

# **Braintree District Council**

Town and Country Planning Act 1990 (as amended)

**Application No.:** 20/02053/FUL

**Date Received:** 3rd December 2020

**APPLICANT:**

Ms Deborah Ruffel  
Parkgate Farm  
Delvyns Lane  
Gestingthorpe  
Halstead  
CO9 3AE  
Essex

**AGENT:**

Louise Gregory  
Louise Gregory  
Old Market Office  
10 Risbygate Street  
Bury St Edmunds  
IP33 3AA  
England

**DESCRIPTION:**

Conversion of existing agricultural buildings to 5 No. residential dwellings to include recent repair works to listed buildings.

**LOCATION:**

Parkgate Farm Delvyns Lane Gestingthorpe Essex CO9 3AE

**APPROVED PLAN(S):**

Proposed Floor Plan	Plan Ref: 300	Version: A
Proposed Elevations and Floor Plans	Plan Ref: RUFF-400	
Proposed Elevations	Plan Ref: RUFF-301	Version: A
Proposed Elevations	Plan Ref: RUFF-302	Version: A
Proposed Elevations and Floor Plans	Plan Ref: RUFF-303	
Floor Plan	Plan Ref: 200	Version: A
Site Plan	Plan Ref: 103	
Location Plan	Plan Ref: 100	Version: A
Other	Plan Ref: 102	

**DECISION:**

The Braintree District Council as local planning authority hereby gives notice of its decision to **GRANT** planning permission in accordance with the above plan(s) and subject to the following conditions and reasons:

Condition 1

The development hereby permitted shall begin not later than three years from the date of this decision.

Reason

This Condition is imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

Condition 2

The development hereby permitted shall be carried out in accordance with the approved plans listed above.

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#### Reason

For the avoidance of doubt and in the interests of proper planning.

#### Condition 3

Development shall not be commenced until an investigation and risk assessment has been completed to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme shall be submitted to and approved in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to: o human health, o property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, o adjoining land, o groundwaters and surface waters, o ecological systems, o archeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with: o BS 10175: Investigation of potentially contaminated sites - codes of practice o BS 5930: Code of Practice for ground investigations o Land Contamination Risk Management (LCRM) guidance published by the Environment Agency.

#### Reason

To ensure that contamination risks to the future users of the land, controlled waters, property and ecological systems, are minimized and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

#### Condition 4

Development shall not be commenced until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment, has been prepared, and submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and submitted to and approved in writing by the Local Planning Authority.

#### Reason

To ensure that contamination risks to the future users of the land, controlled waters, property and ecological systems, are minimized and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

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#### Condition 5

In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 3 and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 4 which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

#### Reason

To ensure that contamination risks to the future users of the land, controlled waters, property and ecological systems, are minimized and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

#### Condition 6

No development shall commence on Plots 2, 3, 4 and 5 until the local planning authority has been provided with either:

a) a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or;

b) a method statement supplied by an individual registered to use a Bat Mitigation Class Licence for Bats; or

c) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence.

#### Reason

To conserve Protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 and s17 Crime & Disorder Act 1998.

#### Condition 7

A Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the Preliminary Ecological Appraisal (Skilled Ecology, June 2020), and adequate compensatory planting shall be submitted to and approved in writing by the local planning authority. The enhancement measures shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

#### Reason

To enhance Protected and Priority Species and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

#### Condition 8

Prior to the installation of any external lighting at the site, a lighting design scheme to protect amenity, the night-time landscape and biodiversity shall be submitted to and approved by the local planning authority. The scheme shall identify those features on, or immediately adjoining the site, that are particularly sensitive for bats including those areas where lighting could cause disturbance along important routes used for foraging; and show how and where

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external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas of the development that are to be lit will not disturb or prevent bats using their territory. All external lighting shall be installed in accordance with the specifications and locations set out in the approved scheme and retained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

#### Reason

In the interests of the character and appearance of the development and amenity of the area and in the interests of protected species.

#### Condition 9

No development in relation to Plot 1 shall be permitted to commence on site until such time as an Order securing the diversion of the existing definitive right of way to a route to be agreed with the Local Planning Authority has been confirmed and the new route has been constructed to the satisfaction of the Local Planning Authority.

#### Reason

To ensure the continued safe passage of pedestrians on the public right of way and accessibility in accordance with Policies DM1 and DM11 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

#### Condition10

Prior to the first occupation of the dwellings hereby permitted, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per dwelling, for sustainable transport, approved by Essex County Council.

#### Reason

In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10 of the Highway Authoritys Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

#### Condition11

Prior to the first occupation of the dwellings hereby permitted, the vehicle parking and turning as indicated on the submitted plans shall be provided and thereafter the vehicle parking and turning shall always be retained in this form.

#### Reason

To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

#### Condition12

Prior to the commencement of any development, including any works of demolition, a Construction Method Statement shall be submitted to and approved in writing by the local planning authority. The Statement shall provide for:

- the parking of vehicles of site operatives and visitors;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- the erection and maintenance of any security hoarding;

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- wheel washing facilities;
- delivery, demolition and construction working hours.

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

**Reason**

In the interests of neighbouring amenity, visual amenity and the safety and convenience on the highway network.

**Condition13**

No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include: -

- means of enclosures, including all fences and gates;
- hard surfacing materials;
- minor artefacts and structures [e.g. furniture, play equipment, refuse or other storage units, signs, etc.];
- planting plans, including species and densities;
- an implementation programme.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme.

**Reason**

In the interests of the visual amenity of the area and to ensure a high quality scheme and appropriate amenity to future occupiers.

**Condition14**

No development to Plot 1 shall commence until a schedule of materials and samples of the materials to be used on the external finishes of the Dutch Barn (Plot 1) has been submitted to and approved in writing by the local planning authority. The development shall only be implemented in accordance with the approved details and permanently retained as such.

**Reason**

To ensure the use of appropriate materials in the interest of high quality and amenity.

**Policies:**

The Development Plan policies taken into account when deciding this application are listed below. The policies can be viewed in full at Causeway House or on the Council's website – [www.braintree.gov.uk](http://www.braintree.gov.uk)

**Braintree District Local Development Framework Core Strategy 2011**

- CS5      The Countryside
- CS7      Promoting Accessibility for All
- CS8      Natural Environment and Biodiversity

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### Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP7	Housing and Mixed Use Sites
RLP8	House Types
RLP9	Design and Layout of Housing and Mixed Use Areas
RLP10	Residential Density
RLP38	Conversion of Rural Buildings
RLP56	Vehicle Parking
RLP64	Contaminated Land
RLP65	External Lighting
RLP74	Provision of Space for Recycling
RLP84	Protected Species
RLP90	Layout and Design of Development
RLP100	Alterations and Extensions and Changes of Use to Listed Buildings and their settings
RLP101	Listed Agricultural Buildings

### Braintree District Shared Strategic Section 1 Local Plan (2021)

SP1	Presumption in Favour of Sustainable Development
SP7	Place Shaping Principles

### Braintree District Draft Section 2 Local Plan (2017)

LPP1	Development Boundaries
LPP37	Housing Type and Density
LPP42	Residential Conversion of Buildings in the Countryside
LPP45	Parking Provision
LPP49	Broadband
LPP50	Built and Historic Environment
LPP55	Layout and Design of Development
LPP60	Heritage Assets and their Settings
LPP68	Protected Species, Priority Spaces and Priority Habitat
LPP71	Landscape Character and Features
LPP81	External Lighting

### **In forwarding the decision for this application, I have to draw your attention to the following:**

#### Informative 1

If the development for which you have been granted planning permission involves the allocation of a new postal number(s) would you please contact the Planning Department, Causeway House, Braintree, CM7 9HB. Tel Braintree 552525, upon commencement of the development to enable the early assignment of a postal number(s).

#### Informative 2

Occasionally protected species, can be found during the course of development even when the site appears unlikely to support them or after an ecological survey has found no previous evidence of them. Should any protected species or evidence of protected species be found prior to or during the development, all works must immediately cease and a suitably qualified ecologist must be contacted for further advice before works can proceed. All contractors

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working on site should be made aware of the advice and provided with the contact details of a relevant ecological consultant.

#### Informative 3

To avoid killing or injuring small animals which may pass through the site during the construction phase, it is best practice to ensure the following measures are implemented:

a) Trenches, pits or holes dug on site should be covered over at night. Alternatively, ramps (consisting of a rough wooden plank) or sloped/stepped trenches could be provided to allow animals to climb out unharmed;

b) materials brought to the site for the construction works should be kept off the ground on pallets to prevent small animals seeking refuge; c) rubbish and waste should be removed off site immediately or placed in a skip, to prevent small animals using the waste as a refuge

#### Informative 4

The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act.

#### Informative 5

The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is considered to be a breach of this legislation. The public rights and ease of passage over public footpath no.4 (Gestingthorpe) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way.

Dated: 27th September 2021

Signed:



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**Christopher Paggi**

Planning Development Manager

Causeway House, Bocking End, Braintree, Essex CM7 9HB

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## Appeals to the Secretary of State

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
- For householder and minor commercial applications you must appeal within **12 weeks** of the Council's decision. For other application types you must appeal within **6 months** of the Council's decision.
- If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of this notice.
- If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within:  
28 days of the date of service of the enforcement notice, or within 6 months [12 weeks in the case of a householder or minor commercial appeals] of the date of this notice, whichever period expires earlier.
- Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>.  
If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on telephone no. 0303 444 5000.
- The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate ([inquiryappeals@planninginspectorate.gov.uk](mailto:inquiryappeals@planninginspectorate.gov.uk)) at least 10 days before submitting the appeal. [Further details are on GOV.UK.](#)

## Land Purchase

If proposals are refused, whether by the Local Planning Authority or by the Secretary of State, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the District Council for the area in which the land is situated a purchase notice requiring that Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990 as amended.

## Compensation

In certain circumstances, a claim may be made against the Local Planning Authority for compensation where permission is refused by the Secretary of State on appeal or on a reference of an application to him. The circumstances in which such compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990 as amended.

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