Brentwood Consultation Draft Local Plan (Regulation 19)

Representations made on behalf of Countryside Properties

Land at Bayleys Mead, Hutton, Brentwood

Site Reference: 030A

March 2019

Site Name:		Land at Bayleys Mead, Hutton
Client Name:		Countryside Properties
Type of Report:		Local Plan Representation
Prepared by:		Laura Dudley-Smith MSc MRTPI - Associate Director
Approved by:		Jennifer Carroll MSc MRTPI – Senior Associate Director
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Strutt & Parker, Coval Hall, Rainsford Road, Chelmsford, Essex CM1 2QF

ChelmsfordPlanning@struttandparker.com

Tel No: 01245 258201

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1. Introduction

1.1 These representations are submitted by Strutt & Parker on behalf of Countryside Properties (UK) Ltd in relation to the Brentwood Borough Council Pre-Submission Local Plan (Regulation 19) (PSLP), and in particular with regards to our clients' land at 030A, Land at Bayley's Mead, Hutton, Brentwood. A plan showing the site is provided as Appendix A to this representation.

1.2 Countryside was founded in Essex 60 years ago by Alan Cherry and has since established a reputation for delivering high quality developments. With the ethos 'creating places people love', Countryside's achievements are exemplified through having won more Housing Design Awards than any other house builder.

1.3 Countryside is a major development and place-maker, having secured planning permission and building out developments in varying scales: from smaller 30 dwelling schemes on the edge of village's through to large urban extensions of 3,500 new homes plus associated community facilities. Countryside has a proven track record of delivery. The company is headquartered in Brentwood and has a proud legacy of local sites such as Clements Park and the Square on Hart Street.

1.4 As the Council will be aware, representations have previously been made on behalf of Countryside Properties and in respect of both sites 030A on the Preferred Options Consultation in October 2013 and the Strategic Growth Options Consultation February 2015, and the Regulation 18 Local Plan in March 2018.

1.5 Site 030A measures approximately 2.36 hectares. The Council have previously confirmed the net developable area of the site as 1.66 hectares, with the ability to provide an estimated 30 dwellings on site. The site is situated within the Green Belt.

1.6 Whilst the Plan is considered effective in meeting the minimum housing requirements through the proposed allocations, an unjustified lack of housing provision to exceed the minimum requirements, and to provide an appropriate buffer and flexibility for the future, does prevent the Plan from being considered sound as a whole.

1.7 Site 030A has been discounted as a site for residential development through the Local Plan process, for reasons which are considered in more detail later within this representation. We consider the rejection of the site to be unjustified, and to result in a PSLP which does not promote sustainable development and as such is unsound.

1.8 The allocation of the site, at Bayley's Mead, Hutton, for residential development would represent a sustainable and deliverable proposal to help meet housing need over the coming plan period and ensure the soundness of the Local Plan.

1.9 As a minimum, the site should be safeguarded for potential future release from the Green Belt to ensure that the Green Belt remains protected throughout the entire plan period, in accordance with Paragraph 139 of the NPPF.

1.10 This representation set out comments on the Regulation 19 Draft Local Plan, as well as providing detail on the sustainability and deliverability of the site with regards to technical considerations and latest assessment work.

2. Brentwood Local Plan Regulation 19 Consultation

Plan Period

2.1. The Draft Local Plan is proposed to guide development in the Borough of Brentwood until 2033. The National Planning Policy Framework (NPPF, 2019) makes clear at Paragraph 22 that strategic policies within Local Plans should look ahead over a minimum of 15 years.

2.2. At this stage it would be optimistic to assume that adoption of the Draft Plan, which forms the subject of this representation, will happen within 2019 and therefore the plan will only address development needs in the area for a maximum of 14 years.

2.3. This shortfall is particularly relevant in respect of Green Belt, whereby a failure to ensure that development needs are planned for over a sufficient period of time would likely result in an early review of Green Belt being required. This review ahead of a new Local Plan would be contrary to the NPPF (paragraph 136), and also undermine one of the two essential characteristics of the Green Belt: its permanence (NPPF, Paragraph 133).

Total Housing Requirement

2.4. Paragraph 4.13 of the PSLP states that the Borough's housing requirement is 350 dwellings per annum. Paragraph 4.12 confirms that this figure is calculated using the Standard Method (as per the NPPF and respective Planning Practice Guidance(PPG)). We note that the PPG now confirms that the 2014-based subnational household projection should be used to calculate housing requirements using the Standard Method (Paragraph: 004 Reference ID: 2a-004-20190220).

2.5. On this basis, the relevant subnational population projections indicate an average annual increase of 293.2 households in the Borough between 2019 and 2029. The latest (2017) ratio of median house price to median gross annual workplace-based earnings for the Borough published by the ONS is 11.23. Once the Standard Method is applied using these figures, the result is a requirement of 452 dwellings per annum.

2.6. The NPPF requires for Local Plans to meet this need as a minimum, whilst also allowing sufficient flexibility to be able to respond to rapid change.

2.7. As mentioned previously, the Plan should also ensure that any revised Green Belt boundary should be robust enough to be maintained beyond the Plan period and therefore account for development needs beyond 2033 (or a revised later end date to the Plan period to ensure strategic policies will cover at least 15 years).

2.8. A further factor is the need to consider unmet needs of neighbouring authorities (NPPF paragraph 35). Councils have a duty to cooperate with one another on strategic

matters, including on unmet housing needs (paragraphs 24 to 27 of the NPPF). The PSLP does not make an allowance for any unmet needs from neighbouring authorities.

2.9. Whilst the South Essex authorities are working together on a joint strategic plan, the Local Plans for each authority must still demonstrate joint working and a consideration of unmet needs where required. A number of nearby authorities have identified difficulties in meeting their own housing needs, including Castle Point, Rochford and Southend. We also not that Epping Forest District Council in particualr is at an advanced stage in the preparation of a Local Plan (at the time of writing it is currently being examined) which proposes to deliver 11,400 dwellings between 2011 and 2033 (518 dwellings per annum), against a requirement (based on the Standard Method) of 944 dwellings per annum.

2.10. Furthermore, the Borough is located within close proximity of London, with the emerging Local Plan identifying high housing delivery on outer London Boroughs and that London will fall short of meeting its housing needs by 10,000 homes over the next ten years. Unmet need from London could therefore be required to be met by nearby authorities, including Brentwood.

2.11. Whilst no authority has formally approached Brentwood in relation to unmet need, it is not inconceivable that an authority will do. Under the current PSLP there is no flexibility to meet any unmet needs from neighbouring authorities, requiring a plan review should a request to meet unmet needs be received once the plan is adopted.

2.12. Allocating additional sites would provide greater flexibility should a request to meet unmet needs be forthcoming, avoiding the need for an early plan review. This flexibility should also be provided in accordance with paragraph 11 of the NPPF and to accommodate additional need arising from extending the plan period.

2.13. The PSLP considers it appropriate to apply a 20% uplift to the identified housing target of 350 dwellings per annum, resulting in a proposed target of 456 dwellings per annum. The rationale for this buffer is unclear with separate references to the buffer advising that it allows for an additional housing land supply to be maintained, but also that it serves to safeguard against any potential uplift to the standard methodology for calculating housing need, pending the outcome of the Government's 'Technical consultation on updates to national planning policy and guidance'.

2.14. Despite the outcome of the technical consultation now having been confirmed, the proposed annual housing target of the PSLP only fractionally exceeds the minimum housing requirement derived from the Standard Method, and therefore does not provide any flexibility, Green Belt protection or unmet need from neighbouring authorities in addition to the minimum requirement. The plan is therefore considered ineffective in its current form and has not been positively prepared to provide an appropriate level of contingency in terms of housing delivery, or to comply with national planning policies. As such we consider the PSLP to be unsound.

2.15. As a minimum, we consider that the PSLP's housing need should be amended to at least ensure that an additional year's worth of housing need can be accommodated,

and so that the relevant strategic policies of the Plan cover at 15 years from adoption. Realistically, we expect that an additional 2 years' worth of housing may be required to support a plan period up to 2035. Moreover, in respect of the fact that the authority is predominantly Green Belt, even if the plan period is extended until 2035, policies should account for potential development needs beyond this period. The allocation of sites for housing in Hutton, including that at Bayleys Mead, would provide for additional housing delivery in a sustainable location and help to ensure that the Plan can be found sound.

Five-year Housing Land Supply and Housing Trajectory

2.16. The Council is required to demonstrate a five-year housing land supply at any point in the plan period (Paragraph: 038 Reference ID: 3-038-20180913).

2.17. The NPPF (Paragraph 73) confirms that a 20% buffer should be applied to the initial calculation for a five year housing land supply requirement, in the event that the results of the Housing Delivery Test show that there has been significant under delivery of housing over the previous three years, to improve the prospect of achieving the planned supply. From November 2018 significant under delivery indicates that delivery was below 85% of the requirement for the Borough. The PPG (Paragraph: 037 Reference ID: 3-037-20180913) also confirms that the requirement for a 20% buffer also applies where a Local Planning Authority are seeking to confirm their five-year housing land supply through a recently adopted Local Plan.

2.18. The results of the 2018 Housing Delivery Test confirmed that Brentwood have delivered just 50% of the housing requirement over the last three years and this is therefore well below the threshold for the 20% buffer requirement.

2.19. The Borough's most recent reported five-year housing land supply (Five Year Housing Land Supply Statement as at 31 March 2018 (November 2018)) ('HLSS') is 4.1 years. This is predicated on a requirement which, when considered in relation to the latest guidance, understates need; and a supply which, again when considered in relation to latest guidance, overstates supply. As such, the actual housing land supply is considerably less.

2.20. Looking at this in detail, the HLSS considers an annual need of 343 dwellings, resulting in a total requirement once the 20% has been applied of 2,058 dwellings. However, applying the latest guidance and the Standard Method, the Borough's housing requirement is 452 dwellings per annum. Applying the 20% buffer, this results in a five-year requirement of 2,712 dwellings.

2.21. In terms of supply, the HLSS includes sites without detailed planning permission and without evidence such sites will be delivered within five years. As per the Glossary contained within Annex 2 of the NPPF, such sites cannot be considered deliverable for the purposes of the five-year housing land supply. Table 1 of the HLSS suggests that *at least* 1,042 dwellings in the reported supply did not have planning permission. Once these are removed from the supply calculation, the five-year supply comprises 653

dwellings. It is unclear if and how many of the dwellings categorised as having extant planning permission are on major sites which only benefit from outline permission. Such sites would also have to be discounted. As such, the figure of 653 dwellings may overstate housing supply.

2.22. A five-year supply of 653 dwellings compared to a requirement of 2,712 represents a 1.2-year housing land supply. This acute housing land supply shortage demonstrates the importance of allocating sites through the Local Plan which can be delivered early in the plan period, and support the existing supply of housing. It also emphasises the need to avoid over-reliance on large strategic sites which inevitably take longer to deliver.

2.23. The housing trajectory provided as Appendix 1 to the PSLP projects that it will enable completion of 2,305 dwellings between 2019/20 and 2023/24.

2.24. Having regard to the Standard Method and the need to apply a 20% buffer to the housing requirement, the total five-year requirement for the Borough is 2,712 dwellings. Therefore, even before critical review of the supply, the PSLP will not provide a five-year supply of housing.

2.25. Furthermore, Dunton Hills Garden Village is a proposed major strategic development, intended to provide 4,000 dwellings, 5.5 hectares of employment land, two new primary schools, secondary school, new village shopping centre, new transport infrastructure, and new community and health infrastructure. Delivery will require the coordination and input of multiple landowners, developers, infrastructure providers and other stakeholders.

2.26. Once allocated, the PSLP proposes a masterplan and design guidance will be required to be prepared. Following this, an outline application will need to be prepared, submitted, and determined; followed by reserved matters. It will also be necessary to discharge all planning conditions and S106 obligations.

2.27. As such, we question the likelihood of 100 homes being completed at Dunton Hills Garden Village as early as 2022/23. This does not in itself mean that Dunton Hills Garden Village proposals cannot form part of a sound Local Plan, but it does demonstrate the unsuitability of relying on large strategic sites for short term housing delivery, and means that additional smaller sites capable of providing homes in the early years of the plan period also need to be allocated in order to ensure the Local Plan is sound.

2.28. It is evident that whilst the Plan can demonstrate housing delivery appropriate to meet minimum recognised requirements, the suggested inability of the Plan to ensure a consistent five-year supply is inconsistent with national policy, which requires that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies. The PSLP should therefore support this requirement through the allocation of smaller scale sites that can be

delivered over short timescales to be found sound. Land at Bayleys Mead is a site that would cater to this need, with its deliverability discussed in greater detail later on in this representation.

Proposed Approach to Hutton

2.29. Within the PSLP, the Borough's settlement hierarchy identifies Hutton as Category 1 - an 'urban neighbourhood'. A Category 1 settlement is defined as having a wide range of services, and are typically highly accessible and well served by public transport provision. Hutton has an established local centre which benefits from a range of services, facilities, access to public transport, and employment opportunities.

2.30. The town is situated approximately 30km from Central London, 12km from Chelmsford and well-connected in respect of regional and national infrastructure. Brentwood and Shenfield are accessible along the A12 corridor.

2.31. Hutton is a highly sustainable location, and therefore well-placed to accommodate a proportion of the Borough's housing need. In addition, the Local Plan should manage growth of such settlements to sustain and enhance their vitality.

2.32. Irrespective of the above, the PSLP proposes no growth for Hutton, in contrast to the level of growth afforded to other settlements identified as Category 1 settlements, or also those below Hutton, within the Borough's settlement hierarchy. We have concerns therefore that the PSLP fails to support the sustainable growth of Hutton and that this omission is unjustified and inconsistent with national policy.

2.33. To ensure the soundness of the Local Plan, land should be allocated in Hutton to protect the future of this settlement and ensure sustainable growth.

Green Belt

2.34. A Green Belt Study (November 2018) supports the PSLP. This study provides an assessment of Green Belt parcels against the five purposes of the Green Belt, as set out within the NPPF.

2.35. The study includes an 'assessment of Housing Sites (being considered as part of the SHLAA) within the Green Belt and their relative contribution to the purposes of the Green Belt designation'.

2.36. The site has been assessed against the five purposes of the Green Belt, as part of the Green Belt Study methodology as follows:

Purpose 1: To check the unrestricted sprawl of large built up areas

Parcel 14 is defined by the Council as 'partly contained', and recognises that it abuts a large built up area. This categorisation does however advise that the boundary is

'weak/degraded/unclear'. The site 030A is contained on two out of four boundaries by built form however and on remaining boundaries by established vegetation and hedgerows that could be incorporated and enhanced as part of a landscaping scheme that would support the redevelopment of the site. We consider that the site boundaries are clearly defined and the site is therefore well-contained. A conclusion of containment should not consider built form exclusively.

Purpose 2: To prevent neighbouring towns from merging into one another

The site is adjacent the eastern limit of Hutton Mount and the Green Belt Study correctly recognises that its development would retain separation from neighbouring towns. The next settlement to the east is Billericay and this is some distance away with a large green gap between the two. Other parts of Hutton already extend closer to Billericay without posing any risk of merging.

Purpose 3: To assist in safeguarding the countryside from encroachment

The site is defined by the Council as 'Functional Countryside' (FC). The assessment defines Functional Countryside as "access land, public area (park), high number of PRoW and important routes e.g. National Trail'. The site itself is overgrown, in private ownership, covered in dense vegetation, and not suitable for public access. It is not agricultural and is therefore not functional and this assessment of the site is incorrect.

Purpose 4: To preserve the setting and special character of historic towns

Brentwood Borough Council have recognised that site 030A has no physical of visual relationship with the Historic Town. It is some distance from the town centre with no direct relationship. It is directly associated with contemporary housing developments at Bayley's Mead and surrounding roads, which present limited historic character.

Purpose 5: To assist in urban regeneration, by encouraging the recycling of derelict and other urban land

Brentwood Borough Council have not provided an analysis for Purpose 5.

2.37. Overall, Brentwood Borough Council have assessed the site as having a moderate overall contribution to the Green Belt, despite the favourable assessment of the site. Where the site was assessed to have an important role on the Green Belt, we have outlined above that these elements of the assessment are incorrect and not reflective of the sites true characteristics.

2.38. The development of this Green Belt site, which has limited environmental value and offers a minimal contribution to the Green Belt when assessed against its five intended purposes, would help to support housing delivery in a sustainable location in the Brentwood Borough, whilst protecting other Green Belt sites of much higher environmental value.

2.39. The weaknesses and inconsistencies recognised in the individual site assessments made demonstrate a potential flaw in the evidence base for the Local Plan and could

result in the unjustified omission of Green Belt sites from consideration for allocation as part of the new Local Plan.

2.40. The above analysis of land at Bayleys Mead, Hutton demonstrates that there remains small scale opportunities for sustainable development within the Green Belt and that the Local Plan should give consideration to the allocation of such sites alongside larger scale areas of release.

Strategic Environmental Assessment/Sustainability Appraisal (SEA/SA)

2.41. The PSLP is supported by a range of technical work, including the Sustainability Appraisal (SA) January 2019. The SA presents a number of sustainability issues/objectives which have been established through SA scoping. Together, these sustainability topics and objectives provide a methodological framework for the appraisal of potential allocation sites – including site 030A.

2.42. The SA indicates that the allocation of site 030A would have positive effects in relation to the SA objectives. The SA analysis states that site 030A is in good proximity to a secondary school (less than 1.5km), but in 'red' proximity from a GP surgery and a primary school. Willowbrook Primary School is located within 1 mile of the site, which is considered to be within walking distance to the site. The nearest GP Surgery, Mount Avenue Surgery is located 1.5 miles from the site. Mount Avenue Surgery is defined in the Regulation 18 document to be 1 of 3 surgeries within the District which has an average of 0.58 GPs per 1,000 patients, which is the national average. Furthermore, Mount Avenue Surgery has a large catchment area, therefore it is considered that it would provide service to those living at the site. Furthermore, Brentwood Community Hospital is located less than 3 miles from the site.

2.43. The SA, through its analysis also states that the site at Bayley's Mead is in an area that 'performs poorly' in respect of its proximity to Ancient Woodland, Local Wildlife Site, Woodland and Green Belt. The proposed development of the site will not unacceptably impact on Ancient Woodland, Woodland or a Local Wildlife Site. This scoring is considered to be highly assumptive and rules out the potential of sites being landscaping led and providing opportunities for the enhancement such features and local biodiversity. Being within 400m of a local wildlife site does not necessarily mean that there will be direct impacts on the site.

2.44. In relation to Green Belt, the assessment is binary in it's approach – if a potential site falls within the defined Green Belt, it will be given an 'Amber' score. Whilst the methodology notes that the Green Belt is not specifically a landscape designation, and as such potential effects on the setting have not been appraised, a blanket 'amber' score on anything seems arbitrary.

2.45. A Green Belt Review of the Borough, and the contribution that each individual site makes to the Green Belt has been undertaken and this is discussed in more detail in the following section of this representation. This recognition of differing value across individual sites should have influenced scoring for this element of the SA, and replaced the non-conducive binary approach taken.

2.46. In general, we consider that the SA Report is simplistic in its approach to individual site assessment. The SA has used a predominantly spatial or 'GIS' (use of Geographical Information Systems) approach to the assessment of each criteria, using the distance between the site and various factors to judge the extent to which it either achieves or opposes certain objectives. It has had no consideration for the positive contribution that the development of sites can make to the natural environment and local facilities.

2.47. The assumption made within the Sustainability Appraisal that sites will only negatively impact the Green Belt and other landscape and natural environment designations has contributed to the unjustified omission of sites from allocation as part of the Local Plan which has subsequently resulted in the plan being unsound.

3. Site Deliverability

3.1. The site represents a deliverable, sustainable and achievable site for residential development. There have been technical reports and associated documents completed which demonstrate this. The below section provides a summary of these documents.

Access & Connectivity

3.2. The site is considered to have good access and connectivity to the surrounding area. The vehicular and pedestrian access to the site is proposed to be from Bayley's Mead. The access arrangement was considered as satisfactory through the 2013 Draft Site Assessment.

3.3. The site is approximately 1.3 miles from Shenfield Station (approximately a 25 minute walk / 8 minute cycle). Shenfield Station provides frequent services to London Liverpool Street, Chelmsford, Colchester and Ipswich and settlements between. These destinations also provide connections to the wider national transport network. Shenfield Station is also the terminus for the new Elizabeth Line which is part of Crossrail. Crossrail provides frequent services into Central London.

3.4. A public bus stop is located approximately 200m from the site. This bus stop provides frequent services to Basildon Town Centre, Brentwood High Street, Billericay and Shenfield Rail Station, amongst services to smaller neighbouring settlements.

3.5. The site is well connected to the surrounding road network. The site is located approximately 2.5 miles from the A12. The A12 provides efficient access to settlements across Essex and East Anglia such as Chelmsford, Colchester and Ipswich, as well as a direct connection to the M25.

3.6. The site is immediately adjacent St Martin's School, a large seconday school and sixth form. There are also a number of primary schools in the area, including Willowbrook Primary School and Hutton All Saints Primary School which are both less than a mile from the site.

3.7. Given the high access and connectivity levels of the site, it is evident that Site 030A is within a sustainable location and should therefore be considered as a site for residential development.

Ecology

3.8. An ecological appraisal was undertaken by Green Environmental Consultants Ltd. In September 2013.

3.9. The ecological appraisal states that the site is abandoned farmland which is being colonised by scrub and tree species from woody boundary habitats. There are mature trees, mostly on two of the boundaries which may be used by bats of nesting birds. Otherwise the potential of the site is poor.

3.10. The ecological appraisal recommends further bat survey work to be undertaken on site and for the mature boundary trees to be protected and enhanced.

3.11. The ecological appraisal concludes that there are no significant or major impacts on a significant resource to be expected through the development of the site, but recognises that loss of scrub and some trees is likely to occur. This could be easily mitigated and enhanced through a landscaping scheme to support any future development on the site.

Geo-Environmental/Engineering

3.12. A preliminary engineering appraisal was undertaken in February 2013. This appraisal includes details on foundations, highways, drainage and contamination.

3.13. The geo-environmental appraisal concludes that there are no significant physical geo-environmental constraints to development on the site.

Drainage

3.14. The preliminary engineering appraisal states that foul water from the proposed development would discharge to the existing pumping facility and thereafter to the sewer in Hanging Hill Lane.

3.15. The appraisal states that storm run-off from the developed site would discharge at the ditch.

3.16. The existing surface water catchment for the local residential area drains into a 600mm diameter pipe which discharges via a headwall into the western end of the northernmost ditch within the site. This ditch runs across the site and continues eastwards beyond. The Environment Agency map indicates that an interconnecting ditch system eventually outfalls to the River Can. The appraisal states that drainage storage is likely to be provided through the design of a sustainable urban drainage system which may include a combination of contributing elements, swales, ponds and underground cellular storage.

Contamination

3.17. The preliminary engineering appraisal states that an intrusive soil investigation will be required to confirm whether the soil on site is contaminated. The appraisal states that in view of the perceived history of the land, this is unlikely to be the case.

Highways

3.18. The preliminary engineering appraisal states that the current width of Bayley's Mead is 5.5m which could support a development of 30 dwellings.

3.19. The appraisal states that the sight line visibility from Bayley's Mead onto Hanging Hill Lane is about 2.4m x 65m to the right hand side with the 'y' distance being much greater to the left. The requirement for a 30mph road is 2.4 x 43m. Even if measured vehicle speeds in Hanging Hill Lane are greater, for example up to 37mph, then the visibility requirement for that speed (2.4 x 59m) is still achieved.

3.20. The appraisal concludes that there is no objective reason as to why the existing access road could not support the development of Site 030A.

4. Summary

4.1. Whilst the current proposed allocations and strategic policies of the PSLP appropriately address the minimum requirement of housing recognised for the Plan period, we have reason to query the appropriate length of the Plan period, and a lack of flexibility in the housing provision and such consider the Plan unsound due to its inability to comply with national planning policy, the unjustified omission of a housing supply which exceeds minimum requirements, and given that the Plan has not been positively prepared to account for potential changes to the market and housing requirements beyond those forecast.

4.2. There is evidently a case for Site 030A to be further considered as a sustainable opportunity in respect of Brentwood Borough Council needing to further increase their housing delivery over the plan period. The development of this site would not impact the function of the Green Belt in this location and is immediately adjacent to Hutton, a 'main town' with facilities and services that could support sustainable growth. Development here would also accord with the Brentwood Borough Council Spatial Strategy which directs growth towards the A12 transport corridor.

4.3. The analysis and content within the accompanying studies evidence the deliverability, achievability and suitability of the site for development and why it should therefore be allocated by Brentwood Borough Council as a site for residential development to aid the Plan in being sound. We consider there to be outstanding opportunities for the plan to identify sustainable sites that are suitable for delivering housing over short timescales to ensure that the Plan is flexible and robust, and well-prepared to meet housing needs over the entirety of the plan period.

4.4. Development of the site is supported by a wealth of technical evidence that confirms its suitability, including in relation to the lack of harm to its development to the purposes of the Green Belt. The reasons given for the rejection of the Site are therefore based on a number of assumptions and simplistic conclusions.

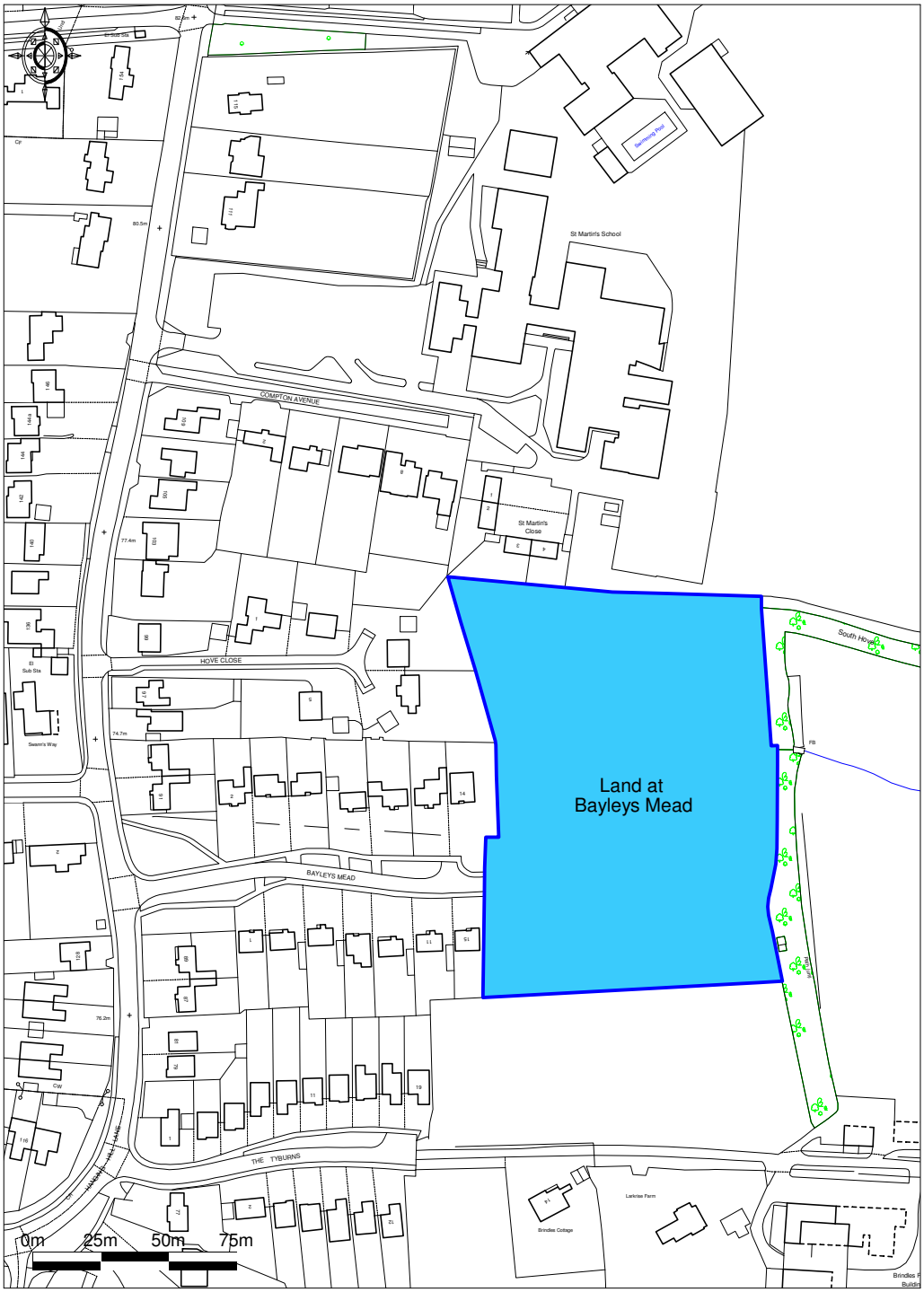
4.5. The exclusion of Site 030A is unjustified, and overlooks an opportunity to correct other soundness deficiencies in respect of the Local Plan, including in relation to the overall quantum of housing proposed and the lack of support for any growth of Hutton. The allocation of Site 030A for development will assist in correcting shortfalls in respect of the Local Plan, enabling it to be a sound plan.

4.6. We note the requirements set out under Paragraph 139 which confirms that when defining Green Belt boundaries and where sites may not be allocated for development at the present time, plans should "identify areas of safeguarded land between the urban area and the Green Belt, in order to meet longer-term development needs stretching well beyond the plan period".

4.7. As a minimum therefore, land at Bayleys Mead should be safeguarded for future Green Belt release as and when a need may arise given its highly sustainable location and suitability to be developed without incurring encroachment between Hutton and the main Brentwood urban area.

Title Land at Bayleys Mead, Hutton
Scale 1:2500
October 2013

Phase 2
PLANNING & DEVELOPMENT LIMITED



BAYLEY'S MEAD
BRENTWOOD
ESSEX

ECOLOGICAL APPRAISAL

September 2013

For:

Countryside Properties (UK) Ltd

Green Environmental Consultants

Green Environmental Consultants Limited
22 Heath Road, Swaffham Bulbeck, Cambridge, CB25 0LS

Tel/fax: 01223 811190 e-mail: jgreen@greenecology.co.uk

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BAYLEY'S MEAD, BRENTWOOD, ESSEX
ECOLOGICAL APPRAISAL

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LIMITATIONS AND EXCEPTIONS

Limitations of Surveys

This report records wildlife found during the survey and anecdotal evidence of some species. Access, seasonality and weather conditions may affect survey results. It does not record any animals or plants that may appear at other times of the year and were therefore not evident at the time(s) of the visit(s). Habitats outside the site boundary were only visited where considered appropriate and where access was available.

The behaviour of animals can be unpredictable and may not conform to standard patterns recorded in current scientific literature. Many species are highly mobile and can occupy a site which has previously held no potential for them and factors such as increasing habitat pressure can cause animals to occupy areas that were previously unoccupied, or which might be considered far from suitable. This report therefore cannot predict with absolute certainty that animal species will occur in apparently suitable locations or that they will not occur in locations or habitats which appear to be unsuitable.

Limitations of Report

This report takes into account the particular instructions and requirements of our client. It is not intended for and should not be relied upon by any third party and no responsibility is undertaken to any third party.

The Executive Summary, Conclusions and Recommendations sections of the report provide an overview and guidance only and should not be specifically relied upon until considered in the context of the whole report.

Interpretations and recommendations contained in the report represent our professional opinions, which were arrived at in accordance with currently accepted industry practices at the time of reporting and based on current legislation in force at that time.

Where the data available from previous reports, or for other subject matter supplied by the Client, have been used, it has been assumed that the information is correct. No responsibility can be accepted by ourselves for inaccuracies within the data supplied.

This report is prepared and written in the context of the proposals stated in the introduction to this report and should not be used in a differing context. Furthermore, new information, improved practices and legislation may necessitate an alteration to the report in whole or in part after its submission. Therefore, with any change in circumstances or after the expiry of one year from the date of the report, the report should be referred to us for re-assessment and, if necessary, reappraisal.

Scientific survey data will be shared with local biological records centre in accordance with the CIEEM professional code of conduct.

Please note that Green Environmental Consultants Ltd does not purport to provide specialist legal advice.

This report has been completed in accordance with CIEEM good practice guidelines.

0 EXECUTIVE SUMMARY

This report has been prepared by Green Environmental Consultants Limited on behalf of Countryside Properties (UK) Ltd, and relates to the proposed development of an area of land off Bayley's Mead, Brentwood, Essex, at grid reference TQ624938.

Description and Results

The Site comprises three rectangular fields, labelled A, B, C, "stacked" one on top of another northwards from the end of Bayley's Mead. The fields are separated by ditches, one of which holds water. To the south and east of the Site are semi-improved grass fields and it is assumed that the Site was originally similar. Having been abandoned the Site has been taken over by invading scrub and tall ruderal vegetation; there is little grassland remaining. The eastern and northern boundaries have linear blocks of trees and these are seeding into the fields. Hornbeam and Pedunculate Oak are most common, with some Ash and Wild Service-tree also present; ground flora is poor. A notable feature is the location of a concentration of Wild Service-tree seedlings and saplings. Most of the scrub is Bramble *Rubus fruticosus* which is impenetrable in places, but stands of young saplings also are present; Rhododendron and Snowberry were recorded. Common Nettle is the dominant tall ruderal

Adjacent habitats include farmland and urban habitats.

Scoping: mature boundary trees, and some internal trees, could be used by bats. The trees and scrub also provide nesting and some feeding potential for birds. No indications of other protected species were found.

Further Surveys

Due to the possibility of trees having bat roosts a tree assessment in the first instance is recommended, and may have to be followed up by more detailed survey.

Evaluation, Mitigation & Enhancement

The Site is abandoned farmland which is being colonised by scrub and tree species from woody boundary habitats. The mature trees, mostly on two boundaries, may be used by bats and there are bird nesting opportunities although few were observed. Otherwise the potential of the Site is poor and it has been evaluated as of Local importance.

If bat roosts are found in trees which will be affected by these proposals, a mitigation licence will be required. Basic mitigation and enhancement suggestions are given at this early stage, which include the possible collection of tree seedlings for use in the Site landscaping scheme or elsewhere. Scrub clearance should not be undertaken during the bird nesting season unless the area is declared free of nesting birds.

No significant or major impacts on a significant resource are expected from this development, but loss of scrub and some trees is very likely to occur.

1 INTRODUCTION AND OBJECTIVES

This report has been prepared by Green Environmental Consultants Limited on behalf of Countryside Properties (UK) Ltd, and relates to the proposed development of an area of land off Bayley's Mead, Brentwood, Essex. The site at the eastern end of Bayley's Mead, at grid reference TQ624938.

The purpose of this appraisal is to inform a planning application for residential purposes, and to assess the constraints to development that may arise from ecological issues. The identification of protected species is vital in the proposed development of a site to comply with existing legislation and also allows any work that may otherwise be detrimental to protected and biodiversity species to be appropriately scheduled.

The appraisal survey was conducted, and the report written by Jacqui Green BSc (Hons), MSc, CEnv, FCIEEM who has over thirty-five years experience of conducting appraisals. Binomial scientific names are given after the first mention of a species only; plant names follow the Botanical Society of the British Isles nomenclature.

The objectives of the survey are:

- To undertake an extended Phase 1 survey of the proposed application area; and
- to undertake a scoping for protected or biodiversity species; and
- to undertake an assessment where this is possible at this stage.

2 LEGISLATION & PLANNING

2.1 Legislation

2.1.1 European Protected Species (bats, Great Crested Newts, Dormice, Otters etc)

European Protected Species are protected under the EC Council Directive on the Conservation of Natural Habitats and Wild Fauna and Flora (the Habitats and Species Directive). This legislation is enacted under the Conservation of Habitats & Species Regulations (Amendment) 2012 (the 2012 Regulations). Works which involve impacts on EPS are likely to require a Natural England licence. Further information is given in appendix I.

2.1.2 Wildlife & Countryside Act Protected Species (Barn Owls, reptiles and others)

2.1.2.1 *Reptiles*

The four species of common reptiles - Grass Snake *Natrix natrix*, Slow-worm *Anguis fragilis*, Viviparous (Common) Lizard *Zootoca vivipara* and Adder *Vipera berus* - receive partial protection. They are protected under the Wildlife and Countryside Act 1981 (part of Section 9(1) and all of Section 9(5), that is, they are protected against

intentionally killing and injuring (but not 'taking'), and against sale *etc.*; they are also on the Biodiversity Action Plan Priority List.

2.1.3 Other Species Legislation

Certain species are protected under other legislation eg the Protection of Badgers Act 1992 gives special protection against harm to Badgers or their setts.

2.1.4 Species /Habitats of Principal Importance & Biodiversity

A number of species and habitats which do not merit national protection are nevertheless threatened or endangered at a more localised scale, usually at a county level, or have been discovered to have undergone a rapid decline. These are listed on the UK or county (Local) Biodiversity Action Plans (BAPs) and would be considered to be part of the National Planning Policy Framework lower tier. See also under '*The England Biodiversity List'* in section 2.2 below.

2.1.5 Birds

All nesting birds are protected under Section 1(1)(b) of the Wildlife and Countryside Act (1981) (*ibid*). It is an offence to:

> *... intentionally take, damage or destroy the nest of any wild bird while that nest is in use or being built; or take or destroy an egg of any wild bird.*

As a consequence no scrub or tree clearance or management should be undertaken during the nesting season, unless works to make the habitats unsuitable are first undertaken, or a detailed examination before clearance starts declares the area free. The nesting season is generally taken to be between mid-March and mid-June, with an extension into August or September if second broods are present.

2.2 Planning

2.2.1 General

Government Circular 06/2005[1], paragraph 98 states that……

> *'The presence of a protected species is a material consideration when a planning authority is considering a development proposal that, if carried out, would be likely to result in harm to the species or its habitat. Local authorities should consult Natural England before granting planning permission. They should consider attaching appropriate planning conditions or entering into planning obligations under which the developer would take steps to secure the long-term protection of*

[1] ODPM (2005). *Planning Policy Statement 9: Biodiversity and Geological Conservation Government Circular 06/2005*. TSO

the species.'

The National Planning Policy Framework (NPPF)[2] has as a fundamental aim to contribute to and enhance the natural and local environment.

Paragraph 111 states that: Planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value...

When determining planning applications (paragraph 118), local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- opportunities to incorporate biodiversity in and around developments should be encouraged;

The Natural Environment and Rural Communities Act 2006[3] (section 40(1)) states that:

> '*Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity*.'

2.2.2 Species/Habitats of Principal Importance and Biodiversity

The England Biodiversity List has been developed to meet the requirements of Section 41 of the Natural Environment and Rural Communities Act (2006)[4]. This legislation requires the Secretary of State to publish a list of species of flora and fauna and habitats considered to be of principal importance for the purpose of conserving biodiversity. The S41 list will be used to guide decision-makers such as public bodies, including local and regional authorities, in implementing their duty under section 40 of the Natural Environment and Rural Communities Act 2006 "to have regard" to the conservation of biodiversity in England, when carrying out their normal functions.

Relationship with the biodiversity duty under Section 40 of the NERC Act:

There is a general biodiversity duty in the NERC Act (Section 40) which requires every public body in the exercising of its functions to 'have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'.

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2 Department for Communities and Local Government 2012. The National Planning Policy Framework. Published March 2012. www.communities.gov.uk

3 OPSI 2006. *Natural Environment and Rural Communities Act 2006*. TSO, London

4 OPSI 2006. *Natural Environment and Rural Communities Act 2006*. TSO, London

There is no *direct* relationship between the Section 41 duty on the Secretary of State to publish the list and promote the taking of steps to conserve the habitats and species on it, and the Section 40 duty on public bodies to have regard to the purpose of conserving biodiversity. Importantly:

(a) Biodiversity, as covered by the Section 40 duty includes all biodiversity and not just the habitats and species of principal importance. However, there is an expectation that public bodies would refer to the S41 list when complying with the section 40 duty.

(b) The duty on the Secretary of State to promote the taking of steps by others is not restricted to public bodies.

Defra guidance for local authorities and public bodies on implementing the new biodiversity duty in the NERC Act draws attention to the S41 list, emphasising that local authorities and public bodies have a role to play in ensuring the protection of these species and habitats.

It is clear that the list is not intended to be prescription. It is a guide only, as to identifying the species and habitats which require particular attention, after protected species. The presence of an SPI on a site is not necessarily a reason to refuse planning permission. However, there may be reasons for extra consideration in certain circumstances. For example, if the population was especially important in a Local context, or the population was a stepping stone between other populations, or the last surviving within a given area, it may become more important to protect it.

Fifty-six habitats of principal importance are included on the S41 list. These are all the habitats in England that have been identified as requiring action in the UK Biodiversity Action Plan (UK BAP).

There are 943 species of principal importance included on the S41 list. These are the species found in England which have been identified as requiring action under the UK BAP. In addition, the Hen Harrier has also been included on the List because without continued conservation action it is unlikely that the Hen Harrier population will increase from its current very low levels in England.

Other species and habitats may be listed at a more localised level, or be of lower "importance" or threat level. These may be nevertheless be of significance at a site or local level. Examples of these species or habitats include Birds of Conservation Concern (where not SPIs), and species or habitats on local Biodiversity Action Plans.

3 METHODOLOGY

3.1 Data Search

A 1 km radius search was undertaken from the Essex Field Club, and a search of the Essex local Wildlife Sites website was also undertaken.

3.2 Habitat Survey

A Phase 1 habitat survey of the site was conducted according to a methodology devised by the Nature Conservancy Council (revised JNCC 2010[5]), with notes made of dominant or uncommon species. Observations of unusual flora or faunal activity were made as per extended Phase 1 survey methods (Institute of Environmental Assessment 1995[6]).

Species were recorded according to the DAFOR scale. The relative frequency and cover of each species identified, as they are distributed in each habitat is estimated using the DAFOR scale as follows:

D - Dominant - >75% cover

A - Abundant – 51-75% cover

F - Frequent – 26-50% cover

O- Occasional – 11-25% cover

R - Rare – 1-10% cover

When used in this context 'rare' does not mean a plant is nationally rare or even unusual, it refers to the small number of plants or its low cover recorded in that particular area only. The letter 'L' may be used in front of Frequent and Abundant (LF & LA) to indicate that a species may be frequent (or abundant) in places but is patchily distributed. Co-D stands for co-dominant.

The survey was undertaken by Jacqui Green BSc(Hons), MSc, CEnv, FCIEEM on 31st July 2013 when the weather was warm and humid (a minimum of 20C) but overcast.

Survey Limitations

Large areas were impenetrable scrub and could not be investigated from within the stands. These were seen from various vantage points including the nearest adjacent open areas and also from outside the site boundaries to the east, north and south. Maps and aerial photographs were also used to identify features which might be hidden by vegetation. This is not a limitation for a habitat survey, but some notable species may have been missed.

5 JNCC (2010). *Handbook for Phase 1 Habitat Survey - a Technique for Environmental Audit*. England Field Unit, Nature Conservancy Council, reprinted JNCC, Peterborough.

6 Institute of Environmental Assessment 1995. *Guidelines for Baseline Ecological Assessment*. Pub. E & FN Spon, London.

3.3 Scoping for Protected & Biodiversity Species

Information from the habitat survey was used to scope (look for indicative habitats, niches or other signs) for protected or biodiversity habitats and species which may require more detailed survey. Adjacent land was included in this scoping to assess if any protected species might be present on land nearby.

4 RESULTS

4.1 Data Search

4.1.1 Sites

There are no statutorily designated sites within 2 km.

There are no non-statutory sites (Local Wildlife Sites or LoWS) within the search area.

4.1.2 Protected and Biodiversity Species and Habitats

Records of protected species can be confidential for a number of reasons. To safeguard this information the list is not included in full in this report. Information which might be relevant to this Site is itemised below.

4.1.2.1 *European Protected Species (EPS)*

There is a small number of records of Great Crested Newt *Triturus cristatus* but most are quite old.

There are records of Common Pipistrelle *Pipistrellus pipistrellus*, Soprano Pipistrelle *Pipistrellus pygmaeus* and Brown Long-eared bats *Plecotus auritus* from residential areas. There are old records of Serotine *Eptesicus serotinus* and Natterer's *Myotis nattereri* bats.

4.1.2.2 *UK Protected Species*

There are no records of reptiles from the search area.

There are no records of Badger *Meles meles*.

4.1.2.3 *UK and Local Species and Habitats of Principal Importance*

Mammals: there is one record of European Hedgehog *Erinaceus europaeus* from the area.

Amphibians: Common Toad *Bufo bufo* has been recorded.

Invertebrates: there is a long list of moths from a site at Ingrave near to Brentwood.

Habitats: the Site's northern and eastern boundary trees, and extending in to the northern field, have been plotted on data sets as broad-leaved woodland,

which is a priority (HPI) habitat. This designation has been derived from maps and does not appear to have been ground truthed.

4.1.2.4 *UK and Local non-SPI Biodiversity*

Plants - Rigid Beard-moss *Didymodon rigidulus* has been recorded from Ingrave churchyard.

The majority of biodiversity species listed above are also on the Essex County Red List.

An analysis of the records shows that the area around the site has low density, whereas on the boundaries of the search area, high numbers of records are located. This may be due to recording effort (especially for invertebrates where one or two sites have received concentrated effort) but is also likely to be a genuine reflection of the distribution of species given the locations of semi-natural habitats.

4.2 Habitat Survey

4.2.1 General Description

The Application Site comprises three rectangular fields, labelled A, B and C for convenience, "stacked" one on top of another stretching northwards from the end of Bayley's Mead residential road. The fields are separated by ditches; that between fields A and B is a typical shallow dry ditch, but that between B and C is a straight water course with running water. To the south of the Site is a semi-improved grass field and it is assumed that the three Site fields were originally similar. Having been abandoned the Site has been taken over by invading scrub and tall ruderal vegetation; there is little grassland remaining.

4.2.2 The Site

4.2.2.1 *General*

The site has: mature boundary trees; scrub; tall ruderal vegetation; water courses.

4.2.2.2 *Trees/woodland*

Along the eastern boundary is a linear stand of mature broad-leaved trees. This continues along the northern boundary but is less clearly a "woodland" and more a line of planted trees separating two land ownerships; some conifers are present on this boundary and presumed to have been planted as screening. Outside the north-eastern site corner the woodland strip continues eastwards as a field boundary.

The external boundary trees are dominated by Hornbeam *Carpinus betulus* over Hawthorn *Crataegus monogyna* with a few scattered other species such as Holly *Ilex aquifolium*. Ground flora is poor with the dense canopy shading out many plants, with Common Nettle *Urtica dioica* being the most frequent species, Bramble *Rubus fruticosus* also is present. In places Ivy *Hedera helix* is the most common ground plant. To the

north-east and along the northern boundary, Ash *Fraxinus excelsior* becomes more frequent and poor specimens of Norway Spruce *Picea abies* also are present.

Outside an eastern ditch, and presumed to be outside the Site boundary, Pedunculate Oak *Quercus robur* is more common although Hornbeam is still abundant, and Wild Service-tree *Sorbus torminalis* is present, over Hawthorn and elm *Ulmus* sp. Generally speaking, on the eastern side, Hornbeam is the dominant species northward, but oak is more prominent to the south.

Within field C there are two large trees. One is a multi-stemmed oak (target note 1) and the other is a large old Silver Birch *Betula pendula* (target note 2). These, with smaller trees around, appear to form a small glade and are indicative of some planting. The two water courses separating fields A and B, and B and C, have trees along them, especially the running stream (target note 3) which is lined on its northern side with the same species (oak and Hornbeam plus Ash); coppiced Hazel *Corylus avellana* is present.

From the internal and boundary tree lines saplings and scrub are spreading in to the interior of the Site. In field B the trees are mainly willows *Salix* spp. (target note 4); willows are also present at the southern end (target note 5) but otherwise are not common on the Site. Many of the smaller internal trees plotted on the habitat map eg in field B, are oaks.

A notable feature is the location of a concentration of Wild Service-tree seedlings and saplings in field A (target note 6); Sessile Oak *Quercus petraea* is also present in this area. The seedlings are associated with the grassiest area which includes False Oat-grass *Arrhenatherum elatius* (A); Cock's-foot *Dactylis glomerata* (O); and Yorkshire-fog *Holcus lanatus* (O); a little Sweet Vernal Grass *Anthoxanthum odoratum* (O); Creeping Bent *Agrostis stolonifera* (LF); Meadow Buttercup *Ranunculus acris* (LF); Tansy *Tanacetum vulgare* (R); and Common Fleabane *Pulicaria dysenterica* (O). As this is a small area which is being taken over by scrub and tall ruderal vegetation, this small area has not been mapped as grassland.

A small number of Horse Chestnut *Aesculus hippocastaneum* are located close to the housing by Bayley's Mead and are likely to be self-sown form garden plantings nearby.

4.2.2.3 *Scrub*

Associated with the trees are large areas of scrub. In places these are sapling and small trees which will become trees in the near future. This is particularly the case in field C where stands of young oaks are present (target note 7). Young trees are also spreading from the eastern boundary and account for much of the scrub (target note 8) in field A where young Ash and adventitious elm is present.

Most of the remaining scrub is dominated by Bramble *Rubus fruticosus* which is impenetrable in places and which made surveying some areas difficult.

Small patches of Rhododendron *Rhododendron ponticum* and Snowberry *Symphoricarpus rivularis* mostly in field C, along with the aforementioned glade and birch, all suggest some estate management planting in this area.

4.2.2.4 *Tall Ruderal Vegetation*

The dominant ruderal vegetation is tall, dense Common Nettle, which in a few places is interspersed with Bramble and is likely to become scrub in the near future. The dominance of nettle is another indicator of past land-use, suggesting eutrophication by dunging, presumably from grazing animals.

In field A, by the western boundary, this vegetation is more mixed with species such as Great Willowherb *Epilobium hirsutum* (LF); Hogweed *Heracleum sphondylium* (LF); Common Fleabane *Pulicaria dysenterica* (O) and Wild Angelica *Angelica sylvestris* (R) also present.

In the eastern half of field A, amongst the scrub, small stands of plants such as Soft-rush *Juncus effusus* and Pendulous Sedge *Carex pendula* were observed; these species indicate wet ground.

4.2.2.5 *Water Courses*

Along the eastern boundary, and it is not clear whether it lies inside or outside the Site boundary, is a deep but long term dry ditch. It discontinues at the northern and southern ends. It is shaded by over-hanging trees and is bare, with no vegetation.

The ditch which separates fields A and B is similarly dry but does appear to have water in at some times of the year.

The water course separating fields B and C held water on the day of survey and was fed at its western end via a culvert. Although it extends eastward beyond the Site boundary, it does not appear to flow across the neighbouring field, and presumably is culverted here also. It has a line of scrub or small trees on its northern side which may once have been a hedgerow. This creates shade and so the banks have been mapped as bare ground. It has limited interest.

4.2.2.6 *Discussion*

Part of this Site is shown on data sets as broad-leaved woodland which is a priority habitat; it is understood that this description is derived from aerial photographs which show tree cover in this area. Whilst trees are present internally, this is not considered to be woodland, and a more detailed reasoning is given in section 8 below.

4.2.3 Adjacent Habitats

4.2.3.1 *General*

Adjacent habitats include farmland and urban habitats.

4.2.3.2 *Farmland*

Fields to the south and east are large species-poor grassland and presumed to be used for grazing.

4.2.3.3 *Urban habitats*

All along the western side is the housing of Bayley's Mead and other residential streets. Against the northern boundary is a fenced area which appears to be industrial, with areas of hard standing for parking.

4.3 Scoping for Protected and Biodiversity Species

Some of the boundary trees may have potential for use by bats. The majority of the larger trees are east of the boundary ditch and presumed to be outside the Site. However, if any trees are to be felled, a tree assessment is recommended and may result in the need for further bat surveys.

In the eastern boundary ditch at its southern end, a large hole was found. Investigation eventually eliminated it as a Badger hole and no signs of Badger activity were found. They are unlikely to be resident on the Site due to its generally high water table, and if present in the area would be more likely to use the adjacent drier pasture. However, it is recommended that closer to the time of development a check for Badgers is made in case any animals move in in the interim.

The large areas of trees and scrub indicate suitable habitat for nesting birds, although few nests were observed. Feeding opportunities are restricted on the Site but the nearby gardens provide a source of food.

4.4 Invasive Species

No evidence of invasive alien species was found.

5 SITE EVALUATION

It is important to put records and results into context using criteria such as designation, rarity, vulnerability, threat, location in a linkage of sites or features, importance at a given scale (eg national, local, parish) etc.

Evaluation criteria developed by the Institute of Ecology and Environmental Management[7] for Environmental Impact Assessment are given below:

[7] Institute of Ecology and Environmental Management (2007). *Guidelines for Ecological Impact Assessment in the United Kingdom*. www.ieem.net

Table 1 Ecological Valuation Levels

Level of Value	Comment
Inter-national	Sites, habitats or species protected under international legislation eg. Habitats and Species Directive. These include, amongst others: cSACs, SPAs, Ramsar Sites, Biosphere Reserves, plus undesignated sites supporting populations of internationally important species.
National	Sites, habitats or species protected under national legislation e.g. Wildlife & Countryside Act 1981 and amendments. Sites include SSSIs, NNRs, Marine Reserves, plus areas supporting significant areas of UK Biodiversity Action Plan habitats, or breeding populations of rare (Red Data Book) species.
Regional	Sites, habitats or species which may have regional importance, but which are not protected under legislation (although Local Plans may specifically identify them) e.g. viable areas or populations of Regional Biodiversity Action Plan habitats or species.
County	Sites, habitats or species meeting the criteria for County, Metropolitan or Unitary Authority area designation (e.g. County Wildlife Site, Key Site). This category includes designated Local Nature Reserves, which have statutory protection. Sites containing viable area or populations of County Biodiversity Action Plan habitats or species, local Red Data Book species etc.
District	Undesignated sites or features which enhance or enrich the local area (Borough, District etc). Sites containing viable area or populations of local Biodiversity Action Plan habitats or species, local Red Data Book species etc.
Local or Parish	Undesignated sites or features, which enhance or enrich the wildlife resource at a Parish or neighbourhood level.
Zone of influence	Includes nil or low ecological value but which form a function within the site or immediate surroundings.

The Site is abandoned land where trees and scrub have spread in to the Site. The difficult access has reduced disturbance which in general enhances wildlife potential.

Applying the above criteria to the Site, the following is concluded:

Table 2 Site Ecological Valuation Levels

Level of Value	Comment
Inter-national	Possible bat use of larger trees.
National	None. A further check for Badgers closer to the time of development is recommended.
Regional	None.
County	None.
District	None.
Local	Mature trees mostly on boundaries. Part of the site is plotted as broad-leaved woodland on MAGIC, which is a Priority habitat. However it is not a priority habitat in Essex, and covers only a small area. Typical woodland ground flora is not present and although the northern and eastern boundaries might be described as linear woodland, the interior is fairly recently colonised by scrub and trees.
Zone of influence	Wild Service-tree present as mature tree, saplings and seedlings (but this species is common in Essex). Trees and scrub may be used by nesting birds.

The above information identifies potential bat interest in mature trees, but which is mostly on or outside the boundaries. It does not contain large areas of woodland and there are indications that the trees have, for a long period of time, been boundary features and not woodland. There is also evidence of estate-type management especially in northern field C. Woodland ground flora is generally lacking. However, the presence of mature oaks and Hornbeam as well as regenerating Wild Service-tree (but not woodland *sensu stricto*) elevates this site to one of Local importance.

6 POTENTIAL IMPACTS

6.1 The Scheme

The scheme will inevitably result in the loss of some mature trees in the interior of the site, plus possible trees on the boundaries; areas of scrub, including some young saplings and seedlings will also be lost. It is also likely to result in the culverting of a flowing water course but which is likely to be a receiver for drainage from adjacent development rather than a stream. As the evaluation of the Site is at Local level, the scheme will have limited and low level impacts overall.

6.2 European Protected Species (EPS)

There is potential for impacting on bats as there are quite a few mature trees on or just outside the Site boundary.

6.3 UK Protected Species

No impacts on UK Protected Species are expected.

6.4 Species/Habitats of Principal Importance (Biodiversity)

Broad-leaved woodland is a priority habitat (but see section 8 for discussion).

Although few nests were seen, there is a possibility for disturbing some nesting birds in the scrub or trees.

From the above it can be deduced that the proposed development may impact on bats in boundary trees, but otherwise, is unlikely to impact significantly on protected or biodiversity species.

7 RECOMMENDATIONS

7.1 Further Surveys

7.1.1 Bats

Further investigation of the potential for bats is likely to be required. In the first instance a ground assessment of the potential for the trees to have bat roosts is recommended. As a result of that initial assessment a more detailed, off the ground visual assessment may be required of identified trees, or activity surveys may be necessary to establish the use of individual trees if any. This should establish the presence of bats and if present the species, numbers and type of roost, to inform the requirements for mitigation if felling is required.

7.2 Mitigation and Enhancement Opportunities

7.2.1 Mitigation

Where a proposed development will have a negative impact on a protected site or protected species, or other major feature, the first measures that should be considered are avoidance of activities that will cause an impact, and consideration of alternatives to the development. Where impacts have been identified and avoidance or alternatives are not possible, then there is a restricted range of options available. Even if no protected species or sites are present, impacts on biodiversity should be considered and mitigated. In this case:

- Biodiversity – The development proposals should maintain or increase the biodiversity of this site. As the proposed development is likely to result in loss of some trees, it is recommended that these are replaced by planting native tree species to enhance the proposed development grounds. Tree felling should be avoided unless absolutely necessary.
- Retention of the mature boundary trees especially along the eastern boundary

where they form a buffer to open countryside is desirable.

- Wild Service-tree and oak seedlings were noted (although Hornbeam seedlings did not appear to be common). It would be beneficial to collect and retain the best quality specimens of these which could then be used within the landscaping of the scheme or elsewhere in the local area. It is unclear whether Sessile Oak is native to this area and these seedlings should probably be avoided.
- Lighting – Excessive light spill from artificial night lighting installed along new access routes should be kept to an absolute minimum by proper design. Guidance should be sought from the Bat Conservation Trust 'Bats and Lighting in the UK' document (2009)[8].
- Scrub and tree clearance should not be undertaken during the bird nesting season unless works to make the site unsuitable for nesting are first undertaken.

Method Statement for Bats and Nesting Birds:

If evidence of bat roosts is found then a mitigation licence will be required. However, even if no evidence is found at the time of survey, bats can move in to a tree at any time. Therefore the following procedures are recommended as a precaution:-

All bat roosts are protected by law whether they are in occupation or not. Bats may be found in trees during the maternity season (May – August inclusive), but also at other times of year, either in temporary roosts or hibernation roosts. For tree removal, timing of works needs to be considered so that in particular it avoids the bat maternity and bird breeding seasons. If bird's nests under construction or in occupation are present in trees during the breeding bird season (March – August inclusive) then works cannot take place until any chicks present have fledged and left the nest.

An ecological watching brief may be necessary during tree removal to ensure that no bat roosts or active birds' nests are present. In the event that bat roosts or active birds' nests are found in the vegetation before or during removal, work must stop immediately and contractors should contact a licensed ecologist. If bats are found, all works must stop and contact with the local Natural England office will be made - no works likely to affect bats should continue until Natural England have been consulted, and it may then be necessary to obtain a European Protected Species Licence. In the event of finding a birds' nest under construction or in occupation, it will need to be cordoned off and protected until any young present have fledged.

For tree felling:

- Work should be carried out by a suitably experienced tree surgeon.

[8] Bat Conservation Trust (2009). Bats and Lighting in the UK. Bat Conservation Trust, London

- Each potential roost should be treated as if bats are present.
- The sections containing the potential roosts need to be cut and carefully lowered to the ground.
- Pruning or sectional felling should avoid cuts in proximity of potential roosts.
- Limbs with internal fissures, when felled, should avoid closure of fissures.
- Cross cutting should avoid cavities and hollow sections.
- The sections containing potential bat roosts should be left on the ground for a period of at least 24 hours.

7.2.2 Enhancement

Opportunities to provide enhancement should be examined for any site. For this Site the following are suggested:

- Planting should comprise native tree, hedgerow or scrub mixtures and be managed for biodiversity. Using seedlings collected from the site would be beneficial as the trees would be known to be of local provenance.
- Landscaping – landscape planting should maintain and/or improve habitat connectivity across the site.
- Provision of some bat and bird boxes might be considered in housing or in retained mature trees.
- Planting should connect any newly created bat roost locations within buildings to the wooded boundaries and other suitable foraging habitat.

8 DISCUSSION

The northern and eastern boundaries, plus at least half of field C and the eastern part of field B are shown as an area of broad-leaved woodland (a priority habitat) on data sets. The northern and eastern boundaries are strips of trees and might be considered to be linear woodland. But the colonisation of internal areas as demonstrated by scrub and younger trees, suggests a fairly recent natural spread by seeding, post-cessation of grassland management, and that this is not naturally woodland. The lack of a diverse or typical woodland ground flora under the trees, also indicates that this is relatively recent tree cover, with the dominance of nettle indicating eutrophication as a result of grazing.

Wild Service-tree, Pedunculate Oak and Hornbeam can all be representatives of ancient woodland, but in this case are not associated with other ancient woodland factors such as ground flora, banks or other features. This plus the indications of grazing described above, all suggest that in this case the area is not ancient woodland.

Wild Service-tree rarely grows outside woodland but can be found in hedgerows. It is a tree which is associated with ancient forests, but which was protected and cultivated as the best wood for making crossbows. Its growth is temperature dependent and so it is restricted mainly to south-east England with some in the south-west and stretching towards the Midlands. It is possible that, with climate change, it may spread northwards. 'The earliest record ... from anywhere in Britain (other than the report of Iron Age Wild Service charcoal from Maiden Castle, Dorset) is from Havering Park, Essex (enclosed as a royal park in the Middle Ages). ... Today there are concentrations of records from the Basildon area and to the south east of Chelmsford and these are associated with the Tertiary and Quaternary gravels overlying the London Clay.'[9]

The above supports the theory that this site is not woodland, but represents a natural spread into the Site from linear woodland boundary features. It is also not ancient woodland by any definition. The presence of Wild Service-tree is of interest but not notable in an area where this species is relatively common.

9 CONCLUSIONS

The Site is abandoned farmland which is being colonised by scrub and tree species from woody boundary habitats; ground flora is poor. The mature trees, mostly on two boundaries, may be used by bats and there are bird nesting opportunities although few nests were observed. Otherwise the potential of the Site is poor and it has been evaluated as of Local importance.

Further bat survey work is recommended. Apart from nesting birds, no other species potential has been identified.

Features which require protection and enhancement are centred on the mature boundary trees and a few other internal specimens. Otherwise there is little of note on site. Basic mitigation and enhancements are given at this early stage, which include the possible collection of tree seedlings for use in the Site landscaping scheme or elsewhere in the local area.

No significant or major impacts on a significant resource are expected from this development, but loss of scrub and some trees is very likely to occur.

[9] P Roper 1993. The Distribution of the Wild Service Tree (L.) Crantz, in the British Isles. *Watsonia* 19; 209-229 (1993).

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APPENDIX I

European Protected Species Legislation

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EUROPEAN PROTECTED SPECIES (EPS)

BATS, GREAT CRESTED NEWTS, OTTERS, DORMICE

The following is given for guidance only; it is not a legal definition or interpretation and clients are advised to seek legal opinion as to its contents and the law.

EPS are protected under the EC Council Directive on the Conservation of Natural Habitats and Wild Fauna and Flora (the Habitats and Species Directive). This legislation is enacted under the Conservation of Habitats and Species(Amendment) Regulations 2012 (the 2012 Regulations).

Species listed under Annex II of the Habitats Directive are subject to special protection and special offences exist. Under this legislation some disturbance of EPS falls outside the 2012 Regulations, but could potentially fall within the disturbance offence found in the Wildlife and Countryside Act 1981 (WCA).

a) It is an offence to '*damage or destroy a breeding site or resting place of an EPS animal*.'

This offence exists even if the damage or destruction occurs accidentally. The offence is designed to 'safeguard the continued ecological functionality' of breeding sites and resting places, so such a place may be protected even if not in current use (eg if use is seasonal). Therefore a site or place used only occasionally for breeding or resting purposes is very likely to fall outside the offence. Early and detailed surveys are therefore necessary to determine the continued functionality and the degree of use of such a place. Mitigation which ensures the continued ecological functionality of a site or place would allow the offence to be avoided.

b) It is an offence to '*deliberately disturb wild animals of an EPS including in particular any disturbance which is likely to impair their ability to -*

I) to survive, to breed or reproduce or to rear or nurture their young; or

ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate.'

c) Other EPS offences under the 2012 Regulations are:

I) deliberately capturing, killing or injuring an EPS animal;

ii) deliberately taking or destroying the eggs of an EPS animal;

iii) deliberately picking, cutting, uprooting or destroying an EPS wild plant.

iv) breach of a licence condition.

Where an offence under the 2012 Regulations is likely to be committed, the offence can be derogated by means of a licence. In order to obtain a licence the scheme has to pass three tests. These are:

- Regulation 53(2)(e) (the 'purpose' test) states that licences may be granted to '*preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment.*'

- Regulation 53(9)(a) states that a licence may not be granted unless Natural England is satisfied '*that there is no satisfactory alternative'*.
- Regulation 53(9)(b) states that a licence cannot be issued unless Natural England is satisfied that the action proposed '*will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range'*.

Whilst an ecologist can assist with these tests, the client is advised to appoint their own legal and/ or economic advisors to assist with defining issues such as 'overriding public interest' and 'social or economic nature'. The tests also require considerably more work to be undertaken on the availability of alternative sites, or alternative methodologies for a development so as to avoid impacting on an EPS.

There is a new offence of '*breach of a licence condition*', greater powers of inspection and investigation; and higher penalties including custodial sentences.

If the 2012 Regulations offence is relevant then an EPS licence is required to avoid prosecution; whereas if (in a development context) the WCA offence is relevant no licence is required (or even available), but the client / ecologist has to ensure that he/ she is covered by one of the defences (see WCA v), vi), below).

Wildlife and Countryside Act - EPS offences under the Wildlife and Countryside Act:

v) intentionally or recklessly obstructing access to places used by the listed species for shelter or protection; or

vi) intentionally or recklessly damaging or destroying any structure or place which the listed species use for shelter or protection.

An offence under the WCA as described above, can occur to an EPS, but also other species listed in various schedules (notably schedules 1,5 and 8) of the Act.

Defences under the WCA only:

vii) '*the offence occurred as the incidental result of an otherwise lawful activity, and could not reasonably have been avoided.*'

viii) '*the species was in a dwelling house*'.

These defences would have to be rigorously justified and documented.

Bats

In addition to the EPS legislation described above, all UK bat species are protected under Section 9 Schedule 5 of the Wildlife and Countryside Act 1981 and amendments; they are protected under the Berne Convention, and are given migratory species protection under the Convention of Migratory Species of Wild Animals (known as the Bonn Convention 1980), including its Agreement on the Conservation of Bats in Europe (EUROBATS).

APPENDIX II

Photographs

959/1/1 Habitat Map

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PHOTOGRAPHS

Photograph 1 - Ditch between fields with trees and scrub on the northern (left) side. Southern side less wooded but shaded and with poor ground flora. Colonising scrub and young trees form the eastern boundary can be seen at the top (east) of the photograph.

Photograph 2 - typical view of Bramble areas enclosed by invading scrub.

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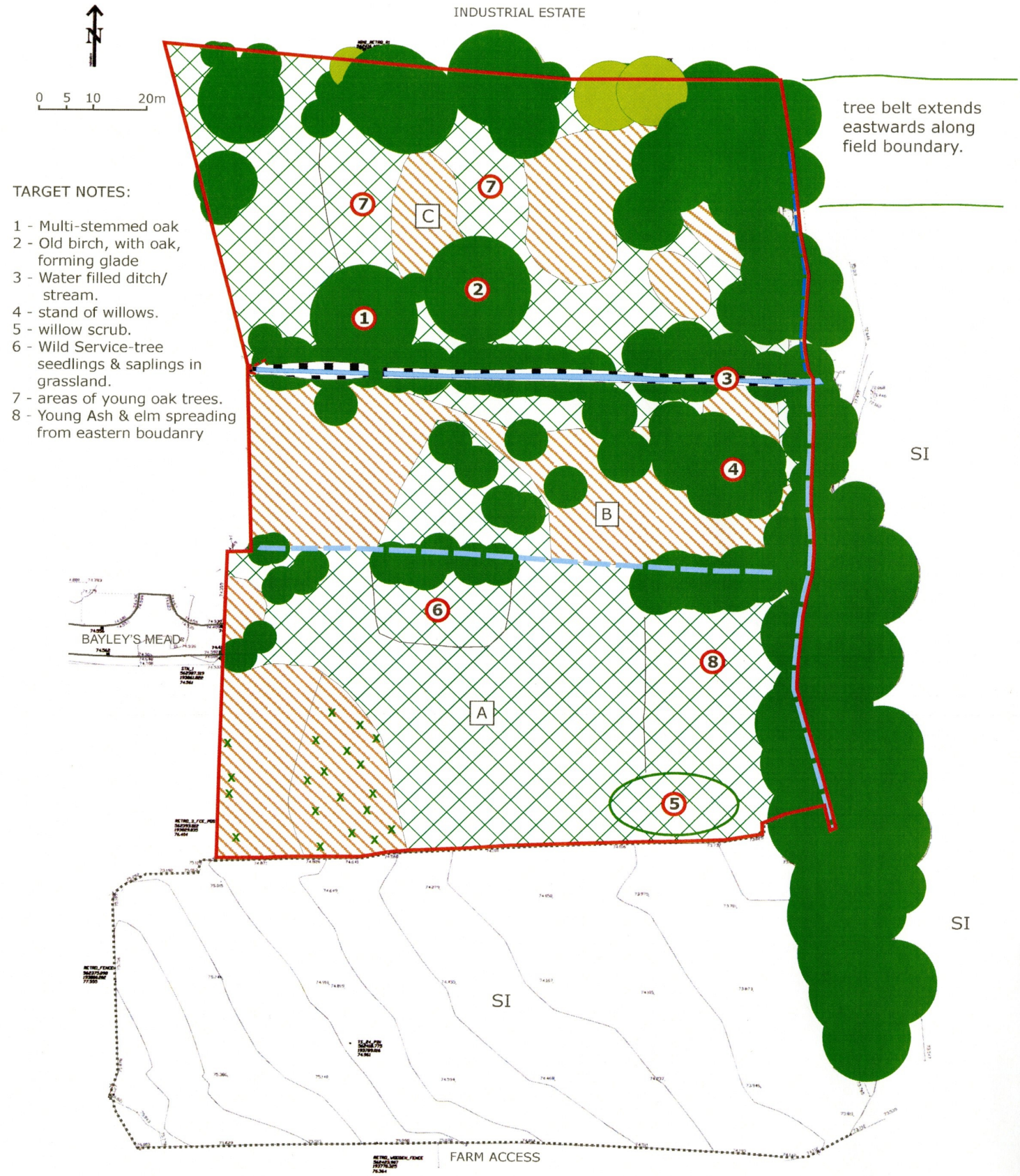
INDUSTRIAL ESTATE
N
0 5 10 20m
tree belt extends eastwards along field boundary.
TARGET NOTES:
1 - Multi-stemmed oak
2 - Old birch, with oak, forming glade
3 - Water filled ditch/ stream.
4 - stand of willows.
5 - willow scrub.
6 - Wild Service-tree seedlings & saplings in grassland.
7 - areas of young oak trees.
8 - Young Ash & elm spreading from eastern boudanry
SI
BAYLEY'S MEAD
SI
SI
FARM ACCESS
Broad-leaved trees
Scrub - dense
Scrub - scattered
Conifers
Tall ruderal vegetation
SI Semi-improved grassland
Bare ground
Running water
water course - dry
Fence
Wall
Target note
Project:
BAYLEY'S MEAD
BRENTWOOD
Client:
Countryside Properties (UK) Ltd
Scale: see scale bar
Drawn by: JG
Date: 07.09.2013
Rev:
Drawing:
959/1/1
HABITAT MAP
Green Environmental Consultants
22 Heath Road, Swaffham Bulbeck, Cambridge, CB25 0LS
Tel/fax: 01223 811190
e-mail: jgreen@greenecology.co.uk

BAYLEYS MEAD, BRENTWOOD
PRELIMINARY ENGINEERING APPRAISAL

This appraisal is based upon the following information: -

Land survey by Lee Hooper (1462 dated Oct 2012)
Anglian Water drainage records
Walk-over survey
Sketch layout by Clague dated Feb 2013

General

The site is rectangular in shape, occupying an area of about 1.6 ha. It does not appear to have had a previous use; a historical map search would confirm this. The northern two-thirds of the site is covered with numerous trees and general vegetation and this can be clearly seen on the Google aerial survey. It should be noted that what appears to be part of the site, ie a strip of land of about 60m width to the north of The Tyburns is not within the land currently under consideration although it is shown on the land survey.

There are two ditches within the land running west to east and dividing the site into one-third segments. The northernmost ditch takes a significant flow whereas the southernmost is dry and appears to be obsolete.

Foundations

A soils investigation has not been carried out on this land. However the geology map indicates a clay sub-soil. In view of the numerous trees which exist on the site, all houses will require piled foundations.

Highways

The current width of Bayleys Mead is 5.5m. This is greater than the minimum 4.8m 'minor access road' width specified within the Essex Design Guide which could support a cul-de-sac development of 100 dwellings. There are 14 dwellings currently served from the road and the Clague proposal for the new development shows 39 units. So the total amount is still considerably lower than the Design Guide maximum.

Sight line visibility from Bayleys Mead onto Hanging Hill Lane is about 2.4m x 65m to the right hand side with the 'y' distance being much greater to the left. The requirement for a 30mph road is 2.4 x 43m. Even if measured vehicle speeds in Hanging Hill lane are greater, say up to about 37mph, then the visibility requirement for that speed (2.4 x 59m) is still achieved.

There does not appear to be an objective reason why the existing access road could not support the extended development as indicated by the Clague layout.

Drainage Strategy (refer to accompanying indicative strategy drawing BMB/E/SK01)

- **Foul Water**

The Anglian Water public sewer record shows a pumped main within Bayleys Mead outfalling into a 300mm diameter sewer in Hanging Hill Lane. The pumping station itself is located at the eastern end of the road adjacent to the boundary of the site under consideration.

Foul water from the development would discharge to the existing pumping facility and thereafter to the sewer in Hanging Hill Lane. The system within the site could either be gravity fed discharging to the existing pump at a depth of about 2.5 to 3m or alternatively via a new pumping station within the development (as shown on the layout) where the connection to the existing would be much shallower. The benefit of the former is that there would only be one (existing) pumping station albeit the depth would have to be increased. The latter option is not likely to require an alteration to the depth of the existing chamber but an additional pumping station, marked PS on the plan would be required. It is likely that Anglian Water would prefer to upgrade the existing pumping station rather than have the ongoing maintenance responsibility for two.

- **Surface Water**

The existing surface water catchment for the local residential area drains into a 600mm diameter pipe which discharges via a headwall into the western end of the northernmost ditch within the site. This ditch runs across the site and continues eastwards beyond. The Environment Agency map indicates that an interconnecting ditch system eventually outfalls to the River Can.

Storm run-off from the developed site would discharge to the ditch but at a controlled rate limited to what is currently considered to be the green-field run-off. This will be about 8 litres/sec. The attenuation system required to control this flow would require a storage volume of between approximately 400 and 600m^3. This is a considerable requirement for such a small site where the depth of the outfall ditch is only about 1m. Storage is likely to be provided by a combination of contributing elements, swales, ponds and underground cellular storage. The plan shows a general idea of requirements but is not intended to represent an evaluated design. For example, the pond 'B' is not in the right position for the site being located at the higher end of the site. It would have to be located towards the pond 'A' position where the levels are lowest. In addition to this, ground levels would have to be raised for perhaps 50% of the dwellings south of the ditch. This would allow slab levels to be raised to provide a sufficient depth between rainwater outlets at the houses and the invert of the existing outfall ditch.

Contamination

An intrusive soil investigation will be required to confirm whether the soil on the site is contaminated. However, in view of the perceived history of the land, this is unlikely to be the case.

Joe Whiteman
18th Feb 2013