

COUNCIL AGENDA

Monday, 18th March 2024 at 7.15pm

**Council Chamber, Braintree District Council,
Causeway House, Bocking End, Braintree, CM79HB**

THIS MEETING IS OPEN TO THE PUBLIC

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Members of the Council are requested to attend this meeting to transact the business set out in the Agenda.

Councillor J Abbott
Councillor D Abram
Councillor M Ault
Councillor J Ayten
Councillor J Baugh
Councillor J Beavis
Councillor J Bond
Councillor K Bowers
Councillor L Bowers-Flint
Councillor G Butland
Councillor J Coleridge
Councillor G Courtauld
Councillor M Cunningham
Councillor T Cunningham
Councillor C Dervish
Councillor T Diamond

Councillor J Edwards
Councillor C Finch
Councillor M Fincken
Councillor D Garrod
Councillor M Green
Councillor J Hayes
Councillor P Heath
Councillor D Holland
Councillor A Hooks
Councillor L Jefferis
Councillor J Martin
Councillor S Mason
Councillor A Munday
Councillor I Parker
Councillor J Pell
Councillor G Prime

Councillor S Rajeev
Councillor R Ramage
Councillor F Ricci
Councillor P Schwier
Councillor G Spray
Councillor M Staines
Councillor B Taylor
Councillor W Taylor
Councillor M Thorogood
Councillor P Thorogood
Councillor R van Dulken
Councillor T Walsh
Councillor L Walters
Councillor E Williams
Councillor T Williams
Councillor J Wrench
Councillor B Wright

Members unable to attend the meeting are requested to forward their apologies for absence to the Governance and Members Team on 01376 552525 or email governance@braintree.gov.uk by 3pm on the day of the meeting.

D GASCOYNE
Chief Executive

INFORMATION FOR MEMBERS – DECLARATIONS OF MEMBERS' INTERESTS

Declaration of Disclosable Pecuniary Interests (DPI), Other Pecuniary Interests (OPI), or Non-Pecuniary Interests (NPI).

Any Member with a DPI, OPI or NPI must declare the nature of their interest in accordance with the Code of Conduct. Members must not participate in any discussion of the matter in which they have declared a DPI or OPI or participate in any vote, or further vote, taken on the matter at the meeting. In addition, the Member must withdraw from the Chamber where the meeting considering the business is being held unless the Member has received a dispensation from the Monitoring Officer.

Public Question Time - Registration and Speaking

The Agenda allows for a period of up to 30 minutes for Public Question Time. Members of the public may ask questions or make a statement to the Council on any matter in relation to which the Council has powers or duties, or which affects the district, and matters listed on the Agenda.

All questions or statements should be concise and should be able to be heard within the 3 minutes allotted to each speaker.

Anyone wishing to ask a question or make a statement is requested to register their interest by completing the Public Question Time registration [online form](#) by midday on the **second working day** before the day of the meeting.

For example, if the meeting is on a Tuesday, the registration deadline is midday on Friday, (where there is a Bank Holiday Monday you will need to register by midday on the previous Thursday). The Council reserves the right to decline any requests to register to speak if they are received after this time.

When registering for Public Question Time please indicate whether you wish to attend the meeting 'in person', or to participate remotely. People who choose to join the meeting remotely will be provided with the relevant link and joining instructions for the meeting.

Please note that completion of the on-line form does not guarantee you a place to speak during Public Question Time. You will receive email notification from the Governance Service confirming whether your request is successful.

The Chairman of the Council has discretion to amend the order in which questions or statements are presented to Full Council.

In the event that a registered speaker is unable to connect to the meeting, or if there are any technical issues, their question/statement may be read by a Council Officer.

Further information on Public Question Time is available on the [Council's website](#).

Health and Safety:

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Documents

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Comments and Suggestions

We welcome comments to make our services as efficient and effective as possible. If you have any suggestions regarding the meeting you have attended you may send these to governance@braintree.gov.uk

PUBLIC SESSION

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1 Apologies for Absence

2 Declarations of Interest

To declare the existence and nature of any Disclosable Pecuniary Interest, other Pecuniary Interest or Non-Pecuniary Interest relating to items on the agenda having regard to the Code of Conduct for Members and having taken appropriate advice where necessary before the meeting.

3 Minutes of the Previous Meeting

To approve as a correct record the minutes of the meeting of Full Council held on 19th February 2024 (copy previously circulated).

4 Public Question Time

Only Registered Speakers will be invited by the Chairman to speak during public question time.
Please see the agenda notes for guidance.

5 To receive any announcements/statements from the Chairman and/or Leader of the Council.

6 Motion by Councillor Jo Beavis – Support for the Local Government Association's Debate Not Hate Campaign **6 - 6**

7 Motion by Councillor James Abbott – Delivery of community infrastructure **7 - 7**

8 Questions to the Leader and Cabinet

The Chairman will invite Councillors to ask questions of the Leader and the Cabinet Members on matters which relates to the functions of the Leader and Cabinet Members, the powers and duties of the Council or matters pertaining to the District which are relevant to their respective portfolios which have taken place since the last meeting of the Council.

All Councillors are able to ask one question and questions will commence with the Leader of the Opposition. The order of all other questions will be at the discretion of the Chairman.
A period of up to 30 minutes is allowed for this item. Council Procedural Rule 12.13 applies.

9 The Braintree District Council (Towerlands Park, Braintree) Compulsory Purchase Order 2024 **8 - 62**

10 Polling District and Place Review **63 - 70**

11	Election Fees	71 - 73
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13	Dates of Full Council	

Members are asked to note that the meeting of Council originally scheduled for 28th October 2024 has been moved to 4th November 2024.

Agenda Item: 9

Report Title: The Braintree District Council (Towerlands Park, Braintree) Compulsory Purchase Order 2024	
Report to: Council	
Date: 18th March 2024	For: Decision
Key Decision: No	Decision Planner Ref No: DP/2023/79
Report Presented by: Councillor Gabrielle Spray, Cabinet Member for Planning and Infrastructure	
Enquiries to: Kim Mayo, Head of Governance and Monitoring Officer Kim.mayo@braintree.gov.uk	

1. Purpose of the Report

- 1.1 This report recommends to full Council the making of a compulsory purchase order (“CPO”) in respect of the outstanding interests in the land shown edged red and shaded pink on the plan at Appendix 1 (the “Order Land”), which is needed to deliver a residential led development (including affordable housing) at Towerlands Park, Braintree.

2. Recommendations

- 2.1 That the Council agree:
- a) That a CPO be made pursuant to the powers in section 226(1)(a) of the Town and Country Planning Act 1990 for the acquisition of the Order Land.
 - b) To delegate authority to Corporate Director, Growth to settle the final form and content of the CPO and associated documentation, to submit the CPO to the Secretary of State for Levelling Up, Housing and Communities for confirmation, and to take all action needed to pursue the CPO and secure its confirmation.
 - c) To delegate to the Corporate Director, Growth, to agree and enter into a CPO Indemnity Agreement with Repairbrook Limited.
 - d) To delegate authority to the Corporate Director, Growth, following the confirmation of the CPO, to implement the CPO powers to acquire freehold title to the Order Land and to deal with it in accordance with the provisions of the CPO Indemnity Agreement.

3. Summary of Issues

- 3.1 This report recommends the making of a CPO and other related steps to full Council for approval in order to acquire the freehold title to the Order Land.
- 3.2 The purpose of the proposed CPO is to facilitate the carrying out of development, redevelopment or improvement on or in relation to the land to enable a residential scheme comprising new housing (including affordable housing) together with associated accesses, infrastructure, services, parking, public realm and landscaping, thereby contributing towards the promotion and/or improvement of the economic, social and environmental well-being of the area.
- 3.3 The Order Land forms part of the Towerlands Park Estate, Panfield Road, Braintree, Essex (“the Towerlands Park Site”) which can be seen edged red on the Plan at Appendix 3 to this Report, and which was previously used for a variety of purposes including as a golf course and equestrian and conference centre. On 9th April 2021 the Council granted outline planning permission (reference 19/00786/OUT) (the “Planning Permission”), pursuant to its resolution dated 22nd September 2020, for the development of up to 575 homes together with the provision of a site for early years and childcare nursery, local retail and community facilities, and together with associated accesses, infrastructure, services, parking, public realm and landscaping at the Towerlands Park Site (“the Development Scheme”).
- 3.4 A key element of the Development Scheme is to be delivered on the Order Land, being the construction of a residential scheme comprising approximately 66 new houses (to include affordable housing) together with part of the proposed linear park and a circular cycleway/footway (“the Proposed Development”).
- 3.5 Repairbrook Limited (“the Developer”) currently holds a leasehold interest in the Order Land, granted in 1555 with approximately 31 years remaining, which is an insufficient interest in the Order Land to enable the Proposed Development to be built out. For the avoidance of doubt, the Developer’s leasehold interest in the Order Land is excluded from the Order and is not proposed to be acquired by the Council.
- 3.6 Given that the lease was granted in 1555 and the freehold title to the Order Land has never been registered by its owner, it has not been possible to trace the owner of the Order Land. The Developer and the Council have conducted diligent enquiries in an attempt to establish the identity of the freehold owner of the Order Land, including the issue of statutory requisitions for information by the Council. The issue of the statutory requisitions led to a response from the Coopers and Cobourne Educational Foundation (“CCEF”) (a registered charity). Eversheds Sutherland, solicitors for the Developer, further investigated the claims made by the CCEF in relation to freehold ownership of the Order Land, but such further investigations did not demonstrate that the CCEF were the owners of the relevant land.

- 3.7 Having been unable to establish who owns the freehold of the Order Land, it has not been possible for the Developer to agree the voluntary purchase of the same. In the absence of intervention by the Council to acquire the freehold interest of the Order Land compulsorily, the Proposed Development will not proceed, the consequence of which would be that an important and centrally located part of the Towerlands Park Site would be left undeveloped.
- 3.8 In the event that an individual or entity is able to deduce freehold title to the Order Land (or any part of it) then the Developer and the Council will use reasonable endeavours to acquire such interest by way of voluntary agreement but there is currently no prospect of this being achieved in a reasonable timescale if at all.
- 3.9 The Towerlands Park Site is an important strategic growth location, allocated pursuant to the Braintree District Local Plan 2033 ("The Local Plan") (Policy LPP 19 - Strategic Growth Location- Former Towerlands Park Site) which plays a key role in the Council's new Local Plan housing allocations.
- 3.10 Policy LPP 19 confirms that a Strategic Growth Location has been identified at Towerlands Park, and that any development on this site will be expected to provide:
- a) up to 575 new homes of a mixed size and type appropriate to the area;
 - b) affordable housing as per the Council's requirements;
 - c) primary school or contributions towards new primary school provision in the locality;
 - d) a new 56 place stand-alone early years and childcare nursery (D1 use) on 0.13 hectares of land as required by the Local Education Authority through S106 Planning Obligations;
 - e) all access points will have to be agreed to the satisfaction of Essex County Council, as Highway Authority;
 - f) community facilities, including contributions to local NHS facilities;
 - g) local retail facilities; and
 - h) public open space in accordance with the Open Space Study, Formal recreation in accordance with the Playing Pitch Strategy and informal recreation including landscaping to the rural edge.
- 3.11 The Proposed Development of the Order Land would represent a valuable contribution to meeting the Council's policy objectives. The draft Statement of Reasons, which is the document that sets out the Council's case and justification for making and pursuing the CPO, can be found at Appendix 2 to this report. The final form of the Statement of Reasons will be served on all of those persons who are or who may potentially be affected by the CPO.
- 3.12 In order to authorise the making and pursuing of the CPO, section 226 of the Town and Country Planning Act 1990 requires that the Council must be satisfied that the use of the compulsory powers will facilitate the development, redevelopment or improvement of land, and that it is likely to contribute towards the promotion or improvement of the economic, social and environmental well-being of the area. Further, the Council must be satisfied

that there is a compelling case in the public interest for making and promoting the CPO, that the use of the powers is necessary and proportionate, and that the public benefits associated with the proposed regeneration will clearly outweigh the interference with the rights of those affected.

- 3.13 As explained in section 5 of the draft Statement of Reasons at Appendix 2, the Proposed Development which will be facilitated by the CPO will play a key role in achieving the objectives of the Strategic Growth Location in accordance with the Policy LLP 19 allocation of the Towerlands Park Site in the Local Plan; will ensure that the comprehensive Planning Permission for the Towerlands Park Site is implemented in its entirety; and will deliver important social, economic and environmental 'well-being' benefits for the area in line with the requirements of Section 226(1A) of the Act.
- 3.14 The social, economic and environmental benefits that will flow from the Proposed Development, include:
- a) approximately 66 homes will be delivered, providing a range of types and sizes of homes and tenures;
 - b) the development of the Order Land will allow for an attractive and logical link between surrounding parcels of development without having to use the busier road around the parcels;
 - c) the final sections of footway and cycle route can be completed, which will provide a continuous route;
 - d) a section of linear park will be implemented which will include additional tree planting, and SuDS pond creation (which also serves as additional open space during period of low rainfall);
 - e) new high-quality streets and public realm will be provided to create a highly attractive environment;
 - f) temporary employment opportunities are generated with activities associated with constructing the Proposed Development; and
 - g) the development of the Order Land will allow for the full extent of the Towerlands Park Site to be implemented and deliver the 575 homes secured in the Planning Permission.
- 3.15 A CPO Indemnity Agreement, under which the Developer provides the Council with an indemnity in respect of the costs of promoting the CPO and the compensation payable to any third parties whose land and interests is acquired pursuant to the CPO, is proposed to be completed before the CPO is made.
- 3.16 The recommendations set out in this report will help the Council to deliver the following Corporate Priorities:
- Connecting People and Places
 - Enhancing our environment
 - Delivering and Innovating

4. Alternative Options

Do Nothing

- 4.1 If the CPO is not made, then the only way of acquiring the land and interests needed to deliver the Proposed Development would be by agreement. Given the inability to identify the current freehold owner of the Order Land, it is highly unlikely that the requisite land could be assembled without the use of CPO powers. This will prejudice the ability to meet the Council's objectives for this strategic growth location and will mean that the opportunity to deliver much needed housing will be lost.

Proceed with a CPO

- 4.2 The preferred option is therefore to resolve to make the CPO in accordance with the recommendations set out in this report in order to facilitate the development of the Order Land which will confer substantial social, economic and environmental benefits.

5. Financial Implications

- 5.1 The current estimated cost for the delivery of the Proposed Development on the Order Land is expected to be in the region of £7 million to £12 million. The principal reason for the range of costs is the present uncertainty over build cost inflation.
- 5.2 The Developer's latest filed financial accounts for the financial year ending March 2023 confirm that the Developer has net assets of over £23 million. The Developer therefore has funds substantially in excess of the current cost estimate, and those funds are available to be drawn down immediately. The Developer does not require any additional source of funding in order to deliver the Proposed Development.
- 5.3 The Developer and the Council will enter into a CPO Indemnity Agreement in which the Developer has committed to indemnify the Council in respect of the costs and/or liabilities of the Council in promoting the CPO, including any compensation payable to any party that comes forward with evidence of freehold ownership of the Order Land. The estimated range of costs above includes the estimated costs of purchasing the freehold of the Order Land, for which the Developer has set aside sufficient funds.
- 5.4 It is not anticipated that any valid blight notices could be served in respect of the CPO.

6. Legal Implications

- 6.1 The CPO process is governed by law, principally the Acquisition of Land Act 1981. There is a public and lawful process which must be followed by the Council in order to secure the confirmation of CPO powers.
- 6.2 The CPO is proposed to be made pursuant to Section 226(1)(a) of the Town and Country Planning Act 1990 ("the 1990 Act"), which provides that a local

authority may acquire compulsorily land in their area if they think that the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land. Section 226(1A) of the 1990 Act states that the power may only be used where the local authority thinks that the development is likely to contribute to the achievement of the promotion or improvement of the economic, social or environmental wellbeing of the area. The Council must therefore address these questions when deciding whether to authorise the use of CPO powers. The draft Statement of Reasons at Appendix 2 explains the justification for the use of CPO powers.

- 6.3 The Department for Levelling Up, Housing and Communities' Guidance on Compulsory Purchase process and the Crichel Downs Rules (July 2019) ("the CPO Guidance") states at paragraph 1 of Tier 1 that compulsory purchase powers are an *"important tool to use as a means of assembling the land needed to help deliver social, environmental and economic change"*. It continues that *"used properly, they can contribute towards effective and efficient urban ... regeneration, essential infrastructure, the revitalisation of communities, and the promotion of business – leading to improvements in quality of life"*.
- 6.4 Paragraph 2 of Tier 1 of the CPO Guidance makes clear that compulsory purchase powers should only be used where there is a *"compelling case in the public interest"*. Members must be satisfied that this test is met in this case. The draft Statement of Reasons at Appendix 2 is of direct relevance to the Council in this regard.
- 6.5 Those who wish to object to the CPO may do so and are entitled to have their objection determined via an appropriate determination process which considers the case for, and the objections to, the CPO. Those whose land and interests are acquired will be entitled to compensation calculated on the basis of legislation and related case law known as the "Compensation Code".
- 6.6 Consideration must also be given to the interference with rights protected by the Human Rights Act 1998, including Article 8 (respect for private and family life and home), and Article 1 (the right to peaceful enjoyment of possessions) of the European Convention on Human Rights. A decision to make a CPO must strike a fair balance between the public interest associated with the redevelopment of the land and the interference with private rights.
- 6.7 Whilst the freehold owners of the Order Land will be deprived of their ownership of property if the CPO is confirmed and the powers are exercised, this will be done in accordance with the law, in this case the 1990 Act. The CPO is being pursued in the public interest as required by Article 1 of the First Protocol. The public benefits associated with the Proposed Development of the Order Land are set out in this report and in the draft Statement of Reasons at Appendix 2. It is therefore considered that the interference with the private rights that would be the inevitable result of the exercise of compulsory purchase powers conferred by the CPO would be lawful, justified and

proportionate. The draft Statement of Reasons, at Appendix 2, also addresses the balance that must be struck in this respect.

7. Other Implications

- 7.1 There are no other implications arising from the recommendations set out in this report.

8. Equality and Diversity Implications

- 8.1 Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:
- a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act;
 - b) Advance equality of opportunity between people who share a protected characteristic and those who do not; and
 - c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 8.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).
- 8.3 The Equality Impact Assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

9. List of Appendices

- 9.1 Appendix 1 – Plan of proposed CPO boundary
- 9.2 Appendix 2 – Draft Statement of Reasons
- 9.3 Appendix 3 – Red Line planning boundary of the wider Towerlands Park Site

10. Background Papers

- 10.1 Council 3rd January 2023 - (Agenda Item 11)

APPENDIX 1

Map referred to in The Braintree District Council (Towerlands Park, Braintree) Compulsory Purchase Order 2024

KEY

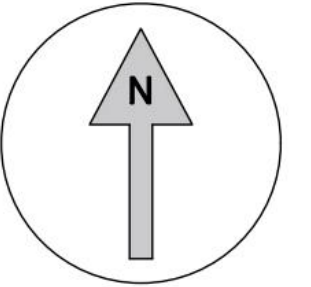
LAND TO BE ACQUIRED

The common seal of Braintree District Council was hereto affixed in the presence of:

Authorised Signatory

Dated

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Scale 1:1250



INSET 1

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SCALE 1:250

STATUS - INFORMATION

PROJECT - TOWERLANDS, PANFIELD LANE, BRAINTREE

DRAWING TITLE - *Map referred to in The Braintree District Council (Towerlands Park, Braintree) Compulsory Purchase Order 2024*

REVISION - P03

SCALE - 1:1250 @A1

NUMBER - 208-BTH-001

BRAINTREE DISTRICT COUNCIL

THE TOWN AND COUNTRY PLANNING ACT 1990
AND
THE ACQUISITION OF LAND ACT 1981

**THE BRAINTREE DISTRICT COUNCIL (TOWERLANDS PARK, BRAINTREE)
COMPULSORY PURCHASE ORDER 2024**

STATEMENT OF REASONS

DRAFT

1. INTRODUCTION

- 1.1 This document is the Statement of Reasons of Braintree District Council ("**the Council**") for The Braintree District Council (Towerlands Park, Braintree) Compulsory Purchase Order 2024 ("**the Order**") that has been made by the Council, and which is to be submitted to the Secretary of State for Levelling Up, Housing and Communities ("**the Secretary of State**") for confirmation. The Order is made for the purposes of facilitating the carrying out of development, redevelopment or improvement on or in relation to such land to enable a residential scheme comprising new housing (including affordable housing) together with associated accesses, infrastructure, services, parking, public realm and landscaping, thereby contributing towards the promotion and/or improvement of the economic, social and environmental well-being of the area.
- 1.2 The Council has made the Order pursuant to the powers in Section 226(1)(a) of the Town and Country Planning Act 1990 ("**the Act**"), which are described below. In this Statement of Reasons, the land included within the Order is referred to as "**the Order Land**" and this is shown edged red and shaded pink on **Plan 1** appended to this Statement. The Council is the Local Planning Authority for the Order Land and Essex County Council will be the Local Highway Authority for the roads to be constructed (to adoptable standard) on the Order Land. This Statement of Reasons sets out the Council's justification for promoting the Order and explains why there is a compelling case in the public interest for the confirmation of the Order.
- 1.3 This Statement of Reasons has been prepared in compliance with paragraph 196 of Section 12 of Tier 3 of the Department for Levelling Up, Housing and Communities' Guidance on Compulsory Purchase process and the Crichel Downs Rules (July 2019) ("**the CPO Guidance**").
- 1.4 On 9th April 2021 the Council granted outline planning permission (bearing reference 19/00786/OUT) ("**the Planning Permission**"), pursuant to its resolution dated 22nd September 2020, for the development of up to 575 homes together with the provision of a site for early years and childcare nursery, local retail and community facilities, and together with associated accesses, infrastructure, services, parking, public realm and landscaping at Towerlands Park Estate, Panfield Road, Braintree, Essex ("**the Towerlands Park Site**"), (which includes the Order Land). The full extent of the Towerlands Park Site is shown edged red on **Plan [x]**.

- 1.5 At the time that the application in relation to the Planning Permission was submitted to the Council, it was acknowledged that not all of the owners of the land comprising the Towerlands Park Site had been identified. In particular, it had not been possible to identify the freehold owner of the Order Land, the title to which had not been registered at HM Land Registry, whose identity remains unknown despite diligent enquiries having been made by the Council.
- 1.6 A key element of the development scheme permitted pursuant to the Planning Permission is to be delivered on the Order Land, being the construction of a residential scheme comprising approximately 66 new houses (to include affordable housing) together with the provision of associated accesses, infrastructure, services, parking, public realm and landscaping ("**the Proposed Development**").
- 1.7 Repairbrook Limited ("**the Developer**") currently holds a leasehold interest in the Order Land, with approximately 31 years remaining, which is an insufficient interest in the Order Land to enable the Proposed Development to be built out. For the avoidance of doubt, the Developer's leasehold interest in the Order Land is excluded from the Order and is not proposed to be acquired by the Council.
- 1.8 The Developer, following diligent enquiry, has been unable to establish who owns the freehold of the Order Land in order to agree the voluntary purchase of the same. In the absence of intervention by the Council to acquire the freehold interest of the Order Land compulsorily the Proposed Development will not proceed, the consequence of which would be that an important and centrally located part of the Towerlands Park Site would be left undeveloped.

2. DESCRIPTION OF THE ORDER LAND

- 2.1 The Order Land is centrally located within the wider Towerlands Park Site (which is located to the north west of Braintree, between the area known as Bocking and the village of Panfield). It formerly comprised part of the former Towerlands golf course. The Order Land is identified as Parcel R12 on the approved Parameter Plan: Development Framework (UNX003/PP/001 Rev F) which accompanies the Planning Permission.
- 2.2 The Order Land is unoccupied and has few identifiable features other than a pond that is on its western boundary. The land, which is presently fenced off on a temporary basis, has a gentle change in gradient of approximately five metres, sloping downwards from north to south. The Order Land currently has a swale dug to the southern boundary in order to facilitate development on the wider

Towerlands Park Site. [There is also a spoil heap on the southern side of the Order Land which is due to be removed imminently.] [update if the spoil heap has been removed before the Statement of Reasons is settled and served]

- 2.3 The Order Land is shown coloured pink on the Order Map (**Plan [x]**) and details of the land interests to be acquired are set out in the Schedule to the Order.

3. POWERS UNDER WHICH THE ORDER IS MADE

- 3.1 The Order is made pursuant to Section 226(1)(a) of the Act, which provides that a local authority may acquire compulsorily land in their area if they think that the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land. Section 226(1A) of the Act states that the power may only be used where the local authority thinks that the development is likely to contribute to the achievement of the promotion or improvement of the economic, social or environmental wellbeing of the area.
- 3.2 The Council's purpose in seeking to acquire the Order Land is to facilitate its development, re-development and improvement by way of a residential scheme comprising new housing (including affordable housing) together with associated accesses, infrastructure, services, parking, public realm and landscaping, described in more detail in Section 4 of this Statement.
- 3.3 The Council considers that the Proposed Development will contribute to the economic, environmental and social well-being of the area by delivering important and significant public benefits, as outlined in Section 5 below.
- 3.4 The CPO Guidance states at paragraph 1 of Tier 1 that compulsory purchase powers are an *"important tool to use as a means of assembling the land needed to help deliver social, environmental and economic change"*. It continues that *"used properly, they can contribute towards effective and efficient urban ... regeneration, essential infrastructure, the revitalisation of communities, and the promotion of business – leading to improvements in quality of life"*.
- 3.5 Paragraph 2 of Tier 1 of the CPO Guidance makes clear that compulsory purchase powers should only be used where there is a *"compelling case in the public interest"*. This test is clearly met in this case.
- 3.6 Paragraph 94 and 95 of Section 1 of Tier 2, which provides guidance on the use of compulsory purchase orders made under the Act, states that the power is intended to be a *"positive tool to help ... authorities ... to assemble land where this is*

necessary to implement proposals in their Local Plan or where strong planning justifications for the use of the power exist". It is stated that the power is "expressed in wide terms and can therefore be used to assemble land for regeneration and other schemes".

- 3.7 Paragraph 104 of Section 1 of Tier 2 of the CPO Guidance states that the use of the power *"needs to be set within a clear strategic framework" with that framework being "founded on an appropriate evidence base, and to have been subjected to consultation processes". It continues that the "planning framework providing the justification for the order should be as detailed as possible".*
- 3.8 Paragraph 106 of Section 1 of Tier 2 of the CPO Guidance goes on to set out the matters that the Secretary of State will consider when deciding whether to confirm an order. These include whether the purpose for which the land is being acquired *"fits in with the adopted local plan ... or where no such up to date local plan exists, with the draft local plan and the National Planning Policy Framework; the extent to which the proposed purpose will contribute to the achievement of the promotion or improvement of the economic, social or environmental wellbeing of the area; whether the purpose for which the acquiring authority is proposing to acquire the land could be achieved by any other means....; and the potential financial viability of the scheme for which the land is being acquired".* As is explained in Section 5 below, the Proposed Development has the benefit of planning permission, which was the subject of public consultation, and which complies with the adopted planning framework.
- 3.9 At its Council meeting on 3rd January 2023, the Council passed an "in principle" resolution that, if necessary, it would consider the use of its compulsory purchase powers to acquire outstanding interests in the Order Land if the freehold owner could not be identified. Despite continued but unsuccessful efforts being made to identify the freehold owner of the Order Land, which included the service of statutory requisitions for information by the Council pursuant to its powers in section 5A Acquisition of Land Act 1981, it has become clear to the Council that the Proposed Development cannot be delivered without the use of its compulsory purchase powers. Accordingly, on [DATE] the Council resolved to make and promote the Order for Order Land. The Order was made on [DATE].

4. THE COUNCIL'S PURPOSE IN SEEKING TO ACQUIRE THE ORDER LAND: THE NEED FOR THE PROPOSED DEVELOPMENT

- 4.1 Section 6 below provides detail on the Council's planning policy framework which will be advanced by the development of the Order Land.
- 4.2 The Towerlands Park Site is an important strategic growth location, allocated pursuant to the Braintree District Local Plan 2033 ("**The Local Plan**") (Policy LPP 19 - Strategic Growth Location- Former Towerlands Park Site) which plays a key role in the Council's new Local Plan housing allocations.
- 4.3 Policy LPP 19 confirms that a Strategic Growth Location has been identified at Towerlands Park, and that development will be expected to provide:
- 4.3.1 up to 575 new homes of a mixed size and type appropriate to the area;
 - 4.3.2 affordable housing as per the Council's requirements;
 - 4.3.3 primary school or contributions towards new primary school provision in the locality;
 - 4.3.4 a new 56 place stand-alone early years and childcare nursery (D1 use) on 0.13 hectares of land as required by the Local Education Authority through S106 Planning Obligations;
 - 4.3.5 all access points will have to be agreed to the satisfaction of Essex County Council, as Highway Authority;
 - 4.3.6 community facilities, including contributions to local NHS facilities;
 - 4.3.7 local retail facilities; and
 - 4.3.8 public open space in accordance with the Open Space Study, Formal recreation in accordance with the Playing Pitch Strategy and informal recreation including landscaping to the rural edge.
- 4.4 The main access to the site will be from Deanery Hill/Panfield Lane. An additional vehicle access will be sought from the Strategic Growth Location to the south at North West Braintree. All access points will have to be agreed to the satisfaction of Essex County Council Highways.

- 4.5 The delivery of each facility shall coincide with the completion of different phases of the Proposed Development to ensure that local services are in place when they are needed.
- 4.6 The Proposed Development of the Order Land would represent a valuable contribution to meeting the Council's policy objectives and would also contribute to meeting the Council's objectively assessed need for 716 new homes per year across the Local Plan period. The development of the Order Land will contribute 66 new homes to the Towerlands Park Site which will be a mix of market and affordable as well as size and scale. Developing the southern extent of the Order Land will allow for the delivery of the linear park which comprises part of the circular footway/cycleway – a key infrastructure and leisure route for the wider Towerlands Park Site; as well as the provision of a sustainable drainage system (SuDS) and additional tree planting.
- 4.7 As explained in more detail in section 5 of this Statement of Reasons, the Proposed Development for these purposes would deliver important social, economic and environmental 'well-being' benefits for the Council's area. Its development would also ensure that the Council's objectives for the development of the wider Towerlands Park Site can be met in full and that the Order Land does not remain undeveloped land at the centre of a Strategic Growth Area. This would have a detrimental effect on the overall quality of the Towerlands Park scheme and the amenity of its new residents.
- 4.8 The retention of the Order Land in its current form would contravene good placemaking and design approaches. The Order Land would need to be secured, and access restricted, which would remove the opportunity for permeability across the Towerlands Park Site. The Order Land has been previously assessed and considered appropriate, suitable, available and deliverable as part of the Local Plan and Planning Permission processes. Without the delivery of approximately 66 homes on the Order Land, the achievement of the Council's Local Plan objectives would be materially prejudiced.

5. DESCRIPTION OF THE PROPOSED DEVELOPMENT

The Planning Permission for Towerlands Park

- 5.1 On 17th April 2019, the Developer submitted an application for the Planning Permission for the Towerlands Park Site.

- 5.2 The Planning Permission grants permission for the following development at the Towerlands Park Site:
- 5.2.1 up to 575 homes together with a 0.13ha site for early years and childcare nursery (use class D1);
 - 5.2.2 up to 250sqm of local retail (use class A1) and up to 250sqm of community facilities (use class D1);
 - 5.2.3 green infrastructure including formal/informal open space and amenity space;
 - 5.2.4 provision of an ecological mitigation area to north-west of developable area;
 - 5.2.5 landscaping including woodland and hedgerow planting;
 - 5.2.6 new vehicular accesses from the B1053 and Panfield Lane;
 - 5.2.7 closure of existing access from Deanery Hill (south);
 - 5.2.8 footway and cycleway network, supporting infrastructure (utilities including gas, electricity, water, sewerage, telecommunications (and diversions as necessary));
 - 5.2.9 diversion of public right of way;
 - 5.2.10 sustainable drainage systems; and
 - 5.2.11 any necessary demolition and ground remodelling.
- 5.3 At its meeting on 27 September 2020, the Planning Committee resolved to grant the Planning Permission subject to the completion of a Section 106 agreement and a schedule of appropriate conditions. The Section 106 agreement completed on 9th April 2021 and the Planning Permission was granted on the same date.
- 5.4 The wider Towerlands Park scheme underwent various stages of consultation and engagement. Initially this was through the emerging Local Plan, whereby the Towerlands Park Site was allocated in the submission draft of 2017. The submission draft was consulted upon between June and July 2017 and various stakeholders had the opportunity to comment on the proposed allocation.

- 5.5 As part of the preparation of the application in relation to the Planning Permission, the proposals were consulted and discussed with the following stakeholders:
- 5.5.1 the Local Planning Authority;
 - 5.5.2 Essex County Council (as highway authority);
 - 5.5.3 National Highways (then referred to as Highways England);
 - 5.5.4 National Grid (regarding the high-pressure gas pipeline situated in the wider Towerlands Park Site, not within the Order Land); and
 - 5.5.5 The Health and Safety Executive (regarding the high-pressure gas pipeline).
- 5.6 Two public exhibition events took place prior to submission of the application for the Planning Permission – firstly in November 2018 and secondly in March 2019. These took place at the Braintree and Bocking Community Association Building. Prior to both events, notices and flyers were distributed to homes close to the Towerlands Park Site. A press notice was also published to confirm the events, and the local Ward Councillors were invited to attend so they could express their views regarding the proposals. Details of the engagement and consultation undertaken can be found in the Statement of Community Involvement (SCI) which accompanied the planning application.
- 5.7 The Order Land occupies a central location of the Towerlands Park Site and comprises residential development and a section of the southernmost linear park. The residential element of the Proposed Development will form part of the inner core to the scheme which will include the tallest and densest development for the Towerlands Park Site. This will lend itself to a mix of 2.5-3 storey buildings and small flat blocks which are visually integrated within the street scene. Key buildings within the Order Land will articulate the primary routes to other development parcels within the Towerlands Park Site and towards key pieces of green infrastructure which surround the developable areas.

The Proposed Development of the Order Land

- 5.8 The Proposed Development, which forms part of the Planning Permission for the scheme, is to be delivered by the Developer on the Order Land. In relation to the Order Land, the Planning Permission permits the construction of approximately 66

dwelling together with associated accesses, infrastructure, services, parking, public realm and landscaping.

- 5.9 The residential element of the Order Land has approval for homes of a density ranging between 32 and 37 dwelling per hectare and a maximum of 3 storeys in height. If development of the Order Land proceeds, it is intended that the landscaping around the swale will form part of the linear park which contributes to the public open space permitted under the Planning Permission.
- 5.10 The residential element of the Order Land straddles two character areas as defined in the approved Design Code, whilst the linear park includes the final section of circular footway / cycleway for the wider scheme. These are explained in more detail below.
- 5.11 The Design Code was prepared and submitted as part of the application for the Planning Permission following pre-application discussions with the Council. It was to provide design guidance and fixes to be secured as part of the application for the Planning Permission which future reserved matters applications would need to demonstrate compliance with. It carries forward the design ethos identified in the Design and Access Statement ("**DAS**") and illustrates how these design principles can be applied in greater detail. Officers concluded in the Committee Report that the Design Code was carefully considered and detailed and underpins the quality of the wider scheme.
- 5.12 The Order Land falls into Phase 2 of the approved Phasing Plan for the Towerlands Park Site (Parameter Plan: Phasing Plan UNX003/PP/009 Rev B). Other development parcels within this Phase 2 include R4, R5 and the western extent of Parcel R6 (as defined on the approved Development Framework (UNX003/PP/001 Rev F)). Phase 2 seeks to deliver approximately 179 homes, the highway access from Deanery Hill, and the primary street from this access which links to Phase 1 and the North West Braintree Growth Area site allocation to the south of the Towerlands Park Site.
- 5.13 The phasing of the wider scheme indicates that construction will begin in the eastern corner of the Towerlands Park Site and include the Panfield Lane access before moving west for the remainder of the scheme to be completed.
- 5.14 Parcel R19 is identified on Development Framework (UNX003/PP/001 Rev F). It falls within "Parkland Edge" and "The Lanes" Character Areas, each of which contain broad design principles, a materials palette, and key design principles that

proposals should adhere to. Applicants will be required to demonstrate that their proposals comply with the requirements established in the Design Code. The approved Design Code: Regulatory Plan (UNX003/REG/001 Rev E) identifies the design fixes for the proposals and specifically which ones relate to the Order Land.

- 5.15 The character areas within the Design Code were defined so that development proposals would seamlessly tie together once proposals were implemented. In the event that the Proposed Development is never built out on the Order Land, it would significantly reduce the design quality of the surrounding parcels which fall within the same character area.
- 5.16 The requirement to deliver the linear park is reinforced by Part 2 of Schedule 1 to the Section 106 Agreement for the Towerlands Park Land, which requires the open space within the Order Land (the Order Land being the land referred to in the Section 106 Agreement as the "Yellow Land") to be delivered alongside the open space for the remainder of the Towerlands Park Site.
- 5.17 The absence of the linear park element of the Proposed Development would give rise to an incomplete circular walk. This is intended to be a key leisure route around the Towerlands Park Site, and the element of the linear park to be delivered on the Order Land provides an important link of that route, connecting into a public right of way outside of the Order Land which is being diverted to facilitate the wider development. It will also result in an incomplete SuDS attenuation basin, and a reduction in tree and hedgerow planting to define the edge of the developable area, thus reducing the design quality of the wider scheme.
- 5.18 The delivery of the linear park on the Order Land as a critical part of the approved comprehensive strategy for recreational and open space for the entire Towerlands Park scheme, and for the achievement of the objectives of the Strategic Growth Location.
- 5.19 **THE PUBLIC BENEFITS OF THE PROPOSED DEVELOPMENT**
- 5.20 As paragraph 2 of the CPO Guidance states, a compulsory purchase order should only be made where there is a compelling case in the public interest.
- 5.21 The Proposed Development which will be facilitated by the Order will play a key role in achieving the objectives of the Strategic Growth Location in accordance with the Policy LLP 19 allocation of the Towerlands Park Site in the Council's adopted Local Plan; will ensure that the comprehensive Planning Permission for the Towerlands Park Site is implemented in its entirety; and will deliver important

social, economic and environmental 'well-being' benefits for the area in line with the requirements of Section 226(1A) of the Act.

5.22 The social, economic and environmental benefits that will flow from the Proposed Development, include:

- 5.22.1 approximately 66 homes will be delivered, providing a range of types and sizes of homes and tenures;
- 5.22.2 the Order Land will allow for an attractive and logical link between surrounding parcels of development without having to use the busier road around the parcels;
- 5.22.3 the final sections of footway and cycle route can be completed, which will provide a continuous route;
- 5.22.4 a section of linear park will be implemented which will include additional tree planting, and SuDS pond creation (which also serves as additional open space during period of low rainfall);
- 5.22.5 new high quality streets and public realm will be provided to create a highly attractive environment;
- 5.22.6 temporary employment opportunities are generated with activities associated with constructing the Proposed Development; and
- 5.22.7 the Order Land will allow for the full extent of the Towerlands Park Site to be implemented and deliver the 575 homes secured in the Planning Permission.

6. PLANNING FRAMEWORK FOR THE ORDER LAND

Statutory Development Plan

- 6.1 The statutory development plan for the Council's administrative area comprises the Braintree District Local Plan 2033 Section 1 and 2, which were adopted on 22nd February 2021 and 25 July 2022 respectively.
- 6.2 The Local Plan is split into two sections and were examined separately. Part 1 is a conjoined Local Plan which includes policies relevant to Colchester Borough Council ("**CBC**") and Tendring District Council ("**TDC**"), collectively known as the North Essex Authorities ("**NEAs**"). Part 2 is relevant to Braintree District Council

only and includes specific site allocations as well as general development management policies to aid determination of planning applications.

6.3 A summary of the key planning policies in the Local Plan and how the development of the Order Land contributes towards achieving those objectives, together with other material considerations at national, regional and local level can be found at **Appendix 1.**

6.4 In summary, the Proposed Development to be carried out on the Order Land pursuant to the Planning Permission is consistent with, and strongly supported by, the aims and objectives of the statutory development plan, and other material considerations.

7. LAND TO BE ACQUIRED UNDER THE ORDER AND THE NEED TO ACQUIRE IT COMPULSORILY

7.1 The Council seeks to acquire all outstanding interests in the Order Land to the extent necessary to facilitate the Proposed Development. This comprises the freehold interest in the Order Land, the ownership of which is unknown. The leasehold interest owned by the Developer is excluded from acquisition.

7.2 The Developer's leasehold interest, registered at the Land Registry under title number EX605084, is pursuant to a lease dated 6 June 1555 between Roger Wentworth and Thomas Cutter which was assigned on 16 August 2004. There are only approximately 32 years remaining on the lease.

7.3 Given that the lease was granted in 1555 and the freehold title to the land has never been registered by its owner, it has not been possible to trace the owner of the land. The Developer and the Council have conducted diligent enquiries in an attempt to establish the identity of the freehold owner of the land, including the following:

7.4 Publication on 11th April 2019 and 18th April 2019 of notices in the local press in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 regarding the making of planning applications because parts of the application site were in unknown ownership.

7.5 In July 2021 the Developer instructed solicitors (Eversheds Sutherland (International) LLP) to investigate title to the Order Land with the intention to ascertain who owns the freehold of the same.

- 7.6 Initial investigations identified that the original freehold owner of the Order Land was Roger Wentworth, in 1555, who issued a 500-year lease to Thomas Cutter, before the lease was transferred to the Developer in 2004. The leasehold interest in the Order Land has been registered at HM Land Registry under title number EX605084 in favour of the Developer, who continues to hold the lease granted in 1555 for the remainder of its term until 2055.
- 7.7 Further investigations revealed that the freehold owner of the Order Land may be Coopers and Cobourne Educational Foundation ("**CCEF**") (a registered charity). Initial e-mail enquiries took place with Worshipful Company of Coopers (on behalf of the CCEF) who indicated that the Order Land was owned by an individual and that upon their death, provisions were made in that person's will for the Order Land. No further information was provided by the Worshipful Company of Coopers and despite a promise to provide a copy of the will, this was not forthcoming. As such, it became necessary for the Developer to seek assistance from the Council in identifying the freehold owners of the Order Land.
- 7.8 Following the authorisation given by the Council in its resolution on 12th December 2022, the Council issued statutory requisitions for information pursuant to section 5A of the Acquisition of Land Act 1981. Such requisitions were served upon the CCEF and in addition upon the Clergy Support Trust, who had also indicated in correspondence that it may be the freeholder of the Order Land following a review of documents held by the London Metropolitan Archives. The statutory requisition notices were also affixed to the Order Land.
- 7.9 The issue of the statutory requisitions led to a response from the CCEF attaching a transcript of the Will referred to at paragraph 7.7 above. No response was received from the Clergy Support Trust. Eversheds Sutherland further investigated the claims made by the CCEF in relation to freehold ownership of the Order Land, but such further investigations did not demonstrate that the CCEF were the owners of the relevant land.
- 7.10 On 24th October 2023 Eversheds Sutherland wrote to the CCEF inviting them to withdraw its claim to the freehold title of the Order Land by Friday 3 November 2023. To date, the CCEF has not withdrawn this claim and has stated its intention to proceed with registration of its claimed interest at the Land Registry. However, there is no guarantee that they will be registered as owner of the Order Land with freehold title absolute upon which the Developer can rely and the registration process (even if successful) could take many months.

7.11 Therefore, despite extensive title investigations and the issue of statutory requisitions under Section 5A of the Acquisition of Land Act 1981 it has not been possible to satisfactorily establish ownership of the freehold of the Order Land. Furthermore, despite the unsubstantiated ownership assertions by the CCEF and the Clergy Support Trust it remains the case that there is no entity with whom the Developer or the Council could engage in negotiations to acquire the land. As a result, it is necessary for the Council exercise its compulsory purchase powers in order to facilitate the Proposed Development.

7.12 In the event that an individual or entity is able to deduce freehold title to the Order Land (or any part of it) then the Developer and the Council will use reasonable endeavours to acquire such interest by way of voluntary agreement but there is currently no prospect of this being achieved in a reasonable timescale if at all.

8. DELIVERY AND FUNDING

Delivery

8.1 The Order Land has the benefit of outline planning consent pursuant to the Planning Permission for the development of 66 dwellings 30% of which will be affordable. The Developer currently intends to develop the Order Land itself with a view to retaining ownership of the dwellings and renting them out.

8.2 Whilst the housing market in the area has recently weakened in terms of house sales, in large part due to higher interest rates and inflation, the rental market remains under supplied and there is pressure on rent levels due to this lack of supply. There is also a shortage of family homes available for rent in the Council's administrative area which the Proposed Development would alleviate, at least in part.

8.3 The Developer originally owned the remainder of the Towerlands Park Site but, having concluded a sale and purchase agreement with Dandara Eastern Limited ("**Dandara**") in 22nd July 2021, ("**the SPA**") the Developer transferred ownership of Phase 1 of the Towerlands Park Site to Dandara, with the sales of Phases 2 and 3 taking place on each subsequent anniversary of the SPA date. Under the SPA, Dandara is obligated to build out and complete the elements of the Towerlands Park scheme for which it is responsible in accordance with the Planning Permission (or any approved variations to the same).

8.4 The Order Land does not form part of the land which is to be transferred to Dandara under the SPA, however Dandara will deliver the relevant part of the

public open space on the Order Land, and, as explained above, the landscaping around the swale will form part of the open space permitted under the Planning Permission. Dandara also has an obligation to construct roads to within 1 metre of the boundary of the Order Land. The Developer's parent company owns the 1 metre strip which will enable the Developer to connect in to the wider estate road network of the Towerlands Park Site, and rights and reservations have been retained within the SPA and land transfers to enable Developer, and any successors in title, to do so.

- 8.5 Once the Order has been confirmed, the Developer intends to submit a reserved matters application in relation to the Order Land in order to secure detailed approval for the scheme in accordance with the Design Guide that accompanies the Planning Permission, and thereafter to commence the Proposed Development in parallel with Dandara's continuing development of the remainder of the Towerlands Park Site.
- 8.6 In the event that the Order Land is not acquired for the purposes of the Proposed Development, it will remain fenced off and undeveloped, with the result that a significant part of the comprehensive Towerlands Park Site will not be delivered and its full public benefits will remain unrealised.
- 8.7 Aside from the acquisition of the freehold to the Order Land, and the approval of reserved matters referred to above, there are no other consents that will need to be obtained to enable the delivery of the Proposed Development of the Order Land.

Development Track record

- 8.8 The Developer is part of the Unex Group of companies ("Unex"). Unex has a strong track record of successful development and onward letting to occupiers, which it often retains on a long term basis to create rental income. Notably in recent years Unex has developed Academy House, Hills Road, Cambridge which is let out to AstraZeneca, together with other office accommodation within the City Office Campus in Cambridge. AstraZeneca occupy approximately 90,000 square feet of high quality office space in this central Cambridge multi-occupied office campus.
- 8.9 Unex also obtained planning consent for 900 dwellings on the northern fringe of Cambridge, a site known as Orchard Park, Kings Hedges Road, Cambridge. This development, which Unex undertook with its joint development partners, Gallagher Estates and Land Improvement Holdings, is now complete.

Funding

- 8.10 The current estimated cost for the delivery of the Proposed Development on the Order Land is expected to be in the region of £7 million to £12 million. The principal reason for the range of costs is the present uncertainty over build cost inflation.
- 8.11 The Developer's latest filed financial accounts for the year ending March 2023 confirm that the Developer has net assets of over £23 million. The Developer therefore has funds substantially in excess of the current cost estimate, and those funds are available to be drawn down immediately. The Developer does not require any additional source of funding to deliver the Proposed Development.
- 8.12 The Developer and the Council have concluded a CPO Indemnity Agreement dated [DATE] in which the Developer has committed to indemnify the Council in respect of the costs and/or liabilities of the Council in promoting the Order, including any in respect of any compensation payable to any party that comes forward with evidence of freehold ownership of the Order Land. The estimated range of costs above includes the estimated costs of purchasing the freehold to the Order Land, for which the Developer has set aside sufficient funds.
- 8.13 It is not anticipated that any valid blight notices could be served in respect of the Order.

9. RELATED ORDERS AND SPECIAL KINDS OF LAND

- 9.1 There are no listed buildings or Scheduled Ancient Monuments within the Order Land, nor is there any special category land.
- 9.2 There is an Anglian Water owned water main within Plot 2 of the Order Land but Anglian Water does not have any land rights, such as an easement, in respect of this apparatus.

10. HUMAN RIGHTS ACT

- 10.1 In determining whether or not to confirm the Order, the Secretary of State must have regard to any interference with human rights, the provisions of the Human Rights Act 1998 and the European Convention on Human Rights ("the Convention"). The Secretary of State must consider whether, on balance, the case for compulsory purchase justifies interfering with the human rights of the owners of the Order Land.

- 10.2 Article 1 of the First Protocol to the Convention states that "*...Every natural or legal person is entitled to peaceful enjoyment of his possessions*" and "*no one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by the law and by the general principles of international law...*". Whilst the freehold owners of the Order Land will be deprived of their ownership of property if the Order is confirmed and the powers are exercised, this will be done in accordance with the law, in this case the Act. The Order is being pursued in the public interest as required by Article 1 of the First Protocol. The public benefits associated with the development of the Order Land are set out earlier in section 5 of this Statement of Reasons. The Council considers that the Order will strike a fair balance between the public interest in the implementation of the scheme and those private rights which will be affected by the Order. Indeed, the Order is overwhelmingly in the public interest.
- 10.3 Article 6 of the Convention provides that "*In determining his civil rights and obligations...everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law*". The Towerlands Park scheme proposals, including those associated with the Proposed Development, have been extensively publicised as part of the planning application process and consultation has taken place with the communities and parties that may be affected by the Proposed Development and the Order. Persons affected by the Order will be notified, will have the right to make representations and/or objections to the Secretary of State, and persons with a relevant objection will have the right for their objections to be heard through an appropriate confirmation process. It has been held that the statutory processes are compliant with Article 6 of the Convention.
- 10.4 Those whose interests are acquired under the Order will also be entitled to compensation which will be payable in accordance with the Compulsory Purchase Compensation Code. The reasonable surveying and legal fees incurred by those affected in transferring interests to the Council will also be paid. The Compensation Code has been held to be compliant with Article 8 and Article 1 of the First Protocol to the Convention.
- 10.5 The European Court of Human Rights has recognised in the context of Article 1 of the First Protocol that "*regard must be had to the fair balance that has to be struck between the competing interests of the individual and the community as a whole*". Both public and private interests are to be taken into account in the exercise of

the Council's powers and duties. Similarly, any interference with Article 8 rights must be "*necessary in a democratic society*" i.e. proportionate.

- 10.6 In promoting this Order, the Council has carefully considered the balance to be struck between the effect of acquisition on individual rights and the wider public interest in the delivery of the scheme. The land is unoccupied and no persons are to be displaced by the Order. The impacts upon the owner of the Order Land are all capable of being compensated for under the Compensation Code. Interference with Convention rights is considered by the Council to be justified in this instance in order to secure the social, economic and environmental public benefits which the Proposed Development (and the wider Towerlands Park scheme) will bring.
- 10.7 The requirements of the Human Rights Act 1998 and the Convention, particularly the rights of property owners, have therefore been fully taken into account. There is a very compelling case in the public interest for the Order to be made and confirmed, and the interference with the private rights of those affected that would be the inevitable result of the exercise of the compulsory powers conferred by the Order would be lawful, justified and proportionate.

Equality Act

- 10.8 As a public body, the Council must have regard to the public sector equality duty set out in s149(1) of the Equality Act 2010. The Council considers that the acquisition of the Order Land and the delivery of the Proposed Development will not give rise to any impacts or differential impacts on persons who share a relevant protected characteristic as defined in the Equality Act, or upon persons who do not share such relevant protected characteristic. However, the Council's position will be continually monitored, and should any persons be identified, who may adversely be impacted by the Order or the Proposed Development, assistance measures will be put in place as necessary to mitigate as far as practicable any identified activity that may have an adverse impact on these individuals.
- 10.9 In fact, it is considered that the Proposed Development will result in positive impacts including important social, economic and environmental 'well-being' benefits for the local area.

11. EXTENT OF THE SCHEME

- 11.1 Paragraph 196(v), Section 12, of the Government's CPO Guidance advises that a statement should be included in every statement of reasons which explains the

extent of the scheme to be disregarded for the purposes of assessing compensation in the 'no-scheme world'.

- 11.2 Section 6(A) of the Land Compensation Act 1961 ("**LCA 1961**") provides that "*the no scheme principle is to be applied when assessing the value of land in order to work out how much compensation should be paid by the acquiring authority for the compulsory acquisition of the land*". For the purposes of section 6(A), the "scheme" means the scheme of development underlying the acquisition.
- 11.3 Section 4 of the LCA 1961 explains that the underlying scheme is to be the scheme provided for by the Order unless it is shown that the underlying scheme is a scheme larger than, but incorporating, the scheme provided for by that instrument.
- 11.4 In this case, the "scheme" for the purposes of Section 6(A) of the LCA 1961 comprises the proposed development of the Order Land.

12. CONCLUSIONS

- 12.1 By virtue of powers in Section 226(1)(a) of the Town and Country Planning Act 1990 the Council is authorised to compulsory purchase land to facilitate the carrying out of development, re-development or improvement on or in relation to the land.
- 12.2 Paragraph 12 of the CPO Guidance states that a compulsory purchase order should only be made where there is a compelling case in the public interest and explains that there are certain fundamental principles that a confirming minister should consider when deciding whether or not to confirm a compulsory purchase order. These fundamental principles are as follows:

That the Council as acquiring authority has a clear idea of how it intends to use the land which it is proposing to acquire (paragraph 13 of the CPO Guidance)

- 12.3 Section 5 of this Statement describes the Proposed Development and how the Order Land will be used following construction and completion of the development.
- 12.4 All of the land proposed to be acquired under the Order is required for the purpose of the Proposed Development and is reasonable and proportionate. Importantly, the Council has taken a proportionate approach to land acquisition, in line with

policy and guidance, and does not propose to acquire any land or rights beyond those that are reasonably required.

That the Proposed Development is unlikely to be blocked by any physical or legal impediments to implementation (paragraph 15 of the CPO Guidance)

- 12.5 As explained in Section 5 of this Statement, Planning Permission has been granted for the scheme, which includes the Proposed Development. There are not considered to be any physical or legal impediments to the implementation of the Project.

That all the necessary resources are likely to be available within a reasonable timescale (paragraphs 13 and 14 of the CPO Guidance)

- 12.6 Section 8 of this Statement explains that the Council has assessed the costs of implementing the Proposed Development, and the costs of acquiring the necessary land and is satisfied that the requisite funding is available to meet the construction and land acquisition/compulsory purchase compensation costs associated with the Proposed Development as and when required (including any advance payments and blight claims).

That the purposes for which the Order is made justify interfering with the human rights of those with an interest in the land affected and particular consideration should be given to the provisions of Article 1 of the First Protocol to the Convention and, in the case of a dwelling Article 8 of the Convention (paragraph 12 of the CPO Guidance)

- 12.7 The Order is being promoted in the public interest. The Council considers that the Order will strike the right balance between the public interest in the implementation of the Proposed Development and those private rights that will be affected by the Order.
- 12.8 As explained in Section 4 of this Statement, each plot of land described in the Order is required for the purpose of the Proposed Development.
- 12.9 Whilst the freehold owner of the Order Land may be deprived of their interest in property if the Order is confirmed, this will be in accordance with the law and the Council has adopted a proportionate approach in seeking the acquisition of land.

12.10 Those whose interests are acquired under the Order will be entitled to compensation which will be payable in accordance with the Compulsory Purchase Compensation Code. The Compensation Code has been held to be compliance with Article 8 and Article 1 of the First Protocol to the Convention.

12.11 The requirements of the Human Rights Act 1998 and the Convention, particularly the rights of property owners, have therefore been fully taken into account. There is a compelling case in the public interest for the Order to be made and confirmed. The interference with the private rights of those affected that would be the inevitable result of the exercise of the compulsory purchase powers conferred by the Order would be lawful justified and proportionate.

That the Council has taken reasonable steps to acquire all of the land included in the Order by agreement (paragraph 2 of the CPO Guidance)

12.12 The Council is committed to securing the necessary land required for the Proposed Development by voluntary agreement if at all possible. The Council and the Developer has made determined and persistent efforts establish the identity of the freehold owner of the Order Land for the purposes of voluntary acquisition.

12.13 In order to provide certainty that all the land required for the Proposed Development can be secured, it has been necessary for the Council to progress the Order. However, the Council remains committed to entering into private treaty negotiations to secure the Order Land by agreement (in tandem with the Order (as envisaged by paragraph 2 of the CPO Guidance)) in the event that the freehold owner of the same (or any part of it) is identified.

12.14 Accordingly, the Council considers that the criteria in the CPO Guidance are satisfied and that there is a compelling case in the public interest for the confirmation of the Order.

13. VIEWS OF GOVERNMENT DEPARTMENTS

13.1 No such views have been expressed.

14. DETAILS OF CONTACTS

14.1 If any person affected by the Order wishes to discuss it with an officer of the Council or with the Developer, they are requested to contact:

- [Council to confirm details]

- **the Developer:** Adrian Morris, Managing Director, Unex Group Holdings Limited, Unex House, Church Lane, Stetchworth, Newmarket, Suffolk, CB8 9TN.

15. INQUIRIES PROCEDURE RULES

- 15.1 This is a non-statutory statement which is not intended to constitute the Council's Statement of Case under the 2007 Rules.

16. LIST OF DOCUMENTS

- 16.1 In the event that it becomes necessary to hold a public inquiry into the Order, the Council may refer to the documents listed below. The list is not exhaustive, and the Council may also refer to additional documents in order to address any objections made to the Order:

- 16.1.1 The Order, Order Schedule and Order Map;
- 16.1.2 Council report and resolution of meeting dated 3rd January 2023 relating to the "in principle" resolution to use compulsory purchase powers;
- 16.1.3 Council report and resolution of meeting dated [DATE] authorising the making of the Order;
- 16.1.4 Extracts from the Braintree District Local Plan 2033 and associated proposals map;
- 16.1.5 Report to the planning committee dated 22nd September 2020;
- 16.1.6 Decision notice relating to the Planning Permission dated 9th April 2021;
- 16.1.7 Section 106 agreement associated with the Planning Permission dated 9th April 2021;
- 16.1.8 Parameter Plan: Development Framework (UNX003/PP/001 Rev F);
- 16.1.9 Parameter Plan: Phasing Plan (UNX003/PP/009 Rev B);
- 16.1.10 Design Code: Regulatory Plan (UNX003/REG/001 Rev E)
- 16.1.11 The masterplan associated with the Planning Permission;
- 16.1.12 The Design and Access Statement associated with the Planning Permission;
- 16.1.13 Statement of Community Involvement;

16.1.14 The Developer's latest accounts;

16.1.15 National Planning Policy Framework (December 2023); and

16.1.16 The CPO Guidance.

16.2 Copies of the Order, Order Schedule, Order Map and this Statement can be inspected at the following location:

16.2.1 [Location TBC]

16.3 Documents relating to the Order can be downloaded from the Council's website via the following link: [\[link TBC\]](#)

DRAFT

Plan 1

The Order Land (the “Proposed Development”)

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Plan 2

The Planning Permission red line boundary ("the Towerlands Park Site")

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Appendix 1

Summary of Relevant Planning Policy

1. Braintree District Local Plan (2033)

- 1.1 The Local Plan is split into two sections and were examined separately. Part 1 is a conjoined Local Plan which includes policies relevant to Colchester Borough Council ("**CBC**") and Tendring District Council ("**TDC**"), collectively known as the North Essex Authorities (NEAs). Part 2 is relevant to the Council only and includes specific site allocations as well as general development management policies to aid determination of planning applications.
- 1.2 The relevant policies against which the Planning Permission was determined are identified below.

Section 1

- 1.1.1 Policy SP1 sets out a 'Presumption in Favour of Sustainable Development', which mirrors the presumption set out in the NPPF. The Council states that it will take a positive approach to reflect this stance, including working with applicants to find joint solutions.
- 1.1.2 Policy SP2 requires contributions to be secured from development towards mitigation measures in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy 2018-2038 ("**RAMS**"). The Section 106 agreement for the Planning Permission contains an obligation to provide a financial contribution towards the mitigation measures outlined in the RAMS document.
- 1.1.3 Policy SP3 states that existing settlements such as Braintree will be the principal focus for additional growth across North Essex. The proposed development of the Towerlands Park Site, and specifically the Order Land, is in accordance with this as the proposals reflect a practical extension on previously-used land to the north of Braintree town.
- 1.1.4 Policy SP4 confirms there is a need for the Council to deliver 716 dwellings per year over the plan period in Braintree. The Towerlands Park Site and the Proposed Development on the Order Land will contribute sufficiently towards this annual requirement.

- 1.1.5 Policy SP5 identifies two scenarios for employment land requirement across the plan period for office, research and development, industrial storage and distribution. The Towerlands Park Site will provide a local centre focussing primarily on retail which will contain some elements of employment, however no significant employment provision is proposed across the site. The Order Land is an entirely residential parcel and no employment provision is proposed.
- 1.1.6 Policy SP6 recognises that the level of proposed growth in housing and employment will need to be supported by the provision of new and improved infrastructure, services and facilities. Specific requirements in the policy include recognised transport requirements, social infrastructure including education provision, health and wellbeing, digital connectivity and water and wastewater. The Planning Permission includes a number of infrastructure improvements, including highway works around the site and financial contributions towards off-site highway works, provision of an on-site nursery and financial contributions towards school provision and healthcare off-site, and new connections for electricity, gas, telecommunications, and water will be provided.
- 1.1.7 Policy SP7 requires new development to meet the highest standards of urban and architectural design and guidance documents such as frameworks and masterplans should be used to shape strategic scale development. A masterplan, DAS and Design Code were approved with the application for the Planning Permission to demonstrate the applicant's commitment to delivering a scheme of high quality that meets the requirements of the policy.

Section 2

- 1.1.8 Policy LPP 1 confirms that development proposed within development boundaries will be permitted where it satisfies amenity, design, environmental and highway criteria and where it can take place without material adverse detriment to the existing character and historic interest of the settlement. The Towerlands Park Site is within the development boundaries stipulated by this policy and it is considered that the criteria of the policy has been met by virtue of the Planning Permission being granted.

- 1.1.9 Policy LPP 9 confirms that Local Centres will form part of all Strategic Growth Locations and will be protected from inappropriate development and enhanced to provide small-scale shops, services and community facilities for local residents. The Planning Permission includes an area of mixed use which will serve local residents for convenience retailing.
- 1.1.10 Policy LPP 16 identifies the specific residential allocations for the Council which includes the Towerlands Park Site for 575 homes.
- 1.1.11 Policy LPP 19 is the site specific allocation for the Former Towerlands Park site in Braintree and confirms that development will be expected to provide:
- *Up to 575 new homes of a mixed size and type appropriate to the area*
 - *Affordable housing as per the Council's requirements*
 - *Primary school or contributions towards new primary school provision in the locality*
 - *A new 56 place stand-alone early years and childcare nursery (D1 use) on 0.13 hectares of land as required by the Local Education Authority through S106 Planning Obligations*
 - *All access points will have to be agreed to the satisfaction of Essex County Council, as Highway Authority*
 - *Community facilities, including contributions to local NHS facilities*
 - *Local retail facilities*
 - *Public open space in accordance with the Open Space Study, Formal recreation in accordance with the Playing Pitch Strategy and informal recreation including landscaping to the rural edge.*

The main access to the site will be from Deanery Hill/Panfield Lane. An additional vehicle access will be sought from the Growth Location to the

south at North West Braintree. All access points will have to be agreed to the satisfaction of Essex County Council Highways.

The delivery of each facility shall coincide with the completion of different phases of development to ensure that local services are in place when they are needed.

- 1.1.12 Policy LPP 31 confirms the affordable housing target for sites located in the main town of Braintree is 30% of the total number of homes proposed. The Policy also states that a mix of units should be delivered on the site to reflect the current local need. The proposals for the Towerlands Park Site will meet the 30% target and provide 173 affordable homes.
- 1.1.13 Policy LPP 35 requires development to create sustainable, inclusive and mixed communities through a mix of housing types and size at an appropriate density. Furthermore *"A minimum of 10% of new market homes on sites of 10 or more dwellings must meet Category M4(2) or Category M4(3)(2)(a)/(b) – Wheelchair Accessible dwellings of Building Regulations 2015, or as superseded, as appropriate."* In addition *"All new affordable homes on ground floor level must meet Category M4(2) or M4(3). For developments within or adjacent to the Main Towns and Key Service Villages, 5% of all new affordable homes will be required to meet Category M4(3)(2)(a)/(b) – Wheelchair Accessible dwellings - of Building Regulations 2015, or as superseded, as appropriate."* Finally, *"on sites of 500 dwellings or more, serviced plots equating to 2% of overall homes will be required to be made available for self or custom builders."* Detailed reserved matters applications will need to demonstrate compliance with the housing mix, density and accessibility requirements of the policy.
- 1.1.14 Policy LPP 42 seeks to ensure sustainable modes of transport are facilitated in new developments and priority should be given to cycle and pedestrian movements. The policy also states that diversions to public rights of way should be provided and ensure that the alternative routing is at least as attractive, safe, and convenient for public use. There are a substantial amount of footway and cycleways proposed for the Towerlands Park Site, including a circular footway / cycleway along the periphery of the site. A minor public right of way diversion is proposed to facilitate parts of the redevelopment in the south-western corner of

the wider Towerlands Park Site. It will also help to facilitate a potential highway connection to the North West Braintree Growth Area. It is also proposed that public transport can be accessed directly from the site through proposed diversions of existing bus routes (subject to ECC Highways and bus operators).

- 1.1.15 Policy LPP 43 requires new development to provide vehicular and cycle parking in accordance with ECC Parking Standards. The Design Code sets out the ECC Parking Standards and the proving layouts included in the Code confirm that the schemes can be delivered without compromising the characteristics and layout of the proposed site.
- 1.1.16 Policy LPP 66 requires new residential and commercial developments to be served by fast and reliable broadband connections to ensure there are no infrastructure deficiencies or barriers in the District. The Utilities Statement as part of the Planning Permission confirms that the development will connect into existing and reliable broadband infrastructure.
- 1.1.17 Policy LPP 48 seeks to ensure developments are accessible to all users, that they can be responsive and flexible to changing need and can be used safely and conveniently by all. It is proposed that the development will be attractive to a mix of people and will ensure all publicly available elements of the development can be accessed and used by all.
- 1.1.18 The supporting text of Policy LPP 50 confirms that all sites will be required to provide new open spaces in line with the Open Spaces Supplementary Planning Document ("**SPD**"). A bespoke approach for open space delivery was agreed with the Council prior to securing the Planning Permission which involved onsite provision for all but one typology (sports and recreation facilities) which will be covered by financial contributions for facilities off site.
- 1.1.19 Policy LPP 52 sets out various criteria which the layout and design of all developments will be required to meet. These include ensuring buildings and structures should be of the highest architectural quality, considering local distinctiveness and ensuring layout, scale, height and massing enhance local character; design and layout ensure a safe and secure environment and developments will be required to consider environmental sustainability including energy and water efficiency.

Whilst a number of the criteria relate to detailed proposals, the approved DAS and Design Code draw out examples of how the character areas can be delivered against the criteria outlined.

- 1.1.20 Policy LPP 59 sets out the requirements for archaeological evaluation, excavation and recording. The archaeological works identified and approved as part of the Planning Permission have been undertaken for the wider site, save for the Order Land.
- 1.1.21 Policy LPP 63 requires new development to take available measures to ensure the protection and where possible the enhancement of the natural environment and contribute towards the delivery of new green infrastructure. Policy LPP 66 similarly requires development proposals to provide for the protection of biodiversity and the mitigation or compensation of any adverse impacts. The approved details provide suitable mitigation for habitats through ponds for great crested newts as well as a substantial meadow area to the north-west of the site, which is intended to be unoccupied and left to grow naturally. The additional planting around the periphery of the site also supports the enhancement of the natural environment and biodiversity.
- 1.1.22 Policy LPP 64 confirms that proposals which result in a net gain in priority habitat will in principle be supported and where priority habitats are likely to be impacted by development that these can be avoided or mitigated on site. This is to avoid a net loss in quantity and quality of priority habitat in Braintree District. The approved details secured a mitigation strategy for the site which seeks to add additional priority habitat to Braintree District.
- 1.1.23 Policy LPP 65 confirms that established healthy trees which offer significant amenity value to the locality should be protected. A tree survey and arboricultural impact assessment has been undertaken and approved as part of the Planning Permission which confirms which trees are retained and which are to be removed. Generally, trees that are not native to the site or the wider Braintree area, and those that are categorised as 'C' or 'U' are to be removed from the site.
- 1.1.24 Policy LPP 67 requires development to ensure it has regard for the character of distinctive landscapes in the District. Proposals for new developments should be informed by the Council's Landscape Character

Assessments, and proposals should be accompanied by landscape assessments demonstrating how they can be assimilated into the local landscape. The approved DAS and Design Code refer and respond to the Landscape Character Assessments of 2006 and the Braintree District Settlement Fringes Evaluation of Landscape Analysis Study of Braintree and environs (2015). A Landscape and Visual Impact Assessment (“LVIA”) was approved as part of the Planning Permission and confirms that the strategy for green infrastructure will minimise the level of adverse effects upon receptors in the longer term and would not result in any unacceptable long-term harm on landscape character and visual amenity.

- 1.1.25 Policy LPP 68 confirms a number of green buffers which are identified in the proposals map. The most relevant to Towerlands is located between Braintree, Panfield and Deanery Hill – the defined areas are adjacent to the north-east and south west boundaries of the site. Development within green buffers is restricted to particular uses, and the approved details for the Towerlands Park Site have been prepared appropriately so not to give rise to detrimental impact to the character of the countryside, through retained tree and hedgerow planting which screens views of the development from the green buffers.
- 1.1.26 Policy LPP 70 confirms that planning permission will not be granted if development creates unacceptable impacts on; the natural environment, the amenity and tranquillity of the wider rural area, health and safety of the public, air quality, surface and groundwater quality, land and soil quality and condition, and the compliance with statutory environmental quality standards. A number of technical reports were approved as part of the Planning Permission which confirm there are either no unacceptable impacts on the above criteria or any impact created can be mitigated against to a satisfactory level. These were accepted by the Council and other consultees as required.
- 1.1.27 Policy LPP 71 confirms that planning permission will only be granted for proposals that demonstrate the principles of climate change mitigation and adaption into the development. The impacts of climate change are set out in the approved Drainage Strategy and Flood Risk Assessment. The Policy also requires a Sustainability Statement to be submitted, however these will be prepared in conjunction with each reserved

matters application for the site, which will provide detailed measures and thresholds to demonstrate the mitigation measures and how they will be adapted into the development.

- 1.1.28 Policy LPP 72 states that the Council will encourage appropriate energy conservation and efficiency measures in the design of all new development. The measures suggested in the policy will be addressed at the reserved matters stage but the masterplan has been designed to take advantage of natural light and ventilation where possible.
- 1.1.29 Policy LPP 74 sets the requirements for development proposals within areas of flood risk. The preference is for development to be located within Zone 1 or areas with the lowest probability of flooding. The Towerlands Park Site is located entirely within Zone 1. However, because it exceeds the 1ha site size threshold then a Flood Risk Assessment ("**FRA**") was submitted as part of the planning application.
- 1.1.30 Policy LPP 76 sets out the requirements for SuDS provision for new development and how any provision is expected to conform with the standards set in the relevant BRE, CIRA, ECC SuDS Design Guide. SuDS design should be an integral part of the proposals and details on how they will be maintained should also be included. The Flood Risk Assessment & Drainage Strategy identifies the location, function and indicative management arrangements for SuDS at the site, which respond to the standards set in the relevant documentation identified above.
- 1.1.31 Policy LPP 77 identifies a range of criteria that external lighting within new development needs to meet. Whilst the majority relates to detailed design which will be brought forward as part of reserved matters applications, of most significance is the requirement for it to be adoptable by the Highway Authority when it is on the public highway.
- 1.1.32 Finally, Policy LPP 78 states that proposals will only be approved where it is demonstrated there is sufficient capacity within existing infrastructure or its impacts can be mitigated against. These may be secured through planning obligations. It is considered that the proposals will sufficiently address any infrastructure requirements through suitably worded conditions or planning obligations. The Planning Permission and the associated Section 106 agreement secures an appropriate range of

measures which require the delivery of appropriate infrastructure to address the impacts of development on existing and future infrastructure.

2. Supplementary Planning Documents (SPD's)

- 2.1 The following are identified as relevant SPD's in the context of the Towerlands Park Site and the Order Land.

Affordable Housing SPD (2006)

- 2.1.1 The Affordable Housing SPD was published to confirm how the Council will implement its affordable housing policies. A number of affordable housing policies are identified in this document which have subsequently been superseded by more recent Core Strategy or Local Plan Policies. The document outlines national, regional and Essex and the Southend-on-Sea Structure Plan affordable housing requirements were, along with how affordable homes would be implemented and managed, and the preferred tenure and type of provision of affordable housing.
- 2.1.2 Whilst the policies identified have been superseded by the adopted Braintree Local Plan, themes and principles in the SPD have been carried forward and are applicable to the Towerlands Park Site and the Order Land, including the preference to locate affordable housing in new development, and ensuring that affordable housing is fully integrated with the wider development proposals and not excluded from market dwellings.

Essex Design Guide

- 2.1.3 The Essex Design Guide is the principal guide for residential developments at a sub-regional level, setting out criteria for the creation of successful, well-designed places. These include key principles which are well related to wider urban design principles. Developers are encouraged to respond to criteria in terms of procedure and content and prepare proposals that are well informed by context.
- 2.1.4 The planning application was prepared following several workshops with the Council and Essex County Council, and amendments to the planning application were made during the determination period following further discussions and having regard to the Essex Design Guide. The DAS and Design Code approved as part of the planning application confirmed that

they had been prepared in accordance with the relevant design standards and principles enshrined in the Essex Design Guide, and the Design Code requires applicants seeking detailed planning approval to demonstrate compliance with the relevant elements before reserved matters approval can be granted. The Order Land falls within "Parkland Edge" and "The Lanes" Character Areas, each of which contain broad design principles, a materials palette, and key design principles that proposals should adhere to. Applicants will be required to demonstrate that their proposals comply with the requirements established in the Design Code.

External Artificial Lighting SPD (2009)

- 2.1.5 The External Artificial Lighting SPD was prepared to clarify how the Council will assess proposals which relate to or include lighting requirements. It also identifies various planning conditions that the Council may apply to a planning permission where relevant.
- 2.1.6 Policy RLP 65 External Lighting is the referenced Policy from the Braintree Local Plan review (2005) which has been superseded by LPP 77 of the adopted Braintree Local Plan (2022). However, the document identifies the issues of obtrusive light, general considerations for locating lighting as well as considerations for specific uses, and the information needed to confirm lighting proposals are acceptable.
- 2.1.7 The proposals for the Towerlands Park Site were submitted in outline only save for site access. The SPD confirms that "All new street lighting for roads to be adopted should comply with ECC specifications". ECC confirmed they had no objection to the proposed access arrangements secured as part of the application for the Planning Permission. However the majority of the guidance stipulated in the SPD is appropriate for detailed design proposals and reserved matters applications, including any submitted for the Order Land, will need to have due regard for this SPD.

Open Spaces SPD (2009)

- 2.1.8 The Open Spaces SPD was prepared to help the Council ensure open space and sport and recreation facilities in conjunction with new housing and commercial development is delivered appropriately. The document confirms how the requirement for open space provision should be

determined, what the appropriate types of open space are, the requirement amount, and the preferred location of open space. The document also identifies how financial contributions should be calculated if on-site provision is not possible.

- 2.1.9 Whilst all other elements of open space provision were policy compliant, no on-site sports and recreation provision was secured as part of the planning application primarily due to the fact that a high pressure gas main crosses the northern section of the wider Towerlands Park Site. Instead, a financial contribution towards offsite formal sports provision was secured to support existing formal sports provision in the locality.

Essex Parking Standards Design and Good Practice (2009)

- 2.1.10 The parking standards identified in the SPD have been transposed into the approved Design Code. Detailed planning applications will be expected to comply with these standards which relate to residential, retail uses, and an early years facility. The Order Land is solely residential development therefore proposals will need to comply with the residential parking standards only.

2.2 Other Material Considerations

National Planning Policy Framework (NPPF) (2023)

- 2.2.1 The NPPF was published in March 2012 and has been updated periodically since, with the most recent update being published in December 2023. It sets out the Government's strategic economic, environmental and social planning policies for England.
- 2.2.2 The application for the Planning Permission was considered against the June 2019 NPPF, however this document reviews the latest update.
- 2.2.3 Paragraph 7 of the NPPF confirms that "the purpose of the planning system is to contribute to the achievement of sustainable development, including the provision of homes, commercial development, and supporting infrastructure in a sustainable manner." The Towerlands Park Site was identified by the Council as a sustainable location for residential-led development as part of the Local Plan process and subsequently permission was granted to ensure that the homes, retail and early years facility could be brought forward.

2.2.4 The NPPF identifies the three dimensions to sustainable development (Paragraph 8), as being economic, social and environmental. The planning system is identified as having a role in each of these dimensions as follows:

- Economic: ensuring the right land is available to support a strong, responsive and competitive economy and ensuring that infrastructure requirements are identified to support growth, innovation and improved productivity;
- Social: supporting healthy and vibrant communities specifically by providing the supply of housing required to meet the needs of present and future generations, and by fostering a well-designed and safe built environment;
- Environmental: protecting and enhancing the natural, built and historic environment, improving biodiversity, and mitigating and adapting to climate change.

2.2.5 The Towerlands Park Site meets these requirements as the scheme is a landscape-led urban extension with significant green infrastructure and open space provision, 575 homes to meet housing need within the district (of which 172 are affordable) and temporary and permanent employment opportunities for construction and within the mixed use area respectively.

2.2.6 It states at Paragraph 11 that the key theme of the NPPF is a 'presumption in favour of sustainable development' and that this, in relation to the determination of planning applications, means:

- *"approving development proposals that accord with an up-to-date development plan without delay; or*
- *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
 - *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole".

- 2.2.7 Paragraph 74 confirms that *"the supply of large numbers of new homes can often be best achieved through planning for larger scale development."* This can be achieved through new settlements or significant extensions to villages and towns. The Towerlands Park Site is immediately adjacent to Braintree and the settlement boundary was amended via the Part 2 Local Plan to accommodate its development, which reflects an appropriate and sustainable location for new homes in the town.
- 2.2.8 Paragraph 124 confirms that planning decisions should encourage multiple benefits from both urban and rural land, ensure that undeveloped land can perform other functions including habitat creation, recreation and flood mitigation, and make use of brownfield land. The Council recognised this opportunity by approving the Planning Permission – the site is a part-brownfield site which includes a circular footway / cycleway within a landscape buffer around the site. The site also includes a substantive wildflower meadow to the north of the site, which provide recreation opportunities as well as a buffer between the Towerlands Park Site and Panfield village to the north.
- 2.2.9 Paragraph 180 confirms planning decision should contribute to and enhance the natural and local environment. The Planning Permission secured protection for and opportunities to enhance valued local landscapes via the landscape buffer around the site and ensure there was appropriate off-set. In addition, measures to mitigate against unacceptable levels of soil, air, water and noise pollution were secured via technical assessments which were approved as part of the application for the Planning Permission.
- 2.2.10 Paragraph 209 requires the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. The development proposals are located close to Oak Cottage and "slight harm" was identified as a result. Mitigation is secured by a buffer around the cottage, identified as a design principle in the approved Design Code, plus the benefits of the proposed development outweigh any harm, including with substantial

provision of market and affordable housing to meet the identified housing need within the District, with associated social and economic benefits including job creation.

National Planning Practice Guidance (NPPG)

- 2.2.11 The NPPG is an online resource set up by the Government in March 2014 to provide planning guidance for developers and decision makers, as recommended by the External Review of Planning Practice Guidance. It supports and provides further detail on Government guidance in the NPPF.
- 2.2.12 The NPPG covers a range of topic areas – those most relevant to Towerlands Park and the Order Land are identified below.

Effective Use of Land

- 2.2.13 The NPPG identifies ways to support more effective use of land. Paragraph 02 Ref. ID: 66-002-20190722 confirms that compulsory purchase can be used to support proactive land assembly. The paragraph continues by stating *"the effectiveness of, and justification for, the use of these powers can be enhanced by having up-to-date plans, which articulate a vision and objectives for the future development of an area and policies to help achieve them."*
- 2.2.14 In terms of healthy communities, reference ID 53-001-20190722 sets out that design and use of the built and natural environments, including green infrastructure are major determinants of health and wellbeing. It is considered that the Planning Permission satisfies this part of the NPPG through provision of green infrastructure which will encourage healthy lifestyles, plus obligations which seek financial contributions towards health facilities in the locality.

National Design Guidance and National Model Design Code

- 2.2.15 The National Design Guide and National Model Design Code were published in July 2021 sets out the characteristics of well-designed places and demonstrates what good design means in practice. Whilst this was established after the grant of planning permission it is anticipated that the Council will require applicants seeking approval of reserved matters to have regard to these documents.

2.2.16 The NDG elaborates on the principles of the NPPF and PPG and informs local design guidance. The NDG consists of the following 10 Characteristics of a well- designed place:

- Context – enhances the surroundings
- Identify – attractive and distinctive
- Built Form – a coherent pattern of development
- Movement – accessible and easy to move around
- Nature – enhanced and optimised
- Public Spaces – safe, social and inclusive
- Uses – mixed and integrated
- Homes and Buildings – functional, healthy and sustainable
- Resources – efficient and resilient
- Lifespan – made to last

Active Design (Sport England) (2023)

2.2.17 Active Design is a document supported by Public Health England to promote the role of sport and physical activity in creating healthy and sustainable communities. The Planning Permission was considered against the original Active Design Guidance published in 2015 however this review considers the latest version published in May 2023.

2.2.18 There are 10 principles of active design to promote environments that offer individuals and communities opportunities to lead active and healthy lifestyles:

- *Activity for all* – ensuring open spaces should be accessible for all users;
- *Walkable communities* – homes, services and infrastructure should be close by;

- *Connected walking and cycling routes* – routes should be safe and active travel should be prioritised;
- *Co-location of community facilities* – concentrating community and associated uses can support linked trips;
- *Network of multifunctional open space* – to support a range of activities including sport, recreation and play, and other functions such as SuDS, wildlife habitat;
- *High quality streets and spaces* – created to a high standard but are flexible to meet demand;
- *Appropriate infrastructure* – supporting infrastructure to enable sport and physical activity to take place;
- *Active buildings* – internal and external layout should encourage physical activity;
- *Management, maintenance, monitoring and evaluation* – ensuring sports facilities and public spaces are sustained and learning from successes; and
- *Activity promotion and local champions* – promoting the importance of participation as a means of improving health and wellbeing.

2.2.19 The application for the Planning Permission addressed the 10 principles through a variety of measures, including; the circular footway / cycleway which provides a continuous route around the site through various green infrastructure elements and with easy access to key destinations within the site, i.e. the local retail facilities, the spine road, meadow, allotments and play space.

2.2.20 The linear parks offer a range of recreation opportunities, some of which are more formal than others (e.g. LAPs) and other more informal uses e.g. the level differences around the SuDS. These spaces serve as multifunctional areas and contribute to biodiversity and overall green infrastructure provision as well as health and wellbeing.

2.2.21 Part of the site will require a minor diversion to the public right of way and proposes a number of connections to the extent that it runs through

the site. The approved details therefore ensure that the green infrastructure and open space proposed connect into the existing infrastructure and offer links to the wider Braintree area.

- 2.2.22 The nursery, community and local facilities are located in close proximity to one another in a broadly central area of the site. This is easily accessed from the circular footway / cycleway and the spine road which comprises a 3.5m footway / cycleway and a tree-lined street. It is considered that the spine road is designed to a high standard whilst meeting the requirements of ECC Highways.

Landscape Character Assessment (2006)

- 2.2.23 The Towerlands Park Site falls within the Pant River Valley Landscape Character Area. Key characteristics of this include:

- a shallow valley;
- predominantly arable farmland with well hedged medium to large fields on valley slopes;
- the valley is narrow with undulating valley sides; and
- some linear poplar and willow plantations along the valley floor adjacent to the river.

- 2.2.24 The Council's Landscape Capacity Analysis (Braintree District Settlement Fringes) (June 2015) identifies the application site as forming part of (roughly a quarter of) Land Parcel B16 which has a low-medium capacity to accommodate development (sites ranging from low to low-medium to medium to medium-high capacity).

- 2.2.25 It was considered by the Council that the Towerlands Park Site had the capacity to absorb development providing that appropriate steps to minimise landscape harm were taken to ensure that the development could be accommodated. These measures included limiting the majority of development to 2.5 storeys in height, with some isolated and appropriately located areas of 3 storeys. In addition the submitted Landscape and Visual Impact Assessment (LVIA) confirmed that the visual envelope of the site is limited based on the existing trees that screen the site. In conjunction with the landscaping and tree planting

secured as part of the Planning Permission, it was confirmed that the landscape impact from development will be limited.

Essex Minerals Local Plan (2014)

- 2.2.26 The application site is partly located within an Essex Mineral Safeguarding Area and is therefore subject to Policy S8 of the Essex Minerals Local Plan (2014) which seeks to safeguard Mineral Resources for extraction in the County. However, this area of the site is below the 5 hectare threshold over which a Minerals and Waste Assessment is required.
- 2.2.27 ECC, as the Minerals and Waste Authority, were consulted and confirmed no objection to the proposals, confirming that no Minerals and Waste Assessment is required and also that the site is not within 250m of safeguarded waste infrastructure or 400m of a Water Recycling Facility.



- Site Boundary
- Other Land under the Applicant's Control
- Ecological Mitigation Area

APPENDIX 3

Rev Description Date
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Client:

Towerlands, Braintree

Parameter Plan: Site Location Context Plan

Scale@ A2 : Drawn: Designed: Approved:
1:2,500 ADW BD SH

0m 100m

Drawing Number: Revision: Date:
UNX003/PP/007 -- 02.04.19

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