.

### ***Housing Demand and Mix – Latest position***

- 6.43 As set out above, the principle of residential development on the site for 9 dwellings is considered acceptable having regard to the Council's strategy for residential development and site-specific characteristics of the application site, including its location abutting the defined settlement boundary of Great Bromley.
- 6.44 The evidence of need for affordable housing in this location was established during the consideration of application 21/00150/PIP which remains extant and is a realistic fall-back position. As set out within paragraph 3.2 of the accompanying planning statement, the applicant is content that the principle of the development has been established by the approved PiP.
- 6.45 For these reasons, officers conclude that the principle of development for 9 dwellings on the site cannot be disputed. However, as this current application does not benefit from the support of Great Bromley Parish Council, officers recognise that, insofar as this matter is concerned, there is conflict with the third paragraph of Policy LP6, and as set out in the first sentence of the policy as cited within paragraph 6.36 above.
- 6.46 Therefore, for the avoidance of doubt, officers will address the requirements of Policy LP6, specifically the evidence of local need and the Council's latest housing position.
- 6.47 Evidence of Local Need – Key Considerations:
- The Council's Housing Register shows that there are currently 251 households who would like to be offered a property in the village of Great Bromley.
  - 2 of the households currently reside in the village.
  - Material change in Housing Register figures since the PIP application – demand from within the village; 8 households in 2020, 6 households in 2021 and 2 households in 2023.
  - There is a demand for affordable rented housing in the village.
  - The Parish Council are looking to undertake a Housing Needs Survey that will better inform the demand figures, although that will take several months to complete.

### ***Officer comment:***

- 6.48 The Parish Council contend that there is enough affordable housing in the village and there is no evidence of further local need. However, the Council's housing demand data of 251 households provides clear evidence of additional need in this area. The Council's Housing Register currently shows 2 applicant households residing in Great Bromley. These figures have been taken from the latest Housing Register figures; an extract is included below (extract taken from the email received

from Housing dated 29<sup>th</sup> November 2022 scanned to the file dated 7<sup>th</sup> December 2022). The key figures mentioned are highlighted for ease of reference:

Property Required	Total on Housing Register	Number on Housing Register choosing Great Bromley	Number aged 60+	Number employed	No residing in Great Bromley	No of households living in other villages
1B	737	103	32	19	1	23
2B	551	64	8	16	0	22
3B	379	48	2	10	1	19
4B	157	26	1	7	0	6
5B	44	7	0	4	0	1
6B	11	3	0	0	0	0
<b>Total</b>	<b>1879</b>	<b>251</b>	<b>43</b>	<b>56</b>	<b>2</b>	<b>71</b>

Table showing the latest Housing Register figures for Great Bromley

6.49 Officers recognise the technical conflict between the proposal for 6 affordable units against the current demand of 2 applicant households. However, the development will deliver 2 no. affordable rented properties which can be offered to the 2 current local families, whilst the provision of further affordable housing in this location (4 shared ownership units) will contribute towards meeting the demand that is evident on the Housing Register from those that live in other villages and from more urban settings.

6.50 It is acknowledged that the strong demand for affordable housing shown in the Housing Register does not provide clarity on whether the demand is from persons with strong local connections within the Parish in terms of employment or longstanding family, or previous residence links and who require accommodation in the area. However, it provides clear evidence of significant additional need for affordable housing in this area and in the event that planning permission is forthcoming a legal agreement is recommended to ensure that the affordable units are offered to existing (qualifying) residents first, and other persons with strong local connections within the Parish in terms of employment or longstanding family, or previous residence links and who require accommodation in the area, as set out in paragraph 8.1 and summarised within the recommendation box above.

6.51 As such, Officers are satisfied that, with the appropriate mechanisms secured via the S106 legal agreement, the units will make an important contribution toward providing affordable housing for existing residents and other persons with strong local connections within the Parish in terms of employment or longstanding family, or previous residence links and who require accommodation in the area.

6.52 The Content of Schemes – Key Requirements:

- A proposal shall cater primarily for local needs.
- A maximum of one in three dwellings in the overall development can be provided for sale or rent on the open market.

**Officer comment:**

6.53 The development proposes 9 units, 6 of which will be secured as affordable housing units comprising:

Market Housing	3 x 3 bedroom dwellings
Affordable Rented	2 x 2 bedroom dwellings
Affordable Shared Ownership	1 x 2 bedroom dwelling 3 x 3 bedroom dwellings



6.54 The mix of affordable and market homes complies with the requirements of this section of Policy LP6. As covered above, the recommendation is subject to a legal agreement including a clause for a sequential approach to finding occupants for the affordable housing units who meet the definition of a “Local Person”, thus securing the units to primarily cater for meet local needs.

6.55 Secure Arrangements– Key Requirements:

- All the affordable homes within the scheme remain exclusively for local need through control of occupation during the lifetime of the development.

**Officer comment:**

6.56 Again, subject to a legal agreement, the above requirements can be secured.

6.57 Location and Environmental Considerations:

- The proposal shall have no significant material adverse impact on biodiversity, landscape, residential amenity, highway safety, or the form and character of the settlement to which it adjoins.

**Officer comment:**

6.58 These considerations are all addressed in detail under the relevant headings below. In summary, officers are satisfied that the development is compliant with the location and environmental considerations of Policy LP6.

Scale, Layout and Appearance

6.59 Paragraph 130 of the NPPF (2021) requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place.

6.60 TDLPS1 Policy SP7 endorses high standards of urban and architectural design. All new development should follow key place shaping principles including; responding positively to local character and context; creating well-connected places; providing buildings that exhibit individual architectural quality; incorporation of biodiversity creation and enhancement measures; and incorporation of measures to promote environmental sustainability.

6.61 TDLPS2 Policies SPL3 and LP4 also require, amongst other things, that developments deliver new dwellings that are designed to high standards and which, together with a well-considered site layout which create a unique sense of place.

6.62 The plot extends approximately 0.4 hectares in size (excluding the access) amounting to a density of 22.5 dwellings per hectare which is suitably comparable to the Robinson Close estate.

6.63 The proposed design, appearance and use of materials are considered to be acceptable and will result in an appropriate expansion of the current build form of this part of the settlement. The development comprises a good mix of house types to add variation and interest in the street scene. This, together with the street layout, interspersed soft landscaping and boundary planting will create an attractive place to live. There will be no distinguishable difference between market and affordable housing in terms of architectural design and use of materials to ensure they are integrated well into the development.

6.64 Overall, the scale, layout and appearance of the development is considered to meet the aims and aspirations of the above-mentioned national and local plan policies.

### Parking, Accessibility and Highway Safety

- 6.65 Paragraph 100 of the NPPF states that planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users. Paragraph 110 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users.
- 6.66 TDLPS2 Policy SPL3 Part B of the Local Plan seeks to ensure that access to a new development site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and provision is made for adequate vehicle and cycle parking.
- 6.67 In addition, the EPOA Parking Standards 2009 set out the parking requirements for new development. The parking standards require a minimum of 1 vehicle parking space for 1 bedroom dwellings, and 2 spaces per 2 bedroom (or greater) dwelling. One secure, covered parking space for bicycles is required per dwelling. Visitor car parking is required at a rate of 0.25 spaces per dwelling. The parking spaces should measure 5.5 metres by 2.9 metres. Where a garage is being relied upon to provide parking, this should have internal dimensions of 7 metres by 3 metres.
- 6.68 Access to the site will be through the existing Robinson Close development, between numbers' 16 and 17 Robinson Close. The area between these 2 existing dwellings is currently an open, grassed area leading to the site and fields beyond. The layout and small road link will appear as a continuation of the existing development.
- 6.69 Consultation with the Highway Authority has been undertaken who observe that the proposal is utilising the existing access off Mary Lane North and the that the development will be served by vehicle and cycle parking provision in accordance with the EPOA Parking Standards. The Highway Authority raise no objection subject to conditions and highway improvements. The Local Planning Authority have considered the recommended conditions and have, where relevant, made amendments to ensure they meet the NPPF tests for planning conditions, thus ensuring these tests are complied with.
- 6.70 Officers are satisfied that the proposed development will not result in any material impact on the existing road network in terms of highway capacity or highway safety, subject to the conditions include within this recommendation.

### Trees and Landscaping

- 6.71 Paragraph 131 of the NPPF sets out the importance of trees and the contribution they make to the character and quality of urban environments. It states that planning policies and decisions should ensure that opportunities are taken to incorporate trees in developments and that existing trees are retained wherever possible.
- 6.72 TDLPS2 Policy LP4 relates to housing layout and states; to ensure a positive contribution towards the District's 'sense of place', the design and layout of new residential developments will be expected to incorporate and maximise the use of green infrastructure, verges, trees and other vegetation.
- 6.73 The main body of the application site is in agricultural use and does not contain any trees or other significant vegetation.
- 6.74 The northern boundary of the land is demarcated by an established hedgerow containing three large trees: 2 Horse Chestnuts and an Oak. The trees are important features in the landscape and are afforded formal al legal protection by Tendring District Council Tree Preservation Order 97/48/TPO Land Adjacent to Mary Lane North and Parsons Hill, Great Bromley.

- 6.75 In order to demonstrate that the development proposal can be implemented without causing harm to the hedgerow and to the preserved trees the applicant has submitted a Tree Constraints Plan (TCP). The information contained in the document is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction ' Recommendations.
- 6.76 The TCP adequately demonstrates that the development proposal can be implemented without causing harm to protected trees, because there is no development proposed or encroaching into the root protection areas of these trees. A condition is recommended to secure details of tree protection measures for the duration of construction.
- 6.77 In terms of soft landscaping the Proposed Block Plan shows the positions of specimen trees and a new boundary hedge. Should Members resolve to approve the application, a condition would be imposed to secure details of tree, shrub and hedging species, quantity and specification.

#### Residential Amenities

- 6.78 Paragraph 130 f) of the NPPF states that planning decisions should ensure that developments create places that are safe with a high standard of amenity for existing and future users.
- 6.79 TDLPS1 Policy SP7 requires that all new development protects the amenity of existing and future residents and users with regard to noise, vibration, smell, loss of light, overbearing and overlooking. TDLPS2 Policy SPL3 Part C seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.80 The Essex Design Guide sets out guidance for residential developments, including separation distances between properties. Where habitable rooms are located at the rears of neighbouring properties and the rear facades face each other, a minimum spacing of 25m between the rears of the properties is required. Where new development backs on to the rear of existing housing, existing residents are entitled to a greater degree of privacy to their rear garden boundary. Where the rear faces of the new houses are approximately parallel to those of the existing homes, the rear of the new houses may not encroach any closer than 15m to an existing rear boundary – even though with a closer encroachment, 25m between the rears of the houses could still be achieved. The rears of houses may be positioned more closely together than stipulated above if one or both of the houses concerned is designed so as not to overlook the other. This would require an intervening fence or other visual barrier set above eye-level between facing ground-floor windows. It would also prohibit rear-facing, upper-storey bedroom or living room windows.
- 6.81 Furthermore, TDLPS2 Policy LP4 j. states that the design and layout of new residential will be expected to provide for private amenity space of a size and configuration that meets the needs and expectations of residents and which is commensurate to the size of dwelling and the character of the area.
- 6.82 The proposed development provides an internal layout and separation distances in accordance with the above-mentioned policies and guidance. The garden sizes vary but are commensurate to the size of the respective dwelling and plot. The development is therefore considered to achieve a good standard of amenity that would meet the needs and expectations for future occupants of the development, whilst safeguarding the amenities of existing residents from overlooking, loss of privacy, loss of light and outlook. Loss of view is not a material planning consideration.

#### Biodiversity and Protected Species

- 6.83 Paragraph 180 of the NPPF states that, when making planning decisions local planning authorities need to assess whether significant harm to biodiversity could result from the development. The NPPF goes on to state the hierarchy that should be applied to mitigate any harm to ecology that is identified. Paragraph 174 of the NPPF requires that Local Planning

Authorities contribute to and enhance sites of biodiversity or geological value whilst Paragraph 179 requires local planning authorities to safeguard components of local wildlife-rich habitats.

- 6.84 TDLPS2 Policy PPL4 states that proposals for new development should be supported by appropriate ecological assessments and, where relevant, provide appropriate mitigation and biodiversity enhancements to ensure a net gain.
- 6.85 Consultation has been undertaken with Essex County Council Place Services Ecology who have reviewed all supporting information. Following receipt of a holding, the necessary bat activity surveys were provided by the applicant.
- 6.86 Place Services Ecology have reviewed the accompanying Ecological Survey (JP Ecology, April 2022) and Bat Activity Survey (JP Ecology, September 2022) relating to the likely impacts of development on designated sites, protected and Priority species & habitats and identification of appropriate mitigation measures.
- 6.87 The mitigation measures identified in the Ecological Survey (JP Ecology, April 2022) and Bat Activity Survey (JP Ecology, September 2022) will be secured by a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and Priority species particularly bats, nesting birds, reptiles, Hedgehogs, and Brown Hare.
- 6.88 The Ecological Survey (JP Ecology, April 2022) recommend reasonable biodiversity enhancements of four House Sparrow terraces, two bat boxes, hedgerow planting, tree planting, to secure net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework (2021). The reasonable biodiversity enhancement measures will be outlined within a Biodiversity Enhancement Strategy and will be secured by a condition of any consent.
- 6.89 In addition, the Bat Activity Survey (JP Ecology, September 2022) highlights that it is likely bats could be foraging/commuting within and around the site.
- 6.90 Sufficient ecological information is now available for determination of this application and the development is considered acceptable subject to necessary conditions and a S106 legal agreement securing a proportionate financial contribution towards RAMS (covered in further detail under the Planning Obligations section of this report), biodiversity mitigation and enhancement measures, and a sensitive lighting scheme.

#### Sustainable Drainage and Foul Sewage Disposal

- 6.91 Paragraph 167 of the NPPF states that, when determining planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Paragraph 169 goes on to say that, developments should incorporate sustainable drainage systems. The systems used should, amongst other things, take account of advice from the lead local flood authority and have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development.
- 6.92 TDLPS2 Policy PPL5 requires that all new development must make adequate provision for drainage and sewage treatment and should include sustainable drainage systems (SuDS). Policy SPL3, Part B criterion g), requires that development reduces flood risk and integrates sustainable drainage within development.
- 6.93 The application is supported by a Drainage Strategy (Rossi Long Consulting, report reference RLC Ref.211340 dated December 2021). As set out within the accompanying report, the strategy includes drainage into the Phase 1 system, with the existing detention basin enlarged to suit the additional contributing area. Furthermore, all private parking areas are to be constructed using permeable paving systems which will also collect roof water run-off. Run-off will drain to rainwater butts to all rear elevations of the dwellings. Any overflow from rainwater butts and front elevation

run-off will drain into the driveway permeable system, prior to discharge to the piped drainage network.

- 6.94 The scale of development falls below the threshold for consultation assessment and comment by Anglian Water Services and the Lead Flood Authority.
- 6.95 Should Members resolve to approve the application, officers recommend the inclusion of an informative advising of the need for planning permission for the enlargement or works to the existing attenuation basin within Robinson Close.

#### Environmental Protection

- 6.96 Paragraph 183 of the NPPF seeks to ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. Adequate site investigation information, prepared by a competent person, should be available to inform the development proposals and assessments. Paragraph 184 states that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.
- 6.97 Consultation has been undertaken with the Council's Environmental Protection Team. The Council's Environmental Protection Team raise no objections subject to conditions relating to necessary contaminated land assessments and investigations to ensure that in the event of any unexpected ground conditions or materials of potential concern being found, appropriate steps are taken to ensure the health and safety of all site users. Conditions in relation to noise and construction management are also recommended.
- 6.98 Environmental protection matters can be suitably managed by conditions.

#### Renewable Energy Generation and Energy Efficiency Measures

- 6.99 The NPPF requires local planning authorities to adopt proactive strategies to mitigate climate change and promote sustainable development.
- 6.100 TDLPS1 Policy SP7 requires new development to include measures to promote environmental sustainability including addressing energy and water efficiency. Policy PPL10 requires proposals for new development to consider the potential for a range of renewable energy solutions and for proposals for residential development in particular to be accompanied by a 'Renewable Energy Generation Plan' (REGP) setting out measures that will be incorporated into the design, layout and construction aimed at maximising energy efficiency and the use of renewable energy.
- 6.101 Compliance with the aims and requirements of TDLPS1 Policy SP7 and TDLPS2 Policy PPL10 can be achieved by way of condition, included in the recommendations below.

#### Archaeology

- 6.102 TDLPS2 Policy PPL 7 states that any new development which would affect, or might affect, designated or non-designated archaeological remains will only be considered where accompanied by an appropriate desk-based assessment. Where identified as necessary within that desk-based assessment, a written scheme of investigation including excavation, recording or protection and deposition of archaeological records in a public archive will be required to be submitted to, and approved by, the Local Planning Authority.
- 6.103 The Essex Historic Environment Record (HER) shows that the proposed development lies within an area of archaeological interest.

- 6.104 An archaeological evaluation was carried out on the adjacent site which revealed medieval finds. Excavation revealed further medieval features concentrated in the northwest corner of the site.
- 6.105 The above application proposes development which would require groundworks that are likely to impact on any potential surviving archaeological remains. A Written Scheme of Investigation has been submitted and approved. The archaeological evaluation has subsequently been completed. The evaluation uncovered no further evidence associated with the medieval activity revealed to the west of the site.
- 6.106 No further archaeological investigation will be required for the above application. An evaluation report has been submitted and approved. There are no requirements for an archaeological condition.

#### Planning Obligations to be secured via S106 Agreement

- 6.107 Paragraph 55 of the National Planning Policy Framework states that Local Planning Authorities should consider whether otherwise unacceptable development can be made acceptable through the use of conditions or planning obligations. Paragraph 55 of the NPPF states that planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably relate in scale and kind to the development.

#### ***RAMS – Recreational Disturbance Mitigation***

- 6.108 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation. This residential development lies within the Zone of Influence of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The residents of new housing are therefore considered likely to regularly visit relevant designated sites for recreation. In order to avoid a likely significant effect in terms of increased recreational disturbance to coastal European designated sites (Habitats sites) in particular the Colne Estuary RAMSAR and SPA and Essex Estuaries SAC, mitigation measures will need to be in place prior to occupation.
- 6.109 Natural England are requesting financial contributions to mitigate against any recreational impact from new dwellings that are located within Zones of Influences. The financial contribution will be secured through the Unilateral Undertaking process.
- 6.110 This residential development lies within the Zone of Influence. The site is not within or directly adjacent to one of the European designated sites, but is approximately 6,600 metres from the Colne Estuary (Mid-Essex Coast Phase 2) Special Protection Area (SPA) and Ramsar sites.
- 6.111 Should the committee resolve to approve the application, a S106 Legal Agreement will secure the necessary financial contributions for RAMS contributions.

#### ***Affordable Housing Provision***

- 6.112 As addressed in the 'Housing Demand and Mix – Latest position' section of the report above, the Council's Housing Team have reviewed the proposed development, are satisfied that the affordable units will contribute to local need and raise no objections to the quantum and tenure of the affordable housing units.
- 6.113 Should the committee resolve to approve the application, a S106 legal agreement will secure the on-site affordable housing provision of 6 units (2 x rented, 4 x Shared ownership) to be managed

by Orwell Housing, including a clause that occupants must fall within the specified definition of a 'local person' or otherwise, taking a sequential approach as further defined within the S106. Officers have included suggested wording within the recommendation above.

- 6.114 In addition, officers will ensure the legal agreement secures all other requirements of TDLPS2 Policy LP6.

### ***Public Open Space and Play Facilities***

- 6.115 TDLP Section 2 Policy HP 5 states that the Council will work with partners and sports providers across the district to maintain, expand and improve the quality and accessibility of public open space, sports and recreational facilities of different types and will aim to achieve and exceed standards set out in the Council's 2017 Open Spaces Strategy or any future update. TDLP Section 2 Policy DI1 states that all new development should be supported by, and have good access to, all necessary infrastructure. Where a development proposal requires additional infrastructure capacity to be deemed acceptable, mitigation measures must be agreed with the Local Planning Authority and the appropriate infrastructure provider. Such measures may include financial contributions towards new or expanded facilities and the maintenance thereof. For the purposes of this policy, the widest reasonable definition of infrastructure and infrastructure providers will be applied. Section 106 will remain the appropriate mechanism for securing financial contributions. The contribution would be used towards the delivery of improvements, expansion or new open spaces and/or sports facilities.
- 6.116 Consultation with the Public Realm Team has been undertaken. Originally, an Off-site Open Space contribution toward the upgrade of play equipment at Hare Green Recreation Ground was requested. However, since the original request for a contribution, the Parish Council have added some additional play equipment and made improvements at Hare Green. These recent improvements are enough to cope with the additional development proposed and no contribution is being requested.

### **Other Matters**

#### ***Hamilton Lodge development***

- 6.117 Objections have been received on the basis that the recently approved development at the nearby Hamilton Lodge will deliver sufficient affordable housing for the area. The Hamilton Lodge development as referred to within the objections relates to the scheme approved under planning application reference 20/00547/OUT for;

*Hybrid Application for Outline application for residential development including: 67 dwellings including up to 30% as affordable housing and all necessary access roads (Outline), All associated amenity space, landscaping, parking, servicing, utilities, footpath and cycle links, on-site drainage, and infrastructure works including gas and electricity apparatus (Outline), Residential development for 12 dwellings (Use Class C3) and associated access roads including formation of new junction to Parsons Hill (Detail), Formal and informal open space including village green and meadow (Use Class D2) including landscaping, parking, servicing, utilities, footpath links (Detail).*

- 6.118 Application 20/00547/OUT included 30% affordable housing in compliance with the requirements of TDLPS2 Policy LP5 for new major housing developments. This current application is submitted as a 'rural exception housing' scheme for 9 dwellings by Orwell House falling to be considered against TDLPS2 Policy LP6. Therefore, the policy considerations and relevant material planning considerations are not comparable.

#### ***Assessment as a major scheme in combination with Robinson Close***

- 6.119 The original Robinson Close development was considered as a major development scheme, subject to all necessary considerations at the time of the applications 16/00782/OUT (approved 08.03.2017) and 18/00974/DETAIL (approved 17.09.2018). Application 21/00150/PIP was approved on 08.06.2021 with the current application being submitted on 04.07.2022.
- 6.120 As addressed above, the PiP approval is indicated to be a material consideration of considerable weight for the reasons given. There was a clear break between the submission and approval of the original scheme and PiP approval. Following on from this, there was another clear break between the approval of the PiP and the submission of this latest application.
- 6.121 Taking these factors into consideration, with particular regard to the nature of the three applications mentioned, the timescales for which respective applications were submitted and the clear intention of the latest proposal the subject of this report as a rural exceptions scheme, officers are of the view that this latest proposal does not represent a phased addition to the adjacent development, and are satisfied that the proposal forms a separate scheme which would simply be read as an extension to the adjacent development.

## **7. Overall Planning Balance and Conclusion**

- 7.1 The site is located outside of but directly adjacent to the settlement boundary of Great Bromley as identified on the adopted Policies Map. Relevant Local Plan policies do not preclude the principle of new residential development on sites 'adjoining' the settlement boundaries, subject to a consideration of the patterns and scales of growth set out within the settlement hierarchy. Great Bromley benefits from a modest selection of local amenities and bus links, many of which are within reasonable walking distance from the site. As such, the proposal for 9 dwellings on the site would represent sustainable development and growth of an appropriate scale for the settlement of Great Bromley.
- 7.2 The approval of 9 dwellings on the site under application reference 21/00150/PIP remains extant, and a Technical Details Consent application could be submitted at any time. Consequently, there remains a realistic prospect of this 'fall-back' position coming forward. This a material consideration of significant weight when determining the acceptability of this current application. Considering the proposed scheme in comparison to the previously approved scheme (as required by the case law cited above), the number of proposed units remains the same and the marginal increase in the size of the site will not amount to any materially harmful visual or landscape impact beyond that of the previously approved scheme.
- 7.3 The application is submitted as a 'rural exception scheme'. The Council's Housing Register shows that there are currently 251 households who would like to be offered a property in the village of Great Bromley. Subject to an appropriately worded legal agreement securing a sequential approach to finding a occupants for the affordable housing units who meet the definition of a "Local Person", the proposal would provide an important contribution to the local need for affordable homes. In summary, officers are satisfied that the development is compliant with the location and environmental considerations of Policy LP6.
- 7.4 The application is accompanied by all appropriate statements and technical reports to demonstrate that no significant adverse impacts will result from the development. Subject to compliance with the recommended conditions and S106 planning obligations, the development is considered policy compliant.
- 7.5 Taking all of the case-specific considerations into account, there would be no adverse impacts that would significantly or demonstrably outweigh the benefits from the delivery of a sustainable housing development providing much needed affordable homes, as per the NPPF test. Accordingly, the application is recommended for approval.



## 8. Recommendation

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives and the prior completion of a section106 legal agreement with the agreed Heads of Terms, as set out in the table below:

<b>CATEGORY</b>	<b>TERMS</b>
Financial contribution towards RAMS.	<b>RAMS financial contribution</b> of £156.76 per dwelling x 9 units = £1,410.84 (index linked)
Affordable Housing Provision	<b>On-site affordable housing provision</b> of 6 units (2 x rented, 4 x Shared ownership) to be managed by Orwell Housing, including a clause that occupants must fall within the specified definition of a 'local person' or otherwise, taking a sequential approach as further defined within the S106.

## 8.2 Conditions and Reasons

### Time Limit and Approved Plans

#### 1. COMPLIANCE: TIME LIMIT

CONDITION: The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

#### 2. COMPLIANCE: APPROVED PLANS AND DOCUMENTS

CONDITION: The development hereby permitted shall be carried out in accordance with the drawings/documents listed below and/or such other drawings/documents as may be approved by the Local planning authority in writing pursuant to other conditions of this permission or such drawings/documents as may subsequently be approved in writing by the Local planning authority as a non-material amendment following an application in that regard. Such development hereby permitted shall be carried out in accordance with any Phasing Plan approved, or as necessary in accordance with any successive Phasing Plan as may subsequently be approved in writing by the local planning authority prior to the commencement of development pursuant to this condition.

- SU\_01 Site Location Plan
- PA\_07 A Proposed Site Plan
- PA\_08A Proposed Block Plan Incl. Roof Plans
- PA\_01 Plots 24 - 25 - Floor Plans and Elevations
- PA\_02A Plots 26 - 28 - Floor Plans and Elevations
- PA\_03 Plots 29 - 30 - Floor Plans and Elevations
- PA\_04 Plots 31 - 32 - Floor Plans and Elevations
- PA\_05 Proposed Garage Types
- PA\_06 Proposed Street Elevations
- 22-089-TS01 Tree Constraints Plan
- Tree Survey Schedule OAS 22-089-TSS01 (Oakfield Arboricultural Services)
- C-001 P01 Drainage Strategy Plan
- Drainage Strategy RLC Ref. 211340 dated December 2021

- Ecological survey: Bat activity survey dated 23rd September 2022 (JP Ecology)
- Ecological survey: Protected species and habitats dated 4th April 2022 (JP Ecology)

REASON: For the avoidance of doubt and in the interests of proper phased planning of the development.

### **Materials**

#### **3. FURTHER APPROVAL: AGREEMENT OF MATERIALS**

CONDITION: No development shall be commenced above slab level until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and approved, in writing, by the local planning authority. Such materials as may be agreed shall be those used in the development and fully applied prior to the first use/occupation.

REASON: To secure an orderly and well-designed finish in the interests of visual amenity and the character and appearance of the development.

### **Landscaping and Tree Protection**

#### **4. APPROVAL REQUIRED: TREE PROTECTION**

CONDITION: No development shall be commenced until the existing trees on the site as identified within the accompanying Tree Constraints Plan reference 22-089-TS01 and Tree Survey Schedule OAS 22-089-TSS01 (Oakfield Arboricultural Services), have been protected by the erection of temporary protective fences of a height, size and in positions which shall previously have been approved, in writing, with the local planning authority. The approved protective fences shall be erected prior to the commencement of development and shall be retained throughout the duration of building and engineering works in the vicinity of the trees to be protected. Any tree/s dying or becoming severely damaged as a result of any failure to comply with these requirements shall be replaced with a tree or trees of appropriate size and species during the first planting season, or in accordance with such other arrangement as may be approved, in writing, with the local planning authority up to first use or first occupation of the development, following the death of, or severe damage to the tree/s.

REASON: In the interests of visual amenity and the character and appearance of the area.

#### **5. APPROVAL REQUIRED: LANDSCAPING SCHEME**

CONDITION: No development above slab level shall take place until there has been submitted to and approved, in writing, by the local planning authority a precise scheme of hard, soft and boundary treatment landscaping works for the site in accordance with the indicative landscaping shown on approved drawing numbers PA\_07 A Proposed Site Plan and PA\_08A Proposed Block Plan, which shall include any proposed changes in ground levels.

REASON: In the interests of visual amenity and the character and appearance of the area.

#### **6. COMPLIANCE WITH DETAILS AND TIMESCALE REQUIRED - LANDSCAPING SCHEME**

CONDITION: All changes in ground levels, soft/hard landscaping shown on the approved landscaping details shall be carried out in full during the first planting and seeding season (October - March inclusive) following the commencement of the development, or in such other phased arrangement as may be approved, in writing, by the Local planning authority up to the first use/first occupation of the development. Any trees, hedges, shrubs or turf identified within the approved landscaping details (both proposed planting and existing) which die, are removed,

seriously damaged or seriously diseased, within a period of 10 years of being planted, or in the case of existing planting within a period of 5 years from the commencement of development, shall be replaced in the next planting season with others of similar size and same species unless otherwise agreed in writing by the local planning authority.

REASON: To ensure that the approved landscaping scheme has sufficient time to establish, in the interests of visual amenity and the character and appearance of the area.

7. APPROVAL REQUIRED: LANDSCAPE MANAGEMENT PLAN

CONDITION: No development shall take place until there has been submitted to and approved, in writing, by the Local planning authority a landscape management plan for a minimum of 5 years. Both new and existing planting will be required to be included in a long-term management plan. The landscape management plan shall also include long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens. The landscape management plan shall be carried out as approved in accordance with the details and timescales in the plan and thereafter retained.

REASON: To support plant establishment and ensure the proper management and maintenance of the approved landscaping in the interests of amenity, functionality and the character and appearance of the area.

8. APPROVAL REQUIRED: DETAILS OF SCREEN WALLS AND FENCES

CONDITION: Prior to the first occupation of the development precise details of the provision, siting, design and materials of all screen walls and fences shall be submitted to and approved, in writing, by the Local planning authority. The screen walls and fences as may be approved shall be erected prior to the dwelling/s/building/s to which they relate being first occupied/used and thereafter be retained in the approved form.

REASON: In the interests of the character and appearance of the area, quality of the development and visual impact upon adjacent open fields.

NOTES FOR CONDITION: visible / prominent close boarding fencing on boundaries adjacent to the open countryside will not be accepted.

**Removal of Permitted Development Rights (PD)**

9. SPECIFIC RESTRICTION ON DEVELOPMENT: REMOVAL OF PD FOR ENCLOSURES

CONDITION: Notwithstanding Section 55 (2)(a)(ii) of the Town and Country Planning Act 1990 as amended and the provisions of the Town and Country Planning (General Permitted Development) Order 2015, Schedule 2, Part 2 Minor operations, Class A (or any Order revoking and re-enacting that Order with or without modification):- no fence, gate, wall or any other means of enclosure, shall be erected forward of any elevation of the dwelling houses fronting a highway, except pursuant to the grant of planning permission on an application made in that regard.

REASON: To enable the local planning authority to retain control over the development in the interests of the visual amenity and the spaciousness and quality of the development.

10. SPECIFIC RESTRICTION ON DEVELOPMENT: REMOVAL OF PD FOR EXTENSIONS AND OUTBUILDINGS

CONDITION: Notwithstanding Section 55 (2)(a)(ii) of the Town and Country Planning Act 1990 as amended and the provisions of the Town and Country Planning (General Permitted Development) Order 2015, Schedule 2, Part 2 Development within the curtilage of a

dwellinghouse, Class A and Class E (or any Order revoking and re-enacting that Order with or without modification):- no building or enclosure, swimming or other pool shall be erected within the curtilage of the dwelling houses on Plots 24 to 29 as shown on approved drawing number PA\_07 A Proposed Site Plan, except pursuant to the grant of planning permission on an application made in that regard.

REASON: Plots 24 to 29 have the smallest gardens and/or are located adjacent to the open countryside. This condition is considered reasonable and necessary to enable the local planning authority to retain control over the development in the interests of residential amenities and landscape visual impact on those plots adjacent to the open countryside.

## **Highways**

### **11. FURTHER APPROVAL - CONSTRUCTION MANAGEMENT TO BE AGREED (PRE COMMENCEMENT)**

CONDITION: Prior to the commencement of development, details of the construction methodology, layout plan and timetable shall be submitted to and approved, in writing, by the Local planning authority. This shall incorporate the following information:-

- a) Details of the hours of work/construction of the development within which such operations shall take place and the hours within which delivery/collection of materials for the said construction shall take place at the site.
- b) Details of the loading/unloading/storage of construction materials on site, including details of their siting and maximum storage height.
- c) Details of how construction and worker traffic and parking shall be managed. This shall include routing of all traffic and any directional signs to be installed and where.
- d) Details of any protection measures for footpaths and trees surrounding the site.
- e) Details of any means of access to the site during construction.
- f) Details of the scheduled timing/phasing of development for the overall construction period.
- g) Details of measures to control the emission of dust and dirt during construction and including details of any wheel washing to be undertaken, management and location it is intended to take place.
- h) Details of the siting of any on site compounds and portaloo's.
- i) Details of the method of any demolition to take place, including the recycling and disposal of said materials resulting from demolition.
- j) Site waste management plan (that shall include reuse and recycling of materials).
- k) Scheme for sustainable construction management to ensure effective water and energy use.
- l) Scheme of review of complaints from neighbours.
- m) Registration and details of a Considerate Constructors Scheme.
- n) Details on the provision, location and management of any show home/s or reception, including opening times, parking and advertisements (including flags and directional signs for the development and details of times for removal when not required).

The said methodology as may be approved shall be implemented in its entirety and shall operate as may be approved at all times during construction.

REASON: To minimise detriment to nearby residential and general amenity by controlling the construction process to achieve the approved development. This condition is required to be agreed prior to the commencement of any development as any construction process, including site preparation, by reason of the location and scale of development may result adverse harm on amenity.

### **12. COMPLIANCE AND ONGOING REQUIREMENT: PARKING AND TURNING**

CONDITION: Prior to the occupation of the development hereby approved, the size 3 vehicular turning facility as shown on approved drawing PA\_08A Proposed Block Plan and the parking bays, garages and cycle stores shown on approved drawing PA\_05 Proposed Garage Types shall be constructed, surfaced, and made available for use. Notwithstanding the provisions of Article 3, Schedule 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) the approved parking and garages shall be always maintained free from obstruction within the site for that sole purpose.

REASON: In the interests of highway safety and to ensure adequate vehicular access to and use of parking and turning provision within the site is provided and maintained.

13. COMPLIANCE: INDIVIDUAL ACCESS WIDTHS

CONDITION: Prior to occupation of the development the individual vehicular access for that dwelling shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be less than 3.6 metres (4 drop kerbs), each shared vehicular crossing at its junction with the highway shall not be less than 7.2 metres (8 drop kerbs) and shall be retained at that width for 6 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge.

REASON: To ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety.

14. COMPLIANCE: PROVISION OF KERBS AND FOOTWAYS

CONDITION: Prior to the occupation of the development hereby approved, and in keeping with the adjacent development within Robinson Close, all carriageways should be provided at a maximum of 6 metres between kerbs and all footways should be provided at no less than 2.0 metres in width and retained in this approved form in perpetuity.

REASON: To ensure that vehicles and pedestrians using the site access do so in a controlled manner, in the interests of highway safety.

15. FURTHER APPROVAL: RESIDENTIAL TRAVEL PACK PRIOR TO OCCUPATION

CONDITION: Prior to first occupation of each dwelling, a Residential Travel Information Pack (travel pack) shall be provided to each dwelling for use of its first occupiers. The travel pack shall be agreed, in writing, by the local planning authority prior to provision and shall include a minimum of six one day travel vouchers for use with a local transport operator.

REASON: In the interests of reducing the need to travel by car and promoting sustainable development and transport.

NOTES FOR CONDITION: Please contact the Travel Plan Team at ECC Highways via email to [Travel.PlanTeam@essex.gov.uk](mailto:Travel.PlanTeam@essex.gov.uk) to obtain a Residential Travel Information Pack template and the associated day travel vouchers required.

**Biodiversity and Protected Species**

16. COMPLIANCE: IN ACCORDANCE WITH ECOLOGICAL APPRAISAL

CONDITION: All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Survey (JP Ecology, April 2022) and Bat Activity Survey (JP Ecology, September 2022). This may include the appointment of an

appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

REASON: To conserve and enhance protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

#### 17. FURTHER APPROVAL: BIODIVERSITY ENHANCEMENT STRATEGY

CONDITION: Prior to any works above slab level, a Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority [following the details contained within Ecological Survey (JP Ecology, April 2022)]. The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) Detailed designs or product descriptions to achieve stated objectives;
- c) Locations, orientations, and heights of proposed enhancement measures by appropriate maps and plans;
- d) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- e) Persons responsible for implementing the enhancement measures;
- f) Details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details prior to occupation and shall be retained in that manner thereafter.

REASON: To enhance protected and Priority species & habitats and allow the LPA to discharge its duties under the NPPF 2021 and s40 of the NERC Act 2006 (Priority habitats & species).

#### 18. PRIOR TO OCCUPATION: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

CONDITION: Prior to occupation, a lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting plans, drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. The scheme shall include position, height, aiming points, lighting levels and a polar luminance diagram.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

REASON: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

### **Renewable Energy and Energy Efficiencies**

#### 19. FURTHER APPROVAL: ENERGY STATEMENT

CONDITION: Prior to any works above slab level, a scheme for the provision and implementation of water, energy and resource efficiency measures for the lifetime of the development shall be submitted to and approved, in writing, by the local planning authority. The scheme shall include as a minimum:-

- An electric car charging point per dwelling
- A Water-butt per dwelling
- Compost bin per dwelling
- Agreement of heating of each dwelling/building
- Agreement of scheme for waste reduction

The scheme shall be fully implemented prior to the first occupancy of the development unless otherwise agreed in writing by the local planning authority. The scheme shall be constructed and the measures provided and made available for use as may be agreed and thereafter shall be maintained.

REASON: To enhance the sustainability of the development through better use of water, energy and resources reduce harm to the environment and result in wider public benefit in accordance with the NPPF.

### **Contaminated Land**

#### **20. FURTHER APPROVAL: CONTAMINATION ASSESSMENT (PART 1)**

CONDITION: No development shall take place until;

1. A strategy for investigating any contamination present on site has been submitted for approval, in writing, by the Local Planning Authority. Development on site, including demolition, may be carried out in order to fully investigate contamination prior to the submission of said strategy subject to agreement, in writing, by the Local Planning Authority and all other pre commencement conditions being agreed by the Local Planning Authority first.
2. Following approval of the strategy, an investigation shall be carried out in accordance with the strategy and timescales as may be agreed.

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off site receptors. This condition is required to be agreed prior to the commencement of any development to ensure health and safety is secured early for both development and its construction including the health of all workers during all phases of construction. If agreement was sought at any later stage there is an unacceptable risk to health and safety.

#### **NOTE/S FOR CONDITION:**

This condition shall engage and requires details to be agreed prior to the commencement of development meaning it must be dealt with first or risk any start of works being unlawful. This condition is imposed to ensure that the risk of contamination is dealt with and is not later a risk to occupiers/users of the land and/or biodiversity interests.

#### **21. FURTHER APPROVAL: CONTAMINATION ASSESSMENT (PART 2)**

CONDITION: A written report shall be submitted detailing the findings of the contamination investigation as approved, and an assessment of the risk posed to receptors by the contamination, for approval, in writing, by the Local Planning Authority. Subject to the risk assessment, the report

shall include a Remediation Scheme and timetable of the scheme for agreement in writing by the Local Planning Authority if the authority considers it is required.

Any remediation work as may be agreed shall be carried out in its entirety in accordance with the approved Remediation Scheme and its timetable. Following remediation, evidence shall be provided to the Local Planning Authority verifying that remediation has been carried out in accordance with the approved Remediation scheme prior to the first use/occupation of the development.

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors.

#### NOTE/S FOR CONDITION:

This condition shall engage and requires details to be agreed following the findings of a contamination investigation that is normally also conditioned as part of this decision notice. This condition is imposed to ensure that the risk of contamination is dealt with and is not later a risk to occupiers/users of the land and/or biodiversity interests. Please note remediation may requirement ongoing requirements bespoke to this site and the investigation carried out.

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of this condition and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of this condition, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with this condition.

### 8.3 Informatives

#### Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

#### Legal Agreement Informative

This application is the subject of a S106 legal agreement, and this decision should only be read in conjunction with this agreement. Please note that any subsequent variation / removal of condition applications (s73 applications) are likely to require a new legal agreement to secure the necessary planning obligations.

#### Highways Informatives

1. All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to The Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate Notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure



that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway.

2. All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org)

3. On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area, it covers, and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.
4. The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.
5. Mitigating and adapting to a changing climate is a national and Essex County Council priority. The Climate Change Act 2008 (amended in 2019) commits the UK to achieving net-zero by 2050. In Essex, the [Essex Climate Action Commission](#) proposed 160+ recommendations for climate action. Essex County Council is working with partners to achieve specific goals by 2030, including net zero carbon development. All those active in the development sector should have regard to these goals and applicants are invited to sign up to the [Essex Developers' Group Climate Charter \[2022\]](#) and to view the advice contained in the [Essex Design Guide](#). Climate Action [Advice guides](#) for residents, businesses, schools are also available.

### Environmental Protection Informatives

In order to minimise potential nuisance caused by construction works, the applicant (or their contractors) the construction method statement required by the above condition shall include the following:

- No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Mondays to Saturdays (finishing at 13:00 on Saturdays) with no working of any kind permitted on Sundays or any Public/Bank Holidays
- The use of barriers to mitigate the impact of noisy operations will be used where possible.
- No materials produced as a result of the site development or clearance shall be burned on site.
- All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.
- The selection and use of machinery to operate on site, and working practices to be adopted will as a minimum requirement, be compliant with the standards laid out in British Standard 5228:2014.
- Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
- Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Pollution and Environmental Control). This will contain a rationale for the piling method

chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.

- If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Pollution and Environmental Control prior to the commencement of works.
- Adequate and suitable measures should be carried out for the minimisation of asbestos fibres during demolition, so as to prevent airborne fibres from affecting workers carrying out the work, and nearby properties. Only contractors licensed by the Health and Safety Executive should be employed. Any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.
- All waste arising from the ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.
- No materials produced as a result of the site development or clearance shall be burned on site. All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.
- All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

Any external lighting on the proposed development shall be located, designed and directed [or screened] so that it does not cause avoidable intrusion to neighbouring residential properties. The applicant shall demonstrate compliance with the Institute of Lighting Professionals code of practice. ([www.theilp.org.uk](http://www.theilp.org.uk)).

### Drainage Strategy

Please note, enlargement of, or works to the existing attenuation basin within Robinson Close to facilitate the delivery of the approved drainage strategy, is likely to require planning permission. Please ensure all necessary permissions are in place prior to any works being undertaken.

## **9 Additional Considerations**

### Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
  - 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
  - 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
  - 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.

- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

### Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

### Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.
- 9.12 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

## **10 Background Papers**

- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.