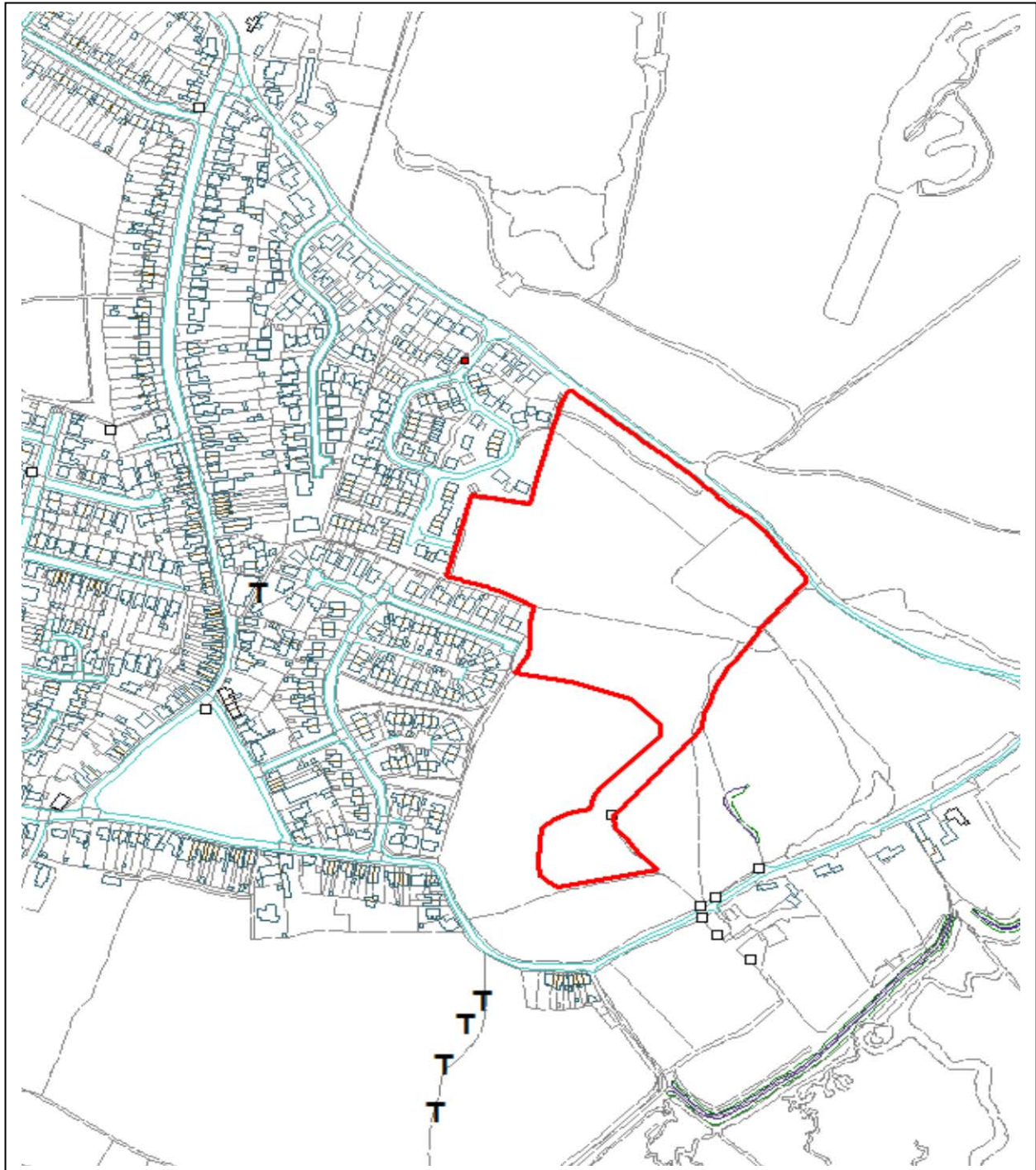


PLANNING COMMITTEE

27 FEBRUARY 2018

REPORT OF THE HEAD OF PLANNING

A.2 PLANNING APPLICATION - 17/01318/FUL - LAND AT ROBINSON ROAD, BRIGHTLINGSEA, CO7 0ST



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Application:	17/01318/FUL	Town / Parish: Brightlingsea Town Council
Applicant:	Hopkins Homes Ltd	
Address:	Land at Robinson Road Brightlingsea CO7 0ST	
Development:	Residential development of 115 No. dwellings together with garages, access roads, parking, fencing, walling, public open space, landscaping, drainage, highways infrastructure and other ancillary works.	

1. Executive Summary

- 1.1 **The application was deferred from Planning Committee on 3rd January 2018 to enable further discussions and investigations to take place between the Officers and the applicant with regards to the following:**
 - **The need for an emergence survey for any potential bat roosts on the application site;**
 - **The need for a Phase 2 Survey for the potential hibernation of Great Crested Newts on the application site;**
 - **The potential removal of vehicular access from the application site onto Wilfreds Way;**
 - **The proposed removal of the hedgerow along the Robinson Road frontage and the width of that road; and**
 - **The undersized gardens in relation to certain plots within the application site.****The report from 3rd January 2018 is replicated below with any updates shown in bold.**
- 1.2 This application is referred to Planning Committee as it represents a departure to the Saved Development Plan proposing housing outside the Settlement Development Boundary of the 2007 Adopted Plan.
- 1.3 Within the 2007 Saved Plan the site lies outside but partially abutting the Settlement Development Boundary and within the Coastal Protection Belt. In the Emerging Plan the majority of the site lies within the Settlement Development Boundary and is allocated for residential development. The area of the site which remains outside the Settlement Development Boundary is proposed for open space. It is also located adjacent to land benefiting from planning permission for 77 no. dwellings under application number 13/01470/FUL (referred to as Phase 1).
- 1.4 The proposal seeks permission for 115 no. dwellings: **the original proposal was for 6 no. 1 bed dwellings; 35 no. 2 bed dwellings; 44 no. 3 bed dwellings; 24 no. 4 bed dwellings; 4 no. 2 bed affordable dwellings and 2 no. 3 bed affordable dwellings. However, the amendments made following the Planning Committee now results in a proposal for 9 no. 1 bed dwellings; 34 no. 2 bed dwellings; 41 no. 3 bed dwellings; 25 no. 4 bed dwellings; 4 no. 2 bed affordable dwellings and 2 no. 3 bed affordable dwellings.** The dwellings proposed throughout the site are predominately two storey in height with some bungalows, 1.5 storey dwellings and 2.5 storey dwellings proposed.
- 1.5 The proposal is considered to represent sustainable development, on the edge of Brightlingsea, and in an area benefiting from planning permission for residential development on the adjacent site for residential development and as a proposed allocation within the Emerging Local Plan.

- 1.6 The design, layout, landscaping and scale are considered acceptable. The proposal would result in no material harm to residential amenity, highway safety and designated habitats/landscapes.
- 1.7 **The** proposal is recommended for approval subject to conditions and the completion of a S106 legal agreement to provide for education, affordable housing, health, open space, play equipment and habitat mitigation (if necessary).

Recommendation: Approval

That the Head of Planning be authorised to grant planning permission for the development subject to:-

- a) Within 6 (six) months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where relevant):
- Open Space – Transfer of land and future maintenance contribution or setting up of management company
 - Financial Contribution towards play space (£60,035.63)
 - Education contribution toward early years and childcare; primary and secondary education
 - 6 no. gifted dwellings for affordable housing
 - Financial contribution of £39,905 towards healthcare provision
- b) Planning conditions in accordance with those set out in (i) below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning (or the equivalent authorised officer) in their discretion considers appropriate).

Conditions:

1. Standard 3 year time limit for commencement
2. Accordance with approved plans
3. No work to take place until a detail surface water drainage scheme has been agreed
4. No work to take place until a scheme to minimise risk of off-site flooding during construction has been agreed.
5. No work to take place until a surface water drainage system maintenance plan has been agreed
6. Maintain yearly logs of the agreed surface water drainage system maintenance plan
7. Development to be carried out in accordance with the mitigation measures set out in the Ecological Assessment and Habitats Regulations Assessment Screening Report.
8. An Ecological Mitigation and Management Plan to be submitted and agreed
9. Submission of an Environmental Construction Management Plan to be agreed
10. Removal of permitted development rights for loft conversions on all plots
11. Landscaping to be carried out
12. Broadband Condition
13. Hours of Construction
14. Vehicular Visibility
15. Vehicular Parking and Turning to be provided in accordance with submitted plans
16. No unbound materials within 6 metres of a highway boundary
17. Details showing the means to prevent discharge of surface water onto the highway
18. Details of Wheel Cleaning Facilities
19. Completion of carriageways and footways
20. Provision of Residential Travel Information Packs
21. Provision of a footway across the whole Robinson Road frontage at the Developer's expense.

22. Recent improvement works associated with Phase 1 and the site access upgraded to current policy standards of no less than 5.5 metres in width.
23. Archaeological Trial Trenching
24. Completion of archaeological fieldwork
25. Post-excavation archaeological assessment

c) That the Head of Planning (or the equivalent authorised officer) be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of 6 (six) months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a s106 planning obligation.

2. Planning Policy

NPPF National Planning Policy Framework

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL2 Promoting Transport Choice

QL3 Minimising and Managing Flood Risk

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

QL12 Planning Obligations

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG4 Affordable Housing in New Developments

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

COM6 Provision of Recreational Open Space for New Residential Development

COM20 Air Pollution/ Air Quality

COM21 Light Pollution

COM22 Noise Pollution

COM23 General Pollution

COM30 Electricity Supply

COM31 Water Supply

EN1 Landscape Character

EN3 Coastal Protection Belt

EN6 Biodiversity

EN6A Protected Species

EN6B Habitat Creation

EN11A Protection of International Sites European Sites and RAMSAR Sites

EN11B Protection of National Sites SSSI's, National Nature Reserves, Nature Conservation Review Sites, Geological Conservation Review Sites

EN11C Protection of Local Sites: Local Nature Reserves, County Wildlife Sites, Regionally Important Geological/Geomorphological Sites

EN12 Design and Access Statements

EN13 Sustainable Drainage Systems

TR1A Development Affecting Highways

TR3A Provision for Walking

TR5 Provision for Cycling

TR7 Vehicle Parking at New Development

TR8 Public Car Parking

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP5 Open Space, Sports & Recreation Facilities

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

LP5 Affordable and Council Housing

PPL1 Development and Flood Risk

PPL2 Coastal Protection Belt

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

PPL7 Archaeology

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

SAH3 Development Robinson Road, Brightlingsea

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

Provision of Recreational Open Space for New Development

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan, despite some of its policies being out of date. Paragraph 215 of the NPPF allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 216 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft. **Part 1 was examined in January 2018 with the Inspector's report awaited and whilst its policies cannot yet carry the full weight of adopted policy, they can carry some weight in the determination of planning applications.** Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 216 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

3. Relevant Planning History

02/01537/FUL	Use of land for storage of building materials (Renewal of planning permission TEN/99/0356)	Refused	23.10.2002
92/00880/FUL	Change of use from agricultural land to garden	Approved	22.09.1992
99/00356/FUL	Use of land for storage of building materials	Approved	07.07.1999
13/01470/FUL	Erection of 77 no. dwellings together with garages, access	Approved	20.04.2015

roads, parking, fencing, walling, public open space, landscaping, drainage, highways infrastructure and other ancillary works.

15/01732/DISCON	Discharge of condition 4 (materials), 5 (landscaping), 7 (highway improvement works), 8 - 10 (archaeological works), 11 (surface water drainage), 12 (contamination), 14 (broadband), 15 (wheel cleaning facilities) and 16 (reptile habitat scheme) of planning permission 13/01470/FUL.	Approved	02.06.2016
16/00929/DISCON	Discharge of condition 7 (highway improvement works) and 11 (surface water drainage) of planning permission 13/01470/FUL.	Current	
17/00703/HRAA	Habitat Regulations Assessment screening report - Request to determine whether an Appropriate Assessment is necessary.	Issued	09.06.2017
17/01318/FUL	Residential development of 115 No. dwellings together with garages, access roads, parking, fencing, walling, public open space, landscaping, drainage, highways infrastructure and other ancillary works.	Current	

4. **Consultations**

UU Housing Consultation	Advises that there remains a high demand for housing in the Brightlingsea. Currently there are 22 applicants on the housing register who have selected Brightlingsea as their 1 st choice/preferred area needing a 2 bedroom property in the town and 16 needing a 3 bedroom home in the town. Therefore the Council's requested 6 properties to be gifted. The Council's preference is to be gifted 4 x 2 bedroom properties and 2 x 3 bedroom properties.
ECC SuDS Consultee	<p>Do not object to the granting of planning permission based on the following:</p> <p>No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:</p> <ul style="list-style-type: none"> Discharging surface water runoff via infiltration where site conditions allow and limiting all additional runoff to 5l/s for storm events up to and including the 1 in 100 year event plus

40% climate change allowance unless otherwise agreed by the local authority.

- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.

No works shall take place until a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

Building Control and
Access Officer

No comments.

Waste Management

No comments at this stage.

Tree & Landscape Officer

The main body of the application site is rough grassland containing rank and ruderal vegetation. The northern, eastern and western boundaries are demarcated by established hedgerows and a few small trees. There is an internal hedgerow running from east to west; parallel with and set back from the northern boundary by approximately 20m.

In order to show the impact of the development proposal on the trees and hedgerows on the application site the applicant has submitted a tree survey and report. This information is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction: Recommendations.

The report accurately describes the health and condition of the

boundary hedgerows and the trees contained within them.

The existing vegetation on the application site currently makes a positive and pleasant contribution to the character of the area, as it stands, although it does not merit retention and, in the main, would not be in keeping with the proposed development. The landscape plans show the extent of existing vegetation to be retained.

As only a small percentage of the existing vegetation merits retention it is appropriate to focus on new soft landscaping that will help to replicate and improve upon the existing benefits provided by small trees and hedgerows on the land.

The soft landscape plans show extensive new planting intended to both soften and enhance the appearance of the development. Whilst the proposals are reasonably comprehensive the Landscape and Design section of the Planning Statement highlights the need to maximise new planting to ensure that new planting within the curtilage of new dwelling makes a positive and pleasant contribution to the public realm. It states that; 'Tree planting would play an important role within the space to define focal points, provide shading and soften the built environments'.

With this in mind it appears that there are additional opportunities for more trees to be incorporated into the soft landscape proposals. For example trees planted in the rear gardens of plots 1, 5, 11, 12, 13 and 16 would be clearly visible from the public realm as would trees in the front gardens of plots 18,19, 59,74 and 75. The short list of suggested planting locations is not intended to be an exhaustive list of opportunities but to highlight the scope for additional tree planting within the existing site layout.

**Tree and Landscape
Officer
(comments on amended
proposal)**

The proposed changes to the design and layout of the development proposal will not alter the impact of the development on the character or appearance of the local landscape.

Anglian Water Services
Ltd

Advises that the foul drainage from this development is in the catchment of Brightlingsea Church Road Water Recycling Centre that will have available capacity for these flows and the sewerage system at present has available capacity for these flows.

The preferred method of surface water disposal would be to a sustainable drainage system with connection to the sewer seen as the last option. Request a condition requiring a surface water management strategy to be agreed.

Essex County Council
Archaeology

The EHER records a number of cropmark features in the surrounding area that would indicate a high probability of surviving archaeological remains being present within the development site.

The proposed site lies adjacent to a site where multi-period occupation evidence was uncovered and the DBA submitted with the application indicates a high probability that further evidence related to these sites will continue into the proposed development site and may be impacted upon by the proposed development.

Recommend conditions to secure a programme of archaeological evaluation; the satisfactory completion of archaeological fieldwork and a post-excavation assessment.

ECC Highways Dept

The Highway Authority has assessed the highway and transportation impact of the proposal and does not wish to raise an objection to the above application subject to the following:

All housing developments in Essex which would result in the creation of a new street (more than 5 dwelling units communally served by a single all-purpose access) will be subject to The Advance Payment 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.

Prior to the occupation of the development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 90 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.

Prior to occupation of the development the vehicular parking and turning facilities as shown on the submitted plan shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Prior to commencement of the development details showing the means to prevent the discharge of surface water from the development onto the highway shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety prior to the access becoming operational and shall be retained at all times.

Prior to the commencement of the proposed developments details of a wheel cleaning facility within the site and adjacent to the egress onto the highway shall be submitted to and approved in writing by the Local Planning Authority. The wheel cleaning facility shall be provided at the commencement of the development and maintained during the period of construction.

The carriageways of the proposed estates roads shall be constructed up to and including at least road base level, prior to the commencement of the erection of any dwelling intended to take access from the road. The carriageways and footways shall be constructed up to and including base course surfacing to ensure that each dwelling prior to occupation has a properly consolidated and surfaced carriageway and footway, between the dwelling and the existing highway. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies,

covers, kerbs or other such obstructions within or bordering the footway. The carriageways, footways and footpaths in front of each dwellings shall be completed with final surfacing within 12 months (or three months in the case of a shared surface road or a mews) from the occupation of such dwelling.

Any vehicular hardstanding shall have minimum dimensions of 2.9 metres by 5.5 metres for each individual parking space, retained in perpetuity.

Any single garages should have a minimum internal measurement of 7 metres by 3 metres.

Any double garage should have a minimum internal measurement of 7 metres by 6 metres.

Any tandem garages should have minimum internal measurements of 12 metres by 3 metres.

Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator.

Prior to the occupation a footway measuring no less than 2 metres in width shall be provided entirely at the Developer's expense across the whole Robinson Road frontage.

No works in connection with the proposed development shall commence until such time as Robinson Road between the recent improvements works associated with the Phase 1 development and the site access had been upgraded to current policy standards of no less than 5.5 metres in width. These improvements are to be provided entirely at the Developer's expense.

Natural England

Based on the information provided in support of the application, including the incorporated mitigation measures stated in the Habitats Regulations Assessment (HRA) screening report, it is Natural England's view that the proposal is unlikely to have a significant effect on the Colne Estuary (Mid-Essex Coast Phase 2) Special Protection Area (SPA) and Ramsar Site or the Essex Estuaries Special Area of Conservation (SAC). They also consider that the proposal is unlikely to adversely affect the Colne Estuary Site of Special Scientific Interest (SSSI). Therefore they raise no objection subject to the inclusion of planning conditions to secure all of the mitigation measures.

Arch. Liaison Off, Essex Police

Essex Police are satisfied that on the basis of the information supplied that the relevant considerations of Sections 58 and 69 of the NPPF have been addressed appropriately.

ECC Schools Service

A development of this size can be expected to generate the need for up to 9.1 early years and childcare places, 30.6 primary school and 20.4 secondary school places.

There are 7 childminders and 1 pre-school setting located in this ward, all of whom are showing to be at 80% occupancy or above. For

ECC to meet its statutory duties it must both facilitate sufficient places to meet free childcare entitlement demand and also ensure a diverse range of provision so that different needs can be met. The childcare sufficiency data shows insufficient full day care provision/free entitlement places to meet demand from this proposal. Additional provision will be needed and a project to expand provision within the Brightlingsea ward will be required. Cost per place is £14,519, index linked to April 2017.

At both primary and secondary school level additional school places will be necessary. This development would add to that need and, thereby, the scope of the projects to provide additional school places is directly related to the proposal. The contributions sought are based on the formula established in the Essex County Council Developers' Guide to Infrastructure Contributions, which calculates sums based on the number and type of homes built.

NHS Property Services Ltd

NHS England has identified that the development will give rise to a need for additional primary healthcare provision to mitigate impacts arising from the development.

The capital required through developer contribution, in this case of £39,905 would form a proportion of the required funding for the provision or capacity to absorb the patient growth generated by this development.

UU - Open Space Consultation

A financial contribution requested from the developer would be in line with the calculations set out in the Supplementary Planning Document and will be used for improvements at Western Promenade. There is a deficit in both play and open space within Brightlingsea so a contribution towards both would be required.

5. Representations

- 5.1 Brightlingsea Town Council make the following observations on the application:
- No to playground, as per residents comments on the web-site and also the development is very close to a Recreation Ground.
 - Feel more social housing is needed. On the 1st Phase there are 15 social housing to 75 houses on the 2nd phase there are only 6 planned social houses to 115 houses.
 - Essex County Council to upgrade; maintain and stress that Mill Street is a Country Lane and access should be for residents only.
 - The through road to 2nd phase to be removed; residents have been told that phase 1 and 2 would be kept separate.
 - The S106 agreement should be maintained.
 - Concern that there are changes to the plans which were originally discussed with Officers at Tendring District Council.
 - **Would like to highlight that the Town Councils requirement is to have a S106 contribution towards open space, as in Phase 1.**
- 5.2 Two letters have been received which makes the following observations on the application:
- The roads are both very narrow lanes and are not suitable as a thoroughfare for large volumes of traffic into Brightlingsea.
 - These roads are frequently used by walkers, cyclists and horse riders; increased traffic would not only have a detrimental effect on these users, but could also put them in increased danger as there is little room in these lanes to avoid vehicles.

- Would like to see as part of any planning approval, the requirement to include traffic calming measures and restrictions to access to Mill Street.
- Has Brightlingsea already achieved its quota of housing according to the Local Plan?

5.3 **38** letters of objection have been received which raise the following concern:

- The road signage at Wilfred's Way clearly shows a block end which is what residents have led to believe it would stay.
- Making the road a through road will not only encourage speeding traffic through a small quiet group of houses but also provide an escape route for prospective criminals.
- The road is not adequate for lots of traffic and if Wilfreds Way is made into a through road, it would be used as a rat run for vehicles. The application as it currently stands will provide a facility for unwelcome abuse and disturbance to residents as well as a danger to children playing and crossing the road.
- There is no requirement for this becoming a connected development to the next stage of Hopkins Homes Phase 2.
- The proposed play area will attract undesirable people during hours that are not acceptable with surrounding residents.
- There is no need for the proposed play area; there are adequate play areas within walking distance of this development.
- The additional dwellings will put too much pressure on this quiet part of town.
- Surrounding infrastructure seems unsuitable for the amount of traffic this many houses would generate.
- The surrounding schools lack capacity for the increase in the number of children this development would generate.
- Sewage system will not cope with the additional flows.
- Proposal will result in congestion in and out of the village.
- Lack of parking (particularly for No. 32 and surrounding bungalows)
- Plot 32 (a garage block with studio apartment) does not offer a sympathetic transition between the remaining bungalows in Greenhurst Road and Plot 32. The proposed height is 8.4 metres which is only 511mm lower than a house and therefore will clearly impact unfavourably upon the bungalows of Greenhurst Road.
- Increased pressure on the NHS – already difficult to get an appointment at the local surgery
- Lack of green spaces
- The roads are unsuitable for the increase in traffic that the additional housing would present and would certainly not be able to cater for heavy machinery and lorries passing in the construction process.
- Site access during construction should be through the new access point of Robinson Road and not through the existing development.

- Pedestrian and other road use safety before and during construction on Robinson Road – the road widening of Robinson Road and provision of a new pavement should be undertaken first, to ensure the safety of those who use the road.
- A 20mph speed limit should be imposed prior to construction of these dwellings and should remain in place permanently for reasons both safety for all road users and to deter cars from using this route.
- Hopkins should be asked to fund a tarmac bike path extension to Alresford in order to maximise the opportunity to allow people to cycle safely for a useful distance and to a useful destination, for onward rail travel or as a safer route to Colchester.
- Road access to the site via Mill Street for lorries is not suitable as it is not possible for two cars to pass and there was a number of lorries stuck at the sharp corner of Mill Street in Phase 1.
- The amount of additional homes planned seems excessive.
- Location of LEAP (Local Equipped Area of Play)
- The access via Robinson Road cannot cope with the traffic that would be generated.
- Consideration should be made to go to town via an improved Whitegate Road, which will relieve traffic at the Bell Green junction.
- **Loss of habitat – for all species but in particular for increasingly endangered birds like the cuckoo.**
- **Barn owls and kestrels hunt over the site and muntjac deer can be seen occasionally and badgers are nearby along with foxes.**
- **The species which use the site should be protected from development and the hedgerow and trees retained.**

6. Assessment

The main planning considerations are:

- Site Context
- Proposal
- Principle of Development
- Coastal Protection Belt
- Design, Appearance and Layout
- Impact on Neighbours
- Highway Safety
- Impact on Designated Habitats and Protected Species
- Flood Risk and Drainage
- Landscaping
- Heritage Assets
- Legal Agreement

Site Context

- 6.1 The site comprises approximately 5.2 hectares of undeveloped agricultural land and consists of the northern section of a large open field and a smaller adjoining field to the

north. It is located adjacent to the eastern edge of Hopkins Homes current development of 77 no. dwellings off Wilfreds Way (referred to as Phase 1) and to the north-east of existing residential bungalows at Greenhurst Road. The site fronts Robinson road to the north, beyond which is agricultural land and to the north-east is a former mineral extraction site (Lower Farm). To the east and south-east, the site adjoins agricultural land.

- 6.2 The site features no permanent hard surfaces or structure and the vegetative growth is largely restricted to the boundaries. There is a public right of way crossing the southern part of the site on an east-west alignment.

Proposal

- 6.3 This application seeks full planning permission for the erection of 115 no. dwellings together with, access, roads, parking, fencing, walling, public open space, landscaping, drainage, highways infrastructure and other ancillary works on Land at Robinson Road, Brightlingsea.
- 6.4 The proposal seeks permission for 115 no. dwellings: **the original proposal was for 6 no. 1 bed dwellings; 35 no. 2 bed dwellings; 44 no. 3 bed dwellings; 24 no. 4 bed dwellings; 4 no. 2 bed affordable dwellings and 2 no. 3 bed affordable dwellings. However, the amendments made following the Planning Committee now results in a proposal for 9 no. 1 bed dwellings; 34 no. 2 bed dwellings; 41 no. 3 bed dwellings; 25 no. 4 bed dwellings; 4 no. 2 bed affordable dwellings and 2 no. 3 bed affordable dwellings.** The density of the proposed development equates to approx. 22 dwelling per hectare. A mixture of apartments, bungalow, semi-detached and detached dwellings are proposed throughout the site. The dwellings proposed throughout the site are predominately two storey in height with some bungalows, 1.5 storey dwellings and 2.5 storey dwellings proposed.
- 6.5 The **original** proposal includes the construction of a new vehicular and pedestrian access into the site from Robinson Road, together with a new frontage footway along the southern side of Robinson Road up to and including the site entrance. A secondary vehicular access is proposed into the site from Hopkins Homes existing development at Wilfreds Way. **Although to address concerns of the Planning Committee the secondary vehicular access is now proposed as a cycle path and footpath only with bollards to prevent all but emergency vehicular access.**
- 6.6 The main access into the site proposes to widen Robinson Road to 5.5 metres up to the site entrance. The site access has been amended so that Robinson Road continues into the site and vehicles exiting the site are prevented from turning right out of the site onto the narrow part of Robinson Road.
- 6.7 The proposal has also been amended to allow for a greater amount of hedge retention along Robinson Road and along the boundary with Phase 1. Some of the hedgerow will be lost to allow for widening of Robinson Road but replacement planting is now proposed. The changes made to the proposal include moving the proposed dwellings further from the boundary with Robinson Road, a reduction in the number of access points and a revised layout for Plots 5-8. The layout of Plots 64 -69 has also been amended to increase garden sizes.
- 6.8 Two areas of open space are proposed, one adjacent to the open space for Phase 1 which is currently a semi-circle. It is proposed as part of this development to create a circle of open space surrounding by proposed dwellings. This area of open space was originally proposed to provide a LEAP (Local Equipped Area of Play), but given the number of objections that have been received amended plans have been submitted which remove this from the proposal and instead a financial contribution is proposed. A larger area of open space is proposed to the south of the site.

Principle of Development

- 6.9 Within the 2007 Saved Plan the site lies outside but partially abutting the Settlement Development Boundary and within the Coastal Protection Belt. In the Emerging Plan the majority of the site lies within the Settlement Development Boundary and is allocated for residential development. The area of the site which remains outside the Settlement Development Boundary is proposed for open space.
- 6.10 The application is referred to Planning Committee as it is contrary to the Development Plan proposing housing outside of any defined settlement boundary in the 2007 Saved Plan. However, the site forms a housing allocation and lies predominately within the Settlement Development Boundary in the Emerging Local Plan. It is also located adjacent to land benefiting from planning permission for 77 no. dwellings under application number 13/01470/FUL (referred to as Phase 1).
- 6.11 The Council can now identify a five year supply of deliverable housing sites so is no longer automatically expected to approve planning applications for housing that run contrary to the Local Plan, as per the government's presumption in favour of sustainable development.
- 6.12 Where proposed development accords with an up to date Local Plan it should be approved and where it does not it should be refused, unless other material considerations indicate otherwise. An important material consideration is the NPPF's presumption in favour of sustainable development. The NPPF defines sustainable development as having three dimensions:

Economic

- 6.13 The construction and habitation of 115 new dwellings would be of economic benefit through the construction of new housing and the local benefit that new residents could bring to the local economy.

Social

- 6.14 The site is located on the edge of Brightlingsea, which is identified as a Smaller Urban Settlement. A Smaller Urban Settlement is defined with the Emerging Plan as settlements which have large populations relative to rural settlements and benefit from a range of opportunities for the use of public transport, walking and cycling and because they have established town centres, employment areas and infrastructure, they provide locations where, with the right action, it is possible to create a significant number of additional new jobs and deliver sustainable housing growth on a large scale. Furthermore, the allocation for residential development within the Emerging Plan indicates that the Council considers this site to be a sustainable location for growth on the edge of Brightlingsea. This site is therefore considered to be socially sustainable.

Environmental

- 6.15 Environmental sustainability is about contributing to protecting and enhancing our natural, built and historic environment; and as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution and mitigate and adapt to climate change including moving to a low carbon economy. The environmental impact on the proposal is discussed below in various other headings.
- 6.16 Policy SAH3 of the Emerging Plan deals specifically with this site; however, as it is an emerging plan this can only be given limited weight. Policy SAH3 states that Robinson Road, Brightlingsea, as shown on the Map SAH3, is allocated for housing development as follows:
- a. At least 115 new homes of a mixed size and type to include affordable housing as per the Council's requirements;

- b. Minimum of 0.56 hectares of public open space including a Local Equipped Area for Play (LEAP);
Proposal must accord with the following;
- c. The principal point of vehicular access will be off Robinson Road;
- d. Capacity and/or safety enhancements to the local highway network where necessary;
- e. Where necessary enhancements to public transport, cycle, pedestrian and bridleway infrastructure;
- f. The design and layout of the development must have regard to the setting and significance of any historic features and buildings in the locality;
- g. The design and layout of the development must have regard to the surrounding landscape, seeking to minimise visual impact through the inclusion of mitigation measures, in particular, the nationally designated sites;
- h. Delivery of opportunities for the protection and enhancement of the historic environment including the built and archaeological environment;
- i. The design and layout of the development incorporates or enhances important existing site features of ecological or amenity value. Where these features are identified, the applicant must avoid, then mitigate and, as a last resort compensate for adverse impacts upon these;
- j. A financial contribution to early years and childcare, primary and secondary education provision, as required by the Local Education Authority through S106 Planning Obligations;
- k. Early engagement within Anglian Water to secure any necessary upgrades to both treatment infrastructure and network and to formulate a water and drainage strategy to serve the new development.
- l. Necessary financial contributions towards other community facilities such as health provision as required by the NHS/CCG either through the Community Infrastructure Levy or S106 Planning Obligations.

Coastal Protection Belt

- 6.17 The site is allocated within the Saved Plan as Coastal Protection Belt. Policy EN3 of the Saved Plan states that new development which does not have a compelling functional need to be located in the Coastal Protection Belt, will not be permitted. The introduction to this policy states that the purpose of the Coastal Protection Belt is to protect the unique and irreplaceable character of the Essex coastline from inappropriate forms of development. Although, this allocation is not carried forward in Emerging Plan and therefore it is considered that the Coastal Protection Belt allocation can only be given limited weight.

Design, Appearance and Layout

- 6.18 The proposed dwellings are predominately two storey, with some 2 ½ storey dwellings proposed within the centre of the site and some bungalows. It is considered that this mixture is in keeping with the surrounding area and given the location of the 2 ½ storey dwellings these would not be unduly prominent.
- 6.19 The detailed design of the dwellings is varied with different roof forms; and use of chimneys, porches, brick plinths, bay windows and detailing above windows which add a traditional element to the design and provides visual interest. All of the proposed dwellings address the street, to create an active street frontage. There are some dwellings which also have side elevations that face onto the street or are in prominent locations; these elevations have been designed to create some interest with a window, chimney or both.
- 6.20 Parking is generally provided to the side of the proposed dwellings so would not be prominent in the street scene. There are some clusters of parking areas, but these are not considered to be in prominent locations that would be harmful to the appearance of the area.

- 6.21 In terms of materials, the plans show a mixture of brick and rendered properties with tiled or slate roofs. The mix shown will ensure variety and visual interest across the development.
- 6.22 The materials proposed are a mixture of red multi and buff bricks; render; pantiles and eternit slate. The type and mixture of materials proposed is considered to be acceptable, the mix will ensure variety and visual interest across the development.
- 6.23 Each of the proposed dwellings, have their own private amenity space with the exception of the proposed flats which are provided with a communal area. Policy HG9 of the Saved Plan requires 50sq.m for 1 bed dwellings, 75 sq.m for 2 bed dwellings and 100 sq.m for dwellings with 3 or more beds. For flats it sets out a requirement of a minimum of 25 sq.m per flat provided communally.
- 6.24 In the original proposal** out of the 115 dwellings proposed, 107 (93%) meet the required standards set by Saved Policy HG9 and only 8 (7%) are below the standards. **The scheme has been amended to address the concerns raised by Members and there are now only 4 dwellings which do not meet the required standard. These Plots are 3 and 4 bedroom private dwellings and have garden sizes of between 84 and 93 sq. metres.** Furthermore many of the dwellings provide in excess of the minimum requirement and overall the total provision is in excess of the standards for the site as a whole. Each of the houses have their own private amenity space consisting of a usable shaped garden area and the each of the flats benefits from amenity space in either communal gardens or private gardens for some of single flats above garages. All of the proposed properties to be gifted to the Council for affordable housing meet the required standard and in some cases are far above area required for the size of dwelling.
- 6.25 It is considered that given the level of provision of on site open space (1.4ha of open space, comprising 0.57ha of formal Public Open Space and a further 0.83ha of additional open space against a requirement of 0.56 hectares in Emerging Policy SAH3) that the proposed provision of private amenity space is acceptable and the deficit is not sufficient to warrant a reason for refusal.

Impact on Neighbours Amenities

- 6.26 Immediate residential neighbours to the site are those to the west in the new development (Phase 1), Wilfreds Way and properties in Greenhurst Road.
- 6.27 The properties adjacent to the site in Greenhurst Road are single storey in height and those proposed along the boundary facing these properties (Plots 29 -31) are also single storey in height. There is also a back to back distance of approx. 25 metres which is in accordance with standards set out in the Essex Design Guide. Plot 32 is also situated adjacent to the boundary with properties in Greenhurst Road, this is a one and half storey property with a ridge height of 8.3 metres, however it is orientated so the side elevation faces directly onto the properties in Greenhurst Road and the element of the building is closest to the boundary is single storey garages, this means that there will be no overbearing impact and no direct overlooking. Any overlooking that occurs will be at an oblique angle and therefore not sufficient to warrant a reason for refusal.
- 6.28 With regard to the impact on properties in Phase 1 it is considered that there is sufficient separation and that the orientation of the proposed dwellings and the location of windows means that no direct overlooking will occur.
- 6.29 Concern has been raised with regard to the impact on the proposed access connecting Phase 1 and Phase 2. It is considered that this will not result in a significant impact on the residents of Phase 1 as it is not the only point of access and the direct route for the majority of residents for the new dwellings will be directly onto Robinson Road. Any impact will be reduced by the amended proposal which removed the vehicular access between**

Phase 1 and Phase 2. A cycle path and footpath is now proposed with bollards to prevent all but emergency vehicular access.

- 6.30 For the above reasons it is considered that the proposal would result in no material harm to residential amenity of existing occupiers. The relationship between the proposed dwellings is also considered acceptable with adequate separation to provide good standards of privacy and light. However, a condition is recommended to remove permitted development rights for loft conversions as these could result in overlooking issues if not controlled.
- 6.31 During the construction period there will be some adverse impact to the nearby residents in terms of noise and disturbance. However, this will be for a limited time only and the hours of construction can be controlled by condition.

Highway Safety

- 6.32 In support of the application a Transport Assessment was submitted this concluded that:
- Existing traffic levels on Robinson Road are reasonably low, with a seven-day average of 435
 - vehicles per day observed in April 2017. The 85th percentile speeds are 28.8 mph, and 28.1 mph for vehicles heading north- and south-bound respectively.
 - A road safety assessment was undertaken for the highway network surrounding the site, which demonstrated that there are no road safety issues inherent in the highway network that would be exacerbated by the proposed development.
 - A trip generation assessment undertaken using TRICS 7.4.1 indicated that the development is anticipated to generate 71 two-way vehicle trips (14 in and 57 out) in the morning peak hour and 62 two-way vehicle trips (40 in and 22 out) in the evening peak hour.
 - A robust distribution was assumed, and junction capacity assessments were undertaken on the site access, the Chapel Road / Robinson Road priority junction and the Church Road / Bateman Road priority junction. The capacity assessments indicated that all junctions operate well within theoretical capacity at peak times for all scenarios, including the cumulative scenario which includes background traffic growth to 2022 and the operation of the proposed development and the adjacent committed development.
- 6.33 Essex County Council Highways have been consulted on the application and raise no objection subject to the conditions as detailed above, whilst concerns have been raised regarding highway safety, there is no evidence to suggest that the proposal would cause highway safety issues. All conditions recommended, with the exception of those that specify parking space sizes and garage sizes are reasonable and necessary in the interests of highway safety. The plans show compliance in term of parking space sizes and garage sizes and are therefore unnecessary.
- 6.34 Essex County Council Parking Standards state that for one bedroom dwellings 1 off-street parking space is provided and for dwellings with 2 or more bedrooms a minimum of 2 off-street parking spaces are provided. Furthermore, 0.25 spaces per dwelling should be provided for visitor parking. Each parking space should measure 5.5 metres by 2.9 metres and if a garage is to be relied on it should measure 7 metres by 3 metres internally. The plans show that each parking space and garage is of a sufficient size to meet the standards.
- 6.35 In terms of the number of spaces provided the total provision required for parking spaces is 252, including visitor spaces; however, the proposed provision is for 290 spaces, which is excess of that required. Although this is due to a number of the dwellings with 2 or more bedrooms being provided with more parking spaces than required by the standards, as the visitor parking space requirement is less than the requirement. However, this is considered acceptable as if the individual dwellings are provided with parking in excess of the required

standards then the need for visitor parking is reduced. Overall, the parking provision is considered to be acceptable.

- 6.36 Provision for cycle storage has been provided for the proposed flats, but not for the dwellings. However, the garages are of a sufficient size to provide cycle parking and all dwellings have space within the garden area for a shed. Therefore it is considered that adequate cycle parking can be provided.

Impact on Designated Habitats and Protected Species

- 6.37 The Colne Estuary SPA/Ramsar/SSSI/SAC is located 190 metres in a direct line from the site. There are three other international designated sites within 10km of the proposed development site (all over 8km away), and no other ecological SSSI's within 2km. The site is located within the impact risk zone of the Colne Estuary SSSI as defined by Natural England, but not for any other SSSIs. The site is located adjacent to East End Green Local Wildlife Site, which is designated for its neutral grasslands.
- 6.38 Prior to the submission of the application a Habitat Regulations Assessment Screening Report was carried out. This concluded that to mitigate the potential negative impacts of the proposed development and result in no Likely Significant Effect on the N2K site, the following combination of mitigation is recommended:
- Approximately 1.16ha of on-site SANGS provision, including a 1.7km circular dog walking route;
 - Information signage at the eastern pedestrian access point of the development site, to inform recreational users of the sensitive wildlife, their key attributes, and suggested mechanisms for ameliorating potential impacts (e.g. keeping dogs on leads along the sea wall; collecting and disposing of dog waste; avoiding walking along the along the sea wall to the east). This should also suggest alternative walking routes;
 - An aspiration to erect signage at the SPA footpath access point, to reiterate that the eastern sea wall is private property and is not a PRoW, and to discourage use of the PRoW onto the saltmarsh due to bird disturbance sensitivity. The current sign provided by Essex County Council is not explicit and we recommend a new sign be agreed with the Council and funds be made available;
 - Explore the possibility of stopping up the eastern non-PRoW route at the access point by ditching or fencing;
 - Provision of the above information to new residents through appropriate media, such as leaflets and a website, and include information on responsible watersport practice;
 - Payment of a one-off contribution per household to the emerging LPA mitigation strategy to provide for other off-site measures, such as new public open greenspace and appropriate monitoring and management of the Colne Estuary N2K site;
 - Provision of dog waste bins at appropriate locations both on-site and along connecting PRoW, within 2km, where possible;
 - Frequent washing, capture (settlement and filtration) and removal of dust deposited on the construction site.
- 6.39 Natural England have advised that they have no objection to the proposal subject to the above mitigation measures.
- 6.40 The application is supported by an extended Phase 1 Habitat Survey and an Ecological Assessment, detailing the surveys that have been carried out. They conclude that through implementing the above mitigation recommendations, with the exception of habitats and small/medium sized mammals, it is considered that all significant adverse impacts from the proposed development upon specific habitats, designated sites and protected species would be mitigated. The proposed mitigation measures includes the following:
- Financial contributions, circular walk, provision of dog bins and signage.

- Fencing, safe chemical storage, buffer eastern boundary vegetation with native thorny species planting, wildlife friendly lighting, public information boards, public open space on site to prevent negative impacts to adjacent LWS (East End Green).
- Low level lighting scheme, buffer and protect retained habitats and trees, pollution prevention measures via CEMP (Environmental Construction Management Plan) and long-term management plan for retained habitats via EMMP (Ecological Mitigation and Management Plan)
- Creation of suitable habitat via EMMP within open space in south for Pyramidal Orchid found in neighbouring LWS
- Bat friendly planting scheme and an ecological management plan implemented to ensure the long-term perpetuity of the bat assemblage. Sensitive lighting scheme employed throughout site
- Retention of roosting features on site, licences applied for as necessary and provision of additional roosting opportunities
- Management plan to recreate short grazed areas as well as long sward height meadow habitats
- Creation of new and replacement nesting opportunities / features including nest boxes
- Creation of reptile hibernacula on site and management of open space in south of site for retained off-site reptile populations to recolonise.

6.41 The above mitigation is considered to provide an overall neutral residual impact on assessed ecological features.

6.42 The previous application was deferred for, amongst other things, for further discussions and investigations to take place between the Officers and the applicant with regards to the need for an emergence survey for any potential bat roosts on the application site and the need for a Phase 2 Survey for the potential hibernation of Great Crested Newts on the application site. To address these issues an Ecological Update Assessment prepared by SES Southern Ecological Solutions has been submitted. This report provides clarification regarding the results of the bat surveys undertaken, the need for further bat surveys and presents detailed mitigation proposals that will ensure a neutral impact on bats from the development of the site irrespective of the results of further surveys that are required prior to the commencement of development to inform the need for an required Natural England European Protected Species licence(s). In summary the report demonstrates that:

- **Three different survey methodologies (Bat Activity Surveys, Automated Bat Surveys and Aerial Tree Scoping Survey) were carried out on the site between April and October 2017. These surveys found relatively low numbers of bats for a site of this size and while there are trees on the site with moderate to high roosting potential, no evidence of bats was found during aerial inspections of these trees.**
- **Combining the results of the surveys above, it is possible to confidently conclude that no significant roosts are present on site and as such, any roosts that are present would support only low numbers of bats (i.e. transitory or day roosts) for which the proposed mitigation would effectively neutralise any impact.**
- **The original Ecological Assessment submitted with the application recommends further emergence/re-entry surveys to confirm the presence of any transitory or day roosts on trees affected by the development. The reason for this recommendation is to inform the subsequent need for a Natural England licence to remove any active roosts. In this context, it is considered that grant of a licence is highly likely given the mitigation proposed and the low conservation value of any roosts likely to be found.**
- **Further surveys are not required ahead of the determination of the application as existing surveys have shown that any roosts present on site would only support low numbers of bats and sufficient mitigation is proposed that can be**

conditioned. The proposals therefore comply with Natural England standing advice in that the ecology surveys carried out prior to determination are sufficient to inform appropriate mitigation for the site and confirm the acceptability of the proposed development.

- 6.43 With regard to Great Crested Newts the report demonstrates that it is highly unlikely that they are present on the site for the following reasons:
- During the winter it is most common to encounter Great Crested Newts within 63 metres of a suitable breeding pond. There are no such ponds within 63 metres of the site, with the closest being 150 metres to the north.
 - There are few linear features between suitable ponds in the surrounding area and the site making it highly unlikely that Great Crested Newts would migrate to the site.
 - There is a large quantity of suitable terrestrial habitat near to these ponds, reducing the likely dispersing distance of Great Crested Newts into the surrounding landscape; and
 - During an 80 day reptile translocation for Hopkins Homes neighbouring development, only 3 smooth newts and no Great Crested Newts were found.
- 6.44 Within the proposed mitigation measures, reference has been made to financial contributions. For this to be considered reasonable it needs to meet the relevant tests **in the NPPF i.e. it needs** to be necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind. **At the time this application was previously referred to Committee, it was not certain if these tests were met and further advice was sought from Natural England. Following this advice it is clear that Natural England are not at a stage where specific projects and amounts can be identified. Therefore it is considered that the request for a financial contribution does not meet the required tests and therefore it would be against national policy to request such a contribution.**

Flood Risk and Drainage

- 6.45 Paragraph 103 of the NPPF requires Councils, when determining planning applications, to ensure flood risk is not increased elsewhere. Although the site is in Flood Zone 1 (low risk), the NPPF, Policy QL3 in the adopted Local Plan and Policy PPL1 in the emerging Local Plan still require any development proposal on site larger than 1 hectare to be accompanied by a site-specific Flood Risk Assessment (FRA). This is to assess the potential risk of all potential sources of flooding, including surface water flooding, that might arise as a result of development.
- 6.46 A Flood Risk Assessment and sustainable drainage strategy has been provided with the application. The site lies within Flood Zone 1 and is therefore at low risk of flooding from rivers and the sea. Surface water from the development must be adequately managed to prevent runoff and risk of flooding elsewhere.
- 6.47 Additional information has been submitted during the application process to overcome the original objection from Essex County Council Flood Water Management Team, who now raise no objection to the proposal subject to conditions set out above.
- 6.48 Anglian Water in their consultation response confirms the original surface water drainage strategy was unacceptable and requested a condition to require approval of this. This matter has now been resolved to the satisfaction of the ECC Flood Water Management Team, as Lead Local Flood Authority, so no condition is required (apart from those recommended by ECC). Anglian Water have also confirmed that with regard to wastewater treatment Church Road Water Recycling Centre will have available capacity and that the sewerage system at present has available capacity for the proposed flows.

Landscaping

- 6.49 As part of the application an Arboricultural report has been submitted this states that the Arboricultural related implications of the proposal are as follows:
- In addition to trees which require felling irrespective of development, it is necessary to fell one individual tree, 15 low quality/poor longevity landscape features and a section of two further landscape features in order to achieve the proposed layout.
 - The alignment of structures or installation of new hard surfaces does not encroach with the Root Protection Areas of any trees to be retained.
- 6.50 The Council's Landscape Officer has been consulted on the application and considers that the report accurately describes the health and condition of the boundary hedgerows and the trees contained within them. They also considered that although the existing vegetation on site makes a positive and pleasant contribution to the character of the area, does not merit retention and as such it is appropriate to focus on new soft landscaping that will help to replicate and improve upon the existing benefits provided by small trees and hedgerows on the land.
- 6.51 The soft landscape plans show extensive new planting intended to both soften and enhance the appearance of the development and the Council's Landscape Officer has considered that this is acceptable. However could be improved by utilising the additional opportunities for more trees. For example trees planted in the rear gardens of plots 1, 5, 11, 12, 13 and 16 would be clearly visible from the public realm as would trees in the front gardens of plots 18,19, 59,74 and 75.
- 6.52 Following the amended plans submitted updated comments have been provided from the Council's Landscape Officer which states that the proposed changes to the design and layout of the development proposal will not alter the impact of the development on the character or appearance of the local landscape. It is considered that the changes made to the landscaping, in particular greater retention of the hedgerow and additional planting are an improvement to the scheme.**

Heritage Assets

- 6.53 There are 3 no. Grade II listed buildings located approx. 200-300 metres southwest of the site on Hurst Green, which also lies within the designated Conservation Area and the Grade II listed East End Green Farmhouse is located approx. 250 metres south-east. All these heritage assets are substantially visually separated from the site. It is therefore considered that the proposal would not affect either the designated Conservation Area or nearby Listed Buildings.

Legal Agreement

- 6.54 In order to make the development acceptable a S106 legal agreement is required. This has yet to be drafted and the recommendation is to approve after its completion.
- 6.55 Policy QL12 in the adopted Local Plan and Policy PP12 in the emerging Local Plan require that new development is supported by the necessary infrastructure which includes education provision. The advice of Essex County Council, in its role as the local education authority, is that additional provision will be needed and a project to expand provision will be required to meet the demand for full day care provision and free entitlement places for early years and childcare generated by this proposal, therefore a financial contribution of £133,284 is required. At both primary and secondary school level additional school places will be necessary. This development would add to that need and, thereby, the scope of the projects to provide additional school places is directly related to the proposal. The contributions sought are based on the formula established in the Essex County Council

Developers' Guide to Infrastructure Contributions, which calculates sums based on the number and type of homes built. Using this formula a contribution of £389,660 is required toward Primary Education and £394,638 is required towards Secondary Education. These contributions are considered to be compliant with Regulations 122 and 123 of the Community Infrastructure Levy as they are fairly and reasonably related in scale and kind to the development and five obligations naming the projects alluded to have not been entered into.

- 6.56 The NHS have confirmed that the development will give rise to a need for additional primary healthcare provision to mitigate impacts arising from the development. The capital required through developer contribution, in this case of £39,905 would form a proportion of the required funding for the provision or capacity to absorb the patient growth generated by this development.
- 6.57 Policy HG4 in the adopted Local Plan requires large residential developments to provide 40% of new dwellings as affordable housing for people who cannot otherwise afford to buy or rent on the open market. Policy LP5 in the emerging Local Plan, which is based on more up to date evidence on viability, requires 30% of new dwellings on large sites to be made available for affordable or Council Housing. The housing team have confirmed that there remains a high demand in Brightlingsea, with the highest demand being for 2 and 3 bedroom homes. The applicant has offered 4 no. two bed dwellings and 2 no. three bed dwellings on site to be gifted to the Council for affordable housing. It has been confirmed by the Council's Housing Department that this is satisfactory. This is less than what was required by Phase 1 because one Phase 1 was for on-site provision where they would be a payment for the dwellings, whereas on this Phase it is proposed that the dwellings be gifted.
- 6.58 Policy COM6 in the adopted Local Plan and Policy HP5 of the emerging Local Plan require large residential developments to provide at least 10% of land as public open space or otherwise make financial contributions toward off-site provision. Furthermore, Policy SAH3 of the Emerging Plan states that 'a minimum of 0.56 hectares of public open space including a local Equipped area for Play (LEAP)' shall be provided. As part of the original plans a LEAP was included in the proposal but this was removed due to the number of objections received from local residents and the Parish Council and given the close proximity of existing facilities. It has therefore been agreed that a financial contribution towards improvement of existing provision should be sought. This has been agreed by the Council's Open Space Team and the contribution would be sought in line with the Supplementary Planning Document which equates to £60,035.63. It has been identified that there is also a lack of open space in Brightlingsea, but given that there is on-site provision of open space a financial contribution towards further provision is not necessary. If the on-site open space is to be transferred to Tendring District Council for future maintenance, an additional financial contribution towards maintenance will also need to be secured through a S106 legal agreement.
- 6.59 A request has been made by Natural England that a financial contribution is made for this to be considered reasonable it needs to meet the relevant tests **in the NPPF**. All requests need to be necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind. It **was** not certain if these tests are met and further advice has been sought from Natural England, especially on the amount of the financial contribution. **Following this advice it is clear that Natural England are not at a stage where specific projects and amounts can be identified. Therefore it is considered that the request for a financial contribution does not meet the required tests and therefore it would be against national policy to request such a contribution.**

Conclusion

- 6.60 The proposal for 115 dwellings is considered to represent sustainable development, on the edge of Brightlingsea, and in an area benefiting from planning permission for residential development on the adjacent site for residential development and as a proposed allocation within the Emerging Local Plan.
- 6.61 The design, layout, landscaping and scale are considered acceptable. The proposal would result in no material harm to residential amenity, highway safety and designated habitats/landscapes. Subject to completion of the S106 legal agreement and the conditions set out above the application is recommended for approval.

Background Papers

None