



Appeal Decision

Hearing Held on 15 November 2022

Site visit made on 16 November 2022

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 9 December 2022

Appeal Ref: APP/Z1510/W/22/3295902

Land south of Bovingdon Road, Bocking, Braintree CM7 5JR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Andrew Allocca of Eastlight Community Housing and George Tanner (Shalford) Ltd against the decision of Braintree District Council.
 - The application Ref 21/02034/OUT, dated 23 June 2021, was refused by notice dated 30 September 2021.
 - The development proposed is up to 70 dwellings and associated development.
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Decision

1. The appeal is allowed, and outline planning permission is granted for up to 70 dwellings and associated development at Land south of Bovingdon Road, Bocking, Braintree CM7 5JR in accordance with the terms of the application, Ref 21/02034/OUT, dated 23 June 2021, subject to the conditions set out at the end of this decision.

Preliminary Matters

2. The application was made in outline with all matters reserved except access. A range of detailed plans were however provided. Though not all are marked as indicative, the Council assessed the scheme on this basis, and so shall I. As both parties are agreed that significant weight should nonetheless be placed on the details shown, I have again followed suit in assessing the scheme.
3. The Council has withdrawn its fourth reason for refusal which related to sustainable urban drainage. This follows confirmation from the Lead Local Flood Authority (LLFA) that a satisfactory scheme of site drainage could be provided.
4. The Council has also withdrawn its fifth reason for refusal. This related to failure to secure a range of required financial contributions and the provision of affordable housing. It follows the preparation of a Section 106 agreement (S106) which I shall consider further below.
5. Three additional illustrative plans were submitted with the appeal. Though the Council has objected to the acceptance of these plans, the details shown simply elaborate on details shown on other plans submitted with the application. I am therefore satisfied that the interests and no party would be prejudiced by taking them into account.

Main Issue

6. Whether the site is a suitable location for the development having regard to its effect on the character and appearance of the area and designated heritage assets, including whether it would preserve the setting of a Grade I listed building, and whether it would conserve the significance of Bocking Conservation Area (the Conservation Area).

Reasons

Background

7. The overarching spatial strategy for North Essex is set out in Policy SP 3 of the North Essex Authorities' Shared Strategic Section 1 Local Plan (SLP). This sets out key principles which include the accommodation of development within or adjoining settlements, whilst maintaining their distinctive character, avoiding coalescence, and conserving their setting.
8. The spatial strategy relating to the District is in turn set out within the Braintree District Section 2 Local Plan 2022 (the LP2). This seeks to focus growth on the District's 3 towns, of which Braintree with Bocking and Great Notley is the largest. The strategy is partly facilitated by the designation of development boundaries, outside of which Policy LPP 1 of the LP2 restricts development to uses appropriate to the countryside. This helps to secure a sustainable distribution of development, whilst protecting the landscape and the character and beauty of the countryside.
9. The site is not located within a development boundary and given that the scheme would not involve a 'countryside use', conflict arises with Policy LPP 1. The site does however directly adjoin the development boundary of Braintree with Bocking and Great Notley, and in this regard the Council considers the location to be sustainable in relation to access to services, facilities and public transport. The Council's objection in this case centres on the effect that the development would have on the character and appearance of the area, including heritage assets.

(a) Character and appearance

10. The site is a large piece of abandoned, contaminated, post-industrial wasteland, which is located between Bovingdon Road and the River Pant just outside Boking. This occupies a low-lying valley bottom position, with land rising outside the site to the north, and on the other side of the river to the south. Due to its relatively low level and screening by trees outside the site it lacks prominence in views from either direction, even during autumn.
11. The site is currently covered by low growing weedy vegetation and is enclosed along the road by a patchy overgrown hedge, which is in generally poor condition. Having been subject of various industrial uses for more than a century, including the accommodation of one or more sludge lagoons, recent use for inert landfill has provided the site with an unnatural, raised profile. In its current, somewhat alien degraded state, the site does not present itself as 'countryside'. Indeed, aside from the fact that it is open and bounded by a hedge, its character and quality markedly differ from that of agricultural land towards the north and west. As such it holds little or no intrinsic beauty, and, to the extent that it is visible within its setting it might be better described as an eyesore.

12. The textile works with which the site was once associated was located along the valley bottom immediately towards the east of the site. A few semi-derelict buildings remain, but most has been replaced by a dense modern housing development featuring buildings up to 3-storeys in height. This forms an enclave distinct from the historic part of Boking which lies to the north. The combination of blocks of flats at the edge of this development, together with semi-derelict buildings and a construction yard, currently provide a harsh and unattractive edge to the settlement, made the more so by the bleak wasteland setting provided by the site.
13. The Council's settlement fringes study places the site in the northern half of a parcel bisected by the river and identified as having 'low' capacity for change. The character of the parcel is however inconsistent, given that rising land in the southern half comprises open green space rather than wasteland, and is far more exposed within the landscape. The study indeed makes no reference to the character of the site, and insofar as the parcel is generally identified as contributing to the rural setting of the settlement, I have established above that the role played by the site is in reality very limited.
14. The development would see the further extension of housing along the valley bottom. Given the absence of housing to the north and to the south this would result in a more pronounced protrusion of development into the open setting of the settlement than exists at present. Development in this location would however follow a pattern already established by housing towards the east, even if the overall layout was somewhat more spacious. Moreover, whether or not the site is classified as previously developed, the development would utilise degraded, contaminated land with a long-standing association with the settlement. In this regard the scale, density and layout of the scheme would not be inappropriately 'urban' relative to its established developed setting, nor would it appear as an 'unnatural' extension of the settlement. Indeed, rather than having a negative effect, the indicative plans show that the development could provide the settlement with a much improved edge.
15. Remediation would require covering the site with clean soil, further raising the ground level by 600mm. Whilst this would in turn lend greater prominence to the proposed dwellings, it would also enable planting. Given ground conditions little scope for this exists at present, but ample scope is shown on the indicative plans. This would allow for sensitive harmonisation of the development with its landscape setting, including through improvement of the hedge bounding Bovingdon Road, whose partial replanting would be required. Though the Council raises concern that a replacement hedge would take some time to reach 5 metres in height, the current height of the hedge is symptomatic of its neglect rather than reflective of its quality. In this regard a healthy, well-managed native hedge, together with appropriate native tree planting would provide clear enhancement.
16. The development would be visible from Bovingdon Road, and where not obstructed by dense established vegetation, it would be apparent in views across the valley from public rights of way. Given its valley bottom position, even with the increase in ground level, the development would however lack prominence within the broader landscape. Given my findings above any perceived minor sense of intrusion would be far outweighed by the benefits of remediation, landscaping and the provision of an improved interface between the settlement and its setting. Open land would remain visible to the north and

south of the site in elevated views over the development. The overall effect would thus be positive.

17. Sites on the west side of Braintree have been allocated for urban extensions, including one at Towerlands Leisure Centre to the south of the site. Ongoing works at the latter are visible on the horizon. Though concern has been expressed in relation to proximity, the appeal site is sufficiently well separated by open land that there would be no actual or perceived sense of coalescence.
18. As the site is currently empty and unused it is not a source of 'manmade' noise. Given the nature of the site this is not a positive characteristic, and simply reinforces the sense of desolation. The surrounding area is otherwise subject of background road noise, and noise generated by various residential, commercial and agricultural uses. As such it is not tranquil. There would be an obvious change in the local noise environment were the development to take place. However, there is no reason to believe that noise generated by the development would be any different to that generated by existing housing adjacent, or, given my findings above, that this would harm the character of the area.
19. Though it has been suggested that the development would appear intrusive from existing housing towards the east of the site, it is hard to find any quality in the view which currently exists across the barren wasteland of the site. Again, given my findings above, the development would greatly improve the setting of the housing on the existing settlement edge.
20. The Council has highlighted paragraph 131 of the National Planning Policy Framework (the Framework) which relates to the provision of 'tree-lined' streets. Based on the indicative plans avenues of street trees could not be provided without this resulting in a significant reduction in the amount of private amenity space. However, given that such a treatment of the public realm would be wholly alien in context, a clear and compelling reason exists to not insist upon it. In this regard the indicative plans show that scope would exist for a satisfactory level of tree planting without compromising the provision of private amenity space. In this regard, and in view of my findings above, the site is clearly capable of accommodating up to 70 dwellings.
21. For the reasons set out above I conclude that the development would have a positive effect on the character and appearance of the area. It would therefore comply with Policy LPP 67 which requires development to be sympathetic to the character of the landscape, including by not being detrimental to distinctive landscape features such as hedges; Policy LPP 52 of the LP2 which seeks a high standard of layout and design in all developments; Policy LPP 35 of the LP2 which amongst other things requires density and massing to be related to the character of the site and its surroundings; Policy LPP 63 of the LP 2 which requires development proposals to take available measures to ensure the protection and enhancement of the natural environment; and Policy SP 7 of the SLP, which in seeking to secure high quality design covers most of the above.

b) Heritage assets

22. The decision notice references a 'number' of heritage assets and non-designated heritage assets. However, the Council has confirmed that its concerns relate only to the parish church and Conservation Area.

23. The Church of St Mary the Virgin is a Grade I listed building, and therefore a designated heritage asset of the highest significance. Whilst the Planning (Listed Building and Conservation Areas) Act 1990 sets out the desirability of preserving the settings of listed buildings, paragraph 199 of the Framework states that great weight should be given to the conservation of designated heritage assets.
24. Insofar as it is relevant to this appeal the special interest and significance of the church resides in its predominantly C15th and C16th fabric, its architectural design, and historic and continuing function as a place of worship.
25. The church forms a key feature of the historic streetscene in Boking, and from external view its significance is principally appreciable from and experienced within its immediate townscape setting. The church was not built at the highest point in Boking, and its proximity to the valley bottom, as too the modest height of its tower, limits its prominence in views from within the broader landscape. Whilst it therefore appears unlikely that the church and its tower has ever played more than a localised role as a landmark or spiritual reference point, to the extent that it did and does, its visibility from within the surrounding landscape setting makes a modest contribution to its significance. The character, quality, importance and context of views differs.
26. I have been provided with no evidence of any direct historic connection between the site and the church. It would however have once formed part of the more or less uninterrupted open agricultural setting of the church on its western side. But whilst this remains the case in relation to land on the north side of Bovingdon Road, the site itself has not been subject of agricultural use for around 100 years at least, and there is no realistic prospect of it ever being returned to such use. Insofar as it is now wasteland, it does not form a component of the setting of the church which retains a historic character.
27. The tower of the church, and to a much lesser extent its nave, can be viewed from within the site with a level of clarity that diminishes with distance. All such views are however compromised by other development which occupies space between the site and the church. As such, the site does not provide access to unimpeded views of the church within a context bearing any clear resemblance to one which existed historically. Though the tower nonetheless remains identifiable as an ecclesiastical feature of architectural quality, the extent to which the significance of the church is otherwise appreciable from within the site is therefore very limited. Consequently, views of the church from within the site contribute very little to its significance.
28. The development would result in some views of the church from within the site becoming obstructed. However, from other parts of the site visibility of the church would be improved by the increased height of ground levels resulting from remediation. The quality of such views would be further enhanced by landscaping. Set against the baseline, the overall effect would be at worst neutral and at best slightly positive. The contribution that open agricultural land on the north side of Bovingdon Road makes to the setting of the church would be unaffected.
29. Approached from the west along Bovingdon Road only a few very minor glimpses of the church are possible prior to reaching the church itself. These glimpses would again not be affected by the development. It is further suggested that the site contributes to a sense of the historic open rural setting

of the church when experienced from the road. However, as considered already, though the site may currently be open, its character is discernibly that of post-industrial wasteland. The construction yard, semi-derelict industrial buildings, and 3-storey blocks of housing are all in any case viewed along the south side of Bovingdon Road prior to reaching the church, thus emphasising its physical disconnection from the site. The above similarly applies in reverse travelling west. Again, as experienced from Bovingdon Road, the site does not contribute in any direct way either to the significance of the church or its appreciation.

30. Noise and light would be generated by the development. However, this would have no obvious effect on appreciation of the significance of the church, particularly when taking into account the existing levels of background noise, and lighting which already exists in far closer proximity.
31. I acknowledge that the parties agree that the development would cause a 'low level of less than substantial harm' to the significance of the church, at least in relation to the obstruction of views. Nonetheless, my findings above indicate the overall acceptability of the scheme. I am therefore satisfied that the setting of the church would be preserved.
32. The site lies some distance from the Conservation Area, and there is very little intervisibility between. Insofar as it is relevant to this appeal the significance of the Conservation Area resides in the layout of the historic part of Boking, and the historic buildings and spaces that this contains. This again includes the church, but the designation principally covers development along Church Street to its north. Though a chunk of modern housing on the site of the former textile works to the south is also included, this post-dates the designation of the Conservation Area and holds no obvious significance.
33. Boking was historically a small-scale rural village. Despite its coalescence with Braintree, this remains appreciable both in relation to the limited extent of historic development, and the reasonably close proximity of open agricultural land towards the west. This land includes that on the north side of Bovingdon Road, as considered above. In this regard my findings in relation to the approach to the church along Bovingdon Road are similarly applicable to the way in which the significance of the Conservation Area is experienced via the same route. Again, the site makes no clear contribution to appreciation of the historic rural setting of Boking, and its development would not harm in any way the extent to which this is appreciable in relation to other land. In this regard the development would have a neutral effect on the significance of the Conservation Area and its appreciation.
34. For the reasons set out above I conclude that the development would preserve the setting of the Grade I listed building and would conserve the setting of the Conservation Area. The development would therefore comply with Policy LPP47 of the LP2 which generally seeks to secure the protection and enhancement of the historic environment; Policy LLP57 of the LP2 which more specifically seeks to preserve and enhance the immediate settings of heritage assets; and Policy LPP53 of the LP2 which seeks the same in relation to conservation areas.

(c) Conclusion

35. Development of the type proposed within the location in question would conflict with Policy LPP 1 of the LP2. However, this would only be in the limited sense

that the site lies just outside the development boundary of Braintree with Bocking and Great Notley. Indeed, aside from the fact that the latter is identified as a focus for growth, and the acknowledged sustainability of the location in terms of access to services, facilities and public transport, my findings above indicate that the development would relate well to the settlement and its setting, and that its overall effects in relation to the landscape, countryside, and designated heritage assets would be acceptable if not positive. The development thus performs well against the broad principles set out within Policy SP 3 of the SLP as outlined above. I thus conclude that these considerations together indicate the site is an appropriate location for the proposed development, and that, notwithstanding the limited policy conflict identified, the scheme would comply with the development plan when taken as a whole.

Other Matters

Flooding

36. The whole of the development would be accommodated on land within Flood Zone 1. A small, peripheral and not obviously developable part of the site however falls within Flood Zones 2 and 3a. Based on the submitted Flood Risk assessment the Environment Agency (EA) has raised no objections to the scheme, but it has highlighted the need to apply the Sequential and Exception Tests. This is confirmed by the LLFA. It is apparent that had the part of the site within Flood Zones 2 and 3a been simply excluded from the boundary, no such need would have arisen. The Council itself considered that application of the Sequential Test was unnecessary given that no development would take place within the affected part of the site, and no flood risk to the remainder would arise. Though the requirement to apply the Sequential and Exception Tests nonetheless stands, taking all the above evidence and points into account, I am satisfied that the scheme both does and would have passed both.

Housing supply

37. The Council lacks a demonstrable 5-year supply of deliverable housing sites, with the current supply falling at 4.86 years. For the purposes of decision making the Framework thus states that the policies most important for determining the application are 'out-of-date'. Most of the policies I have referenced above have however been recently adopted, and I am satisfied that consistency with the Framework is not at issue. Having otherwise found that the scheme would achieve overall compliance with the development plan, in this case the presumption in favour of sustainable development both does and can do no more than simply lend additional weight to my view that the appeal should be allowed.

Habitats sites

38. The site lies within the zone of influence of the Blackwater Estuary Special Protection Area, and Ramsar sites (the habitats sites), which in turn overlap a number of SSSIs. Considered in combination with other plans or projects the development would have a likely significant effect on the integrity of the habitats sites due to the increased population that the additional dwellings would support, and the associated generation of recreational activity. In accordance with the Conservation of Habitats and Species Regulations 2017 (as amended) an Appropriate Assessment is therefore required.

39. The habitats sites hold particular importance in relation to birds. Their designation relates to the range of protected priority species that they support together with their habitats. Where available, conservation objectives seek to maintain or restore integrity, including that of qualifying features. Harm arising from increased recreational activity within the designated areas would be at odds with these objectives.
40. The Council's strategy for delivering mitigation of increased recreational pressure is currently set out within the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS), which includes a Strategy Document and Supplementary Planning Document. Mitigation comprises funding for a range of strategic mitigation projects funded by developer contributions. Natural England has confirmed that mitigation should be provided in line with the RAMS.
41. The S106 secures payment of the required contribution. In light of the RAMS and my findings above I am satisfied that this passes the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and paragraph 57 of the Framework (the tests). This therefore allows me to conclude that the development would not adversely affect the integrity of the habitats sites, and that the scheme would comply with Policy SP2 of the SLP which supports application of the RAMS.

Other obligations

42. The S106 secures the provision of 30% on-site affordable housing, satisfying the requirements of Policy LPP 31 of the LP2 and helping to address a local need.
43. It additionally secures the provision and subsequent management of on-site public open space, including an equipped play area, and contributions towards off-site provision or improvements of allotments and outdoor sports facilities in the local area. This serves to address demand that will be generated for such resources, meeting the requirements of Policy LLP 50 of the LP2, as informed by the Open Space Supplementary Planning Document 2009, with values adjusted for inflation.
44. Contributions towards the cost of providing necessary additional capacity within local GP facilities, to upgrade existing facilities at the local library, to provide additional facilities for education and care of children between ages 0-11, and support transportation of secondary school age children are also secured. Each would again directly service demand generated by the development, as informed by national and regional guidance relating to healthcare, the Essex County Council Developers Guide to Infrastructure Contributions 2020, and in accordance with the provisions of Policy LPP 78 of the LP2.
45. A contribution is secured to cover the cost of implementing the scheme travel plan, in the interests of promoting sustainable travel and in accordance with paragraph 113 of the Framework.
46. Finally, the S106 contains an obligation relating to highway construction standards in relation to refuse collection, required in order to ensure that the proposed dwellings can be serviced.
47. I am satisfied that all the obligations above pass the tests.

Conditions

48. Conditions (1)-(4) are standard conditions relating to approval of the reserved matters, setting the time period for commencement, and identifying the approved access plan for sake of certainty. The Council has suggested that the submitted Land Use Parameters Plan should also be listed in order to ensure that no part of the development would occupy Flood Zones 2 and 3a. However, whilst there is no good reason to consider that this is likely, it can be otherwise ensured within the context of the reserved matter of layout.
49. Condition (5) requires further work in relation to contamination, and is imposed in the interests of public health and safety, and at the request of the EA. This is notwithstanding the information previously submitted, and discussions which have occurred between the appellant and Environmental Health Officer, limited details of which have been provided. The need for the condition also reflects revisions to the proposed cover system since the Geo-Environmental Generic Quantitative Risk Assessment was undertaken, and reliance on data from other sources within the report, including in relation to gas. The scope of the wording removes the need for separate conditions proposed by the Council in relation to gas and verification. It is required pre-commencement given that impacts will arise from that point onwards.
50. Condition (6) is again a requirement of the EA and secures long term monitoring and maintenance of the remediation scheme in order to ensure its effectiveness.
51. Condition (7) outlines measures to be taken in relation to unexpected contamination, again in the interests of health and safety.
52. Condition (8) requires provision of a construction method statement. This uses standard relevant clauses accommodating 3 proposed conditions relating to mud, dust, traffic management and piling. The condition is imposed in the interests of public and highway safety, the amenity of adjacent residents, and in light of on-site contamination risks. It is again required pre-commencement given that impacts will arise from that point onwards.
53. Condition (9) requires the provision of a revised drainage scheme which will necessarily need to reflect the development design as approved through the reserved matters. I have incorporated reference to infiltration and run off during construction works, each of which were subject of separate conditions proposed by the EA and Council respectively. Given these clauses the condition is necessarily pre-commencement and is imposed in the interests of avoiding flood risk and contamination.
54. Condition (10) requires recommended ecological enhancements to be incorporated within details submitted in relation to the relevant reserved matters. This removes the need for a separate condition in relation to bat friendly lighting, as this matter is covered amongst others. The condition is required in the interests of biodiversity. Implementation can be conditioned at reserved matters stage.
55. Condition (11) requires details of the provision of bin stores and collection points in relation to the relevant reserved matters. Implementation can again be conditioned at reserved matters stage.

56. At the hearing the Council requested a condition controlling the mix of any affordable housing provided above the 30% level secured by the S106. It is indeed the appellant's aspiration to provide a greater proportion of affordable housing subject to funding. The purpose of the condition would be to ensure that the development provided a 'mixed community' whose composition reflects local need as required by Policy LLP 35 of the LP 2. That being so I have instead worded condition (12) so as to require approval of the overall tenure mix and distribution, necessarily taking into account the 30% affordable housing otherwise secured.
57. Condition (13) requires the provision of infrastructure improvements and links within and outside the development. This is in order to facilitate use of sustainable modes of travel, and to provide necessary linkage and integration between the development and the rest of the settlement.
58. Condition (14) requires the provision of a travel plan. This is in the interests of encouraging sustainable modes of travel.
59. There is no need for a condition specifying the visibility splay of the site access as this is shown on the submitted plan. There is also no need for conditions relating to the colour and type of materials and finishes to be used for buildings, or details of planting and hard surfacing, as these are covered within the reserved matters of appearance and landscaping.
60. I have also not imposed a condition relating to highway construction standards, or conditions requiring a Construction Environmental Management Plan and Landscape and Ecological Management Plan. This is because construction standards are covered in the S106, and the existing negligible ecological value of the site does not justify the production of such plans. Given that biodiversity enhancement has however been promoted as a benefit of the scheme, I have added a requirement to explain how the scheme landscaping will deliver biodiversity enhancement to Condition (10). Management of open space is again otherwise covered in the S106.

Conclusion

61. For the reasons set out above I conclude that the appeal should be allowed.

Benjamin Webb

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.

- 4) The development hereby permitted shall be carried out in accordance with the following approved plan to the extent that it details the site access:
1209/HWY/004 Rev. A.
- 5) The development hereby permitted shall not commence until a scheme that includes the following components addressing the risks associated with contamination of the site has been submitted to and approved in writing by the local planning authority:
 - a) a revised preliminary risk assessment which has identified all previous uses; potential contaminants associated with those uses; a conceptual model of the site indicating sources; pathways and receptors; and potentially unacceptable risks arising from contamination at the site.
 - b) a site investigation scheme, based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - c) the results of the site investigation and detailed risk assessment referred to in (b) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 - d) a verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (c) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The scheme shall then be implemented as approved.
- 6) Unless the scheme subject of Condition 5 demonstrates a lack of need for such a requirement, the development hereby permitted shall not commence until a long-term monitoring and maintenance plan in respect of contamination, including a timetable covering monitoring and submission of reports to the Local Planning Authority, has been submitted to and approved in writing by the Local Planning Authority. Reports as specified in the approved plan, including details of any necessary contingency action arising from the monitoring, shall be submitted to and approved in writing by the Local Planning Authority. Any necessary contingency measures shall be carried out in accordance with the details in the approved reports. On completion of the monitoring specified in the plan, a final report demonstrating that all long-term remediation works have been carried out and confirming that remedial targets have been achieved shall be submitted to and approved in writing by the local planning authority.
- 7) Any contamination that is found during construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 8) The development hereby permitted shall not be commenced until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall be informed by

the need to manage risks associated with contamination of the soil on site, and will provide details of:

- a) wheel washing facilities;
- b) measures to control the emission of dust and dirt;
- c) measures to minimise noise and vibration resulting from piling;
- d) the parking of vehicles of site operatives and visitors;
- e) loading and unloading of plant and materials;
- f) a scheme for recycling/disposing of waste; and
- g) delivery and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 9) The development hereby permitted shall not be commenced until a revised scheme of surface water drainage has been submitted to and approved in writing by the local planning authority. The scheme shall include:
- a) measures to minimise the risk of offsite flooding and pollution caused by surface water run-off and groundwater during construction works;
 - b) evidence that drainage infrastructure, including any use of infiltration, has been designed, located and will be constructed to avoid any mobilisation of sub-surface contaminants which may pose unacceptable risks to controlled waters;
 - c) measures to limit discharge rates to 1:1 greenfield runoff rates for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change;
 - d) provision of 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;
 - e) evidence that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event;
 - f) final modelling and calculations for all areas of the drainage system;
 - g) the appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753;
 - h) detailed engineering drawings of each component of the drainage scheme;
 - i) a final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features;
 - j) a timetable for its implementation; and,
 - k) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The scheme shall then be implemented in accordance with the approved timetable and shall thereafter managed and maintained in accordance with the approved plan.

- 10) Details submitted in relation to the reserved matters of landscaping and appearance shall, as applicable, incorporate the biodiversity enhancements outlined with Section 8.2 of the submitted Ecological Survey: Protected Species and Habitats report Ref. 210421 dated 21 April 2021. The landscaping

scheme shall additionally include an explanation of how proposed planting will deliver biodiversity enhancements.

- 11) Details submitted in relation to the reserved matters of appearance, layout and scale shall, as applicable, include bin stores which are to be provided for the use of each dwelling or group of dwellings, and to be of a size sufficient to accommodate the relevant waste and recycling receptacles in current use locally, together with collection points.
- 12) Prior to the commencement of construction of the dwellings hereby permitted details of the overall tenure mix and distribution, taking into account the provision of 30% affordable housing as otherwise secured, shall be submitted to and approved in writing by the local planning authority. The development shall then be carried out in accordance with the approved details.
- 13) The development hereby permitted shall not be occupied until:
 - a) the 2 bus stops located either side of Church Street adjacent to its junction with Bovingdon Road have been upgraded;
 - b) a minimum 3.5m wide cycle/pedestrian path linking the development to the existing highway at Peter Taylor Avenue has been provided; and
 - c) a minimum 2m wide pedestrian path linking the development to the existing footpath at the Peter Taylor Avenue play area has been provided;in accordance with details which have first been submitted to and approved in writing by the local planning authority.
- 14) The development hereby permitted shall not be occupied until a Residential Travel Plan, which shall include details of Residential Travel Information Packs to be provided to all new occupants of the development, has been submitted to and approved in writing by the local planning authority. The approved Residential Travel Plan shall then be implemented for a period up to and including at least one year following full occupation of the development.

APPEARANCES

For the Appellant

Kirsten Bowden

Chartered Landscape Architect

Tom Copp

Director - Heritage, RPS

Mike Spurgeon

Planning Consultant, Phase 2 Planning

For the Council

Melanie Corbishley

Senior Planning Officer

Neil Jones

Lead Principal Planner

Ana Patriarca

Tree and Landscape Officer

David Sorapure

Historic Buildings Consultant

Documents presented at the Hearing

Plan showing allocated site at Towerlands Leisure Centre.

Plan showing allocated site to west of Braintree.

Plan showing Boking Conservation Area.

Plan showing walking route.