



PLANNING COMMITTEE AGENDA

Tuesday 18th October 2022 at 7.15pm

**Council Chamber, Braintree District Council, Causeway House, Bocking
End, Braintree, CM7 9HB**

THIS MEETING IS OPEN TO THE PUBLIC

(Please note this meeting will be broadcast via the Council's YouTube Channel, webcast and audio recorded) www.braintree.gov.uk

This is a decision making public meeting of the Planning Committee, which may be held as a hybrid meeting. Members of the Planning Committee and Officers will be in attendance in the Council Chamber, Causeway House, Braintree and members of the public may also choose to attend the meeting. Members of the public will also be able to view and listen to this meeting via YouTube.

To access the meeting please use the following link: <http://www.braintree.gov.uk/youtube>

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

Membership:-

Councillor J Abbott	Councillor F Ricci
Councillor Mrs J Beavis	Councillor Mrs W Scattergood (Chairman)
Councillor K Bowers	Councillor P Schwier
Councillor H Johnson	Councillor Mrs G Spray
Councillor D Mann	Councillor Mrs S Wilson
Councillor A Munday	Councillor J Wrench
Councillor Mrs I Parker (Vice-Chairman)	

Substitutes: Councillors T Cunningham, A Hensman, D Hume, Mrs A Kilmartin, P Thorogood, Vacancy *(Substitutes who wish to observe the meeting will be required to do so via the Council's YouTube Channel).*

Apologies: 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.

Any Member who is unable to attend a meeting is able to appoint a Substitute. Written notice must be given to the Governance and Members Team no later than one hour before the start of the meeting.

D GASCOYNE
Chief Executive

INFORMATION FOR MEMBERS - DECLARATIONS OF INTERESTS

Declarations of Disclosable Pecuniary Interest (DPI), Other Pecuniary Interest (OPI) or Non-Pecuniary Interest (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 to Speak on a Planning Application/Agenda Item:

The Agenda allows for a period of up to 30 minutes for Public Question Time. Members of the public wishing to speak are requested to register by contacting the Governance and Members Team on 01376 552525 or email governance@braintree.gov.uk by **midday on the second working day** before the day of the Committee meeting. For example, if the Committee 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.

Members of the public who have registered to speak during Public Question Time are requested to indicate when registering if they wish to attend the Planning Committee meeting ‘in person’ at Causeway House, Bocking End, Braintree, 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.

Members of the public may speak on any matter listed on the Agenda for this meeting. Registered speakers will be invited to speak immediately prior to the relevant application/item. All registered speakers will have three minutes each to make a statement.

The order in which registered speakers will be invited to speak is: members of the public, Parish Councillors/County Councillors/District Councillors/Applicant/Agent.

The Chairman of the Planning Committee has discretion to extend the time allocated to registered speakers and the order in which they may speak.

All registered speakers are requested to send a written version of their question/statement to the Governance and Members Team by E-Mail at governance@braintree.gov.uk by no later than 9.00am on the day of the meeting. In the event that a registered speaker is unable to connect to the virtual meeting, or if there are any technical issues, their question/statement will be read by a Council Officer.

Public Attendance at Meeting: The Council has reviewed its arrangements for this decision making meeting of the Planning Committee in light of the Covid pandemic. In order to protect the safety of people attending the meeting, Councillors and Officers will be in attendance at Causeway House, Bocking End, Braintree. Members of the public may also attend the meeting ‘in person’, but priority will be given to those people who have

registered to speak during Public Question Time. Members of the public will be able to view and listen to the meeting either as a live broadcast, or as a recording following the meeting, via the Council's YouTube channel at <http://www.braintree.gov.uk/youtube>

Health and Safety/Covid: Causeway House is a Covid secure building and arrangements are in place to ensure that all visitors are kept safe. Visitors are requested to follow all instructions displayed around the building or given by Officers during the course of their attendance. All visitors will be required to wear a face covering, unless an exemption applies.

Visitors are asked to make themselves aware of the nearest available fire exit. In the event of an alarm sounding visitors must evacuate the building immediately and follow all instructions provided by staff. Visitors will be directed to the nearest designated assembly point where they should stay until they are advised that it is safe to return to the building.

Mobile Phones: Please ensure that your mobile phone is switched to silent during the meeting in order to prevent disturbances.

WiFi: Public Wi-Fi (called BDC Visitor) is available in the Council Chamber at Causeway House; users are required to register when connecting.

Substitute Members: Only the named Substitutes on this Agenda may be appointed by a Member of the Committee to attend in their absence. The appointed Substitute becomes a full Member of the Committee with participation and voting rights.

Documents: Agendas, Reports and Minutes can be accessed via www.braintree.gov.uk

Data Processing: During the meeting the Council will be collecting performance data of participants' connectivity to the meeting. This will be used for reviewing the functionality of Zoom and YouTube as the Council's platform for virtual meetings and for monitoring compliance with the legal framework for Council meetings. Anonymised performance data may be shared with third parties.

For further information on how the Council processes data, please see the Council's Privacy Policy:

https://www.braintree.gov.uk/info/200136/access_to_information/376/privacy_policy

Webcast and Audio Recording: Please note that this meeting will be webcast and audio recorded. You may view webcasts for up to 6 months after the meeting using this link: <http://braintree.public-i.tv/core/portal/home>. The meeting will also be broadcast via the Council's YouTube Channel.

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	Page
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 meetings of the Planning Committee held on 23rd August 2022 and 4th October 2022 (copies to follow).	
4 Public Question Time (See paragraph above)	
5 Planning Applications To consider the following planning applications	
5a App. No. 19 00014 FUL – Land at junction of Laburnum Way and Dorothy Sayers Drive, WITHAM	6-80
5b App. No. 21 00059 VAR – Morrisons Supermarket, Braintree Road, WITHAM	81-149
5c App. No. 21 00411 FUL – Land at The Airfield, EARLS COLNE	150-171
5d App. No. 22 01147 FUL – Land adjacent to Butlers Wood and Waldegrave Wood, West of A131 (in the Parishes of Bulmer and Twinstead), Sudbury Road, BULMER	172-228
5e App. No. 22 01411 FUL – Edinburgh Woollen Mill, 29 Bank Street, BRAINTREE	229-242
5f App. No. 22 01527 FUL – Land East of High Street, HALSTEAD	243-282
5g App. No. 22 02076 HH – Barn at Crow’s Farm, North Road, BELCHAMP WALTER	283-297

6 Urgent Business - Public Session

To consider any matter which, in the opinion of the Chairman, should be considered in public by reason of special circumstances (to be specified) as a matter of urgency.

7 Exclusion of the Public and Press

To agree the exclusion of the public and press for the consideration of any Items for the reasons set out in Part 1 of Schedule 12(A) of the Local Government Act 1972.

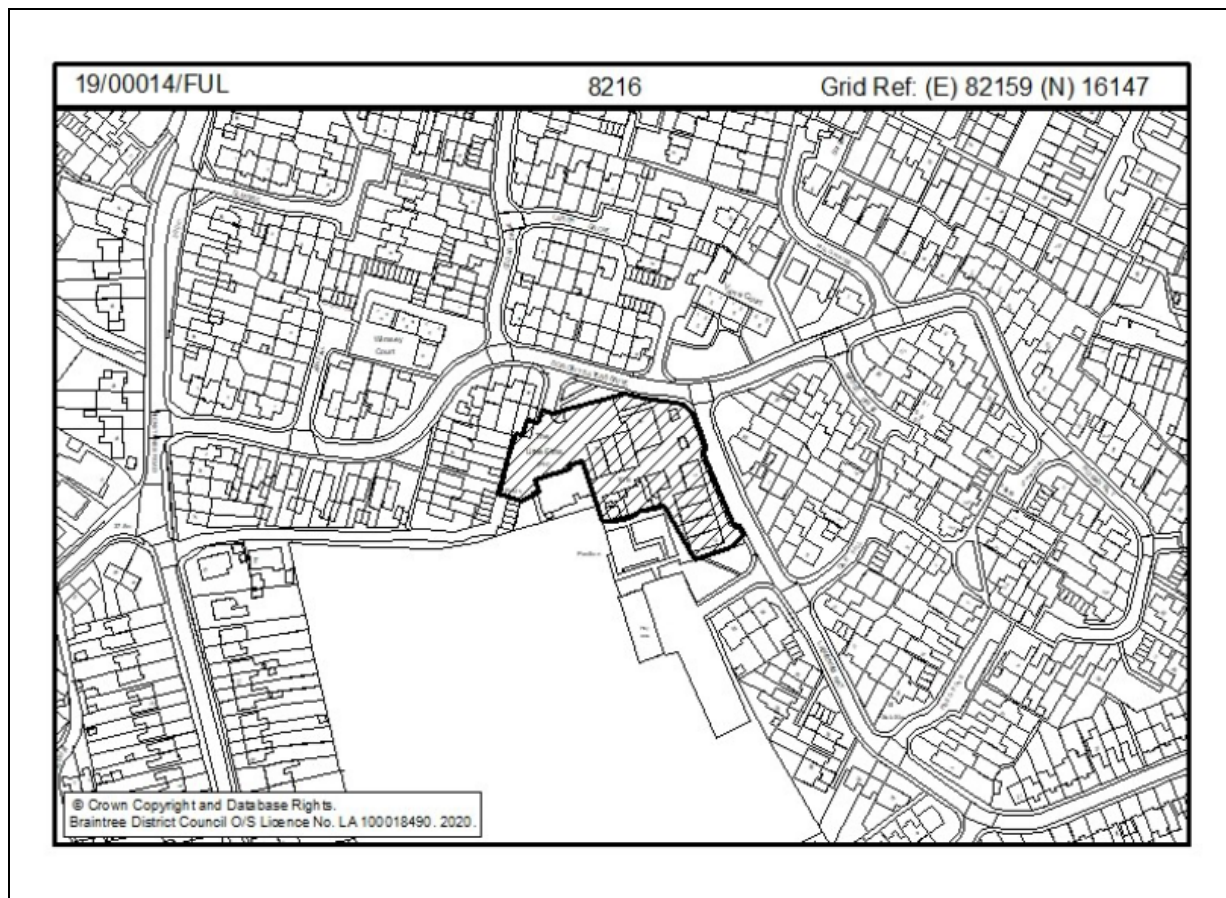
At the time of compiling this Agenda there were none.

PRIVATE SESSION**Page****8 Urgent Business - Private Session**

To consider any matter which, in the opinion of the Chairman, should be considered in private by reason of special circumstances (to be specified) as a matter of urgency.

Agenda Item: 5a

Report to: Planning Committee		
Planning Committee Date: 18th October 2022		
For: Decision		
Key Decision: No		Decision Planner Ref No: N/A
Application No:	19/00014/FUL	
Description:	Redevelopment of Rickstones Neighbourhood Centre to provide commercial floorspace (Units 1-3 Use - Class E and Units 4&5 - Hot Food Takeaway) and 21 flats, together with private soft landscaped area and gardens, car parking and associated infrastructure.	
Location:	Land At Junction Of Laburnum Way And Dorothy Sayers Drive, Witham	
Applicant:	Mr S and Mrs K Patel, C/o Agent	
Agent:	Andreja Beric, Twist In Architecture, Unit A119 Riverside Business Centre, Haldane Place, London, SW18 4UH	
Date Valid:	4th January 2019	
Recommendation:	It is RECOMMENDED that the following decision be made: § Application GRANTED subject to the completion of a Section 106 Agreement to cover the Heads of Terms outlined within the Recommendation section of this Committee Report, and subject to the Condition(s) & Reason(s) and Informative(s) outlined within Appendix 1 of this Committee Report.	
Options:	The Planning Committee can: a) Agree the Recommendation b) Vary the Recommendation c) Overturn the Recommendation d) Defer consideration of the Application for a specified reason(s)	
Appendices:	Appendix 1:	Approved Plan(s) & Document(s) Condition(s) & Reason(s) and Informative(s)
	Appendix 2:	Policy Considerations
	Appendix 3:	Site History & Original Committee Report
	Appendix 4:	Planning Committee 8th February 2022 (Agenda and Minutes)
Case Officer:	Neil Jones For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2533, or by e-mail: neil.jones@braintree.gov.uk	

Application Site Location:

Purpose of the Report:	<p>The Committee Report sets out the assessment and recommendation of the abovementioned application to the Council's Planning Committee. The report sets out all of the material planning considerations and the relevant national and local planning policies.</p> <p>The application was originally reported to Members at the Planning Committee meeting held on 8th February 2022, where it was resolved to grant planning permission subject to the Applicants' entering into a suitable legal agreement pursuant to Section 106 of the Town and County Planning Act 1990 (as amended).</p> <p>The agreement had not been completed prior to the adoption of the Council's new Section 2 Local Plan on 25th July 2022, so this report updates the Development Plan context for the proposal. The policies listed within Appendix 2 of this report have been revised, with references to the old Local Plan Review and Core Strategy policies removed as they have been superseded.</p> <p>A copy of the original Committee Report and the minutes from the 8th February 2022 meeting are attached to this report within Appendix 3.</p>
Financial Implications:	<p>The application was not subject to the usual application fee paid as under the Fee Regulations the Applicant was entitled to a 'Free-Go' having previously paid an application fee for a previous application which was withdrawn.</p> <p>As outlined above, it is recommended that the decision is subject to a Section 106 Agreement which seeks to mitigate the impact(s) arising from the proposed development. Any financial implications arising out of a Section 106 Agreement will be set out in more detail within the body of this Committee Report.</p> <p>The Applicant will pay a financial contribution pursuant to the Habitat Regulations as set out within the body of this Committee Report.</p> <p>Financial implications may arise should the decision be subject to a planning appeal or challenged via the High Court.</p>

Legal Implications:	<p>Any legal implications arising out of a Section 106 Agreement will be set out in more detail within the body of this Committee Report.</p> <p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either set out the relevant Conditions & Reasons and any Informatives, or the Reasons for Refusal if applicable.</p> <p>All relevant policies are set out within the report, within Appendix 2.</p>
Other Implications:	<p>The application has been subject to public consultation and consultation with relevant statutory and non-statutory consultees. All responses received in response to this consultation are set out within the body of the original Committee Report.</p>
Equality and Diversity Implications	<p>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:</p> <ul style="list-style-type: none"> 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; c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding. <p>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).</p> <p>The consideration of this application has not raised any equality issues.</p>

Background Papers:	<p>The following background papers are relevant to this application include:</p> <ul style="list-style-type: none"> § Planning Application submission: <ul style="list-style-type: none"> § Application Form § All Plans and Supporting Documentation § All Consultation Responses and Representations <p>The application submission can be viewed online via the Council's Public Access website: www.braintree.gov.uk/pa by entering the Application Number: 19/00014/FUL.</p> <ul style="list-style-type: none"> § Policy Documents: <ul style="list-style-type: none"> § National Planning Policy Framework (NPPF) § Braintree District Local Plan 2013 - 2033 § Neighbourhood Plan (if applicable) § Supplementary Planning Documents & Supplementary Planning Guidance <p>The National Planning Policy Framework can be viewed on the GOV.UK website: www.gov.uk/.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: www.braintree.gov.uk.</p>
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1. UPDATE REPORT

- 1.1 As highlighted within the 'Purpose of the Report' section above, the proposal the subject of this report was originally reported to Members at the Planning Committee meeting held on 8th February 2022, where it was resolved to grant planning permission subject to the Applicants' entering into a suitable legal agreement pursuant to Section 106 of the Town and County Planning Act 1990 (as amended).
- 1.2 Essex County Council are a party to the Section 106 Agreement as a number of the planning obligations are being given to them. The District Council's solicitor promptly issued a draft Section 106 Agreement to the Applicant's Solicitor and Essex County Council, once the Councils were given cost undertakings that the Applicant would pay the Council's legal fees incurred in preparing the agreement. Regrettably after the initial draft was produced there was a long delay in Essex County Council providing their initial comments on the draft agreement and this caused a significant delay in progressing the Section 106 Agreement.
- 1.3 The Section 106 Agreement had not been completed prior to the adoption of the Council's new Section 2 Local Plan on 25th July 2022, so this report updates the Development Plan context for the proposal. The Section 106 planning obligations are now agreed and the agreement is engrossed and ready for completion.
- 1.4 The policies listed within Appendix 2 of this report have been revised from those previously highlighted as being material to the case in hand, with references to the old Local Plan Review and Core Strategy policies removed as they have been superseded. A number of policy numbers and policy titles listed within the Publication Draft Section 2 Local Plan (2017) have also been revised within the adopted version of the Local Plan, although their substance remains the same.
- 1.5 A copy of the original Committee Report and the minutes from the 8th February 2022 meeting are attached to this report within Appendix 4.
- 1.6 This update therefore relates to the adoption of the Braintree District Local Plan 2013 – 2033 and how it effects the proposal for the redevelopment of Rickstones Neighbourhood Centre to provide commercial floorspace (Units 1-3 Use - Class E and Units 4&5 - Hot Food Takeaway) and 21 flats, together with private soft landscaped area and gardens, car parking and associated infrastructure.
- 1.7 In addition, it was resolved by Members at the Planning Committee meeting of 8th February 2022 to add 2no further conditions to the grant of planning permission. These additional conditions require the development to be connected to fibre broadband and for details of post boxes for each flat to be provided. These additional conditions are now listed as Conditions 27 & 28 within Appendix 1 to this report.

2. Braintree District Local Plan 2013 – 2033

2.1 The Council's statutory Development Plan consists of the Braintree District Local Plan 2013 - 2033. Section 2 of the Plan has been found sound by the Planning Inspector and adopted by Full Council on 25th July 2022.

2.2 Now that the Local Plan has been adopted, full weight can be given to the policies, as opposed to the limited weight that could be given to the policies when the application was reported to Planning Committee in February.

2.3 Of most direct relevance to this application is Policy LPP28 of the Adopted Local Plan (Comprehensive Redevelopment Area - Rickstones Neighbourhood Centre). This policy was previously known as Policy LPP30 in the Draft Publication Section 2 Local Plan. The wording of LPP28 is broadly the same as draft Policy LPP30 and states:

“Land at Rickstones Neighbourhood Centre, Dorothy Sayers Drive, Witham is allocated as a Comprehensive Redevelopment Area for a mixed-use development which could include a combination of retail, community uses, public house, pavilion and residential development. Car parking will be supported.

Development of the Comprehensive Redevelopment Area should be in accordance with the principles of the adopted Supplementary Planning Document.”

2.4 The same list of potential uses are listed in the adopted policy for the site but the whereas the Publication Draft Local Plan said that the site was allocated for a mixed use development where a combination of uses was supported, the Adopted Local Plan states that a development of the site could include a combination of different uses from the list. The redevelopment proposed in this planning application includes retail, community uses and residential development. Whilst the policy states that the redevelopment of the site could have included the pavilion and public house they do not, for reasons explained in the original Committee Report. The reference to car parking in the adopted policy arguably attaches a greater importance to car parking than the version of the policy in the Publication Draft Local Plan. The Adopted Local Plan states explicitly that car parking will be supported, in contrast to the other uses which are permitted but not explicitly supported.

2.5 Policy LPP16 of the Adopted Local Plan (Housing Provision and Delivery) states that the Council will identify housing development sites with capacity for ten or more dwellings. Appendix 3 to the Local Plan lists those sites and the list include WITN 439 - Rickstones Neighbourhood Centre, land at Dorothy Sayers Drive/Laburnum Avenue Witham. A capacity of 14 dwellings is listed. The inclusion of the site within the housing supply for the plan period adds further weight to approval of the application.

- 2.6 Policy LPP35 of the Adopted Local Plan (Housing Mix, Density and Accessibility) sets out a range of quantitative and qualitative standards against which the Council will assess new residential developments. Having assessed the scheme against the new policy Officers find that the proposals remain acceptable.
- 2.7 Officers consider that the density and massing of the development is suitable for the site. The site also is considered to have suitable access and provides adequate on-site amenity space and residential accommodation of a suitable standard for future occupants. The Applicants' Design and Access Statement confirms that the dwellings meet the National Described Space Standards.
- 2.8 The policy also requires that the mix of housing in new developments should be in line with the identified local need as set out in the 2015 SHMA update, unless material considerations indicate otherwise. The development consists of twenty 2-bed flats and a single 3-bed flat. Whilst this mix does not reflect the mix specified in the SHMA Officers consider that it is appropriate for the site and will provide a welcome addition to the town's stock of apartment accommodation, helping to increase the diversity of housing options.
- 2.9 There is also a requirement in Policy LPP35 that in developments of ten or more dwellings, a minimum of 10% of new market homes must meet Category M4(2) or Category M4(3)(2)(a)/(b) – Wheelchair Accessible dwellings of Building Regulations 2015. Whilst the apartments have not been designed to meet these higher Building Regulation standards in respect of accessibility the Applicants' Design and Access Statement states that they have been designed to comply with the old Lifetime Homes standards which means that the units are designed to be both flexible and adaptable, in a similar manner to Building Regulations Category M4(2). Given that the scheme was designed before the new Local Plan was adopted, and as the scheme is designed to Lifetime Homes standards Officers consider suitable accessibility provision has been made.
- 2.10 When the application was originally recommended for approval, Members agreed with the Officer assessment that the proposal adheres to the general spirit of the Rickstones Neighbourhood Centre Development Brief SPD and would give rise to a high quality redevelopment of an important neighbourhood centre within one of the District's main towns. (Reference section 11.2 of the previous Committee Report for a full assessment of this matter). Having assessed the proposals against relevant new design policies within the new Local Plan, Officers still consider the proposed development to be acceptable and generally consistent with the Council's planning policies.

3. CONCLUSION

- 3.1 There have been no changes to the proposal since Members previously resolved to grant planning permission and therefore the Officer

recommendation is again to approve the scheme in order that the Section 106 Agreement can be completed and the planning permission issued.

4. RECOMMENDATION

4.1 It is therefore RECOMMENDED that subject to the Applicant entering into a suitable legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) to cover the following Heads of Terms:

- § **Community Building:** Financial contribution of £6,994.68 (index-linked) paid prior to the occupation of the fifth residential dwelling;
- § **Essex Recreational Avoidance and Mitigation Scheme:** £1,782.20 (index linked from April 2022);
- § **Primary Healthcare:** Financial contribution £5,351.08 (index-linked) paid prior to first residential occupation of the development;
- § **Public Open Space:** Financial contribution of £25,159.64 (index-linked) paid prior to the occupation of the fifth residential dwelling towards the provision of new / improved Public Open Space specified within the District Council's Open Space Action Plan within the Witham North Ward;
- § **Formation of Management Company:** To secure suitable management arrangements for areas of public realm and amenity space on-site including the car park, but excluding the communal residents' gardens at the rear of the flats;
- § **Tree Removal / Replacement Provision:** Financial contribution of £4,750.00 (index-linked) prior to the commencement of development;
- § **Parking Scheme:** Financial contribution of £20,000.00 (index-linked) paid prior to the occupation of the development towards possible future implementation of a highway parking scheme, which may include making a Traffic Regulation Order;
- § **Travel Plan Monitoring Fee:** Financial contribution of £1,533.00pa. for five years (index-linked) paid prior to occupation of the development;
- § **Car Park Management Plan;** and
- § **Braintree District Council and Essex County Council Monitoring Fees.**

The Planning Development Manager or an authorised Officer be authorised to GRANT planning permission under delegated powers in accordance with the Approved Plans and Documents, and subject to the Condition(s) & Reason(s), and Informative(s) outlined within APPENDIX 1.

4.2 Alternatively, in the event that a suitable planning obligation is not agreed within three calendar months of the date of the resolution to GRANT planning permission by the Planning Committee, the Planning Development Manager may use his delegated authority to refuse the application.

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

APPENDIX 1:APPROVED PLAN(S) & DOCUMENT(S) / CONDITION(S) & REASON(S) AND INFORMATIVE(S)Approved Plan(s) & Document(s)

Reference:	Description:
Plan Ref: EX-A-1001	Location Plan
Plan Ref: PA-A-2000 Version: C	Site Masterplan
Plan Ref: PA-A-2001 Version: K	Proposed Site Plan
Plan Ref: PA-A-2101 Version: M	Proposed Ground Floor Plan
Plan Ref: PA-A-2102 Version: L	Proposed 1st Floor Plan
Plan Ref: PA-A-2103 Version: L	Proposed 2nd Floor Plan
Plan Ref: PA-A-2104 Version: H	Roof Plan
Plan Ref: PA-A-3101 Version: D	Proposed Elevations and Floor Plans
Plan Ref: PA-A-3102 Version: D	Proposed Elevations and Floor Plans
Plan Ref: PA-A-3103 Version: D	Proposed Elevations
Plan Ref: PA-A-4101 Version: C	Section
Plan Ref: PA-A-4102 Version: C	Section
Plan Ref: PA-A-1010 Version: G	Other Plan
Plan Ref: PA-A-2111 Version: C	Waste Management Strategy
	Design and Access Statement

Conditions & Reasons and Informatives

Condition 1

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

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

Condition 2

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

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

Condition 3

Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) the use of units 1, 2 & 3 of the ground floor commercial premises shall be for no other purpose than uses set out within Class E; and the use of units 4&5 of the ground floor commercial premises shall be for no other purpose than for Hot Food Takeaway.

Reason: To protect the amenities of the occupiers of nearby residential properties and the surrounding areas.

Condition 4

The external materials and finishes on the buildings hereby permitted shall be as indicated on page 36 of 45 of the submitted Design and Access Statement (Revision C).

Reason: To ensure that the development does not prejudice the appearance of the locality.

Condition 5

All electrical and telephone services to the development shall be run underground.

Reason: To ensure that the development does not prejudice the appearance of the locality.

Condition 6

All service intakes to dwellings, apart from gas, shall be run internally and not visible on the exterior.

Reason: To ensure that the development does not prejudice the appearance of the locality.

Condition 7

Prior to installation of any meter cupboards on the external elevations of the dwellings hereby approved details of the location, design and materials shall be submitted to and approved in writing by the local planning authority. Development shall be implemented in accordance with the approved details and shall be permanently maintained as such.

Reason: To ensure that the development does not prejudice the appearance of the locality.

Condition 8

All buildings containing flats shall be equipped with a communal TV and radio aerial and satellite dish in positions to be submitted to and approved in writing by the local planning authority. On all buildings, satellite dishes shall be of dark coloured mesh unless fixed to a light coloured, rendered wall, in which case a white dish shall be used. Satellite dishes shall not be fixed to the street elevations of buildings or to roofs.

Reason: To ensure that the development does not prejudice the appearance of the locality.

Condition 9

Prior to installation, details of all ground surface finishes, including kerbs shall be submitted to and approved in writing by the local planning authority. Development shall be implemented in accordance with the approved details and shall be permanently maintained as such.

Reason: To ensure that the development does not prejudice the appearance of the locality and to ensure that a high quality public realm is created.

Condition 10

Prior to the occupation of the development hereby approved a scheme of landscaping shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall incorporate a detailed specification including plant/tree types and sizes, plant numbers and distances, written specifications including cultivation and other operations associated with plant and grass establishment, together with a strategy for the watering and maintenance of the new planting, colour and type of material for all hard surface areas and method of laying where appropriate and an implementation programme.

All areas of hardstanding shall be constructed using porous materials laid on a permeable base, unless details have been submitted to and approved in writing by the Local Planning Authority.

All planting, seeding or turfing contained in the approved details of the landscaping scheme shall be carried out in the agreed implementation programme.

All hard surface areas agreed as part of the scheme shall be carried out in accordance with the approved implementation programme.

Any trees or plants which die, are removed, or become seriously damaged, or diseased within a period of 5 years from the completion of the development shall be replaced in the next planting season in accordance with the approved landscaping scheme.

Reason: To enhance the appearance and the biodiversity value of the development.

Condition 11

No development, including site clearance, demolition, preparatory works or construction, shall be commenced until an Arboricultural Method Statement (AMS) has been submitted to and approved in writing by the Local Planning Authority. The AMS shall include a Detailed Tree Protection Plan (DTPP) indicating retained trees, trees to be removed, the precise location and design of protective barriers and ground protection, service routing and specifications, areas designated for structural landscaping to be protected and suitable space for access, and site storage and other construction related facilities.

The AMS and DTPP shall include details of the appointment of a suitably qualified Project Arboricultural Consultant who will be responsible for monitoring the implementation of the approved DTPP, along with details of how they propose to monitor the site (frequency of visits; key works which will need to be monitored, etc.) and how they will record their monitoring and supervision of the site.

The development shall only be implemented in accordance with the approved details. The approved means of protection shall be installed prior to the commencement of any building, engineering works or other activities on the site and shall remain in place until after the completion of the development to the complete satisfaction of the Local Planning Authority.

Following each site inspection during the construction period the Project Arboricultural Consultant shall submit a short report to the Local Planning Authority.

The Local Planning Authority shall be notified in writing at least 21 days prior to the commencement of development on site

Reason: To ensure the protection and retention of existing/remaining trees, shrubs and hedges. These details are required prior to the commencement of the development as they relate to measures that need to be put in place prior to development commencing.

Condition 12

Prior to commencement of the development above slab level, a Biodiversity Enhancement Strategy for Protected and Priority Species shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) Detailed designs to achieve stated objectives;
- c) Locations of proposed enhancement measures by appropriate maps and plans;
- d) Persons responsible for implementing the enhancement measures;
- e) Details of initial aftercare and long-term maintenance (where relevant).

The development shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

Reason: In the interests of protecting and enhancing biodiversity.

Condition 13

Prior to first occupation of the development hereby approved details of all gates / fences / walls or other means of enclosure shall be submitted to and approved in writing by the local planning authority. The details shall include position, design, height and materials of the enclosures. The enclosures as approved shall be provided prior to the occupation of the development hereby approved and shall be permanently retained as such.

Reason: In order to secure the satisfactory development of the site and in the interests of visual amenity.

Condition 14

No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:

- The parking of vehicles of site operatives and visitors;
- The loading and unloading of plant and materials;
- Safe access to / from the site including the routing of construction traffic;
- The storage of plant and materials used in constructing the development;
- The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- Wheel washing and underbody washing facilities;
- Measures to control the emission of dust, dirt and mud during construction;
- A scheme to control noise and vibration during the construction phase, including

- details of any piling operations;
- A scheme for recycling/disposing of waste resulting from demolition and construction works;
- Delivery, demolition and construction working hours; and
- Details of how the approved Plan will be implemented and adhered to, including contact details for individuals responsible for ensuring compliance.

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

Reason: This condition is required prior to the commencement of development so as to protect highway efficiency of movement and safety from construction vehicles (including associated with demolition), in accordance with policy DM1 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

Condition 15

No occupation of the development shall take place until the following have been provided or completed:

- a. The site access as shown in principle on planning application drawing TIA-WIT-0015 has been implemented;
- b. The upgrade, to Essex County Council specification, the pair of bus stops on Rickstones Road closest to the proposal site, details of which shall have been agreed with the Local Planning Authority prior to development above slab level;
- c. A finalised Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The provision of the approved Travel Plan shall be adhered to at all times; and
- d. The first occupant of each new dwelling to be provided with a Residential Travel Information Pack (to include six one-day vouchers for use with the relevant local public transport operator), promoting the use of sustainable transport, details of which shall first have been submitted to and approved in writing by the Local Planning Authority.

Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking, in accordance with policy DM1, DM9 and DM10 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

Condition 16

The development shall not be occupied until the car parking area indicated on the approved plans, including any parking spaces for the mobility impaired has been hard surfaced, sealed and marked out in parking bays. The car parking area shall be retained in this form at all times. The car park shall not be used for any purpose other than the parking of vehicles that are related to the use of the development.

Reason: To ensure adequate parking space is provided in accordance with the Council's adopted Parking Standards.

Condition 17

The bicycle parking facilities as shown on the approved plans are to be provided prior to the first occupation of the development and retained at all times.

Reason: To ensure appropriate bicycle parking is provided in accordance with the Council's adopted Parking Standards.

Condition 18

The development shall not be occupied until the areas for bin storage indicated on the approved plans is provided. The area shall be retained and available for use as approved at all times.

Reason: To ensure that the development provides suitable facilities, to prevent the unsightly storage of refuse containers and in the interests of amenity.

Condition 19

The car park areas where the refuse collection vehicle is required to go to collect refuse and recycling shall be constructed to take a load of 26 tonnes.

Reason: To ensure that the refuse vehicles can safely enter and leave the site without damaging the car park surface.

Condition 20

Details of any proposed external lighting to the site shall be submitted to, and approved in writing by, the local planning authority prior to installation. The details shall include a layout plan with beam orientation and a schedule of equipment in the design (luminaire type, mounting height, aiming angles, luminaire profiles and energy efficiency measures). All lighting shall be installed, maintained and operated in accordance with the approved details. There shall be no other sources of external illumination.

Reason: In the interest of promoting sustainable forms of development and minimising the environmental and amenity impact of lighting.

Condition 21

Prior to the commencement of the construction of the buildings hereby permitted, a comprehensive survey shall be undertaken to assess the nature and extent of any contamination on the site, a copy of the survey findings together with a remediation scheme to bring the site to a suitable condition in that it represents an acceptable risk shall be submitted to and agreed in writing with the Local Planning Authority prior to the commencement of development. Formulation and implementation of the remediation scheme shall be undertaken by competent persons and in accordance with 'Model Procedures for the Management of Land Contamination, CLR 11'. Further advice is available in the 'Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers'. Such agreed measures shall be implemented and completed prior to the commencement of development hereby approved.

Notwithstanding the above, should contamination be found that was not previously identified or not considered in the remediation scheme agreed in writing with the Local Planning Authority, that contamination shall be made safe and reported

immediately to the Local Planning Authority. The site shall be re-assessed in accordance with the above and a separate remediation scheme shall be submitted to and agreed in writing with the Local Planning Authority. Such agreed measures shall be implemented and completed prior to the first occupation of any parts of the development.

The developer shall give one-month's advanced notice in writing to the Local Planning Authority of the impending completion of the remediation works. Within four weeks of completion of the remediation works a validation report undertaken by competent person or persons and in accordance with the 'Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers' and the agreed remediation measures shall be submitted to the Local Planning Authority for approval. There shall be no residential occupation of the site (or beneficial occupation of the office building hereby permitted) until the Local Planning Authority has approved the validation report in writing. Furthermore, prior to occupation of any property hereby permitted, the developer shall submit to the Local Planning Authority a signed and dated certificate to confirm that the remediation works have been completed in strict accordance with the documents and plans comprising the remediation scheme agreed in writing with the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors. The investigation and risk assessment is required prior to the commencement of development to ensure that mitigation measures are in place from the outset for the reasons previously referred to.

Condition 22

Prior to commencement of the development above slab level, a scheme for protecting the future occupants of the proposed flats from noise from the commercial units on the ground floor shall be submitted to and approved in writing by the local planning authority. All works which form part of the approved scheme shall be completed before the flats are first occupied and shall be permanently maintained as such.

Reason: To protect the amenities of the occupiers of the residential properties hereby permitted.

Condition 23

Any externally mounted plant, equipment and servicing, including air handling plant shall be selected and/or acoustically treated to achieve 10dB(A) below the typical background noise level at the nearest noise sensitive premises.

Reason: To protect the amenities of the occupiers of the residential properties hereby permitted.

Condition 24

Development shall not be commenced above slab level until a scheme of ductwork has been submitted to and approved in writing by the local planning authority. The details shall specify that all extract ductworks shall be fitted with a suitable odour control system commensurate with the use of the premises, terminating at least 1 metre above ridge level, unless otherwise agreed with the local planning authority and shall be maintained thereafter.

Reason: To protect the amenities of the occupiers of the residential properties hereby permitted and those in the wider locality from air pollution.

Condition 25

The hours for deliveries to the commercial units shall be restricted to Monday to Saturday 0800 to 1800 hours, excluding Bank and Public Holidays.

Reason: To protect the amenities of the occupiers of the residential properties hereby permitted and those in the wider locality from noise and disturbance.

Condition 26

The commercial premises shall not be open for business and trading, including making food and drink deliveries, outside the following hours:-

- Monday to Friday 06:00 hours - 23:00 hours
- Saturdays 06:00 hours - 23:00 hours
- Sundays 07:00hours - 22:00 hours
- Public and Bank Holidays 07:00 hours - 22:00 hours

Reason: To protect the amenities of the occupiers of the residential properties hereby permitted and those in the wider locality from noise and disturbance.

Condition 27

Prior to occupation of each residential flat / first use of each commercial unit hereby approved, a fibre broadband connection shall be provided to a broadband infrastructure provider's network.

Reason: To ensure that fast and effective broadband service is provided to future occupants.

Condition 28

No above ground development shall commence until additional drawings that show the location, design and security specification of post boxes for each residential flat have been submitted to and approved in writing by the Local Planning Authority. Development shall only be implemented in accordance with the approved details and shall be permanently retained as such.

Reason: To ensure that all future occupants have access to well ordered and secure post boxes.

Informative(s)

Informative 1

- Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to suds@essex.gov.uk;
- Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office;
- Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note; and
- It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.

Informative 2

- Prior to any works taking place in the highway the developer should enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works;
- All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible); and
- All work within or affecting the highway should be laid out and constructed by prior arrangement with and to the requirements and satisfaction of the Highway Authority, details to be agreed before commencement of the works. An application for the necessary works should be made to development.management@essexhighways.org or SMO1 - Essex Highways, 653, The Crescent, Colchester Business Park, Colchester, CO4 9YQ

Informative 3

- The applicant is encouraged to install electric vehicle charging infrastructure within the car parking areas at the development and to also, if appropriate, consider the opportunity to future proof the development by installing infrastructure to facilitate the future installation of electric vehicle charging points.

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and has granted planning permission in accordance with the presumption in favour of sustainable development, as set out in the National Planning Policy Framework.

APPENDIX 2:POLICY CONSIDERATIONSNational Planning Guidance

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)

Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP2	Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
SP3	Spatial Strategy for North Essex
SP4	Meeting Housing Needs
SP6	Infrastructure & Connectivity
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP16	Housing Provision and Delivery
LPP28	Comprehensive Redevelopment Area - Rickstones Neighbourhood Centre
LPP35	Housing Mix, Density and Accessibility
LPP42	Sustainable Transport
LPP43	Parking Provision
LPP47	Built and Historic Environment
LPP48	An Inclusive Environment
LPP50	Provision of Open Space, Sport and Recreation
LPP52	Layout and Design of Development
LPP63	Natural Environment and Green Infrastructure
LPP64	Protected Sites
LPP70	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP72	Resource Efficiency, Energy Generation and Energy Efficiency
LPP74	Flooding Risk and Surface Water Drainage
LPP76	Sustainable Urban Drainage Systems
LPP77	External Lighting
LPP78	Infrastructure Delivery and Impact Mitigation

Other Material Considerations

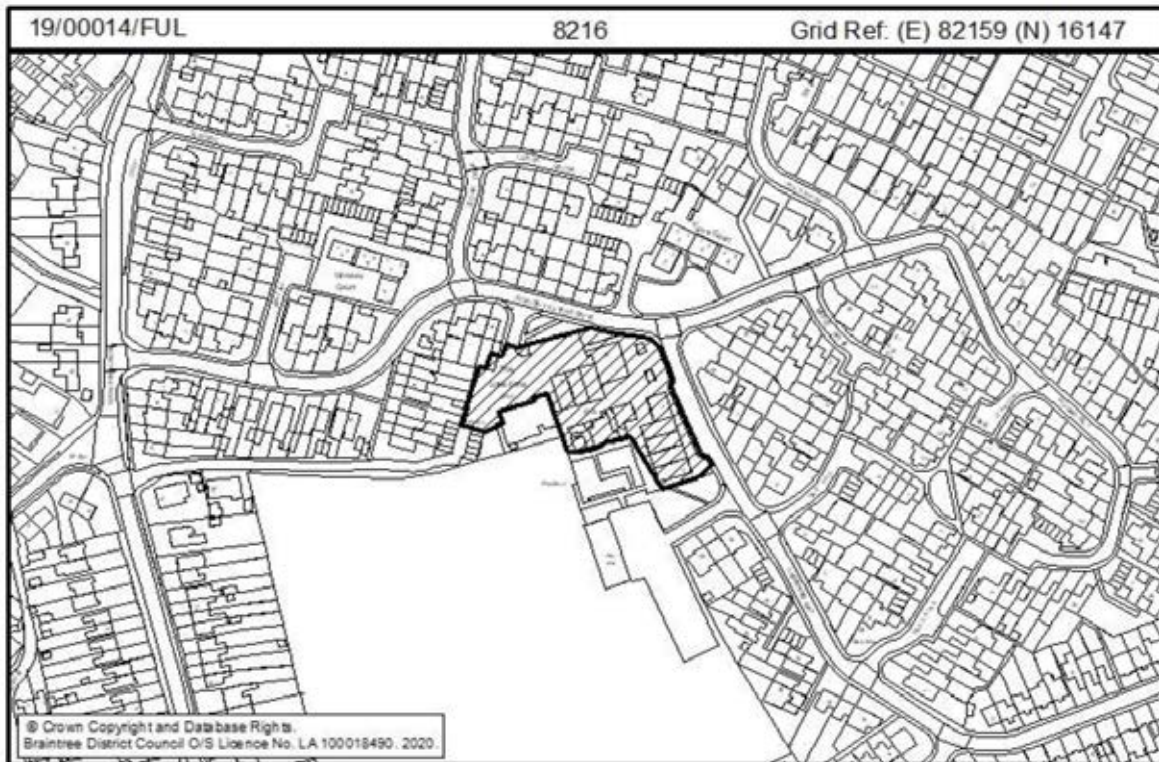
Supplementary Planning Documents (SPD's) & Supplementary Planning Guidance:
Essex Design Guide for Mixed Use and Residential Areas (2005)
Essex Design Guide Urban Place Supplement (2005)
External Lighting Supplementary Document
Parking Standards – Design and Good Practice (September 2009)
Rickstones Neighbourhood Centre Development Brief SPD (2010)

APPENDIX 3:SITE HISTORY & ORIGINAL REPORT AND MINUTES FOR 8 FEBRUARY 2022
PLANNING COMMITTEE MEETING FOR 19/00014/FUL

07/02052/OUT	Erection of 4 no. retail units and 29 no. flats	Refused	26.11.07
18/00019/OUT	Hybrid planning application for the redevelopment of Rickstones Neighbourhood Centre seeking; full permission for the redevelopment of Block A to provide up to 430sqm of commercial floorspace (within Use Class A1, A2, A3, A4 and A5) and 13 flats together with public realm improvements, car parking and associated infrastructure; and outline permission for the redevelopment of Block B to provide up to 12 flats with all matters reserved.	Withdrawn	04.01.19

Agenda Item: 5a

Report to: Planning Committee		
Planning Committee Date: 8th February 2022		
For: Decision		
Key Decision: No		Decision Planner Ref No: N/A
Application No:	19/00014/FUL	
Description:	Detailed planning application for the redevelopment of Rickstones Neighbourhood Centre to provide commercial floorspace (Units 1-3 Use - Class E and Units 4&5 - Hot Food Takeaway) and 21 flats, together with private soft landscaped area and gardens, car parking and associated infrastructure.	
Location:	Land At Junction Of Laburnum Way And Dorothy Sayers Drive, Witham	
Applicant:	Mr S and Mrs K Patel	
Agent:	Mr Alex Rogerson, JLL	
Date Valid:	4th January 2019	
Recommendation:	It is RECOMMENDED that the following decision be made: § Application GRANTED subject to the completion of a Section 106 Agreement to cover the Heads of Terms outlined within the Recommendation section of this Committee Report, and subject to the Condition(s) & Reason(s) and Informative(s) outlined within Appendix 1 of this Committee Report.	
Options:	The Planning Committee can: a) Agree the Recommendation b) Vary the Recommendation c) Overturn the Recommendation d) Defer consideration of the Application for a specified reason(s)	
Appendices:	Appendix 1:	Approved Plan(s) & Document(s) Condition(s) & Reason(s) and Informative(s)
	Appendix 2:	Policy Considerations
	Appendix 3:	Site History
Case Officer:	Neil Jones For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2533, or by e-mail: neil.jones@braintree.gov.uk	

Application Site Location:

Purpose of the Report:	The Committee Report sets out the assessment and recommendation of the abovementioned application to the Council's Planning Committee. The report sets out all of the material planning considerations and the relevant national and local planning policies.
Financial Implications:	<p>The application was not subject to the usual application fee paid as under the Fee Regulations the applicant was entitled to a 'Free-Go' having previously paid an application fee for a previous application which was withdrawn.</p> <p>As outlined above, it is recommended that the decision is subject to a Section 106 Agreement which seeks to mitigate the impact(s) arising from the proposed development. Any financial implications arising out of a Section 106 Agreement will be set out in more detail within the body of this Committee Report.</p> <p>The Applicant will pay a financial contribution pursuant to the Habitat Regulations as set out within the body of this Committee Report.</p> <p>Financial implications may arise should the decision be subject to a planning appeal or challenged via the High Court.</p>
Legal Implications:	<p>Any legal implications arising out of a Section 106 Agreement will be set out in more detail within the body of this Committee Report.</p> <p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either set out the relevant Conditions & Reasons and any Informatives, or the Reasons for Refusal if applicable.</p> <p>All relevant policies are set out within the report, within Appendix 2.</p>
Other Implications:	The application has been subject to public consultation and consultation with relevant statutory and non-statutory consultees. All responses received in response to this consultation are set out within the body of this Committee Report.

Equality and Diversity Implications	<p>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:</p> <ul style="list-style-type: none"> 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 c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding. <p>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).</p> <p>The consideration of this application has not raised any equality issues.</p>
Background Papers:	<p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> ○ Application Form ○ All Plans and Supporting Documentation ○ All Consultation Responses and Representations <p>The application submission can be viewed online via the Council's Public Access website: www.braintree.gov.uk/pa by entering the Application Number: 19/00014/FUL.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> ○ National Planning Policy Framework (NPPF) ○ Braintree District Local Plan Review (2005) ○ Braintree District Core Strategy (2011) ○ Braintree District Shared Strategic Section 1 Local Plan (2021) ○ Braintree District Publication Draft Section 2 Local Plan (2017)

	<p>The National Planning Policy Framework can be viewed on the GOV.UK website: www.gov.uk/.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: www.braintree.gov.uk.</p>
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1. EXECUTIVE SUMMARY

- 1.1 The application site, known as the Rickstones Neighbourhood Centre, comprises 0.38 hectares of land which currently accommodates a pair of two storey flat roofed retail blocks, with a total of 8no units on the ground floor and with 7no flats over. The site is located to the south west of the junction between Dorothy Sayers Drive and Laburnum Way, and next to the Rickstones Sports Ground and play area, in the north of Witham. Sadly the buildings and public realm have received little investment in recent years and this has resulted in the area assuming a 'run-down' appearance which is exacerbated by the high number of commercial units standing empty and having been boarded up.
- 1.2 Consequently, there is a clear need to rejuvenate the site, and to this end the Council commissioned external consultants to prepare the Rickstones Neighbourhood Centre Development Brief in 2010 and this remains an adopted Supplementary Planning Document.
- 1.3 It is proposed that the existing buildings are demolished and the site redeveloped with a mixed use development with ground floor commercial floorspace (Units 1-3 Use - Class E and Units 4 & 5 - Hot Food Takeaway) and 21 flats, together with private soft landscaped area and gardens, car parking and associated infrastructure.
- 1.4 The proposed development has been the subject of a protracted process which began with a number of pre-application advice meetings with Officers; a previous application that was withdrawn by the Applicant before determination; and now the current planning application which has itself been the subject of extensive discussions and the submission of revised plans.
- 1.5 The proposal does not strictly adhere to all the recommendations contained within the Development Brief. It should also be noted that the level of car parking being provided is below the level normally required by the Council's adopted parking standards.
- 1.6 Despite these, and other issues, it is recommended that the application is granted planning permission, subject to completion of a Section 106 legal agreement covering the Heads of Terms set out in this report, and subject to the recommended planning conditions.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

- 2.1 This application is being reported to Planning Committee in accordance with Part A of the Council's Scheme of Delegation as the application is categorised as a Major planning application.

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

- 5.1 The application site, known as the Rickstones Neighbourhood Centre, formerly known as Elm Rise Shopping Precinct, comprises 0.38 hectares of land which currently accommodates a pair of two storey flat roofed retail blocks, with a total of 8no units on the ground floor and with 7no flats over.
- 5.2 The Rickstones Neighbourhood Centre was built around the same time as the surrounding Forest Road residential estate and is located to the south west of the junction between Dorothy Sayers Drive and Laburnum Way, with the northern and eastern boundaries of the application site adjacent to these roads respectively. The two blocks, herein referred to as 'A' (50-54 Dorothy Sayers Drive) and 'B' (2 – 10A Laburnum Way) are inward facing, forming a loose semi-grassed precinct to the north of the Rickstones Pavilion and the adjacent recreation ground / Public Open Space (POS), including its car park and a play area. A 25 space parking area also serves the Rickstones Neighbourhood Centre and the adjacent Little Elms Public House, located to the north-west.
- 5.3 There are no on-street parking restrictions within the vicinity of the site. In addition, there is a lay-by at the eastern boundary of the site on Laburnum Way with space for 5 cars; these spaces are used by local residents and visitors to the commercial units.
- 5.4 There has been little investment in the site over the last few years, with the Applicants seeking to redevelop it since at least 2007; it has become 'run-down' in its appearance, with high commercial vacancy rates. Further, as intimated previously, the general ambience of the existing development isn't helped by the fact that the rear elevations of the commercial units face the public highway, with service entrances, bin storage and in some cases air conditioning and extraction equipment flues providing poor quality and largely inactive frontages at ground floor level. Consequently, there is a clear need to rejuvenate the site, as signified by the Council's adoption of the Rickstones Neighbourhood Centre Development Brief in 2010, which will be discussed in greater detail below.

6. PROPOSAL

- 6.1 Full planning permission is sought for the redevelopment of the Rickstones Neighbourhood Centre, through the demolition of the existing two blocks, to provide 423sq. m. of commercial floorspace (Class E – Commercial, Business and Service - and Hot Food Takeaway) and 21no flats (20no 2 bedroom flats and 1no 3 bedroom flat), together with private soft landscaped area and gardens, car parking and associated infrastructure.
- 6.2 The proposal follows the withdrawal of hybrid planning application reference 18/00019/OUT, for full permission for the redevelopment of Block A to provide up to 430sq.m of commercial floorspace (within Use Class A1, A2, A3 and A5) and 13no flats together with public realm improvements, car parking and associated infrastructure; and outline permission for the redevelopment of Block B to provide up to 12no flats with all matters reserved.
- 6.3 The scheme, the subject of this current application, has been the subject of detailed discussions between Officers and the Applicants, with subsequent revisions and additional public consultation carried out.
- 6.4 The Applicants' design team have considered the findings of the 2010 Development Brief, with the aim of responding positively and proactively in achieving the general principles of that document, whilst having regard to current planning policy and Officer's recent advice to them.
- 6.5 The new development has been designed as a composition of two closely adjacent buildings to achieve measured block permeability, whilst signifying the access to a private courtyard. The separation would clearly define the two buildings: the mixed-use one to the north - addressing Dorothy Sayers Drive and the car park shared with the Public House; and the purely residential block to the east alongside Laburnum Way. The height of the proposed buildings has been informed by the three storey Vane Court and Wimsey Court, to the north-east and north-west respectively, and the top storey of both blocks would be achieved within a mansard roof to reduce the scale of the buildings.
- 6.6 The Applicants explain that in terms of the urban design approach, the strategy aims to repair non-coordinated street structure along Dorothy Sayers Drive, with strong definition of the building's importance as a neighbourhood centre, while vastly improving public realm and the residents' amenity provisions, as well as the quality of spaces. Another aim is also to create attractive and active commercial street frontage along Dorothy Sayers Drive, with a clear connection with the car park and the Public House, grouping the commercial aspects together; and to create landscaped, semi-private & secluded residential amenity areas for the future residents that are predominantly south and south west facing.
- 6.7 Each proposed flat has been designed with an inset terrace to prevent any protrusion from the main volume of the rear elevation, which would provide

each resident with private external space, to negate overlooking issues from respective neighbours.

- 6.8 The new commercial units would have access to a service corridor running at the back of the building, with a separate access from the car park. These would also have an access to individual extraction ducts, leading all the way to the top of the roof, completely integrated in the design and not visible from the public realm. Shopfronts would be predominately glazed, with integrated roller shutters for a tidy, coherent appearance, when not in use. There are now 5no commercial units proposed, it is anticipated that two of these, units 4 & 5 at 87 & 90 sq. m respectively, would be for hot food takeaways (as existing). Units 1, 2 & 3 are shown to be 79, 117 & 50 sq. m respectively, these are identified for Use Class E and could be combined to create either 2no units or a larger single multipurpose unit, giving future tenants additional flexibility.
- 6.9 The existing car park to the front of the site would be enlarged to allow for two rows of perpendicular parking, increasing the total number of available parking spaces, with it being split into two parts - a 21 space marked residential only car park; and the 33 unmarked spaces within the mixed-use car park for the shops & Public House visitors' use. The car park would also comprise a number of accessible parking spaces and is designed for the access of up to a 20m articulated delivery truck.
- 6.10 The general material strategy is to create a simple material palette, rooted in immediate context, with clear distinction between various aspects and uses. The northern, street facing elevation would use a light yellow brick, the second level being situated within a zinc clad mansard roof. The southern, recreation ground facing elevations would have larger openings, and warm staggered 'thermowood' facades, contrasting the rigidity of the 'external' elevations.
- 6.11 The following drawings and documents (including revised versions thereof) have been submitted as forming part of the planning application:
- § Location Plan;
 - § Proposed Neighbourhood Plan;
 - § Site Layout Plan - Masterplan;
 - § Floor Plans, Elevations and Section drawings;
 - § 3D Model Visualisations;
 - § Design and Access Statement;
 - § Planning Statement;
 - § Foul and Surface Water Drainage Assessment;
 - § Transport Statement;
 - § Travel Plan; and
 - § Viability Assessment.

7. SUMMARY OF CONSULTATION RESPONSES

7.1 Anglian Water

- 7.1.1 No objection. Anglian Water has assets crossing this site and therefore the site layout should take this into account and accommodate those assets
[Officer Note: The proposed redevelopment will involve building over an existing 450mm diameter public sewer. Anglian Water has agreed in principle a 'building over' agreement.]
- 7.1.2 The foul drainage from this development is in the catchment of Witham Water Recycling Centre, which along with the sewerage system will have available capacity for these flows.
- 7.1.3 The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (Part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer. The surface water strategy/flood risk assessment submitted with the planning application relevant to Anglian Water is unacceptable.
- 7.1.4 No evidence has been provided to show that the surface water hierarchy has been followed as stipulated in Building Regulations Part H. This encompasses the trial pit logs from the infiltration tests and the investigations in to discharging to a watercourse. If these methods are deemed to be unfeasible for the site, they require confirmation of the intended manhole connection point and discharge rate proposed before a connection to the public surface water sewer is permitted. They therefore recommend that the Applicants need to consult with Anglian Water and the Environment Agency and request that the agreed strategy is reflected in the planning approval with the imposition of an appropriate condition.

7.2 BDC Environmental Services

- 7.2.1 No objection. They state that given that there are proposals to introduce soft landscaping and private garden areas, and that there is likely to be made ground below the site, which would be excavated for the development, it is recommended that a contaminated land assessment is secured by way of a planning condition.
- 7.2.2 Further it is recommended that there is a condition imposed that 'any externally mounted plant, equipment and servicing particularly air handling plant shall be selected and/or acoustically treated to achieve 10dB(A) below the typical background noise level at the nearest noise sensitive premises.' For any food premises, development should not be commenced until a scheme of ductwork has been submitted to and approved in writing by the Local Planning Authority. Details shall specify that all extract ductworks be fitted with a suitable odour control system commensurate with

the use of the premises, terminating at least 1 metre above ridge level and shall be maintained thereafter.

7.2.3 Given that there is residential property below commercial property then the following information would be required. Development not be commenced until a scheme for protecting the proposed residential property flats from noise from the commercial premises below has been submitted to and approved in writing by the local planning authority. All works which form part of the approved scheme to be completed before any part of the noise sensitive development is occupied.

7.2.4 It is also recommended that delivery hours to the retail units are restricted to Monday to Saturday 0800 to 1800 hours.

7.2.5 A lighting design should be submitted and approved prior to installation of any lighting at the site; and given that existing premises will be demolished, a dust control scheme should be submitted and adhered to prior to commencement of the development. Details of noise levels in connection with any piling also to be submitted prior to commencement of development, with no site clearance, demolition or construction work to take place on the site, including starting of machinery and delivery of materials, during anti-social hours.

7.3 BDC Operations

7.3.1 No objection. The plans comply with the requirements for waste and recycling collections to take place from flats.

7.4 Essex County Council (ECC) Highways and Transportation

7.4.1 No objection. From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to a number of requirements, to be secured by way of planning conditions and obligations:

- § Construction traffic management plan;
- § The site access to be laid out as shown in principle on planning application drawing TIA-WIT-0015 prior to occupation of the proposed development;
- § The provision of Residential Travel Information Packs;
- § The upgrading of the pair of bus stops which would best serve the proposal site;
- § A £20,000 index-linked contribution (plus ECC S106 agreement monitoring fee) towards possible future waiting restrictions at and/or in the vicinity of the site; and
- § For the non-residential element of the proposal, a car park management plan.

7.5 ECC Infrastructure Planning (Education)

7.5.1 No objection. They we will not be requesting a contribution on this occasion.

7.6 ECC - Lead Local Flood Authority

7.6.1 No objection.

7.7 ECC Place Services – Ecology

7.7.1 No objection. This response is subject to securing: a) a proportionate financial contribution towards visitor management measures for the Blackwater Estuary SPA/Ramsar Site, Dengie SPA/Ramsar Site and Essex Estuaries SAC; and b) ecological enhancement measures.

7.8 Essex County Fire & Rescue Service

7.8.1 No objection. Access for Fire Service purposes has been considered in accordance with the Essex Act 1987 - Section 13 and is acceptable provided that the arrangements are in accordance with the details contained in the Approved Document to Building Regulations B5. More detailed observations on access and facilities for the Fire Service will be considered at Building Regulation consultation stage.

7.9 Essex Police

7.9.1 No objection. BDC Policy RLP90 (viii) states - Designs and layouts shall promote a safe and secure environment, crime reduction and prevention and shall encourage the related objective of enhancing personal safety. To make any meaningful comment they would require the finer detail, such as the proposed lighting, boundary treatments and physical security measures especially as this development sits within a key area of Witham. They would welcome the opportunity to consult on this development to assist the developer with their obligation under this policy and to assist with compliance of Approved Document 'Q', at the same time as achieving a Secured by Design award to the current guidelines. It is noted that reference is made to SBD within the Design and Access Statement.

7.10 Highways England

7.10.1 No objection. The Highways Act Section 175B is not relevant to this application.

7.11 Natural England

7.11.1 No objection. It has been identified that this development falls within the 'Zone of Influence' (ZoI) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS).

7.11.2 In the context of the Council's duty as competent authority under the provisions of the Habitats Regulations, it is anticipated that, without mitigation, new residential development in this area and of this scale is likely to have a significant effect on the sensitive interest features of these

coastal European designated sites, through increased recreational pressure when considered 'in combination' with other plans and projects.

- 7.11.3 The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Braintree District Council, working together to mitigate the effects arising from new residential development. Once adopted, the RAMS will comprise a package of strategic measures to address such effects, which will be costed and funded through developer contributions. They therefore advise that the Council considers, in line with their recent advice, whether this proposal falls within scope of the RAMS as 'relevant development'.

- 7.11.4 Where it does, this scale of development would fall below that at which Natural England would offer bespoke advice on this issue. However, in such cases they advise that the Council must undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation; permission should not be granted until such time as the HRA has been undertaken and the conclusions confirmed.

7.12 NHS England (CCG)

- 7.12.1 Officers are aware that the NHS will be seeking a financial contribution from the development but a written consultation response is yet to be received at the time of writing this report, their comments will be reported to the Planning Committee by way of a Members update.

8. PARISH / TOWN COUNCIL

8.1 Witham Town Council

- 8.1.1 No objection, but they request that:

- § Section 106 monies be used in the area to create a community healthcare hub along with monies from Rickstones Road and Conrad Road developments, and that they be involved in the process;
- § The District Council formally update the development brief;
- § Community involvement;
- § Advice from Essex County Highways;
- § Maintenance of shared areas and garden;
- § Noise mitigation;
- § Lighting of outside spaces;
- § Provision of a lift;
- § Consideration of a sprinkler system and fire escapes;
- § Consideration of heating system in line with climate change;
- § That consideration be given to include the existing tiled feature wall in the new development;
- § A lockable gate be provided for the sports field car park.

9. REPRESENTATIONS

9.1 The application was the subject of two rounds of public consultation, the second following the receipt of revised plans in July and September 2021, following discussions between the Applicants and Officers of Braintree District and Essex County Councils.

9.2 In regard to the first round of consultation, 6no letters of representation were received by the Council, 1no supporting the application and 5no objecting to the scheme. A further 3no letters of objection were submitted from some of those that had previously provided representations as a result of the second round of consultation. In totality the following comments are made:

9.3 Character and Appearance

- § The construction of a three storey building appears to have been based solely upon the presence of Wimsey Court and Vane Court, which are situated much further back from the road with greenswards to their frontages, resulting in much less imposing profiles;
- § Two storey properties are in the majority in the area, and 2no large three storey buildings constructed in the style proposed would dominate the surrounding properties, particularly those on Laburnum Road, and compromise the amount of natural light that they receive;
- § Concerned that the current buildings have been allowed to fall into disrepair;
- § The proposal would give rise to an over-development of the site;

9.4 Access and Parking

- § It is hard to see how extra vehicles that would be generated could be accommodated safely and reasonably in the space available;
- § An overspill would lead to even greater on-street parking pressures;
- § Cars already park on the pavement and are a hazard to pedestrians;
- § Concern over the proximity of the development to the rear boundaries and service access to no's 30-38 Dorothy Sayers Drive;

9.5 Retail provision

- § Question why so much provision has been given for retail; the chemist has moved to the Rivenhall Park development and over the years lots of shops have come and gone hence the boarded up buildings;
- § Has any research been done into what shops would actually be interested in moving in;
- § The space would be better used now as living accommodation and there would then be no need for the third storey.

10. PRINCIPLE OF DEVELOPMENT

10.1 National Planning Policy Framework (NPPF)

- 10.1.1 As set out in Paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 of the NPPF explains that achieving sustainable development means that the planning system has three overarching objectives: economic; social; and environmental; which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives).
- 10.1.2 Paragraph 9 of the NPPF outlines that planning decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area. In addition, paragraph 38 of the NPPF prescribes that local planning authorities should approach decisions on proposed development in a positive and creative way and that decision makers at every level should seek to approve applications for sustainable development where possible.
- 10.1.3 Paragraph 12 of the NPPF sets out that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making. In addition, paragraph 47 of the NPPF states that planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise.
- 10.1.4 The NPPF underlines the Government's objective of significantly boosting the supply of homes. In this regard, Paragraph 60 of the NPPF highlights the importance of ensuring that there is a sufficient amount and variety of land that can come forward where it is needed, that specific housing requirements are met, and that land with permission is developed without unnecessary delay. Paragraph 74 of the NPPF outlines 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 (in the case of Braintree District) our 'local housing need' plus the relevant buffer.
- 10.1.5 In this regard, and in considering the overall planning balance as to whether the proposed development subject to this application constitutes sustainable development, an important material consideration in this case is whether the Council can robustly demonstrate a 5 Year Housing Land Supply. This will affect whether Paragraph 11 of the NPPF is engaged and consequently the weight that can be attributed to the Development Plan (see below).

10.2 5 Year Housing Land Supply

- 10.2.1 The Council publishes a 5 year housing land trajectory as of 31st March each year. The most recent position therefore is that of 31st March 2021. Within the published trajectory, the forecast supply amounted to a 5.34 year supply of housing based on a 5% buffer.
- 10.2.2 At its Full Council meeting on 22nd February 2021, Braintree District Council approved the adoption of the Shared Strategic Section 1 Local Plan. On its adoption, the Council must meet the housing requirement set out in that Plan. This is a minimum of 14,320 homes between 2013-2033 or an annual average of 716 new homes per year. This replaces the previous consideration of housing need based on the Standard Methodology.
- 10.2.3 The latest Housing Delivery Test (HDT) results were published in January 2022. The new results (which include an allowance for the impact of the current pandemic) confirm that Braintree District achieved 125% supply against target and the usual 5% buffer is maintained. This applies from the day of publication of the results.
- 10.2.4 The Council's Housing Land Supply position has recently been contested as part of an appeal at Land off Brain Valley Avenue, Black Notley (Appeal Reference: APP/Z1510/W/21/3281232). Within the appeal decision dated 20th January 2022, the Inspector concluded at Paragraph 54 that the housing supply 2021-2026 would be in excess of the 5,352 requirement; and that therefore the Council can demonstrate an up-to-date housing land supply and the titled balance pursuant to Paragraph 11d) of the NPPF is not engaged.
- 10.2.5 Accordingly, given all the evidence before it, including the housing requirement from the Shared Strategic Section 1 Local Plan and the use of a 5% buffer, and having regard to the above appeal decision, the Council considers that the current 5 Year Housing Land Supply for the District is 5.1 years.
- 10.2.6 In addition, the current supply position does not include sites which are proposed to be allocated within the Section 2 Local Plan but do not yet have planning permission or a resolution to grant planning permission.
- 10.2.7 These allocations without permission are being tested at the Section 2 Plan Examination. Once the Section 2 Plan is adopted, these sites will become adopted allocations and greater weight can be given to them. It will also improve the prospects of these being included within the deliverable supply, where there is clear evidence that there is a realistic prospect that housing will be delivered on the site within five years.

10.3 The Development Plan

- 10.3.1 Currently the Council's statutory Development Plan consists of the Braintree District Local Plan Review (2005), the Braintree District Core

Strategy (2011) and the Braintree District Shared Strategic Section 1 Local Plan (2021), hereinafter referred to as the 'Section 1 Plan'. The land in question is located within the Town Development Boundary for Witham, where the general principle of development is supported by Local Plan Review Policy RLP2.

- 10.3.2 Policy RLP3 of the Adopted Local Plan and Policy LPP1 of the Section 2 Plan however state that development within Town Boundaries will only be permitted where it satisfies amenity, design, environmental and highway criteria and where it can take place without material detriment to the existing character of the settlement.
- 10.3.3 In addition, the Section 2 Plan also specifically identifies the application site as a Comprehensive Development Area on its Proposals Map (Inset 2A - Witham North), pursuant to its Policy LPP30. This policy states: *"Land at Rickstones Neighbourhood Centre, Dorothy Sayers Drive, Witham is allocated as a Comprehensive Redevelopment Area for a mixed use development where a combination of retail, community uses, public house, pavilion, residential development and car parking will be supported. Development of the Comprehensive Redevelopment Area should be in accordance with the principles of the adopted Supplementary Planning Document."*
- 10.3.4 An assessment of the proposal in relation to the Comprehensive Development Area Supplementary Planning Document is set out within the Site Assessment section of this report.

11. SITE ASSESSMENT

11.1 Location and Access to Services and Facilities

- 11.1.1 Where concerning the promotion of sustainable transport, the NPPF in Paragraph 105 states that the planning system should actively manage patterns of growth; and that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health.
- 11.1.2 Policy CS7 of the Core Strategy, amongst other things, states that future developments will be provided in accessible locations to reduce the need to travel; and that sustainable travel will be encouraged through the requirement for travel plans from major developments. A draft Travel Plan has been submitted as part of the application.
- 11.1.3 Witham is identified as a main town in the settlement hierarchy in the Core Strategy which states in Paragraph 4.9 that it is a thriving town with good transport links and a higher amount and proportion of local employment than Braintree.

- 11.1.4 The strategy set out in the Section 1 Plan is to concentrate growth in the most sustainable locations – that is, by adopting a spatial strategy that promotes development where there are opportunities for walking, cycling and public transport links to nearby shops, services and employment opportunities.
- 11.1.5 In this case, notwithstanding the fact that the application site itself provides commercial (albeit currently under-utilised) floorspace, it is also located in a highly accessible location with good access to a wide range of other services and facilities, as well as public transport. For example, the site is adjacent to the Rickstones Pavilion, recreation ground and play area, as well as the Little Elms Public House. It is also within 0.4 miles (0.6km) of the Templars Primary & Nursery School, Cressing Road, half a mile (0.8km) from the Morrison's supermarket, and within 0.8 miles (1.2km) of Witham train station, amongst other things.
- 11.1.6 The scheme also proposes to provide 423sq. m. of commercial floorspace (Use Class E – the new use class which includes Commercial, Business and Services, including retail - and Hot Food Takeaway) which would benefit existing and future residents.
- 11.1.7 Therefore, in respect of access to and from the site, the proposal is considered to be in a sustainable location within the town which also weighs in its favour in the overall planning balance.
- 11.2 Comprehensive Development Area
- 11.2.1 As highlighted above, Policy LPP30 of the Section 2 Plan allocates the Comprehensive Development Area for a mixed use development, with the Rickstones Neighbourhood Centre Development Brief SPD being adopted in 2010.
- 11.2.2 The Brief was commissioned with the aim of:
- § Enabling redevelopment of the Rickstones Neighbourhood Centre;
 - § Enabling investment and improvement of the public realm through the introduction of new and improved community uses; and
 - § Establishing a policy and design framework for the site to realise the above objectives, whilst providing flexibility in the detailed design of any future planning applications at the site.
- 11.2.3 The vision for the SPD is cited as follows: "To stimulate the creation of a new neighbourhood centre where the local community are proud to take ownership and responsibility for maintaining its longevity as a focus for community activity."
- 11.2.4 Within its appraisal of the site, the SPD highlights its physical scope, which not only includes the application site and the access thereto, but also the Public House and a garage court which serves dwellings located within Dorothy Sayers Drive to the west; and the pavilion and recreation ground car park to the south. The 'Site Uses' plan set out therein also identifies

land ownership boundaries, and clearly highlights the land within the ownership and control of the Applicants: essentially the two mixed commercial and residential blocks; the amenity areas in between them and immediately surrounding them; and the main car park which fronts Dorothy Sayers Drive.

- 11.2.5 The SPD identifies a broad range of opportunities, including: To regenerate the site and create an improved neighbourhood centre; Improve on existing uses and provide new facilities for the local community; and Improve the street scene along Dorothy Sayers Drive and Laburnum Way.
- 11.2.6 At the preliminary stages of the Development Brief process, several options were considered, but found not to meet the key objectives or to be able to deliver viable development. These proposals would not therefore have any commercial reality and it was necessary to consider alternatives.
- 11.2.7 Further options were produced and subjected to financial appraisal; with the process concluding that Option 1 (Redevelopment with pub, garages and Laburnum Way block retained) & Option 2 (Redevelopment with pub and garages only retained) were capable of delivering the key objectives whilst remaining attractive and commercially viable, in 2010. Viability was however subject to a decision being made by the Council on two key factors, namely: A significant reduction in affordable housing and other planning obligation provision, or a transfer in the value generated by the pavilion to the developer of this scheme.
- 11.2.8 The number of units proposed is 21no, thereby giving rise to a net gain of 14no residential units on the site. Therefore, it is considered that pursuant to Policy CS2 of the Core Strategy, no affordable housing would need to be provided as part of this scheme.
- 11.2.9 Notwithstanding this, another key change in circumstances since the SPD was adopted is that the pavilion has been improved by the Council and leased out to Valley Green Football Club. The fact that the Pavilion is subject to a lease has meant that it is not possible to incorporate its redevelopment as part of this scheme. The recreation ground car park to its south, and the north eastern corner of the sports ground to its west (and south of the pub) have therefore also been excluded from the application site, which all comprise land owned by BDC.
- 11.2.10 In addition, the Applicants have confirmed that notwithstanding their best efforts to partner with the owners of the pub, their attempts to enter into any form of meaningful dialogue have been unsuccessful. Evidence of their attempts has been included within the submissions.
- 11.2.11 Consequently, the site area proposed for redevelopment has been reduced from that originally envisaged 10 years ago, to that as identified on the site location plan (0.91ha down to 0.38ha), and is now confined to a single ownership, that of the Applicants. However, in spite of the reduced site area, the Applicants have sought to adhere to the spirit of SPD option 2 - 'Redevelopment with pub and garages only retained', where possible, but

with Officers acknowledging that it would not be practicable or reasonable to seek slavish adherence to this option due to the change in circumstances. However, notwithstanding the Town Council's suggestion that the SPD be updated, with such an advanced scheme now before the Local Planning Authority it is considered that this would not be necessary or amount to be a prudent use of public resources.

11.2.12 Three of the key development components set out within the Brief, identified as being critical to unlocking the redevelopment potential of the site, are that there is:

- § A need to optimise the residential development potential of the site. Residential development will realise the most significant land value and increase the commercial feasibility of the redevelopment proposals. A mixture of housing and flats would be required to obtain an appropriate land value and market appeal;
- § A need to rationalise existing retail floorspace. There are a number of empty retail units. The site is close to the Witham High Street where the town's retailing offer is highly competitive. This location cannot therefore maintain the current level of retail provision. It would therefore be appropriate to re-focus the site's retail floorspace offer; and
- § Provision of a small food retailing anchor store would encourage further investment and use of the site. Other examples of out of town neighbourhood centres fair well where an anchor store is present.

11.2.13 The illustrative masterplan for option 2 identified a residential development of 18no units in total (4 x three bed houses, 10 x two bed houses and 4 x one bed flats), as well as a food store of 300sq. m. footprint and ground floor retail units with a 200sq. m. footprint. This compares with the current proposal of 21no flats (1no of which would be a 3no bedroom unit) and 423sq. m. of commercial floorspace (Class E and Hot Food Takeaway).

11.2.14 Due to the decreased site area, it is considered that a development of a greater density than that originally envisioned within the SPD is necessary to ensure viability (more of which is discussed below); and that in a highly accessible location such as this, it is considered an appropriate location for flats. The use of flats in combination with ground floor commercial floorspace is deemed wholly appropriate in a neighbourhood centre. Therefore, the omission of houses from the dwelling mix is not considered to be objectionable as a matter of principle.

11.2.15 In Paragraph 5.12, the Core Strategy states that higher densities do not necessarily mean low quality, and in fact many of our older town areas and villages are built to very high densities. The Adopted Local Plan in Paragraph 3.28 states that the "density to which new residential development is built will depend on a number of factors, including the location of the site and the characteristics of the surrounding area. A specific density standard is not considered to be appropriate. In general terms developments of less than 30 dwellings per hectare will be resisted. Developments of 30 to 50 dwellings per hectare, which make more efficient

use of land, will be encouraged. A greater density of development may be acceptable at locations with good public transport and close to town and local centres...”

11.2.16 The density of the development amounts to 54 dwellings to the Hectare; this is considered to be appropriate for this previously developed site which is well located with the town to public transport and community services and facilities. In addition, the 5no commercial units proposed would allow for the rationalisation of existing retail floorspace on the site, whilst enabling the provision of a modern small food retailing anchor store. The proposed in-built flexibility of this floorspace (enabling the potential combination of larger multi-purpose unit/s) also assists in meeting the Brief’s key development components. In this regard, the Applicants have provided information from a firm of Chartered Surveyors to demonstrate the potential demand for the commercial aspect of the scheme.

11.2.17 Therefore, subject to the assessment of all other key material considerations, including matters of character and appearance, living conditions, highways, and viability, it is considered that the proposal adheres to the general spirit of the SPD and would give rise to a high quality redevelopment of an important neighbourhood centre within one of the District’s main towns.

11.3 Design, Appearance and Impact upon the Character and Appearance of the Area

11.3.1 Paragraph 126 of the National Planning Policy Framework (NPPF) states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. It also states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

11.3.2 Paragraph 130 of the NPPF stipulates, amongst other things, that developments should function well and add to the overall quality of the area; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

11.3.3 Policy SP7 of the Section 1 Plan states that all new development must meet high standards of urban and architectural design, and should reflect place shaping principles, including:

- § Responding positively to local character and context to preserve and enhance the quality of existing places and their environs;
- § Providing buildings that exhibit individual architectural quality with well-considered public and private realms; and
- § Enhancing the public realm through additional landscaping, street furniture and other distinctive features that help create a sense of place.

- 11.3.4 In addition, Policy RLP90 of the Adopted Local Plan seeks a high standard of layout and design in all developments, and planning permission will only be granted where, amongst other things, the layout, height, mass and overall elevational design of buildings and developments is in harmony with the character and appearance of the surrounding area; including their form, scale and impact on the skyline in the locality.
- 11.3.5 On architecture, the SPD sets out a framework for new development and states that in designing the buildings themselves, there is scope for architectural innovation. It goes on to state that the Council will expect excellent architecture to realise the potential of the site, create character and provide first class residential and community uses, but is open to the choice of materials. Furthermore, the SPD encourages modern methods of construction in well-designed modern buildings; and it is stressed that the use of inferior materials and systems that mimic dull suburban detailing will not be supported.
- 11.3.6 The redevelopment of the Rickstones Neighbourhood Centre has been through various iterations, including at pre-application and previous planning application stages, whereby Officers expressed concerns to the Applicants with regard to the overall scale of development and its relationship to its surroundings; this was notwithstanding the 'in principle' support for it due to its location within the settlement boundary and the adoption of the SPD.
- 11.3.7 With regard to the original plans the subject of this application, a number of areas were highlighted by Officers as to requiring further attention and revisions: the Car Parking area, Public Realm, Retail Units, Approach to Laburnum Way, Approach to Dorothy Sayers Drive, Amenity Space, Refuse & Cycle Storage, Internal Layout of Flats and Elevational Treatments. These have been addressed by the Applicants through amendments to the scheme, so as to ensure that a high quality contemporary development would be provided that addresses the broad principles of the SPD, whilst adhering to the Council's adopted amenity and parking space standards wherever possible.
- 11.3.8 Quite clearly, there is a need for the redevelopment of the Rickstones Neighbourhood Centre to take place; the resulting buildings would be of a greater scale than those that currently exist on the site, but nonetheless 3 storey development is acknowledged by the SPD as being a potential design solution, and the presence of both Vane Court and Wimsey Court in close proximity is material to the case in hand.
- 11.3.9 The increased set-back of the proposed blocks from the two road frontages would ensure that their dominance within the street scene is reduced, whilst ensuring that a key pair of marker buildings are provided, befitting of a mixed use development at the core of the community that it would serve.
- 11.3.10 Finally on this matter, the Council's Landscape Officer has visited the site and assessed the trees which stand close to the development and which would potentially be impacted by the development. The Landscape Officer

states that there is an attractive group of trees on Dorothy Sayers Drive, near the entrance to the car park and the public house. The trees stand outside the application site, on third party land, but the existing car parking area extends to the site boundary close to the trees. The hardstanding for the car park has been there for some time and has not adversely affected the group of trees. The Applicants propose that the car park is improved as part of the redevelopment and this will presumably involve the resurfacing of the car park and potentially the excavation of the existing surface. If the application is approved it is recommended that a condition is imposed which will require the approval of an Arboricultural Impact Assessment. This will assess the potential impact on the trees and require details of tree protection and a method statement for carrying out the car parks in a way that does not adversely affect the root protection area of the trees.

- 11.3.11 To the south of the application is the area of open space owned by Braintree District Council, within this space there are a number of semi-mature conifers, two of which are growing almost on top of the application site boundary, including a large multi stemmed tree. It would not be possible to retain these given the proximity to the proposed new building. Officers consider that it is not necessary for these trees to be retained, noting that one of the trees is in a poor condition and would in any event need to be monitored and eventually removed. Instead of amending the scheme to try and retain these trees it is considered more prudent to mitigate for their loss and it is recommended that the Applicants provide funding for replacement planting within the vicinity of the site, with five new trees as it will take time for them to replace the existing ones in terms of their physical presence, and to allow for failures.
- 11.3.12 The Town Council has asked that consideration be given to include the existing tiled feature wall in the new development, however Officers are not aware that it constitutes a design feature worthy of conservation, with it appearing to be a rather roughly cast concrete panel. Therefore it is considered that its retention is not necessary.
- 11.3.13 Overall, it is considered that the contemporary design and proposed use of high quality materials would lift the character and appearance of the built context in this part of Witham, in compliance with the SPD and the policies cited above.

11.3A Heritage

- 11.3A.1 There are no designated or undesignated heritage assets identified on, or within the immediate locality of the site.

11.4 Living Conditions

- 11.4.1 As with matters of character and appearance, pursuant to Paragraphs 126 and 130 of the NPPF, the creation of high quality buildings and places is fundamental to what the planning and development process should achieve; good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development

acceptable to communities, with a high standard of amenity for existing and future users. This is supported by Policy RLP90 of the Adopted Local Plan which states that there shall be no undue or unacceptable impact on the amenity of any nearby residential properties. The Section 2 Plan Policies have similar objectives as those set out in the Adopted Local Plan.

- 11.4.2 The nearest existing residential properties to the proposal are 1 & 3 Laburnum Way and 58 Dorothy Sayers Drive, with the distance between the east facing elevation of Block B and the front elevations of the former two dwellings being approximately 19 to 21 metres; these dwellings are orientated approximately 45° to the road and therefore would not be face-on to the development, with mutual views being oblique.
- 11.4.3 No.58 is orientated at 90° to No's 1 & 3 with its south west flank elevation facing the site. The external amenity space that serves this dwelling is located to its side, between it and the public highway of Laburnum Way and its intervening footway and verge; this is bounded by a timber close-boarded fence. The garden area of No.58 is currently overlooked by the bedroom windows of the first floor flat at 4A Laburnum Way in particular.
- 11.4.4 Building B would have 4no windows facing No.58's private garden, although only one of these on the north eastern aspect (the southernmost ones) would serve habitable rooms – the other windows, from north to south, would serve a communal stairwell; and a private lobby and bathroom serving Flats F6 and S6 on the first and second floors respectively.
- 11.4.5 Views from the habitable room windows would be more oblique and furthermore both of these flats would also have full height patio doors leading onto a south west facing balcony on the opposite elevation. These patio doors are considered to be the primary source of outlook from the flats, from which the future occupants' attention would generally be focussed. Consequently, it is considered that the living conditions of the occupants of No.58 would be protected from an undue loss of privacy through overlooking.
- 11.4.6 Taking this into account, as well as the degree of separation between the proposed development and existing dwellings on the opposite side of the road, it is also considered that the proposed development would not give rise to an undue loss of outlook or light upon the occupants of No's 1 & 3 Laburnum Way and No.58 Dorothy Sayers Drive.
- 11.4.7 The Applicants have confirmed that the development has been laid out internally so as to comply with the nationally described space standards.
- 11.4.8 In terms of external amenity space, the Essex Design Guide (EDG) stipulates that for two or more bedroom flats communal residents' gardens must be provided on the basis of a minimum area of 25sq. m per flat. They must be screened by above-eye-level walls or hedges, and must contain a sitting-out-area that receives sunshine during at least part of the day, as demonstrated in the submitted plans.

- 11.4.9 In addition balconies and terraces can provide outdoor amenity space, and where over 5sq. m in extent will count towards the total garden provision for the flats.
- 11.4.10 With the exception of 3no units (F5, S2 and S5) which would have 4sq.m of balcony, all other balconies provided would be 5sq. m; these would all be south or south west facing over the recreation ground. All units would have access to a private residential courtyard of 400sq. m, averaging out at approximately 33sq. m per unit.
- 11.4.11 Furthermore, residences at the ground floor would have private south-facing gardens, as well as four residences at the first floor and one residence at the second floor. Therefore the proposal would provide external amenity space which exceeds the requirements of the EDG.
- 11.4.12 With regard to noise and other potential disturbance affecting the living conditions of future occupants of the flats, Environmental Services have specified that a number of conditions be imposed upon any grant of planning permission.
- 11.4.13 They recommend that there is a condition imposed that any externally mounted plant, equipment and servicing, particularly air handling plant, shall be selected and/or acoustically treated to achieve 10dB(A) below the typical background noise level at the nearest noise sensitive premises. For any food premises, development should not be commenced until a scheme of ductwork has been submitted to and approved in writing by the Local Planning Authority. Details shall specify that all extract ductworks be fitted with a suitable odour control system commensurate with the use of the premises, terminating at least 1 metre above ridge level and shall be maintained thereafter. It is proposed to internalise any extract ducts within the fabric of the building so as to conceal them from public view, in the interests of the character and appearance of the area; their point of exit would be mounted on the roof.
- 11.4.14 Environmental Services also recommend the imposition of a condition requiring acoustic details, so as to ensure that future residents are protected from any potential noise transmission from the commercial units below, and that delivery hours to the retail units are restricted to Monday to Saturday 0800 to 1800 hours.
- 11.4.15 Subject to such suitable controls, it is considered that the proposal would not give rise to demonstrable harm to the local environment or the residents within it, in terms of noise and/or air pollution from commercial activity or service vehicles.
- 11.4.16 Consequently, the proposal would mitigate and reduce to a minimum, potential adverse impacts resulting from the development upon its future residents, as well as the occupants of surrounding residential properties.

11.5 Highway Considerations

- 11.5.1 Leading on from above, Part 9 of the NPPF indicates that all development that could generate significant amounts of vehicle movements should be supported by a Transport Assessment to ensure, amongst other things, that suitable access to the site can be achieved and that opportunities for sustainable transport modes are explored to reduce the need for major transport infrastructure. Development should however only be prevented where the residual cumulative impacts are likely to be severe. Policies RLP54 and RLP55 of the Adopted Local Plan require that a Transport Assessment (TA) is submitted with all proposals for major new development.
- 11.5.2 In addition, Policy RLP36 of the Adopted Local Plan states that planning permission will not be granted for new development which would have an unacceptable impact on the surrounding area, as a result of traffic generation. It also states that the Council will refuse proposals where access roads would not be adequate to cope with consequential traffic.
- 11.5.3 As with any new development, it is inevitable that additional road traffic would be generated, however the key generally is to provide other options, such that future users are given the opportunity to travel by more sustainable means. These other options, such as walking, cycling and public transport have been covered within the first section of this site assessment; and as highlighted above, the application has been submitted with a Transport Statement (TS) and an accompanying Draft Travel Plan.
- 11.5.4 The Transport Statement includes a TRICS assessment which demonstrates that the proposed development would result in an overall decrease in the number of vehicle movements when compared to the existing arrangement (the fall-back position of all existing commercial units being fully occupied), by 47% during AM and PM peak hours, and 49% daily.
- 11.5.5 The existing site provides a total of 901sq. m Gross Floor Area of commercial use and 7 two-bedroom residential flats. The existing A1 food store has a Gross Floor Area of 280sq. m whilst the remaining 621sq. m is a mix of A1 (non-food retail) and A5 (food takeaways). The parking area is also used by the adjoining public house. Based on the current uses if the Council's current parking standards were applied car parking could be 101 spaces (minimum 17 spaces for residential flats & maximum of 84 for commercial units & public house). Currently the parking area is set out informally but it is estimated to have capacity for approximately 25 vehicles.
- 11.5.6 The Council's parking standards do however say within their informative notes that a lower provision of vehicle parking may be appropriate in urban areas where there is good access to alternative forms of transport and existing car parking facilities.
- 11.5.7 It was unclear to Officers during site visits whether all the existing flats are occupied but clearly the majority of the commercial units are currently

empty. Whilst the current level of parking provision is below that which the parking standards would require the low levels of commercial activity mean that the site is not operating near to its maximum capacity. Officers do however acknowledge that there is a fall-back position i.e. if the Applicants chose to refurbish the existing buildings to seek full occupancy of the site then parking provision would be much lower than would be required.

- 11.5.8 Turning to the proposed development, it is suggested that commercial units 4 & 5 proposed in the application would be used as takeaways (to provide for the existing businesses on the site), with a combined floor area of 177sq. m giving rise to a maximum need of 9no parking spaces.
- 11.5.9 The other three units (totalling 246sq. m), could be used either separately, as 2no units or as one combined shop, or are anticipated for retail use, although could also be used for other uses falling within Class E.
- 11.5.10 Food retail requires a higher level of parking than for non-food retail, and therefore assuming that units 1-3 were put to such a use, they would require a maximum of 18no spaces, which would give rise to a maximum of 27no spaces for the commercial element of the proposed development, plus 3no bays for disabled parking – i.e. 30no maximum in total to serve the new commercial units, and 63no maximum to serve the new commercial units and the public house.
- 11.5.11 In terms of the residential element, the adopted parking standards set out a normal minimum requirement of 2no spaces per dwellings with 2+ bedrooms, plus the visitor parking provision i.e.47no parking spaces for the residential uses. However, much like for commercial development, the standards do say that reductions of the vehicle standard may be considered if there is development within an urban area that has good links to sustainable transport.
- 11.5.12 In view of the above, following discussions between Officers, the Applicants and ECC Highways it has been agreed to allow a lower provision of 1no space per unit for the flats due to the site's accessible location. This stance is subject to the provision of Residential Travel Information Packs to future occupants; the upgrading of the pair of bus stops which would best serve the proposal site; and the provision of a £20,000 index-linked contribution (plus Essex County Council S106 agreement monitoring fee) towards possible future implementation of a parking scheme in the vicinity of the site, if the Highway Authority considered that parking within the highway had become problematic. For the non-residential element of the proposal, the provision of a car park management plan is also recommended to ensure that arrangements are in place to manage the car parking areas and ensure that they are used in accordance with their designated purposes. These requirements are covered either by planning condition or obligation (pursuant to Section 106 of the Town and Country Planning Act 1990) below.
- 11.5.13 The proposed layout plans show that the reconfigured car park would provide 54no parking spaces. The eastern end of the car park is shown to

be designated as a residents parking area with 21 spaces providing each flat with one parking space. The remainder of the parking area will 33no spaces would be provided to serve the commercial aspects of the scheme and the retained public house. The Applicants Transport Assessment notes that the public house has four further parking spaces available. These have not been included within the assessment as they stand outside the Applicants control and therefore cannot be controlled. There is also a layby on Laburnum Way which provides five unallocated parking spaces for visitors to the site. Again these spaces have not been included but add to quantum of parking on or immediately adjacent to the site.

- 11.5.14 The existing and proposed commercial activities are intended to provide facilities and services for the neighbourhood in which they stand. The public house for example appears to serve the local community and is not what might be considered a destination pub drawing customers from across the town and the wider area. The proposed hot food takeaways and other commercial units are not large units and are also likely to draw the majority of their custom from local residents. Due to the site's central location, and the intention for it to continue to serve the community within which it is situated, it is considered that many prospective customers to it would likely carry out the short journey on foot or by cycle, either in combination with visiting other services and facilities at the neighbourhood centre and the adjacent public open space i.e. linked trips, or en-route to or from the railway station, sources of employment within the town, schools etc. It is concluded therefore, that given the location and scale and characteristics of the commercial uses that the proposal would make adequate car parking provision on site, and would not materially conflict with the adopted parking standards.
- 11.5.15 The above would be further mitigated by the provision of dedicated and secure cycle parking to be made available for both residents and customers, in accordance with the standards. Those serving the future occupants of the flats would be incorporated within a dedicated store within the ground floor of Block B, over an existing sewer and in agreement with Anglian Water. Cycle parking for the visitors to the flats and the commercial elements would be provided adjacent to the car park.
- 11.5.16 Notwithstanding the third party concerns on parking provision and the potential overspill of cars parked on the surrounding streets, having regard to the fall-back position, the highly accessible location of the site, the potential for linked sustainable trips, the nature of the proposal within the heart of the community and additional parking provision that is available but not in control of the Applicants, it is considered that the proposal would not give rise to material harm to highway safety, and therefore reasons for refusal of planning permission could not be substantiated on such grounds.
- 11.5.17 Concern over the proximity of the development to the rear boundaries and service access to No's 30-38 Dorothy Sayers Drive are also noted, however the submitted site plan clearly shows that this has been accommodated within the scheme, with car parking spaces to be set away from the north western boundary, to facilitate access thereto.

11.6 Flood Risk and Drainage

- 11.6.1 Part 14 of the NPPF sets out the Government's stance on climate change, flooding and coastal change, recognising that planning plays a key role in, amongst other things, providing resilience to the impacts of climate change. Inappropriate development in areas at risk of flooding should be avoided. Furthermore, Policy CS8 of the Core Strategy states that the Council will minimise exposure of people and property to the risks of flooding by following the national guidance. In particular the sequential test will be applied to avoid new development being located in the areas of flood risk.
- 11.6.2 Paragraph 166 of the NPPF strongly encourages a sustainable drainage system (SuDs) approach to achieve these objectives. SuDs offer significant advantages over conventional piped drainage systems in reducing flood risk by reducing the quantity of surface water run-off from a site and the speed at which it reaches water courses, promoting groundwater recharge, and improving water quality and amenity.
- 11.6.3 The proposal site lies in Flood Zone 1 with a low risk of groundwater flooding, surface water and sewer flood risk across the site overall. The soil types would not support the effective use of infiltration methods for disposing of surface water, hence it is proposed that surface water is channelled to Anglian Water's sewer network via a series of Geo-Cellular underground tanks to restrict flows during time of heavy rain. This has been deemed acceptable by both Anglian Water and the LLFA.
- 11.6.4 The foul drainage from this development is in the catchment of Witham Water Recycling Centre, which along with the sewerage system will have available capacity for these flows.
- 11.6.5 Therefore, from this basis it is considered that the scheme would be acceptable in respect of surface water drainage and sewerage capacity.

11.7 Habitat Regulations Assessment (HRA / RAMS)

- 11.7.1 Policy SP2 of the Section 1 Local Plan states that contributions will be secured from the development towards mitigation measures in accordance with the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy 2018-2038 (RAMS). The site is situated within the Zone of Influence (ZOI) for the Blackwater Estuary SPA/Ramsar site and Dengie SPA.
- 11.7.2 As such, the developer is required to pay a financial contribution towards offsite visitor management measures for the Blackwater Estuary SPA & Ramsar site, currently £127.30 per dwelling. This would be secured through the S106 Agreement.

11.8 Other Matters

- 11.8.1 With regard to the comments of Witham Town Council, a financial contribution towards Primary Healthcare is sought in accordance with the recommendation of the Mid and South Essex CCG. The Town Council suggest that the contribution be put towards the creation of a community healthcare hub along with monies from Rickstones Road and Conrad Road developments. The District Council do not have responsibility or powers to plan how Primary Healthcare is provided – this is the responsibility of the CCG. The required financial contribution will be collected but it will need to be spent in accordance with the CCG's plans for Primary Healthcare delivery. The Town Council can of express their preferences to the CCG but ultimately the contribution will need to be spent on a project which increases healthcare capacity for local residents in a manner which accords with their plans.
- 11.8.2 The maintenance of shared residential amenity areas on the south side of the flats would be managed through a management company funded by residents. There are a number of other amenity areas, soft landscaping and public realm around the development which would need to be managed. Ensuring appropriate management arrangements for these areas is very important to ensure that the public realm is not allowed to deteriorate again as it has. This should be controlled through a planning obligation, and the lighting of outside spaces would be the subject of a planning condition (see below).
- 11.8.3 The provision of a lift is not necessary to comply with Part M of the Building Regulations and there is no policy requirement for this. Matters of Fire Safety and heating would be dealt with under Building Regulations Parts B and L respectively.
- 11.8.4 The Town Council request that a lockable gate be provided for the sports field car park and there may be some merit in doing this. The District Council's Operations team have been consulted on the application but this was not an issue that they raised.

11.9 Site Assessment Conclusion

- 11.9.1 There are no substantive objections to the application from any statutory consultees. Having assessed the specific merits of the site in terms of its potential to accommodate the scheme in a sustainable manner, in broad accordance with the SPD, Officers are of the opinion that the development could be accommodated without significant adverse impacts to interests of acknowledged importance, subject to the imposition of reasonable planning conditions.

12. PLANNING OBLIGATIONS

- 12.1 Paragraph 55 of the NPPF states that Local Planning Authorities should consider whether otherwise unacceptable development could be made

acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. Paragraph 57 of the NPPF then sets out the tests which must be met in order to seek planning obligations:

- (a) Necessary to make the development acceptable in planning terms;
- (b) Directly related to the development; and
- (c) Fairly and reasonably related in scale and kind to the development.

- 12.2 Policy SP6 of the Section 1 Local Plan states that all development must be supported by the infrastructure, services and facilities that are identified as being necessary to serve the development. This includes the social infrastructure that is required for healthy, active and inclusive communities, and promoting health and well-being for future residents, such as the provision of green open space; safe places for active play; and growing food.
- 12.3 Policy CS10 of the Core Strategy states that the Council will ensure that there is a good provision of high quality and accessible green space, including allotments and publicly accessible natural green space, to meet a wide range of recreation, outdoor sport and amenity needs in District.
- 12.4 The above policies are consistent with Paragraph 93 of the National Planning Policy Framework (NPPF) which states that planning decisions need to provide the social, recreational and cultural facilities and services the community needs.
- 12.5 The Council's Open Space Supplementary Planning Document (SPD) states that for developments under 300 dwellings provision for Outdoor Sports is sought as a commuted sum rather than on-site provision. Similarly, in respect of allotments and equipped play areas the SPD states that for developments under 250 dwellings and 50 dwellings respectively, a commuted sum is required to contribute towards off-site provision rather than the developer being required to provide these facilities on-site.
- 12.6 The SPD sets out the Council's standards for Open Space provision with reference to both quantitative and qualitative measures. These standards are then used to establish a scale of financial contributions with the contribution levels based on the cost of providing these types of facilities. To reflect the standards contained within the SPD, and the different levels of demand for Open Space generated by different size dwellings, the level of financial contribution is calculated according to the number of bedrooms of each proposed residential unit.
- 12.7 The following identifies the planning obligations that the District Council would normally seek to secure through a S106 agreement for such a development with a net increase of 14no residential units.

Community Building

- 12.8 The adjacent pavilion building was re-roofed relatively recently and has been leased out to Valley Green Football Club. It is understood that the pavilion is used at weekends when football teams are training and playing matches but that the club use it rarely at other times. Nonetheless the Council still retains the freehold of this building and has responsibility for the upkeep of the land that surrounds it.
- 12.9 Such a contribution could also be used for improving existing community facilities, including the provision of the aforementioned lockable gate if deemed appropriate by the Council's estates or open spaces department. This contribution would amount to £6,994.68.

Essex RAMS

- 12.10 The site is situated within the Zone of Influence (ZOI) for the Blackwater Estuary SPA/Ramsar site and Dengie SPA.
- 12.11 As such, the developer is required to pay a financial contribution towards off-site visitor management measures for the Blackwater Estuary SPA & Ramsar site, currently £127.30 per dwelling for the uplift in the number of dwellings (14no) which equates to £1,782.20.

Healthcare

- 12.12 The development would generate an increased demand upon existing healthcare services, which if unmitigated, would be considered unsustainable.
- 12.13 A financial contribution of £5,351.08 is therefore required to be included within the S106 agreement.

Public Open Space

- 12.14 The Council's Open Space SPD sets out details on how the standards set out by Core Strategy Policy CS10 will be applied. A development of this size would be expected to make a financial contribution of £25,159.64.
- 12.15 As highlighted above, to the south of the application site are a number of semi-mature conifers, two of which are growing almost on top of the application site boundary, including a large multi stemmed tree. It would not be possible to retain these given the proximity to the proposed new building. Officers consider that it is not necessary for these trees to be retained, but to mitigate for their loss it is recommended that the Applicants provide funding for replacement planting on this area of open space, with five new trees as it will take time for them to replace the existing ones in terms of their physical presence, and to allow for failures.

- 12.16 The cost of the removal of the two trees by the Council's contractor, including stump grinding and disposal; and the cost of replacement planting, protection and watering /establishment costs over 2 years would be £4,750.00.
- 12.17 It would also be necessary for the S106 to include an obligation for the Applicants to form a Management Company responsible for the day to day and longer term management and maintenance of the external amenity and parking areas provided within the application site.

Parking Scheme

- 12.18 As highlighted above, whilst they have accepted the reduced amount of parking on the site, ECC Highways have stipulated that a £20,000 index-linked contribution be secured. This money will be held by the County Council and then if there are problems with on-street parking the County Council will have money to investigate, consult, design and implement a traffic regulation order. Possible parking or waiting restrictions in the vicinity of the site would only be applied if these were considered necessary. Officers consider this is unlikely and if parking restrictions are not required then the contribution would be returned to the Applicants.

Travel Plan

- 12.19 The application is supported by a Travel Plan the implementation of which can be secured by way of planning condition. This has been considered by the ECC Highways who require that it be implemented for a minimum period of 5 years with an associated £1,533 monitoring fee per annum for a period of 5 years, plus the relevant sustainable travel indexation.
- 12.20 It is considered that the above obligations satisfy the tests for planning obligations set out in the CIL Regulations, which are necessary to: make the development acceptable in planning terms; directly relate to the development; and fairly and reasonably related to the development in scale and kind.

13. PLANNING BALANCE AND CONCLUSION

- 13.1 As set out within Paragraph 47 of the NPPF, planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In this case the application site is located within the Town Development Boundary for Witham, where the general principle of development is supported by Policy RLP2 of the Adopted Local Plan.
- 13.2 Paragraph 60 of the NPPF sets out the Government's objective of significantly boosting the supply of homes. The main mechanism within the NPPF for achieving this is the requirement that local planning authorities demonstrate a five-year supply of deliverable housing land, assessed against housing need.

- 13.3 In this regard, the Council is currently able to demonstrate a Housing Land Supply of 5.1 years against its housing need. As such the Council is presently meeting this objective.
- 13.4 Until the adoption of the Section 2 Plan, the sites which are proposed to be allocated but do not yet have planning permission or a resolution to grant planning permission, have not been included within the 5 Year Housing Land Supply calculation.
- 13.5 As such, although the Council can currently demonstrate a 5 Year Housing Land Supply, this is finely balanced, and currently only marginally exceeds the 5 year threshold.
- 13.6 As the Council can demonstrate the required 5 Year Housing Land Supply, the 'tilted balance' pursuant to Paragraph 11d) of the NPPF is not engaged due to a lack of housing land supply. It is therefore necessary to identify the most important policies for determining the application and to establish whether these are out-of-date. Paragraph 213 of the NPPF states that existing policies should not be considered out-of-date simply because they were adopted prior to the publication of the Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater weight that may be given).
- 13.7 Policy SP1 of the Section 1 Plan states that when considering development proposals the Local Planning Authority will take a positive approach that reflects the presumption in favour of sustainable development contained within the NPPF, and will seek to approve proposals wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. Policy SP3 of the Section 1 Plan sets out the spatial strategy for North Essex, namely to accommodate development within or adjoining settlements according to their scale, sustainability and existing role both within each individual Districts, and where relevant, across the wider strategic area. Further growth will be planned to ensure existing settlements maintain their distinctive character and role, to avoid coalescence between them and to conserve their setting. As the Section 1 Plan has been found to be sound and recently adopted by the Council, it is considered that both policies are consistent with the NPPF and can be afforded full weight. Neither are out-of-date.
- 13.8 The application site is located within the Town Development Boundary for Witham, where the general principle of development is supported by Policy RLP2 of the Adopted Local Plan. This policy is consistent with the NPPF as it identifies land in a sustainable location where the Council accepts the principle of development. In addition, the Section 2 Plan also specifically identifies the application site as a Comprehensive Development Area on its Proposals Map pursuant to its Policy LPP30, which states that its redevelopment should be mixed use and be in accordance with the principles of the adopted Supplementary Planning Document. The SPD seeks to ensure the efficient use of the land available and the provision of mixed use development which will provide both housing and commercial

- development. These aims are consistent with Paragraphs 120 and 130 of the NPPF. Significant weight is attributed to these policies.
- 13.9 Policy RLP3 of the Adopted Local Plan and Policy LPP1 of the Section 2 Plan which permit development within Town Boundaries where it satisfies amenity, design, environmental and highway criteria; and where it can take place without material detriment to the existing character of the settlement. These policies are consistent with Paragraph 130 of the NPPF. As policies RLP3 and LPP1 are considered to be broadly consistent with the NPPF the weight they can attributed does not need to be restricted. Significant weight is attributed to these policies.
- 13.10 Policy CS7 of the Core Strategy promotes accessibility for all, and in particular states that future development will be provided in accessible locations to reduce the need to travel, an objective contained within Paragraph 105 the NPPF. It is considered that this policy is not out-of-date and can be given significant weight. Policy LPP44 of the Section 2 Plan also reiterates the above with a focus on facilitating sustainable modes of transport through new developments. Given the status of the Section 2 Plan, it is considered this policy can be attributed significant weight at this time.
- 13.11 Policy RLP90 of the Adopted Local Plan seeks inter alia to ensure that developments recognise and reflect local distinctiveness in terms of scale, density, height and massing. All of these factors go to the heart of good urban design, which is a significant consideration as set out within Section 12 (Achieving Well-designed Places) of the NPPF. Moreover, the 2021 NPPF has introduced a significant emphasis on 'beautiful design' NPPF including references in Paragraphs 8b, 73c, 125, 126, and 128. This change therefore not only seeks to secure good design but also seeks to raise the overall standard of a development in conjunction with a number of other new policy additions such as the requirement for tree lined streets. As such, it is considered that RLP90 is not out-of-date and can be given significant weight. Policy LPP55 of the Section 2 Plan also reiterates many of the above points set out in Policy RLP90 and the NPPF. Given the status of the Section 2 Plan, it is considered this policy can be attributed significant weight.
- 13.12 When considering the basket of the most important policies for the determination of this application as a whole, it is considered that the policies are not out-of-date and are broadly consistent with the Framework.
- 13.13 Given that the Council can demonstrate a 5 Year Housing land Supply, and the basket of policies are not otherwise out-of-date, the 'flat' (or untilted) planning balance must still be undertaken which weighs the adverse impacts of the proposed development, including the conflict with the Development Plan, against the public benefits of the proposal.
- 13.14 In undertaking this flat planning balance, such an assessment must take account of the economic, social and environmental impact of the proposed development. As set out in Paragraph 8 of the NPPF, achieving sustainable

development means that the planning system has three overarching objectives, which are interdependent and needed to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- an economic objective (to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure);
- a social objective (to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being);
- an environmental objective (to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy).

Summary of Adverse Impacts

- 13.15 The adverse impacts and the weight that should be accorded to these factors are set out below:

Conflict with Rickstones Neighbourhood Centre SPD

- 13.16 As set out within the report whilst the proposals are considered to adhere to the spirit of the SPD, the proposals are not considered to be fully compliant. The SPD is adopted planning policy so not following the SPD completely can be considered an adverse impact, albeit that Officers consider this adverse impact should be given limited weight given the age of the SPD and the fact that Officers consider that the conflict with the proposals is limited. It should also be noted that the proposals are otherwise generally consistent with the Development Plan which further limits the harm.

Car Parking Provision

- 13.17 The development would provide a level of car parking provision for the residential development which is below the Council's minimum car parking standards. Parking provision for commercial development has maximum car parking standards but the provision for the existing and proposed commercial uses would be significantly below the maximum car parking standards. This failure to comply with the parking standards and adherence with Policy RLP56 of the Adopted Local Plan and the risk that this cause an increase in parking on adjoining residential streets are adverse impacts but the weight that should be attributed to this harm should be limited given the

nature of the commercial uses and the ability of residents to use relatively sustainable modes of transport.

Loss of trees

- 13.18 The loss of two trees on the Council owned Open Space next to the application site is an adverse impact, however the trees are assessed to be of a poor quality and one of them is in a poor condition and is likely to need to be felled in the foreseeable future. The loss of the trees, albeit with replacement trees being provided in compensation, should be given limited weight.

Summary of Public Benefits

- 13.19 The public benefits arising from the proposal and the weight that should be accorded to these factors are set out below:

Delivery of Market Housing

- 13.20 The redevelopment of the site would provide new residential units to replace the existing flats which have a tired appearance and provide an additional 14 dwellings. The provision of predominantly 2 bedroom flats is also beneficial as other developers are often reluctant to provide this type of accommodation for market sale. The provision of this housing would also deliver associated economic and social benefits, some of these would only exist during the construction phases, whereas others would be sustained, such as the increased patronage of existing services and facilities in the Town. It would also make a small additional contribution to the Council's housing land supply. Overall these benefits are given moderate benefit.

Delivery of Retail Units

- 13.21 The application in this case proposes new commercial units to replace the existing facilities, many of which are in a poor condition, and a number of which stand empty and boarded up. The units have been designed in a manner that they are integrated within the building in a way that still provides quality residential units above the ground floor units. Two relatively small hot food take-away units are proposed and the remaining units will have a flexible Use Class E. The new commercial units will be new purpose built buildings which should be attractive to commercial users and it is hoped will help create a vital and sustainable neighbourhood centre. Provision of commercial uses to serve the surrounding residential estates reducing the need for residents to travel further to access these services. It will also help secure some of the existing jobs provided at the centre and hopefully create new jobs within the new commercial units. The provision of the retail units is considered to be an important benefit with environmental, social and economic benefits and should be given significant weight.

Location and Access to Services and Facilities

- 13.22 The site is in an accessible location with access to local services and facilities which could support a degree of day-to-day living. Public transport options also exist with bus routes and Witham railway station being within walking distance of the site. With employment areas and the town centre facilities and services also within walking or cycling distance residents would have the opportunity to reduce their reliance on the private motor vehicle. The location of the site is considered to provide social and environmental benefits which provide a moderate benefit weighing in favour of the development.

Appearance of the Area

- 13.23 There would also be environmental benefits in the redevelopment of a site that has been proposed for rejuvenation by the Council for approximately 10 years (through the adoption of the SPD) and would provide attractive new buildings and a high quality public realm. Overall, the scheme would enhance the character and appearance of the area, whilst protecting the living conditions of both existing and future residents of the site and its surroundings. These benefits should be afforded significant weight.

Planning Balance

- 13.24 When considering the flat planning balance and having regard to the adverse impacts and benefits outlined above, and having regard to the requirements of the NPPF as a whole, Officers have concluded that the benefits of the proposal outweigh the adverse impacts, including the conflict with the Rickstones Neighbourhood Centre SPD. Consequently it is recommended that planning permission is granted for the proposed development.

14. RECOMMENDATION

- 14.1 It is therefore RECOMMENDED that subject to the Applicants entering into a suitable legal agreement pursuant to S106 of the Town and Country Planning Act 1990 (as amended) to cover the following Heads of Terms:

- § **Community Building** - Financial contribution of £6,994.68 (index linked) paid prior to the occupation of the fifth residential dwelling;
- § **Essex Recreational Avoidance and Mitigation Scheme** - £1,782.20 (index linked from April 2022);
- § **Primary Healthcare** - Financial contribution – amount to be confirmed - (index linked) paid prior to first residential occupation of the development;
- § **Public Open Space** - Financial contribution of £25,159.64 (index linked) paid prior to the occupation of the fifth residential dwelling, towards the provision of new / improved Public Open Space specified within the District Council's Open Space Action Plan within the Witham North Ward;

- § **Formation of Management Company** - to secure suitable management arrangements for areas of public realm and amenity space on-site, including the car park but excluding the communal residents gardens at the rear of the flats;
- § **Tree Removal / Replacement Provision** - Financial contribution of £4,750.00 (index linked) prior to the commencement of development;
- § **Parking Scheme** - Financial contribution of £20,000.00 (index linked) paid prior to the occupation of the development, towards possible future implementation of a highway parking scheme which may include making a Traffic Regulation Order;
- § **Travel Plan monitoring fee** - Financial contribution of £1,533p.a. for 5 years (index linked) paid prior to occupation of the development;
- § **Car Park Management Plan;**
- § **BDC & ECC Monitoring Fees**

The Planning Development Manager or an authorised Officer be authorised to GRANT planning permission under delegated powers in accordance with the Approved Plans and Documents, and subject to the Condition(s) & Reason(s), and Informative(s) outlined within APPENDIX 1.

- 14.2 Alternatively, in the event that a suitable planning obligation is not agreed within three calendar months of the date of the resolution to GRANT planning permission by the Planning Committee, the Planning Development Manager may use his delegated authority to refuse the application.

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

APPENDIX 1:APPROVED PLAN(S) & DOCUMENT(S) / CONDITION(S) & REASON(S) AND INFORMATIVE(S)Approved Plan(s) & Document(s)

Reference:	Description:
Plan Ref: EX-A-1001	Location Plan
Plan Ref: PA-A-2000 Version: C	Site Masterplan
Plan Ref: PA-A-2001 Version: K	Proposed Site Plan
Plan Ref: PA-A-2101 Version: M	Proposed Ground Floor Plan
Plan Ref: PA-A-2102 Version: L	Proposed 1st Floor Plan
Plan Ref: PA-A-2103 Version: L	Proposed 2nd Floor Plan
Plan Ref: PA-A-2104 Version: H	Roof Plan
Plan Ref: PA-A-3101 Version: D	Proposed Elevations and Floor Plans
Plan Ref: PA-A-3102 Version: D	Proposed Elevations and Floor Plans
Plan Ref: PA-A-3103 Version: D	Proposed Elevations
Plan Ref: PA-A-4101 Version: C	Section
Plan Ref: PA-A-4102 Version: C	Section
Plan Ref: PA-A-1010 Version: G	Other Plan
Plan Ref: PA-A-2111 Version: C	Waste Management Strategy
	Design and Access Statement

Conditions & Reasons and Informatives

1.

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

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

2.

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

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

3.

Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) the use of units 1, 2 & 3 of the ground floor commercial premises shall be for no other purpose than uses set out within Class E; and the use of units 4&5 of the ground floor commercial premises shall be for no other purpose than for Hot Food Takeaway.

Reason: To protect the amenities of the occupiers of nearby residential properties and the surrounding areas.

4.

The external materials and finishes on the buildings hereby permitted shall be as indicated on page 36 of 45 of the submitted Design and Access Statement (Revision C).

Reason: To ensure that the development does not prejudice the appearance of the locality.

5.

All electrical and telephone services to the development shall be run underground.

Reason: To ensure that the development does not prejudice the appearance of the locality.

6.

All service intakes to dwellings, apart from gas, shall be run internally and not visible on the exterior.

Reason: To ensure that the development does not prejudice the appearance of the locality.

7.

Prior to installation of any meter cupboards on the external elevations of the dwellings hereby approved details of the location, design and materials shall be submitted to and approved in writing by the local planning authority. Development shall be implemented in accordance with the approved details and shall be permanently maintained as such.

Reason: To ensure that the development does not prejudice the appearance of the locality.

8.

All buildings containing flats shall be equipped with a communal TV and radio aerial and satellite dish in positions to be submitted to and approved in writing by the local planning authority. On all buildings, satellite dishes shall be of dark coloured mesh unless fixed to a light coloured, rendered wall, in which case a white dish shall be used. Satellite dishes shall not be fixed to the street elevations of buildings or to roofs.

Reason: To ensure that the development does not prejudice the appearance of the locality.

9.

Prior to installation, details of all ground surface finishes, including kerbs shall be submitted to and approved in writing by the local planning authority. Development shall be implemented in accordance with the approved details and shall be permanently maintained as such.

Reason: To ensure that the development does not prejudice the appearance of the locality and to ensure that a high quality public realm is created.

10.

Prior to the occupation of the development hereby approved a scheme of landscaping shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall incorporate a detailed specification including plant/tree types and sizes, plant numbers and distances, written specifications including cultivation and other operations associated with plant and grass establishment, together with a strategy for the watering and maintenance of the new planting, colour and type of material for all hard surface areas and method of laying where appropriate and an implementation programme.

All areas of hardstanding shall be constructed using porous materials laid on a permeable base, unless details have been submitted to and approved in writing by the Local Planning Authority.

All planting, seeding or turfing contained in the approved details of the landscaping scheme shall be carried out in the agreed implementation programme.

All hard surface areas agreed as part of the scheme shall be carried out in accordance with the approved implementation programme.

Any trees or plants which die, are removed, or become seriously damaged, or diseased within a period of 5 years from the completion of the development shall be replaced in the next planting season in accordance with the approved landscaping scheme.

Reason: To enhance the appearance and the biodiversity value of the development.

11.

No development, including site clearance, demolition, preparatory works or construction, shall be commenced until an Arboricultural Method Statement (AMS) has been submitted to and approved in writing by the Local Planning Authority. The AMS shall include a Detailed Tree Protection Plan (DTPP) indicating retained trees, trees to be removed, the precise location and design of protective barriers and ground protection, service routing and specifications, areas designated for structural landscaping to be protected and suitable space for access, and site storage and other construction related facilities.

The AMS and DTPP shall include details of the appointment of a suitably qualified Project Arboricultural Consultant who will be responsible for monitoring the implementation of the approved DTPP, along with details of how they propose to monitor the site (frequency of visits; key works which will need to be monitored, etc.) and how they will record their monitoring and supervision of the site.

The development shall only be implemented in accordance with the approved details. The approved means of protection shall be installed prior to the commencement of any building, engineering works or other activities on the site and shall remain in place until after the completion of the development to the complete satisfaction of the Local Planning Authority.

Following each site inspection during the construction period the Project Arboricultural Consultant shall submit a short report to the Local Planning Authority.

The Local Planning Authority shall be notified in writing at least 21 days prior to the commencement of development on site

Reason: To ensure the protection and retention of existing/remaining trees, shrubs and hedges. These details are required prior to the commencement of the development as they relate to measures that need to be put in place prior to development commencing.

12.

Prior to commencement of the development above slab level, a Biodiversity Enhancement Strategy for Protected and Priority Species shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) Detailed designs to achieve stated objectives;
- c) Locations of proposed enhancement measures by appropriate maps and plans;
- d) Persons responsible for implementing the enhancement measures;
- e) Details of initial aftercare and long-term maintenance (where relevant).

The development shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

Reason: In the interests of protecting and enhancing biodiversity.

13.

Prior to first occupation of the development hereby approved details of all gates / fences / walls or other means of enclosure shall be submitted to and approved in writing by the local planning authority. The details shall include position, design, height and materials of the enclosures. The enclosures as approved shall be provided prior to the occupation of the development hereby approved and shall be permanently retained as such.

Reason: In order to secure the satisfactory development of the site and in the interests of visual amenity.

14.

No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:

- The parking of vehicles of site operatives and visitors;
- The loading and unloading of plant and materials;
- Safe access to / from the site including the routing of construction traffic;
- The storage of plant and materials used in constructing the development;
- The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- Wheel washing and underbody washing facilities;
- Measures to control the emission of dust, dirt and mud during construction;
- A scheme to control noise and vibration during the construction phase, including

- details of any piling operations;
- A scheme for recycling/disposing of waste resulting from demolition and construction works;
- Delivery, demolition and construction working hours; and
- Details of how the approved Plan will be implemented and adhered to, including contact details for individuals responsible for ensuring compliance.

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

Reason: This condition is required prior to the commencement of development so as to protect highway efficiency of movement and safety from construction vehicles (including associated with demolition), in accordance with policy DM1 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

15.

No occupation of the development shall take place until the following have been provided or completed:

- a. The site access as shown in principle on planning application drawing TIA-WIT-0015 has been implemented;
- b. The upgrade, to Essex County Council specification, the pair of bus stops on Rickstones Road closest to the proposal site, details of which shall have been agreed with the Local Planning Authority prior to development above slab level;
- c. A finalised Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The provision of the approved Travel Plan shall be adhered to at all times; and
- d. The first occupant of each new dwelling to be provided with a Residential Travel Information Pack (to include six one-day vouchers for use with the relevant local public transport operator), promoting the use of sustainable transport, details of which shall first have been submitted to and approved in writing by the Local Planning Authority.

Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking, in accordance with policy DM1, DM9 and DM10 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

16.

The development shall not be occupied until the car parking area indicated on the approved plans, including any parking spaces for the mobility impaired has been hard surfaced, sealed and marked out in parking bays. The car parking area shall be retained in this form at all times. The car park shall not be used for any purpose other than the parking of vehicles that are related to the use of the development.

Reason: To ensure adequate parking space is provided in accordance with the Council's adopted Parking Standards.

17.

The bicycle parking facilities as shown on the approved plans are to be provided prior to the first occupation of the development and retained at all times.

Reason: To ensure appropriate bicycle parking is provided in accordance with the Council's adopted Parking Standards.

18.

The development shall not be occupied until the areas for bin storage indicated on the approved plans is provided. The area shall be retained and available for use as approved at all times.

Reason: To ensure that the development provides suitable facilities, to prevent the unsightly storage of refuse containers and in the interests of amenity.

19.

The car park areas where the refuse collection vehicle is required to go to collect refuse and recycling shall be constructed to take a load of 26 tonnes.

Reason: To ensure that the refuse vehicles can safely enter and leave the site without damaging the car park surface.

20.

Details of any proposed external lighting to the site shall be submitted to, and approved in writing by, the local planning authority prior to installation. The details shall include a layout plan with beam orientation and a schedule of equipment in the design (luminaire type, mounting height, aiming angles, luminaire profiles and energy efficiency measures). All lighting shall be installed, maintained and operated in accordance with the approved details. There shall be no other sources of external illumination.

Reason: In the interest of promoting sustainable forms of development and minimising the environmental and amenity impact of lighting.

21.

Prior to the commencement of the construction of the buildings hereby permitted, a comprehensive survey shall be undertaken to assess the nature and extent of any contamination on the site, a copy of the survey findings together with a remediation scheme to bring the site to a suitable condition in that it represents an acceptable risk shall be submitted to and agreed in writing with the Local Planning Authority prior to the commencement of development. Formulation and implementation of the remediation scheme shall be undertaken by competent persons and in accordance with 'Model Procedures for the Management of Land Contamination, CLR 11'. Further advice is available in the 'Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers'. Such agreed measures shall be implemented and completed prior to the commencement of development hereby approved.

Notwithstanding the above, should contamination be found that was not previously identified or not considered in the remediation scheme agreed in writing with the Local Planning Authority, that contamination shall be made safe and reported

immediately to the Local Planning Authority. The site shall be re-assessed in accordance with the above and a separate remediation scheme shall be submitted to and agreed in writing with the Local Planning Authority. Such agreed measures shall be implemented and completed prior to the first occupation of any parts of the development.

The developer shall give one-month's advanced notice in writing to the Local Planning Authority of the impending completion of the remediation works. Within four weeks of completion of the remediation works a validation report undertaken by competent person or persons and in accordance with the 'Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers' and the agreed remediation measures shall be submitted to the Local Planning Authority for approval. There shall be no residential occupation of the site (or beneficial occupation of the office building hereby permitted) until the Local Planning Authority has approved the validation report in writing. Furthermore, prior to occupation of any property hereby permitted, the developer shall submit to the Local Planning Authority a signed and dated certificate to confirm that the remediation works have been completed in strict accordance with the documents and plans comprising the remediation scheme agreed in writing with the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors. The investigation and risk assessment is required prior to the commencement of development to ensure that mitigation measures are in place from the outset for the reasons previously referred to.

22.

Prior to commencement of the development above slab level, a scheme for protecting the future occupants of the proposed flats from noise from the commercial units on the ground floor shall be submitted to and approved in writing by the local planning authority. All works which form part of the approved scheme shall be completed before the flats are first occupied and shall be permanently maintained as such.

Reason: To protect the amenities of the occupiers of the residential properties hereby permitted.

23.

Any externally mounted plant, equipment and servicing, including air handling plant shall be selected and/or acoustically treated to achieve 10dB(A) below the typical background noise level at the nearest noise sensitive premises.

Reason: To protect the amenities of the occupiers of the residential properties hereby permitted.

24.

Development shall not be commenced above slab level until a scheme of ductwork has been submitted to and approved in writing by the local planning authority. The details shall specify that all extract ductworks shall be fitted with a suitable odour control system commensurate with the use of the premises, terminating at least 1 metre above ridge level, unless otherwise agreed with the local planning authority and shall be maintained thereafter.

Reason: To protect the amenities of the occupiers of the residential properties hereby permitted and those in the wider locality from air pollution.

25.

The hours for deliveries to the commercial units shall be restricted to Monday to Saturday 0800 to 1800 hours, excluding Bank and Public Holidays.

Reason: To protect the amenities of the occupiers of the residential properties hereby permitted and those in the wider locality from noise and disturbance.

26.

The commercial premises shall not be open for business and trading, including making food and drink deliveries, outside the following hours:-

- Monday to Friday 06:00 hours - 23:00 hours
- Saturdays 06:00 hours - 23:00 hours
- Sundays 07:00hours - 22:00 hours
- Public and Bank Holidays 07:00 hours - 22:00 hours

Reason: To protect the amenities of the occupiers of the residential properties hereby permitted and those in the wider locality from noise and disturbance.

APPENDIX 2:POLICY CONSIDERATIONSNational Planning Guidance

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP3	Development within Town Development Boundaries and Village Envelopes
RLP7	Housing and Mixed Use Sites
RLP8	House Types
RLP9	Design and Layout of Housing and Mixed Use Areas
RLP10	Residential Density
RLP22	Accessible Housing and Lifetime Housing
RLP36	Industrial and Environmental Standards
RLP49	Pedestrian Networks
RLP52	Public Transport
RLP56	Vehicle Parking
RLP62	Development Likely to Give Rise to Pollution or the Risk of Pollution
RLP64	Contaminated Land
RLP65	External Lighting
RLP69	Sustainable Urban Drainage
RLP71	Water Supply, Sewerage & Drainage
RLP74	Provision of Space for Recycling
RLP77	Energy Efficiency
RLP90	Layout and Design of Development
RLP92	Accessibility
RLP93	Public Realm
RLP138	Provision of Open Space in New Housing Developments

Braintree District Local Development Framework Core Strategy 2011

CS6	Retailing and Town Centre Regeneration
CS7	Promoting Accessibility for All
CS8	Natural Environment and Biodiversity
CS10	Provision for Open Space, Sport and Recreation

Braintree District Shared Strategic Section 1 Local Plan (2021)

SP1	Presumption in Favour of Sustainable Development
SP2	Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
SP3	Spatial Strategy for North Essex
SP4	Meeting Housing Needs
SP6	Infrastructure & Connectivity
SP7	Place Shaping Principles

Braintree District Draft Section 2 Local Plan (2017)

LPP1	Development Boundaries
LPP17	Housing Provision and Delivery
LPP30	Comprehensive Redevelopment Area - Rickstones Neighbourhood Centre
LPP37	Housing Type and Density
LPP44	Sustainable Transport
LPP45	Parking Provision
LPP50	Built and Historic Environment
LPP51	An Inclusive Environment
LPP53	Provision of Open Space, Sport and Recreation
LPP55	Layout and Design of Development
LPP67	Natural Environment and Green Infrastructure
LPP68	Protected Species, Priority Spaces and Priority Habitat
LPP73	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP75	Energy Efficiency
LPP78	Flooding Risk and Surface Water Drainage
LPP80	Sustainable Urban Drainage Systems
LPP81	External Lighting
LPP82	Infrastructure Delivery and Impact Mitigation

Other Material Considerations

Supplementary Planning Documents (SPD's) & Supplementary Planning Guidance:

Essex Design Guide for Mixed Use and Residential Areas (2005)
 Essex Design Guide Urban Place Supplement (2005)
 External Lighting Supplementary Document
 Parking Standards – Design and Good Practice (September 2009)
 Rickstones Neighbourhood Centre Development Brief SPD

Statement on Draft Local Plan

On the 22nd February 2021, Braintree District Council adopted the Shared Strategic Section 1 Local Plan.

On adoption, the policies in the Shared Strategic Section 1 Local Plan superseded Policies CS1, CS4, CS9 and CS11 of the Core Strategy (2011).

The Council's Development Plan therefore consists of the Braintree District Local Plan Review (2005) ("the Adopted Local Plan"), the policies of the Core Strategy (2011) (the Core Strategy) which are not superseded, the Shared Strategic Section 1 Local Plan (2021) ("the Section 1 Plan"), and any Adopted Neighbourhood Plan.

The local authority is now moving forward with the examination of Section 2 of the Draft Local Plan and a consultation on the main modifications closed on 24th January 2022. In accordance with Paragraph 48 of the NPPF, from the day of publication the Council can give weight to the policies of this emerging Draft Section 2 Local

Plan (“the Section 2 Plan”) and the weight that can be given is related to:

“The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);

The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and

The degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)”.

Accordingly the Council affords significant weight to the Section 2 Plan.

APPENDIX 3:SITE HISTORY

07/02052/OUT	Erection of 4 no. retail units and 29 no. flats	Refused	26.11.07
18/00019/OUT	Hybrid planning application for the redevelopment of Rickstones Neighbourhood Centre seeking; full permission for the redevelopment of Block A to provide up to 430sqm of commercial floorspace (within Use Class A1, A2, A3, A4 and A5) and 13 flats together with public realm improvements, car parking and associated infrastructure; and outline permission for the redevelopment of Block B to provide up to 12 flats with all matters reserved.	Withdrawn	04.01.19

Minutes

Planning Committee 8th February 2022



Present

Councillors	Present	Councillors	Present
J Abbott	Yes	Mrs I Parker	Yes
Mrs J Beavis	Yes	F Ricci	Apologies
K Bowers	Yes	Mrs W Scattergood (Chairman)	Yes
P Horner	Yes	P Schwier	Yes
H Johnson	Yes	Mrs G Spray	Yes
D Mann	Yes	J Wrench	Yes
A Munday	Yes		

Substitutes

Councillor A Hensman attended the meeting as a substitute for Councillor F Ricci.

109 **DECLARATIONS OF INTEREST**

INFORMATION: There were no interests declared.

110 **MINUTES**

DECISION: That the Minutes of the meeting of the Planning Committee held on 25th January 2022 be approved as a correct record and signed by the Chairman.

It was reported that the Minutes of the meeting of the Planning Committee held on 14th December 2021 were not available for approval.

111 **QUESTION TIME**

INFORMATION: One statement was made about the following application:-

Application No. 19/00014/FUL - land at junction of Laburnum Way and Dorothy Sayers Drive, Witham

Due to on-going issues relating to the Covid-19 pandemic, the person who had registered to participate during Question Time joined the meeting via Zoom and he

read a written statement, which he had submitted in advance of the meeting, immediately prior to the Committee's consideration of the application.

Principally, these Minutes record decisions taken only and, where appropriate, the reasons for the decisions.

112 **SECTION 106 AGREEMENT**

<u>Plan No.</u>	<u>Location</u>	<u>Applicant(s)</u>	<u>Proposed Development</u>
*19/00014/FUL (APPROVED)	Witham	Mr S and Mrs K Patel	Detailed planning application for the redevelopment of Rickstones Neighbourhood Centre to provide commercial floorspace (Units 1-3 Use - Class E and Units 4&5 - Hot Food Takeaway) and 21 flats, together with private soft landscaped area and gardens, car parking and associated infrastructure, land at junction of Laburnum Way and Dorothy Sayers Drive.

DECISION: That, subject to the applicant entering into a suitable legal agreement pursuant to Section 106 of the Town and County Planning Act 1990 (as amended) to cover the following Heads of Term (as amended below):

- **Community Building:** Financial contribution of £6,994.68 (index-linked) paid prior to the occupation of the fifth residential dwelling;
- **Essex Recreational Avoidance and Mitigation Scheme:** £1,782.20 (index-linked from April 2022);
- **Primary Healthcare:** Financial contribution £5,351.08 (index-linked) paid prior to first residential occupation of the development;
- **Public Open Space:** Financial contribution of £25,159.64 (index-linked) paid prior to the occupation of the fifth residential dwelling towards the provision of new / improved Public Open Space specified within the District Council's Open Space Action Plan within the Witham North Ward;
- **Formation of Management Company:** To secure suitable management arrangements for areas of public realm and amenity space on-site including

the car park, but excluding the communal residents' gardens at the rear of the flats;

- **Tree Removal / Replacement Provision:** Financial contribution of £4,750.00 (index-linked) prior to the commencement of development;
- **Parking Scheme:** Financial contribution of £20,000.00 (index-linked) paid prior to the occupation of the development towards possible future implementation of a highway parking scheme, which may include making a Traffic Regulation Order;
- **Travel Plan Monitoring Fee:** Financial contribution of £1,533.00pa. for five years (index-linked) paid prior to occupation of the development;
- **Car Park Management Plan;**
- **Braintree District Council and Essex County Council Monitoring Fees**

the Planning Development Manager be authorised to grant planning permission for the above development in accordance with the approved plans and the conditions and reasons set out in the report, as amended below. Alternatively, in the event that a suitable planning obligation is not agreed within three calendar months of the Planning Committee's decision, the Planning Development Manager be authorised to refuse planning permission. Details of this planning application are contained in the Register of Planning Applications.

The Committee approved this application, subject to a Head of Term of the Section 106 Agreement being updated and to two additional Conditions and an Information to Applicant as follows:-

Updated Head of Term

Primary Healthcare: Financial contribution of £5,351.08 (index-linked) paid prior to first residential occupation of the development;

Additional Conditions

27. Prior to occupation of each residential flat / first use of each commercial unit hereby approved, a fibre broadband connection shall be provided to a broadband infrastructure provider's network.
28. No above ground development shall commence until additional drawings that show the location, design and security specification of post boxes for each residential flat have been submitted to and approved in writing by the Local Planning Authority. Development shall only be implemented in accordance with the approved details and shall be permanently retained as such.

Information to Applicant

1. The applicant is encouraged to install electric vehicle charging infrastructure within the car parking areas at the development and to also, if appropriate, consider the opportunity to future proof the development by installing infrastructure to facilitate the future installation of electric vehicle charging points.

PLEASE NOTE: The full list of standard conditions and reasons can be viewed at the office of the Planning Development Manager, Council Offices, Causeway House, Bocking End, Braintree, Essex CM7 9HB.

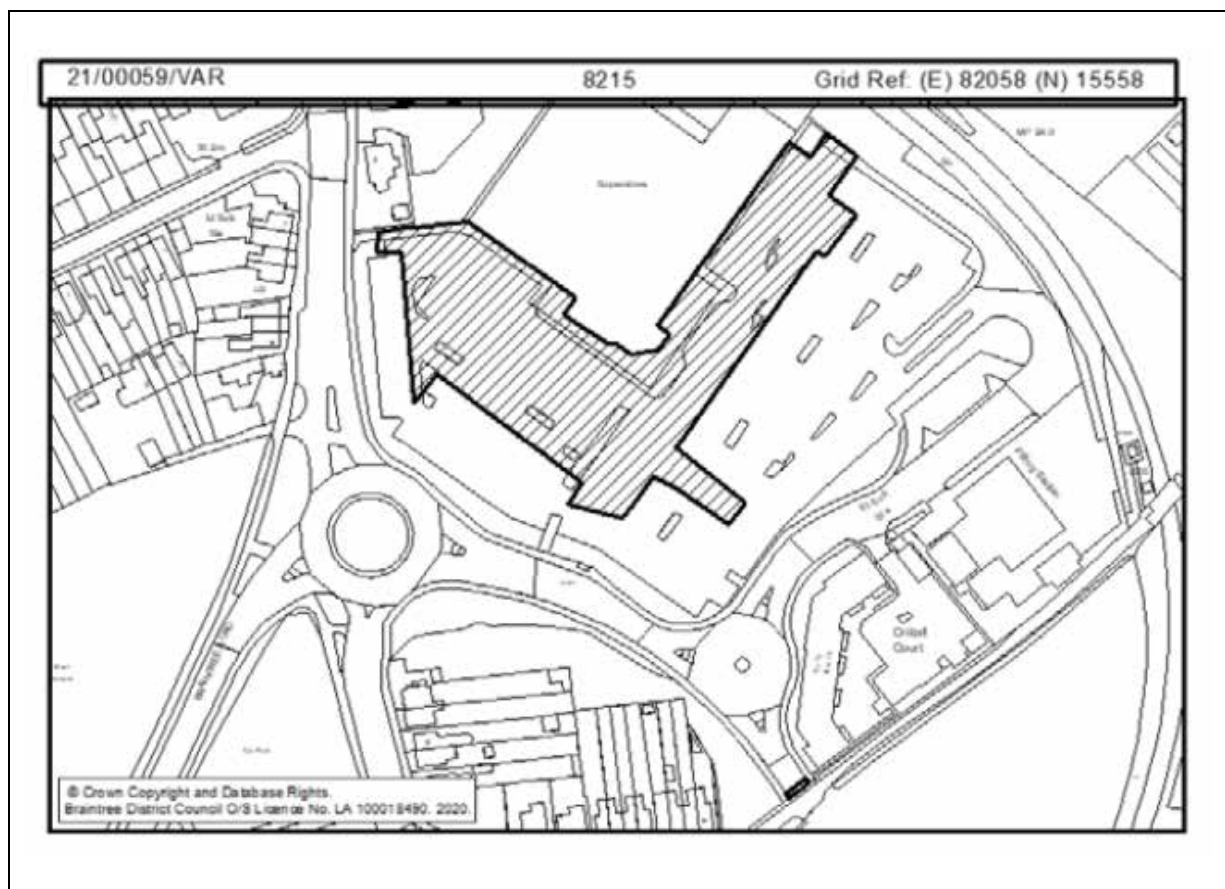
(Where applications are marked with an * this denotes that representations were received and considered by the Committee).

The meeting closed at 8.22pm.

Councillor Mrs W Scattergood
(Chairman)

Agenda Item: 5b

Report to: Planning Committee		
Planning Committee Date: 18th October 2022		
For: Decision		
Key Decision: No		Decision Planner Ref No: N/A
Application No:	21/00059/VAR	
Description:	Variation of Condition 11 'Trading Restrictions' of permission 20/00014/VAR granted 11/02/2014. Variation would allow: The opening created following the demolition of the section of wall shall be kept open for pedestrians and cyclists only and shall not prejudice the formation of future vehicular access through the opening.	
Location:	Morrisons Supermarket, Braintree Road, Witham	
Applicant:	Wm Morrison Supermarkets Plc	
Agent:	Peacock + Smith Limited, Mr Anthony Ferguson, Fourth Floor, 8 Baltic Street, London, EC1Y 0UP	
Date Valid:	21st January 2021	
Recommendation:	It is RECOMMENDED that the following decision be made: § Application GRANTED subject to the completion of a Section 106 Agreement to cover the Heads of Terms outlined within the Recommendation section of this Committee Report, and subject to the Condition(s) & Reason(s) and Informative(s) outlined within Appendix 1 of this Committee Report.	
Options:	The Planning Committee can: a) Agree the Recommendation b) Vary the Recommendation c) Overturn the Recommendation d) Defer consideration of the Application for a specified reason(s)	
Appendices:	Appendix 1:	Approved Plan(s) & Document(s) Condition(s) & Reason(s) and Informative(s)
	Appendix 2:	Policy Considerations
	Appendix 3:	Site History
	Appendix 4:	Planning Committee 31st May 2022 (Agenda and Minutes)
Case Officer:	Neil Jones For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2523, or by e-mail: neil.jones@braintree.gov.uk	

Application Site Location:

Purpose of the Report:	<p>The Committee Report sets out the assessment and recommendation of the abovementioned application to the Council's Planning Committee. The report sets out all of the material planning considerations and the relevant national and local planning policies.</p> <p>The proposal was originally reported to Members at the Planning Committee meeting of 31 May 2022, where it was resolved to grant planning permission subject to the applicants entering into a suitable legal agreement pursuant to Section 106 of the Town and County Planning Act 1990 (as amended).</p> <p>The agreement had not been completed prior to the adoption of the Council's new Section 2 Local Plan on 25 July 2022, so this report updates the Development Plan context for the proposal. The policies listed within Appendix 2 of this report have been revised, with references to the old Local Plan Review and Core Strategy policies removed as they have been superseded.</p> <p>A copy of the original committee report and the minutes from the 31 May 2022 meeting are attached to this report within Appendix 3.</p>
Financial Implications:	<p>The application was subject to the statutory application fee paid by the Applicant for the determination of the application.</p> <p>As outlined above, it is recommended that the decision is subject to a Section 106 Agreement which seeks to mitigate the impact(s) arising from the proposed development. Any financial implications arising out of a Section 106 Agreement will be set out in more detail within the body of the original Committee Report.</p> <p>Financial implications may arise should the decision be subject to a planning appeal or challenged via the High Court.</p>
Legal Implications:	<p>Any legal implications arising out of a Section 106 Agreement will be set out in more detail within the body of this Committee Report.</p> <p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p>

	<p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either set out the relevant Conditions & Reasons and any Informatives, or the Reasons for Refusal if applicable.</p> <p>All relevant policies are set out within the report, within Appendix 2.</p>
Other Implications:	<p>The application has been subject to public consultation and consultation with relevant statutory and non-statutory consultees. All responses received in response to this consultation are set out within the body of this Committee Report.</p>
Equality and Diversity Implications	<p>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:</p> <ul style="list-style-type: none"> 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; c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding. <p>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).</p> <p>The consideration of this application has not raised any equality issues.</p>
Background Papers:	<p>The following background papers are relevant to this application include:</p> <ul style="list-style-type: none"> § Planning Application submission: <ul style="list-style-type: none"> § Application Form § All Plans and Supporting Documentation § All Consultation Responses and Representations

	<p>The application submission can be viewed online via the Council's Public Access website: www.braintree.gov.uk/pa by entering the Application Number: 21/00059/VAR.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> § National Planning Policy Framework (NPPF) § Braintree District Local Plan 2013 - 2033 § Braintree District Cycling Strategy <p>The National Planning Policy Framework can be viewed on the GOV.UK website: www.gov.uk/.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: www.braintree.gov.uk.</p>
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1. UPDATE REPORT

- 1.1 As highlighted within the 'Purpose of the Report' section above, the proposal the subject of this report was originally reported to Members at the Planning Committee meeting held on 31st May 2022, where it was resolved to grant planning permission subject to the applicants entering into a suitable legal agreement pursuant to Section 106 of the Town and County Planning Act 1990 (as amended).
- 1.2 Prior to reporting the application to the Planning Committee in May Officers had instructed the Council's solicitor to act for the Council in preparing the Section 106 Agreement. To be able to draft the agreement some additional clarification was required from Essex County Council. This clarification was sought from Essex County Council's legal advisers. At the time of writing this report Officers continue to seek this clarification from the County Council's legal services. The matter has been escalated and Officers continue to press for the required clarification. It must be stressed that this delay has not been because of the Applicant. They have instructed their solicitor and they continue to patiently wait for the draft agreement to be issued to them.
- 1.3 As it has not been possible to complete the Section 106 Agreement prior to the adoption of the Council's new Section 2 Local Plan on 25th July 2022 this report updates the Development Plan context for the proposal and a fresh resolution is sought from Planning Committee that the application can be approved subject to the completion of the Section 106 Agreement.
- 1.4 The policies listed within Appendix 2 of this report have been revised from those previously highlighted as being material to the case in hand, with references to the old Local Plan Review and Core Strategy policies removed as they have been superseded. A number of policy numbers and policy titles listed within the Publication Draft Section 2 Local Plan (2017) have also been revised within the adopted version of the Section 2 Local Plan (2022), although their substance remains the same.
- 1.5 A copy of the original Committee Report and the Minutes from the 31st May 2022 meeting are attached to this report within Appendix 4.
- 1.6 This update therefore relates to the adoption of the Braintree District Local Plan 2013 – 2033 and how it effects the proposal for the proposed variation of Condition 11, to change the time by which a wall needs to be demolished and associated highway works completed at the site of the Morrisons Supermarket, Braintree Road, Witham.
- 1.7 In addition, it was resolved by Members at the Planning Committee meeting of 31st May 2022 to amend Condition 11 to require that demolition and associated works are completed within two years of the date of the decision notice. The updated list of draft conditions is set out within Appendix 1 to this report.

2. Braintree District Local Plan 2013 – 2033

- 2.1 The Council's statutory Development Plan consists of the Braintree District Local Plan 2013 - 2033. Section 2 of the Plan has been found sound by the Planning Inspector and adopted by Full Council on 25th July 2022.
- 2.2 Now that the Local Plan has been adopted full weight can be given to the policies, as opposed to the limited weight that could be given to the policies when the application was reported to Planning Committee in May. The Planning Inspectors who examined the Local Plan did not require any significant modifications to the new Local Plan policies that were most relevant to this application.
- 2.3 Policy LPP42 of the Adopted Local Plan (Sustainable Transport) states that new developments should facilitate sustainable modes of transport to promote accessibility and integration into the wider community and existing networks. The policy advocates priority being given to cycling and pedestrian movement as well as access to public transport.
- 2.4 Policy LPP45 of the Adopted Local Plan (New Road Infrastructure) largely carries forward similar policies from earlier Development Plan documents. It states that in order to facilitate development within the plan period, a number of road improvement schemes are identified across the District, which will aid safety; provide routes necessary to serve new development; and help relieve congestion. One of the identified schemes is a new road link to Cut Throat Lane/ Albert Road, Witham, with the main aim being to help relieve highway congestion. The policy and the proposals map safeguard the route of the proposed road. In the May Committee Report Officers considered that this application to vary Condition 11 will not prejudice the delivery of such a road, as the proposal would still safeguard and futureproof the position should the appropriate parties and landowners come forward in the future to undertake justified road improvement works to Cut Throat Lane and potentially Albert Road to facilitate a vehicle access at this location. There is no change to this position.

3. CONCLUSION

- 3.1 There have been no changes to the proposal since Members previously resolved to grant planning permission, and no significant changes in the assessment of the proposals against the Development Plan. Therefore, the Officer recommendation is again to approve the scheme.

4. RECOMMENDATION

- 4.1 It is therefore RECOMMENDED that subject to the Applicant entering into a Deed of Variation to the Section 106 of the Town and Country Planning Act 1990 (as amended) the Planning Development Manager or an authorised Officer be authorised to GRANT planning permission under delegated powers in accordance with the Approved Plans and Documents, and

subject to the Condition(s) & Reason(s), and Informative(s) outlined within APPENDIX 1.

- 4.2 Alternatively, in the event that a suitable planning obligation is not agreed within three calendar months of the date of the resolution to GRANT planning permission by the Planning Committee, the Planning Development Manager may use his delegated authority to refuse the application.

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

APPENDIX 1:APPROVED PLAN(S) & DOCUMENT(S) / CONDITION(S) & REASON(S) AND INFORMATIVE(S)Approved Plan(s) & Document(s)

Plan Description	Plan Ref	Plan Version
Existing Site Plan	13964 DB3 290 00 DR A 90_03	Rev A
Proposed Site Plan	13964 DB3 290 00 DR A 90_04	Rev B
Proposed Site Plan	13964-DB3-290-00-DR-A-90_02	Rev A
Existing Site Plan	13964-DB3-290-00-DR-A-90_01	Rev B
Existing Plans	13964-DB3-290-00-DR-A-20_25	N/A
Proposed Plans	13964-DB3-290-00-DR-A-20_27	N/A
Existing Elevations and Floor Plans	13964-DB3-290-00-DR-A-41_01	Rev A
Proposed Elevations and Floor Plans	13964-DB3-290-00-DR-A-41_02	Rev B
Existing Roof	13964-DB3-290-00-DR-A-27_01	N/A
Proposed Roof Plan	13964-DB3-290-00-DR-A-27_02	N/A
Landscape Masterplan	13964-DB3-290-00-DR-A-90_11	N/A
Cycle Plan	13964-DB3-290-00-DR-A-72_01	N/A
Section	13964-DB3-290-00-DR-A-20_20	N/A
Highway Plan	20/348/SKH-001	N/A
Lighting Plan	LS19610	N/A
Lighting Plan	Abacus Lighting Column Spec.	N/A
Transport Plan	Transport Statement Ref: 20-348-001.01 dated January 2021	

Condition(s) & Reason(s)

1.

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

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

2.

The development hereby permitted shall be constructed entirely of the materials details of which are shown on the approved plans.

Reason: To conform with the pattern of the existing development in the locality.

3.

The hard and soft landscaping scheme shall be implemented, as shown on approved Drawing No. 13964-DB3-290-00-DR-A-90_11 and shall be permanently retained as such.

Reason: To enhance the appearance of the development and in the interests of amenity.

4.

All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the extended building or in accordance with a programme agreed with the local planning authority. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.

Reason: To enhance the appearance of the development and in the interests of amenity.

5.

The Construction Method Statement as agreed under Planning Application Reference No. 17/00173/DAC, allowed at appeal on 5th April 2019, shall be adhered to throughout the construction period.

Reason: In the interests of the amenity of residents of the locality.

6.

Prior to the first occupation of any part of the extended building, the cycle parking facilities shall be provided, as shown on Drawing No. 13964-DB3-290-00-DR-A-72_01 and shall be permanently retained as such.

Reason: To ensure appropriate powered two wheeler and bicycle parking is provided in accordance with the Council's adopted Parking Standards.

7.

Prior to the first occupation of any part of the extended building, the lighting scheme as approved on Drawing No. LS19610 and the associated Lighting Column Specification, within the site edged red, shall be implemented and permanently retained as such.

Reason: To minimise pollution of the environment and to safeguard the amenities of the locality and the appearance of the development.

8.

The development shall be undertaken in accordance with the Travel Plan approved pursuant to application 21/00823/DAC.

Reason: In the interest of Highway Safety.

9.

The net sales area of the extended store shall not exceed 2577 square metres of which a maximum of 25% shall be used for the sale of comparison goods. For this purpose, net retail sales area is as defined by the National Retail Planning Forum in Appendix A of Planning for Town Centres - Practice guidance on need, impact and the sequential approach, published by the Department of Communities and Local Government in December 2009.

Reason: In order to protect the viability and vitality of nearby town centres.

10.

The extension hereby permitted shall operate as an extension to the existing store only and neither shall be sub-divided to create additional retail units.

Reason: In order to protect the viability and vitality of nearby town centres.

11.

Within two years of the date of this decision the wall adjacent to Cut Throat Lane within the small area shown edged red on Drawing No. 13964-DB3-290-00-DR-A-90_04 REV B shall be removed and the site of the wall made up to highway adoption standards and to the immediately adjacent level of Cut Throat Lane. The opening thereby created shall thereafter be kept open for pedestrians, and cyclists at all times.

Reason: In the interests of highway safety.

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission, in accordance with the presumption in favour of sustainable development, as set out in the National Planning Policy Framework.

APPENDIX 2:POLICY CONSIDERATIONSNational Planning Guidance

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)

Braintree District Shared Strategic Section 1 Local Plan (2021)

SP1 Presumption in Favour of Sustainable Development
SP5 Employment
SP6 Infrastructure & Connectivity
SP7 Place Shaping Principles

Braintree District Draft Section 2 Local Plan (2017)

LPP1 Development Boundaries
LPP3 Employment Policy Areas
LPP9 Retailing and Regeneration
LPP42 Sustainable Transport
LPP43 Parking Provision
LPP45 New Road Infrastructure
LPP47 Built and Historic Environment
LPP48 An Inclusive Environment
LPP52 Layout and Design of Development
LPP70 Protecting and Enhancing Natural Resources, Minimising Pollution and
Safeguarding from Hazards
LPP72 Resource Efficiency, Energy Generation and Energy Efficiency
LPP77 Renewable Energy Within New Developments
LPP77 External Lighting

Other Material Considerations

Braintree District Cycling Strategy

APPENDIX 3:SITE HISTORY

Application No:	Description:	Decision:	Date:
91/01469/	Proposed Demolition of buildings	Granted	14.01.92
93/00744/OUT	Erection of a Class A1 retail store with coffee shop, Class A3 car	Refused	10.08.93

	parking and associated facilities, petrol filling station, car wash and new access roundabout and provision of link road between Braintree Road and Albert Road		
93/00040/NONDET	Appeal	Appeal Allowed	15.10.93
94/00118/REM	Erection of a Class A1 retail store with coffee shop Class A3 car parking and associated facilities petrol station, car wash and new access roundabout	Granted	28.03.94
01/00333/ADV	Display of shop sign to petrol filling station canopy	Granted	23.04.01
05/00435/ADV	Display of various illuminated signage to replace existing due to change of ownership	Granted	25.05.05
11/00922/FUL	Erection of extensions to existing supermarket with associated works to existing car park	Refused	14.03.12
12/01569/FUL	Erection of extensions to existing supermarket with associated works to existing car park	Refused then allowed on appeal	11.02.14
12/00011/SCR	Town & Country Planning Act 1990 (as amended), Town & Country Planning (Environmental Impact Assessment) Regulations 2011 - Screening Opinion Request - Proposed store extension	Screening/Scoping Opinion Adopted	10.12.12
17/00173/DAC	Application for approval of details reserved by condition nos. 7 and 9a of approved application 12/01569/FUL	Refused	17.03.17
17/00174/DAC	Application for approval of details reserved by condition no. 8 of approved application 12/01569/FUL	Granted	10.02.17
17/00177/DAC	Application for approval of	Granted	10.02.17

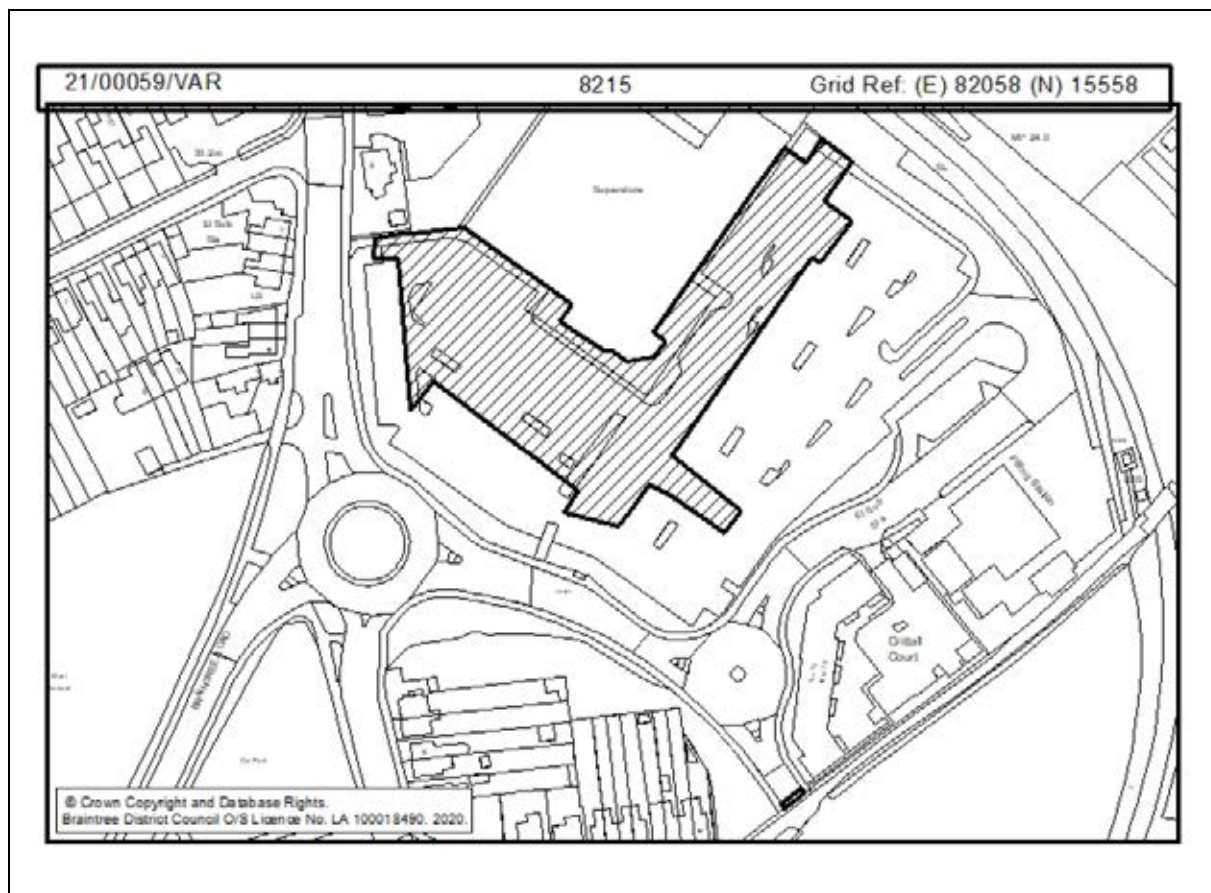
	details reserved by condition no.4 of approved application 12/01569/FUL (Appeal Ref APP/Z1510/A/13/2198996		
17/00187/NMA	Application for a non-material amendment following grant of planning permission 12/01569/FUL (Erection of extensions to existing supermarket with associated works to existing car park) - amend condition 10 relating to Travel Plan	Granted	13.02.20
17/00195/DAC	Application for approval of details reserved by condition no. 9 of approved application 12/01569/FUL	Granted	10.02.17
19/00010/REF	Application for approval of details reserved by condition nos. 7 and 9a of approved application 12/01569/FUL	Appeal Allowed	05.04.19
19/00710/FUL	Installation of new condenser units and platforms in the service yard.	Granted	10.01.20
19/01487/PLD	Certificate of lawfulness of proposed development consisting of continuation of operations to implemented Planning Permission ref: 12/01569/FUL as allowed on appeal ref: APP/21510/A/13/2198996 dated 11/02/14 for 'Erection of extensions to an existing supermarket with associated works to an existing car park'.	Granted	29.11.19
20/00014/VAR	Variation of Condition 2 Approved Plans of permission 12/01569/FUL (allowed under appeal reference: APP/Z1510/A/13/2198996	Granted with S106 Agreement	14.08.20

	<p>) granted 11/02/2014 for erection of extensions to existing supermarket with associated works to existing car park. Variation would allow a reduction in the approved sales floorspace, a refurbished customer cafe and new/refurbished food preparation area. Adjustments to existing car parking layout.</p>		
21/00120/NMA	<p>Non-Material Amendment to permission 20/00014/VAR granted 06/01/2020 for: Variation of Condition 2 Approved Plans of permission 12/01569/FUL (allowed under appeal reference: APP/Z1510/A/13/2198996) granted 11/02/2014 for erection of extensions to existing supermarket with associated works to existing car park. Variation would allow a reduction in the approved sales floorspace, a refurbished customer cafe and new/refurbished food preparation area. Adjustments to existing car parking layout. Amendment would allow:</p> <ol style="list-style-type: none"> 1. White cladding changed to RAL7012 to both South East and South West Elevations 2. White curved wall changed to Silver 3. New Double doors to North East Elevation 4. Canopy extension in South East Elevation 5. Glazing moved from Produce aisle on South East Elevation to Barista 	Granted	24.02.21

	on South West Elevation 6. Tower glazing design		
21/00177/FUL	Retrospective applicaiton for the rection of a single-storey detached Garden Centre building in the carpark and installation of 10 anti-ram bollards.	Granted	03.10.22
21/00270/FUL	Erection of 2 bay Home Shopping Vehicle Canopy with fixed and retractable bollards, new 2.4m high paladin fence with access gate and single height ARMCO barrier to each parking bay below the canopy.	Granted	03.10.22
21/00823/DAC	Application for approval of details as reserved by condition 8 of approved application 20/00014/VAR	Granted	03.09.21
21/03378/P14JPA	Notification for prior approval for the installation of solar photovoltaics (PV) equipment on the roof	Prior Approval Required and Given	11.01.22

Agenda Item: 5a

Report to: Planning Committee		
Planning Committee Date: 31st May 2022		
For: Decision		
Key Decision: No		Decision Planner Ref No: N/A
Application No:	21/00059/VAR	
Description:	Variation of Condition 11 'Trading Restrictions' of permission 20/00014/VAR granted 11/02/2014. Variation would allow: The opening created following the demolition of the section of wall shall be kept open for pedestrians and cyclists only, and shall not prejudice the formation of future vehicular access through the opening.	
Location:	Morrisons Supermarket, Braintree Road, Witham	
Applicant:	Wm Morrison Supermarkets Plc	
Agent:	Peacock + Smith Limited	
Date Valid:	21st January 2021	
Recommendation:	It is RECOMMENDED that the following decision be made: § Application GRANTED subject to the completion of a Deed of Variation to the original Section 106 Agreement and subject to the Conditions & Reasons and Informatives outlined within Appendix 1 of this Committee Report.	
Options:	The Planning Committee can: a) Agree the Recommendation b) Vary the Recommendation c) Overturn the Recommendation d) Defer consideration of the Application for a specified reason(s)	
Appendices:	Appendix 1:	Approved Plan(s) & Document(s) Condition(s) & Reason(s) and Informative(s)
	Appendix 2:	Policy Considerations
	Appendix 3:	Site History
	Appendix 4:	Appeal Decision 12/01569/FUL
Case Officer:	Neil Jones For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2523, or by e-mail: neil.jones@braintree.gov.uk	

Application Site Location:

Purpose of the Report:	The Committee Report sets out the assessment and recommendation of the abovementioned application to the Council's Planning Committee. The report sets out all of the material planning considerations and the relevant national and local planning policies.
Financial Implications:	<p>The application was subject to the statutory application fee paid by the Applicant for the determination of the application.</p> <p>It is recommended that the decision is subject to a deed of variation to the Section 106 Agreement which seeks to mitigate the impacts arising from the development. Any financial implications arising out of a Section 106 Agreement will be set out in more detail within the body of this Committee Report.</p> <p>Financial implications may arise should the decision be subject to a planning appeal or challenged via the High Court.</p>
Legal Implications:	<p>Any legal implications arising out of a Section 106 Agreement will be set out in more detail within the body of this Committee Report.</p> <p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either set out the relevant Conditions & Reasons and any Informatives, or the Reasons for Refusal if applicable.</p> <p>All relevant policies are set out within the report, within Appendix 2.</p>
Other Implications:	The application has been subject to public consultation and consultation with relevant statutory and non-statutory consultees. All responses received in response to this consultation are set out within the body of this Committee Report.
Equality and Diversity Implications	<p>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:</p> <p>a) Eliminate unlawful discrimination, harassment and</p>

	<p>victimisation and other behaviour prohibited by the Act;</p> <p>b) Advance equality of opportunity between people who share a protected characteristic and those who do not;</p> <p>c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.</p> <p>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).</p> <p>The consideration of this application has not raised any equality issues.</p>
<p>Background Papers:</p>	<p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> § Application Form § All Plans and Supporting Documentation § All Consultation Responses and Representations <p>The application submission can be viewed online via the Council's Public Access website: www.braintree.gov.uk/pa by entering the Application Number: 21/00059/VAR.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> § National Planning Policy Framework (NPPF) § Braintree District Local Plan Review (2005) § Braintree District Core Strategy (2011) § Braintree District Shared Strategic Section 1 Local Plan (2021) § Braintree District Publication Draft Section 2 Local Plan (2017) § Braintree District Cycling Strategy <p>The National Planning Policy Framework can be viewed on the GOV.UK website: www.gov.uk/.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: www.braintree.gov.uk.</p>

1. EXECUTIVE SUMMARY

- 1.1 This application (Application Reference 21/00059/VAR) seeks to vary Condition 11 attached to Application Reference 20/00014/VAR which was granted on the 14th August 2020. The 2020 permission gave the Applicant approval to vary Condition 2 (Approved Plans) of permission 12/01569/FUL (which was allowed by a Planning Inspector under Appeal Reference: APP/Z1510/A/13/2198996 – a copy of this appeal decision is included within Appendix 4).
- 1.2 The application site is located to the north of Witham town centre and comprises a 3.5ha parcel of land occupied by Morrisons Supermarket, Petrol Filling Station, and car park. This application seeks to remove the requirement for vehicular access to be provided from the south eastern side of the application site to Cut Throat Lane and revise the wording to omit the words 'and vehicles' from Condition 11. The proposal would still allow the provision of pedestrian and cycle access.
- 1.3 The provision of vehicular access from Cut Throat Lane was included within the Planning Inspector's decision as part of the original planning permission (12/01569/FUL). The rationale behind the Applicants proposed amendments to the wording of the condition, to omit vehicular access from Cut Throat Lane, is in relation to the current need for this access when weighed against highway safety and capacity in association with the supermarket.
- 1.4 Officers consider that the ability to provide a safe vehicular access point in this location within the context of the Applicant's site ownership is currently unachievable due to the conflict at this location between vehicles accessing the commuter car park on the southern side of Cut Throat Lane from two directions, and between pedestrians and cyclist using Cut Throat Lane. The removal of the wall would improve permeability and visibility for pedestrians and cyclists (subject to details coming forward by way of reworded Condition 11) but also futureproof a vehicular access point to the commuter car park, or to facilitate a new road to connect to Albert Road should the redevelopment of the car park site come forward in the future.
- 1.5 The Applicant's proposed changes to remove the requirement that vehicular access is provided follows discussions with ECC Highways Officers. The amended condition still requires that the wall is demolished and that the site of the wall is made up to highway adoption standards and to the immediately adjacent level of Cut Throat Lane. The opening thereby created shall thereafter be kept open for pedestrians, and cyclists at all times. In addition to the conditions, Officers recommend that the existing Section 106 Agreement, that was agreed when planning permission was first granted to extend the store, should be amended. The variation to the Section 106 Agreement shall require the removal of the wall; works agreed with the Local Planning Authority and Highway Authority to make a through route, constructed to full highway adoptable standards (together with such works within the application site that are necessary for the future use by

motor vehicles) from the Crittall Court roundabout to the highway boundary at Cut Throat Lane; and interim works so that on completion of the through route it shall be restricted to use by pedestrians and cyclists. Following demolition of the wall, the scheme would consist of works which would provide improved access for pedestrians and cyclists, whilst also allowing for the potential vehicular access in the future. Overall, it is considered the proposed change and the resulting development is acceptable.

- 1.6 Officers are therefore recommending that Members approve the variation to Condition 11 in the form set out in Paragraphs 6.4 within the report below.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

- 2.1 This application is being reported to Planning Committee in accordance with Part A of the Council's Scheme of Delegation, as the application is deemed to be 'significant' by the Planning Development Manager.

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

- 5.1 The application site is located to the North East of Witham and comprises a 3.5ha parcel of land occupied by Morrisons Supermarket. The supermarket has a gross internal floor area of approximately 5,292sq.m which includes sales floorspace, toilets, a customer café and food preparation area and back of store areas.
- 5.2 The site is bounded by the Braintree Road (B1018) to the south west, whereby access is gained from an existing roundabout onto an access road that leads to the eastern boundary and into the site car park.
- 5.3 Further to the east of the eastern access road sits Crittall Court, a 3 storey residential parcel with Cut Throat Lane, Albert Road a commuter car park and the Greater Anglia Railway line beyond. Pedestrian and cycle access to the commuter car park is provided at the end of the unnamed access road junction to the south of the residential parcel and forms the basis of consideration for this application.
- 5.4 The northern site boundary consists of the Greater Anglia Braintree branch line which skirts the entire northern boundary, and to the north western corner of the site sits a residential parcel which fronts onto Braintree Road.
- 5.5 The site has a variety of uses within its vicinity, consisting of residential to the north beyond the railway line, residential and industrial to the east and south with more residential properties to the west beyond Braintree Road. Witham Railway Station is located approximately 200m to the south as the crow flies.
- 5.6 On entering the application site, there is a Morrisons petrol filling station on the right of the access road. On entering the car park the main entrance to the store is situated towards the centre of the site with car parking wrapping around 2 sides of the building. The delivery service road runs adjacent to the railway to the north and to the rear of the store.

- 5.7 The application site is not located within a Conservation Area or Scheduled Ancient Monuments. The site sits approximately 130m away from 2 Grade II listed buildings (White Horse Lane).
- 5.8 The application site is located inside of the Witham Town Centre Development Boundary as designated in the Adopted Local Plan.

6. PROPOSAL

- 6.1 This application (Application Reference 21/00059/VAR) seeks to vary Condition 11 attached to application 20/00014/VAR which was granted on the 14th August 2020. The full description of the proposal is as follows:

Variation of Condition 11 'Trading Restrictions' of permission 20/00014/VAR granted 11/02/2014 (Variation of Condition 2 Approved Plans of permission 12/01569/FUL (allowed under appeal reference: APP/Z1510/A/13/2198996) for erection of extensions to existing supermarket with associated works to existing car park. Variation would allow: The opening created following the demolition of the section of wall shall be kept open for pedestrians and cyclists only, and shall not prejudice the formation of future vehicular access through the opening.

- 6.2 The 2020 permission gave the Applicant approval to vary Condition 2 (Approved Plans) of permission 12/01569/FUL (which was allowed by a Planning Inspector under appeal reference APP/Z1510/A/13/2198996). The appeal was allowed on 11th February 2014 for the erection of extensions to existing supermarket with associated works to existing car park. The 2020 Variation allowed a reduction in the previously approved sales floorspace, a refurbished customer cafe and new/refurbished food preparation area and adjustments to existing car parking layout. The site has been redeveloped in accordance with the 2020 variation and Morrisons have been trading from the enlarged store for some time.

- 6.3 Under planning permission 20/00014/VAR, Condition 11 states the following:

'No trading shall occur from the extension hereby permitted until the wall adjacent to Cut Throat Lane within the small area shown edged red on Drawing No. 13964-DB3-290-00-DR-A-90_04 REV B, has been removed and the site of the wall made up to highway adoption standards and to the immediately adjacent level of Cut Throat Lane. The opening thereby created shall thereafter be kept open for pedestrians, cyclists and vehicles at all times'.

- 6.4 This application seeks to remove the requirement for vehicular access to be provided from the south eastern side of the site to Cut Throat Lane and revise the wording to omit the words 'and vehicles' from Condition 11. The proposal would still result in the Applicant providing improved pedestrian and cycle access to Cut Throat Lane. Accordingly, the application seeks to vary Condition 11 to read:

‘No trading shall occur from the extension hereby permitted until the wall adjacent to Cut Throat Lane within the small area shown edged red on Drawing No. 13964-DB3-290-00-DR-A-90_04 REV B has been removed and the site of the wall made up to highway adoption standards and to the immediately adjacent level of Cut Throat Lane. The opening thereby created shall thereafter be kept open for pedestrians and cyclists at all times’.

- 6.5 The provision of vehicular access from Cut Throat Lane was included within the Planning Inspector’s decision as part of the original planning permission (12/01569/FUL). The rationale behind the Applicants proposed amendments to the wording of the condition to omit vehicular access from Cut Throat Lane, is in relation to the current need for this access when weighed against highway safety and capacity in association with the supermarket.

7. SUMMARY OF CONSULTATION RESPONSES

7.1 BDC Environmental Health

- 7.1.1 No objection confirmed.

7.2 ECC Highways

- 7.2.1 The Highway Authority has visited the site, met on site with the developer’s highway consultant and assessed the application and submitted information. It is confirmed that the contents of the Transport Assessment, summarised in the non-technical note, provide an accurate representation of the situation.

- 7.2.2 At the time of the original planning application (Application Reference 12/01569/FUL) for the extension of the Morrisons store, the Highway Authority did not require vehicular access onto Cut Throat Lane but did require improvements to provide cycle access to promote access to the food store and beyond by active travel at a location where historically only pedestrian access has been provided.

- 7.2.3 The proposal does not preclude the ability for vehicular access to be provided in the future in accordance with the aspirations of the Draft Section 2 Local Plan Policy LPP 48, moreover it supports it by securing the removal of a section of wall which previously did not form part of the highway. Consequently, this variation of condition application supports the original aspirations of the Highway Authority and would not be detrimental to highway safety, capacity, or efficiency. Therefore, from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to an appropriate planning condition(s) to secure the works shown in principle on drawing 20/348/SKH-001.

- 7.2.4 It should be noted that Drawing 20/348/SKH-001, Proposed Amendments Plan, contained within the Transport Assessment illustrates how cycle access onto Cut Throat Lane could be achieved. This may not represent the final layout which will be agreed with the Highway Authority at the detailed design stage and will be subject to a road safety audit.
- 7.2.5 All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

8. PARISH / TOWN COUNCIL

8.1 Witham Town Council

Object to the application and recommend refusal on the following grounds:

- Failure to provide a safer and more convenient access to the store from Cut Throat Lane;
- The need to relieve conflict points at the junction of Cut Throat Lane and Albert Road, which is a bus route;
- That no conflict of traffic would be caused in Cut Throat Lane as the level crossing had been closed to vehicular traffic for many years;
- It was also pointed out that the store was now trading in the extension despite the condition and in contravention of Section 106.

9. REPRESENTATIONS

- 9.1 2 letters of representation have been received in relation to the application in response to the public consultation.
- 9.2 Cllr Lager (Witham Town Council) raised the following representation as a local resident:
- It is against established policies to reduce traffic congestion in the area of Albert Road.
 - The Applicant's arguments are in relation to a different proposal, to construct a vehicular, cycle and pedestrian access from Cut Throat Lane to Morrisons' premises which is against policy.
 - The Review Local Plan 2005 lists road schemes in RLP61 and the proposals map that are "to be safeguarded from development", and includes "A new road link to Albert Road, Witham". Paragraph 5.50 on page 79 describes this scheme: "iv) The road linking to Albert Road, Witham is intended to improve traffic circulation in the vicinity of the station."
 - The predecessor document dated January 2013 entitled "Local Development Framework: Site Allocations and Development Management Plan - Draft for Consultation" at page 88 states in para 7.42 : "The proposed road link linking Cut Throat Lane and Albert Road would also improve traffic circulation around Witham Station"; Policy

ADM49 immediately follows and names three new road schemes as shown on the proposals map to be "safeguarded from development" including a new road link to Cut Throat Lane/Albert Road Witham". It's included unaltered as ADM49 in the "Braintree District Site Allocations and Development Plan Pre-Submission Draft".

- A new Local Plan was commenced in which Part 2, currently with the Inspector, contains this scheme which is again to be "safeguarded from development" and is described in Policy LPP48 as "a new road link to Cut Throat Lane /Albert Road". It is shown on the Proposals Map as crossing the commuter car park immediately opposite the wall that is to be removed, to emerge in the corner where Albert Road turns right towards the station. It is clear that the intention is to provide a route for traffic to and from the Braintree direction to reach the station by-passing the relatively narrow section of Albert Road and avoid the old Braintree Road with its difficult bends. This section is also a bus route. In 2014 Morrisons won its appeal against the District Council's refusal of consent to expand and improve its adjacent store. The Inspector stated at paragraph 42 of his Appeal Decision (ref: APP/Z1510/A/13/2198996) that "The timing of the removal of a wall that would facilitate pedestrian, cycle and vehicle movement between a road owned by the Appellant and Cut Throat Lane, which leads to additional car parking, is also to become the subject of a condition. Access to this car park ... is via another junction with Braintree Road, which causes congestion. The removal of the wall would facilitate an alternative access to this car park from the roundabout outside of the Morrisons store. The implementation of works by the highway authority, subsequent to the implementation of this condition, would aid the free flow of traffic along Braintree Road, whose daily flow of vehicles is likely to be increased following implementation of the appeal proposal. The removal of the wall also facilitates better access for pedestrians and cyclists from the east via Cut Throat Lane".
- Morrisons have recently secured consent for a significantly reduced extension compared to that granted in the Appeal, but this does not affect the rationale regarding removal of the wall, as explained above and embodied in policy.
- The removal of the wall as required by Condition 11 in the grant of consent for this latest application extends Condition 13 in the consent granted by the Appeal Decision, which was agreed by the parties to the Appeal to be included in the Section 106 Agreement, as amended to include the highways authority so as to create financial obligations and provide for the area of the wall to be dedicated as public highway. (It is to be noted that both the original Condition 13 and the additional Condition 11 bar trading from the extensions until both have been fully complied with, although as the original extension was never commenced the Condition 13 is of no effect. Nevertheless Morrisons have been observed to trade from the extension the subject of the bar on trading in Condition 11.)
- The removal of the wall and its replacement by dedicated public highway is established planning policy and supported by the Appeal Inspector. Therefore Condition 11 is required without amendment and is

additionally a contractual commitment to relieve prospective traffic congestion and improve road safety,

- The case put forward by the Applicant centres around a different proposal from that contained in policy as explained above, which Condition 11 seeks to promote. Their argument assumes that the removal of the wall is to create an access to Morrisons' "unnamed road" from Cut Throat Lane. Assertions about sight lines, in any case not supported by evidence, are not relevant as the Condition relates to a different intention, to remove the wall and dedicate its footprint as public highway. As public highway traffic of all descriptions would be able to use it. If there were valid doubts about visibility and hence safety when emerging from the "unnamed road" across Cut Throat Lane, this could be restricted either entirely or in one direction only. Appropriate signage and road markings could be placed on Cut Throat Lane, itself a public highway.
- Vehicles heading east along Cut Throat Lane will find their progress blocked after a few yards by a locked level crossing gate with no room in which to turn round. In practice vehicular traffic is not seen attempting access eastwards. In case of any doubt appropriate signage such as "No Through Road" towards Cut Throat Lane or "No Left Turn" on emerging from the "unnamed road" could provide a solution.
- The Applicant's adviser in his report at paragraphs 4.4 and 4.5 considers traffic turning left from the "unnamed road" to travel eastwards along Cut Throat Lane, something that is not a significant consideration requiring action as explained above.
- Appendix 4 to the Applicant's adviser's report referenced BGH4 is entirely irrelevant as superseded by the deed of variation to the Section 106 Agreement.
- Appendix 5 to the same report contains the Highways Authority's observations on an earlier and different application that have no bearing on the present application. So far no Highways Authority comments have been posted on the public planning file for this application.

9.3 The second representation, from the owner of the Cut Throat Lane commuter car park, also objects to the application, on the following grounds.

- The removal of the wall would help reduce congestion of traffic queuing from car park entrance out onto Albert Road, which is the Council's policy. In the morning residents cannot easily leave their driveways due to queuing traffic and in the evening the railway station entrance is difficult to access due to traffic leaving car park - The removal of the wall would alleviate this.

10. PRINCIPLE OF DEVELOPMENT

10.1 Planning permission was granted on 11th February 2012 by way of appeal (Application Reference 12/01569/FUL; Appeal Reference APP/Z1510/A/13/2198996) for the erection of extensions to the existing

supermarket with associated works to the existing car park. The permission that was granted was subject to a Section 106 Agreement.

- 10.2 A Section 73 application to vary the approved planning permission (Application Reference 20/00014/VAR) was approved by the Council on 14th August 2020. The application sought the reduction in the approved sales floorspace, a refurbished customer cafe and new/refurbished food preparation area, with adjustments to existing car parking layout. The planning permission granted on appeal allowed for an extension to the existing supermarket measuring 1,769sq.m gross (1,319sq.m net) floor space. The Section 73 application in 2020 proposed to extend the store by just 951sq.m gross (648sq.m net). The new permission that was granted was linked to the original Section 106 Agreement.
- 10.3 This application (Application Reference 21/00059/VAR) seeks to vary Condition 11 concerning 'trading restrictions' attached to Application Reference 20/00014/VAR. The Applicant seeks permission to omit the wording of 'and vehicles' from the condition. This application would allow the opening created following the demolition of the section of wall in question to be kept open for pedestrians and cyclists only, and not prejudice the formation of future vehicular access through the opening. It should be noted that the Applicant is currently in breach of this condition, as the works have not been undertaken and trading has commenced.
- 10.4 The Planning Practice Guidance states that in deciding an application under Section 73 of the Town and Country Planning Act 1990, the Local Planning Authority must only consider the condition(s) that are the subject of the application – it is not a complete re-consideration of the application. It also states that the original planning permission will continue to exist whatever the outcome of the application under Section 73.
- 10.5 Condition 11: Trading Restrictions
- 10.5.1 Condition 11 (Trading Restrictions) was approved as follows:
- 'No trading shall occur from the extension hereby permitted until the wall adjacent to Cut Throat Lane within the small area shown edged red on Drawing No. 13964-DB3-290-00-DR-A-90_04 REV B, has been removed and the site of the wall made up to highway adoption standards and to the immediately adjacent level of Cut Throat Lane. The opening thereby created shall thereafter be kept open for pedestrians, cyclists and vehicles at all times'.*
- 10.5.2 The extension to the existing Morrisons store was originally approved in February 2014 at appeal (Planning Application Reference 12/01569/FUL, Planning Appeal Reference APP/Z1510/A/13/2198996). It was at this appeal that the Planning Inspector first included reference to the provision of vehicular access from Cut Throat Lane within the planning conditions (Condition 13). The consultation response from ECC Highways in relation

to the 12/01569/FUL application did not make reference or require the Applicant to provide a vehicular access from the site to Cut Throat Lane.

- 10.5.3 The justification from the Planning Inspector, as stated within their decision letter is as follows: *'42. The timing of the removal of a wall that would facilitate pedestrian, cycle and vehicle movement between a road owned by the Appellant and Cut Throat Lane, which leads to additional car parking, is also to become the subject of a condition. Access to this car park, which is largely used by rail users, is via another junction with Braintree Road, which causes congestion. The removal of the wall would facilitate an alternative access to this car park from the roundabout outside of the Morrisons store. The implementation of works by the highway authority, subsequent to the implementation of this condition, would aid the free flow of traffic along Braintree Road, whose daily flow of vehicles is likely to be increased following the implementation of the appeal proposal. The removal of the wall also facilitates better access for pedestrians and cyclists from the east via Cut Throat Lane.'*
- 10.5.4 Essentially, the Planning Inspector's justification for the provision of a vehicular access point onto Cut Throat Lane from the application site was to remove vehicles accessing the private commuter car park via another junction from Braintree Road and residential back streets (namely the old Braintree Road and Albert Road) to reduce congestion. The Applicant's rationale for the removal of the requirement to provide a vehicular access at this point has been set out in a detailed Transport Statement produced by Bryan G Hall and submitted as an accompanying document to this application.

Cut Throat Lane

- 10.5.5 Cut Throat Lane runs southwest to northeast along the south eastern boundary of the Morrisons site. There are no footways on Cut Throat Lane. To the southern extent of Cut Throat Lane there is a priority controlled junction with Albert Road. Approximately 20 metres northeast of this junction is an access into a private car park to the eastern side of Cut Throat Lane, which is mainly used by rail commuters. Cut Throat Lane varies in width over this section between 3.5 - 4 metres wide and can be used as a two way carriageway.
- 10.5.6 Further along from the private car park access, Cut Throat Lane continues as a two way carriageway with a width of between 2.5 – 3.5 metres. Approximately 125 metres north of the car park entrance Cut Throat Lane crosses the single track railway line which forms part of the Braintree branch line. The level crossing allows pedestrians and cyclists to cross the line. The crossing is gated and fitted with audible alarms and warning lights. To the north of the level crossing Cut Throat Lane continues for approximately 375 metres to Motts Lane. This section of Cut Throat Lane provides access to an electricity sub-station as well as approximately 40 allotments. Whilst Cut Throat Lane can be used by motor vehicles Officers

have observed that very few vehicles use it and most traffic is pedestrians and cyclists.

- 10.5.7 The wall that is referenced in Condition 11 of the planning permission is located on the north western side of Cut Throat Lane directly adjacent to the private commuter car park access. This wall is approximately 2.2 metres high and separates Cut Throat Lane from the unnamed road to the northwest which leads to the Morrisons store. The unnamed road is 7.3 metres in width with 2 metre footways to both sides of the carriageway. This unnamed road continues northwest from the wall for some 27 metres where it meets a 3 arm roundabout which provides access to the Morrisons store to the north and the B1018 Braintree Road to the west.
- 10.5.8 Returning to the wall, there is currently a 2 metre wide opening to allow the northern footway of the unnamed road to provide pedestrian access to Cut Throat Lane. This current arrangement does not offer pedestrians travelling eastbound from the unnamed road to Cut Throat Lane any visibility of oncoming vehicles, cycles or pedestrians which are traveling along Cut Throat Lane. Guard rails have been installed on the northern footway of the unnamed road in an effort to prevent the gap in the wall from being used by cycles and powered two wheelers.
- 10.5.9 If the wall were removed and vehicular access created onto Cut Throat Lane this could be used to either just create a new vehicular access to the commuter car park, or potentially form part of a new road which ran through part of the commuter car park connecting to Albert Road, in the manner indicated on Local Plan Proposals maps. If a road were to be constructed onto Albert Road this would be dependent on the agreement of the landowner and Highway Authority. In order to provide vehicular access to the unnamed road from Cut Throat Lane as detailed in Condition 11, either to the commuter car park or a new road to Albert Road, it would be necessary to create an all movement junction with the unnamed road forming the north western arm, Cut Throat Lane forming the northern and southern arms, and the private car park forming the south eastern arm.
- 10.5.10 As has been set out by the Applicant in an additional drawing (Proposed Amendments Plan – drawing no.20/348/SKH-002) there are a number of design issues which would prove difficult to overcome should a vehicular route from Cut Throat Lane be provided including intervisibility between vehicles at what would be a crossroads junction, how pedestrian access could be maintained to Cut Throat Lane, level differences as well as some uncertainty about the extents of the adopted highway and the necessity for third party land.
- 10.5.11 It should be noted that when the Planning Inspector granted planning permission for the store extension and imposed Condition 13 (now Condition 11) they appear to have acknowledged that to actually create full vehicular access the Highway Authority would need to implement other works subsequent to the implementation of this condition in order that this could be achieved (see Paragraph 42 of the Appeal Decision). Prior to the

submission of this application a meeting on site took place between the Applicant's highway consultant and ECC Highways Officers. Safety concerns relating to visibility along Cut Throat Lane to the north from the unnamed road were raised on site. There is a further wall to the north of the unnamed road which restricts visibility considerably. This wall and the width of Cut Throat Lane to the north also limits the space available to create an appropriate turning radius for vehicles that may wish to turn left from the unnamed road onto Cut Throat Lane.

10.5.12 In order to create sufficient space for left turning vehicles and provide suitable visibility splays Cut Throat Lane would need to be realigned, which would require land outside the extents of the public highway and not under the Applicant's control. It is noted that one of the objectors to the application maintains that vehicular access should be provided and they argue that this should be possible as there is very little vehicular traffic along this stretch of Cut Throat Lane as the level crossing is locked and prevents vehicles from crossing. The representation also refers to potential restrictions on movements, or the installation of warning signs and road markings to avoid conflict between movements crossing the junction that would be formed.

10.5.13 Whilst signs and road markings could be installed it is quite possible that these would be ignored by many users particularly if vehicles entering Cut Throat Lane do so infrequently, as regular users walking or cycling along Cut Throat Lane would not be expecting a vehicle to cross the lane. With restricted intervisibility at the junction collisions between vehicles, pedestrians and cyclists is a distinct possibility. Although not a segregated or dedicated pedestrian / cycle path Cut Throat Lane is an attractive route for pedestrians and cyclists as it is so lightly trafficked. The route provides an attractive and relatively safe sustainable travel corridor between the north east of the town and the Morrisons store, the railway station and potentially the town centre and the District and County Councils have encouraged residents in the north east of the town to use Cut Throat Lane to walk and cycle towards the centre of the town. There is a concern that allowing vehicles to cross Cut Throat Lane to enter the commuter car park would detract from what is currently an attractive walking and cycling corridor, at a time when the Councils are seeking to promote a safer and more legible cycle network. In summary, it was considered and agreed at the site meeting between ECC Highway Officers and the Applicant that an all movement junction permitting access to the unnamed road from Cut Throat Lane could not be safely delivered by the Applicant within land that they control and land which is public highway.

10.5.14 ECC Highways Officers have stated that the aspirations for the removal of the wall in the original application were to improve pedestrian and cyclist permeability in this location and it was not their aspiration to include a vehicular access. ECC Highways Officers therefore have no objection to this application subject to a condition requesting detailed design of the new highway infrastructure and an accompanying Road Safety Audit be submitted and approved prior to commencement.

Policy Context

- 10.5.15 Witham is classified as a 'Main Town' in the Adopted Core Strategy and a 'Town' in the Adopted Section 1 Plan. In both cases, the underlying spatial strategy implies in principle that the town is capable of accommodating a significant amount of development, representing one of the most sustainable locations in the District for new growth on account of the availability of local employment, services, facilities and transport links. Policy CS7 of the Core Strategy supports this rationale by directing development into locations which are 'accessible' and where opportunities to take up sustainable forms of transport are available, or can be improved. The approach is consistent with the objectives of Paragraph 105 of the NPPF which states that:

"The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health".

- 10.5.16 Paragraph 112 states that within this context, development should "give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas..." and "...create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles."
- 10.5.17 Policy LPP44 of the Section 2 Plan is consistent with these aims. The policy states that sustainable modes of transport should be facilitated through new developments to promote accessibility and integration into the wider community and existing networks. Priority should be given to cycle and pedestrian movements and access to public transport.
- 10.5.18 The Adopted Local Plan identified a number of road schemes within the District and safeguarded these from development through Policy RLP61. One of the eight identified schemes was 'a new road link to Albert Road Witham'. In the supporting policy text it is noted that the road scheme 'is intended to improve circulation in the vicinity of the station'. In 2011 the adoption of the Core Strategy meant that Policy RLP61 was superseded by Policy CS7. This policy stated amongst other things that the Council will work with partners to improve accessibility, to reduce congestion and reduce the impact of development upon climate change and that sustainable transport links will be improved, including provision cyclists and pedestrians. Nine key transport projects in the District were identified. Whilst this list of projects included some road schemes the link road to Albert Road was not included. Whilst the road scheme was not listed in the Adopted Core Strategy, Policy ADM49 of the Site Allocations and Development Management (ADMP) identified four road schemes in the District which were to be safeguarded and this policy did propose that the link road through to Albert Road was again included. Again the supporting

text referred to the aspiration to 'improve traffic circulation around Witham Station', As Members will recall the ADMP was discontinued before it was examined or adopted but the inclusion of the scheme in the document again demonstrates that this remained an aspiration of the District Council.

- 10.5.19 In the Section 2 Plan Policy LPP48 states that in order to facilitate development within the plan period, a number of road improvement schemes are being proposed across the District, which will help relieve congestion, aid highway safety or provide routes to new developments. Chipping Hill roundabout, to the south east of the site, has been identified within the Local Plan Highways Assessment as needing capacity improvements to relieve congestion. This Highways Assessment forms part of the new Local Plan Evidence Base. The policy also specifically states that a new road link to Cut Throat Lane/ Albert Road, Witham, will be safeguarded from development' to relieve congestion around Witham Station. This application to vary Condition 11 is not seen to prejudice this policy aspiration, as the proposal would still safeguard and futureproof the position should the appropriate parties and landowners come forward in the future to undertake justified road improvement works to Cut Throat Lane and potentially Albert Road to facilitate a vehicle access at this location.
- 10.5.20 Since the Local Plan Highways Assessment was completed a number of developments have been approved within Witham, which not only increases the number of vehicles on the local roads, but also brings improvements to road infrastructure. Capacity improvements to the roundabout at the junction with Chipping Hill have been proposed, by the introduction of traffic light signals, which will operate during peak hours and hold traffic on Chipping Hill to increase the capacity along Braintree Road (B1018). These works will be undertaken by Bellway as part of the mitigation that they are required to provide as part of their North East Witham development.
- 10.5.21 Whilst it is acknowledged from representations received, that congestion was apparent in the vicinity of Cut Throat Lane and Albert Road relating to vehicles accessing the commuter car park at Cut Throat Lane, Officers have reason to believe that the current situation is somewhat different. Historically users were charged on entry to the commuter car park and this was likely to have exacerbated queues on Braintree Road as motorists waited to pay the attendant on entry. The car park now operates as a pay and display car park reducing the likelihood of cars queuing on Braintree Road as motorists can drive straight in and arrange payment once parked. It must also be acknowledged that the use of the commuter car park remains much lower than pre-pandemic. Whilst restrictions on working, leisure activities and travel have all been lifted, significantly lower numbers of workers are currently using the train station every day to commute and it is uncertain how long, if ever, it will take for pre-pandemic levels of car park use to return.
- 10.5.22 In addition, no modelling work has been undertaken to assess how beneficial the reduction in traffic would be on the B1018 between the

Morrisons roundabout and the old Braintree Road, should a vehicular access be provided to the car park and / or Albert Road. At full capacity the car park would have 323 parked vehicles. If vehicular access were provided to the car park off the Morrisons roundabout this would mean that vehicles approaching from the north would turn off the B1018 at the Morrisons roundabout and not continue to the old Braintree Road. This could be beneficial but if the car park only operated with one entrance, vehicles traveling from the south would need to continue along the B1018 to the Morrisons roundabout where they would need to turn right. Without modelling, it is not possible to conclude whether relocating the access to the commuter car park would be beneficial, neutral or adverse in terms of traffic / congestion on the B1018.

- 10.5.23 In summary, Officers consider that the ability to provide a safe vehicular access point in this location within the context of the Applicants land ownership is unachievable due to the conflict at this location between vehicles accessing the commuter car park from two directions, and between pedestrians and cyclist using Cut Throat Lane. The removal of the wall and associated highway works would result in improved permeability and visibility for pedestrians and cyclists in accordance with the aspirations of Policy LPP44 of the Section 2 Plan, but also futureproof a vehicular access point to Cut Throat Lane which could be used in the future, either to access the commuter car park or for a new road connection to Albert Road, should an acceptable scheme come forward and be supported by the Highway Authority and Local Planning Authority. Due to the above, Officers are satisfied that Condition 11 can and should be amended.

11. PLANNING OBLIGATIONS

- 11.1 The original application permission (12/01569/FUL) secured a number of benefits which were carried over to the 20/00014/VAR application. The Heads of Terms included:
- £80,000 Access Contribution
 - £130,000 Town Centre Improvements Contribution
 - £21,000 Art Contribution
 - £3,000 Travel Plan Monitoring Fee
- 11.2 The obligations in respect of town centre improvements, public and travel plan monitoring will continue unchanged via the Deed of Variation. Officers recommend that the schedule concerning the access contribution should be changed as follows.
- 11.3 Schedule 1 of the original Section 106 Agreement should be removed and replaced with a new schedule. The new schedule will also contain covenants that:
- § Prior to commencement of the Highway Works and within 6 months of the date of this Section 106 Agreement, the Applicant will enter in to a Highway Works agreement with Essex County Council;

- § Requires the completion of the Highway Works within 18 months of the date of this (Section 106) Agreement;
- § Prior to completion of the Section 106 Agreement, Morrisons will pay a fee (sum to be specified by ECC) which will cover the costs that ECC incur in applying for and securing Traffic Regulation Orders to prevent vehicular use of the new route between the unnamed road and Cut Throat Lane; and
- § At completion of the Highway Works dedicate any land within Morrisons ownership that is not already dedicated as public highway is to be dedicated as public highway so that there is no gap between the land dedicated as public highway and Cut Throat Lane.

11.4 Details of the Highway Works will be agreed with the Highway Authority and will include the removal of the wall; works to make a through route, constructed to full highway adoptable standards for pedestrians and cyclists together with such works on Morrison's land including but not limited to dealing with levels that are necessary for the future use by motor vehicles from the Crittall Court roundabout over the unnamed road to the highway boundary at Cut Throat Lane; and interim works so that on completion of the through route it shall be restricted to use by pedestrians and cyclists.

12. CONCLUSION

12.1 The Planning Practice Guidance states that in deciding an application under Section 73 of the Town and Country Planning Act 1990, the Local Planning Authority must only consider the condition(s) that are the subject of the application – it is not a complete re-consideration of the application. It also states that the original planning permission will continue to exist whatever the outcome of the application under Section 73.

12.2 In this case, the application proposes to amend the wording to Condition 11 attached to Application Reference 20/00014/VAR. It is considered that the condition is changed to remove the reference to 'and vehicles' and that doing this does not undermine the original intentions of the application and also allows the Councils to support and promote sustainable transport modes of travel.

12.3 Officers consider that the ability to provide a safe vehicular access point in this location within the context of the Applicant's site ownership is currently unachievable due to the conflict at this location between vehicles accessing the commuter car park from two directions, and between pedestrians and cyclist crossing Cut Throat Lane. The removal of the wall would improve permeability and visibility for pedestrians and cyclists (subject to details coming forward by way of reworded Condition 11) in accordance with the aspirations of Policy LPP44 of the Section 2 Plan, but also futureproof a vehicular access point to the commuter car park should development of this site come forward in the future.

- 12.4 The Applicant's proposed changes to remove the requirement that vehicular access is provided directly as a result of their works is supported by ECC Highways Officers. The amended condition will still require that a detailed scheme of highway works is agreed by the Local Planning Authority, in consultation with the Highway Authority. Following demolition of the wall the scheme will consist of works which would provide improved access for pedestrians and cyclists, whilst also allowing for the potential vehicular access in the future. On completion of the works by the Applicant physical measures would be put in place by the Highway Authority to prevent vehicular access at this time in order to ensure highway safety. Overall, it is considered the proposed change and the resulting development is acceptable and Officers are therefore recommending approval.

13. RECOMMENDATION

- 13.1 It is therefore RECOMMENDED that subject to the Applicant entering into a Deed of Variation to the Section 106 of the Town and Country Planning Act 1990 (as amended) the Planning Development Manager or an authorised Officer be authorised to GRANT planning permission under delegated powers in accordance with the Approved Plans and Documents, and subject to the Condition(s) & Reason(s), and Informative(s) outlined within APPENDIX 1.
- 13.2 Alternatively, in the event that a suitable planning obligation is not agreed within three calendar months of the date of the resolution to GRANT planning permission by the Planning Committee, the Planning Development Manager may use his delegated authority to refuse the application.

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

APPENDIX 1:APPROVED PLAN(S) & DOCUMENT(S) / CONDITION(S) & REASON(S) AND INFORMATIVE(S)Approved Plan(s) & Document(s)

Plan Description	Plan Ref	Plan Version
Existing Site Plan	13964 DB3 290 00 DR A 90_03	Rev A
Proposed Site Plan	13964 DB3 290 00 DR A 90_04	Rev B
Proposed Site Plan	13964-DB3-290-00-DR-A-90_02	Rev A
Existing Site Plan	13964-DB3-290-00-DR-A-90_01	Rev B
Existing Plans	13964-DB3-290-00-DR-A-20_25	N/A
Proposed Plans	13964-DB3-290-00-DR-A-20_27	N/A
Existing Elevations/Floor Plans	13964-DB3-290-00-DR-A-41_01	Rev A
Proposed Elevations/Floor Plans	13964-DB3-290-00-DR-A-41_02	Rev B
Existing Roof	13964-DB3-290-00-DR-A-27_01	N/A
Proposed Roof Plan	13964-DB3-290-00-DR-A-27_02	N/A
Landscape Masterplan	13964-DB3-290-00-DR-A-90_11	N/A
Cycle Plan	13964-DB3-290-00-DR-A-72_01	N/A
Section	13964-DB3-290-00-DR-A-20_20	N/A
Highway Plan	20/348/SKH-001	N/A
Lighting Plan	LS19610	N/A
Lighting Plan	Abacus Lighting Column Spec.	N/A
Transport Plan	Transport Statement Ref: 20-348-001.01 dated January 2021	

Condition(s) & Reason(s)

1.

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

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

2.

The development hereby permitted shall be constructed entirely of the materials details of which are shown on the approved plans.

Reason: To conform with the pattern of the existing development in the locality.

3.

The hard and soft landscaping scheme shall be implemented, as shown on approved Drawing No. 13964-DB3-290-00-DR-A-90_11 and shall be permanently retained as such.

Reason: To enhance the appearance of the development and in the interests of amenity.

4.

All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the extended building or in accordance with a programme agreed with the local planning authority. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.

Reason: To enhance the appearance of the development and in the interests of amenity.

5.

The Construction Method Statement as agreed under Planning Application Reference No. 17/00173/DAC, allowed at appeal on 5th April 2019, shall be adhered to throughout the construction period.

Reason: In the interests of the amenity of residents of the locality.

6.

Prior to the first occupation of any part of the extended building, the cycle parking facilities shall be provided, as shown on Drawing No. 13964-DB3-290-00-DR-A-72_01 and shall be permanently retained a such.

Reason: To ensure appropriate powered two wheeler and bicycle parking is provided in accordance with the Council's adopted Parking Standards.

7.

Prior to the first occupation of any part of the extended building, the lighting scheme as approved on Drawing No. LS19610 and the associated Lighting Column Specification, within the site edged red, shall be implemented and permanently retained as such.

Reason: To minimise pollution of the environment and to safeguard the amenities of the locality and the appearance of the development.

8.

The development shall be undertaken in accordance with the Travel Plan approved pursuant to application 21/00823/DAC.

Reason: In the interest of Highway Safety.

9.

The net sales area of the extended store shall not exceed 2577 square metres of which a maximum of 25% shall be used for the sale of comparison goods. For this purpose, net retail sales area is as defined by the National Retail Planning Forum in Appendix A of Planning for Town Centres - Practice guidance on need, impact and the sequential approach, published by the Department of Communities and Local Government in December 2009.

Reason: In order to protect the viability and vitality of nearby town centres.

10.

The extension hereby permitted shall operate as an extension to the existing store only and neither shall be sub-divided to create additional retail units.

Reason: In order to protect the viability and vitality of nearby town centres.

11.

Within three years of the date of this decision the wall adjacent to Cut Throat Lane within the small area shown edged red on Drawing No. 13964-DB3-290-00-DR-A-90_04 REV B shall be removed and the site of the wall made up to highway adoption standards and to the immediately adjacent level of Cut Throat Lane. The opening thereby created shall thereafter be kept open for pedestrians, and cyclists at all times.

Reason: In the interests of highway safety.

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission, in accordance with the presumption in favour of sustainable development, as set out in the National Planning Policy Framework.

APPENDIX 2:POLICY CONSIDERATIONSNational Planning Guidance

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)

Braintree District Local Development Framework Core Strategy 2011

CS6 Retailing and Town Centre Regeneration
CS7 Promoting Accessibility for All

Braintree District Local Plan Review 2005

RLP2 Town Development Boundaries and Village Envelopes
RLP27 Location of Employment Land
RLP35 Non-Conforming and Un-Neighbourly Industry
RLP36 Industrial and Environmental Standards
RLP49 Pedestrian Networks
RLP50 Cycleways
RLP53 Generators of Travel Demand
RLP54 Transport Assessments
RLP55 Travel Plans
RLP56 Vehicle Parking
RLP62 Development Likely to Give Rise to Pollution, or the Risk of Pollution
RLP65 External Lighting
RLP74 Provision of Space for Recycling
RLP76 Renewable Energy
RLP77 Energy Efficiency
RLP90 Layout and Design of Development
RLP92 Accessibility
RLP94 Public Art
RLP107 Outdoor Advertisements
RLP112 Town Centre Uses
RLP113 Shopping Areas

Braintree District Shared Strategic Section 1 Local Plan (2021)

SP1 Presumption in Favour of Sustainable Development
SP5 Employment
SP6 Infrastructure & Connectivity
SP7 Place Shaping Principles

Braintree District Draft Section 2 Local Plan (2017)

LPP1 Development Boundaries

LPP3	Employment Policy Areas
LPP10	Retailing and Regeneration
LPP44	Sustainable Transport
LPP45	Parking Provision
LPP48	New Road Infrastructure
LPP50	Built and Historic Environment
LPP51	An Inclusive Environment
LPP55	Layout and Design of Development
LPP73	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP75	Energy Efficiency
LPP76	Renewable Energy Schemes
LPP77	Renewable Energy Within New Developments
LPP81	External Lighting

Other Material Considerations

Braintree District Cycling Strategy

Statement on Draft Local Plan

On the 22nd February 2021, Braintree District Council adopted the Shared Strategic Section 1 Local Plan.

On adoption, the policies in the Shared Strategic Section 1 Local Plan superseded Policies CS1, CS4, CS9 and CS11 of the Core Strategy (2011).

The Council's Development Plan therefore consists of the Braintree District Local Plan Review (2005) ("the Adopted Local Plan"), the policies of the Core Strategy (2011) ("the Core Strategy") which are not superseded, the Shared Strategic Section 1 Local Plan (2021) ("the Section 1 Plan"), and any Adopted Neighbourhood Plan.

The local authority is now moving forward with the examination of Section 2 of the Draft Local Plan and a consultation on the main modifications closed on 24th January 2022. In accordance with Paragraph 48 of the NPPF, from the day of publication the Council can give weight to the policies of this emerging Draft Section 2 Local Plan ("the Section 2 Plan") and the weight that can be given is related to:

"The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);

The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
The degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)".

Accordingly the Council affords significant weight to the Section 2 Plan.

APPENDIX 3:SITE HISTORY

Application No:	Description:	Decision:	Date:
89/00215/P	Residential Development (Flats And Town Houses With Associated Road And Road Improvements)	Withdrawn	14.08.92
91/00037/POWS	Residential Development, Class B1 Commercial/Industrial Development And Associated Roadworks		26.03.91
91/0037/	residential development, class B1 commercial/industrial development and associated roadworks	Withdrawn	27.11.91
91/01469/	Proposed Demolition of buildings	Granted	14.01.92
93/00744/OUT	Erection of a Class A1 retail store with coffee shop, Class A3 car parking and associated facilities, petrol filling station, car wash and new access roundabout and provision of link road between Braintree Road and Albert Road	Refused	10.08.93
91/00023/NONDET	Appeal	Appeal Withdrawn	08.10.92
93/00007/NONDET	Appeal	Appeal Withdrawn	14.09.93
93/00040/NONDET	Appeal	Appeal Allowed	15.10.93
94/00117/ADV	Display of 2 No wall mounted internally illuminated signs to Braintree Road	Granted	28.03.94
94/00118/REM	Erection of a Class A1 retail store with coffee shop Class A3 car parking and associated facilities petrol station, car wash and new access roundabout	Granted	28.03.94

94/00544/FUL	Erection of bus shelter	Granted	27.06.94
94/00569/ADV	Proposed shop sign	Granted	05.07.94
95/00128/FUL	Proposed installation of satellite antenna for the purpose of 2 way data communication	Granted	14.03.95
95/00129/FUL	Proposed installation of a satellite antenna for the purpose 2 way data communication	Granted	14.03.95
01/00333/ADV	Display of shop sign to petrol filling station canopy	Granted	23.04.01
05/00435/ADV	Display of various illuminated signage to replace existing due to change of ownership	Granted	25.05.05
11/00922/FUL	Erection of extensions to existing supermarket with associated works to existing car park	Refused	14.03.12
12/01569/FUL	Erection of extensions to existing supermarket with associated works to existing car park	Refused then allowed on appeal	11.02.14
12/00011/SCR	Town & Country Planning Act 1990 (as amended), Town & Country Planning (Environmental Impact Assessment) Regulations 2011 - Screening Opinion Request - Proposed store extension	Screening Scoping Opinion Adopted	10.12.12
17/00173/DAC	Application for approval of details reserved by condition nos. 7 and 9a of approved application 12/01569/FUL	Refused	17.03.17
17/00174/DAC	Application for approval of details reserved by condition no. 8 of approved application 12/01569/FUL	Granted	10.02.17

17/00177/DAC	Application for approval of details reserved by condition no. 4 of approved application 12/01569/FUL (Appeal Ref APP/Z1510/A/13/2198996)	Granted	10.02.17
17/00187/NMA	Application for a non-material amendment following grant of planning permission 12/01569/FUL (Erection of extensions to existing supermarket with associated works to existing car park) - amend condition 10 relating to Travel Plan	Granted	13.02.20
17/00195/DAC	Application for approval of details reserved by condition no. 9 of approved application 12/01569/FUL	Granted	10.02.17
19/00010/REF	Application for approval of details reserved by condition nos. 7 and 9a of approved application 12/01569/FUL	Appeal Allowed	05.04.19
19/00710/FUL	Installation of new condenser units and platforms in the service yard.	Granted	10.01.20
19/01487/PLD	Certificate of lawfulness of proposed development consisting of continuation of operations to implemented Planning Permission ref: 12/01569/FUL as allowed on appeal ref: APP/21510/A/13/2198996 dated 11/02/14 for 'Erection of extensions to an existing supermarket with associated works to an existing car park'.	Granted	29.11.19
20/00014/VAR	Variation of Condition 2 Approved Plans of permission 12/01569/FUL (allowed under appeal	Granted with S106 Agreement	14.08.20

	reference: APP/Z1510/A/13/2198996) granted 11/02/2014 for erection of extensions to existing supermarket with associated works to existing car park. Variation would allow a reduction in the approved sales floorspace, a refurbished customer cafe and new/refurbished food preparation area. Adjustments to existing car parking layout.		
21/00120/NMA	Non-Material Amendment to permission 20/00014/VAR granted 06/01/2020 for: Variation of Condition 2 Approved Plans of permission 12/01569/FUL (allowed under appeal reference: APP/Z1510/A/13/2198996) granted 11/02/2014 for erection of extensions to existing supermarket with associated works to existing car park. Variation would allow a reduction in the approved sales floorspace, a refurbished customer cafe and new/refurbished food preparation area. Adjustments to existing car parking layout. Amendment would allow: 1. White cladding changed to RAL7012 to both South East and South West Elevations 2. White curved wall changed to Silver 3. New Double doors to North East Elevation 4. Canopy extension in South East Elevation 5. Glazing moved from	Granted	24.02.21

	Produce aisle on South East Elevation to Barista on South West Elevation 6. Tower glazing design		
21/00177/FUL	Retrospective applicaiton for the rection of a single-storey detached Garden Centre building in the carpark and installation of 10 anti-ram bollards.	Pending Decision	
21/00270/FUL	Erection of 2 bay Home Shopping Vehicle Canopy with fixed and retractable bollards, new 2.4m high paladin fence with access gate and single height ARMCO barrier to each parking bay below the canopy.	Pending Decision	
21/00823/DAC	Application for approval of details as reserved by condition 8 of approved application 20/00014/VAR	Granted	03.09.21
21/03378/P14JPA	Notification for prior approval for the installation of solar photovoltaics (PV) equipment on the roof	Prior Approval Required and Given	11.01.22



Appeal Decision

Inquiry held on 12, 13 and 14 November 2013

Accompanied site visit made on 14 November 2013

by M Middleton BA(Econ) Dip TP Dip Mgmt MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11 February 2014

Appeal Ref: APP/Z1510/A/13/2198996

Wm Morrison Supermarket, Braintree Road, Witham, Essex, CM8 2BY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Wm Morrison Supermarkets Plc against the decision of Braintree District Council.
- The application Ref 12/01569/FUL, dated 23 November 2012, was refused by notice dated 26 February 2013.
- The development proposed is an extension to an existing supermarket with associated works to an existing car park.

Decision

1. The appeal is allowed and planning permission is granted for an extension to an existing supermarket with associated works to an existing car park at Wm Morrison Supermarket, Braintree Road, Witham, Essex, CM8 2BY in accordance with the terms of the application, Ref 12/01569/FUL, dated 23 November 2012, and the plans submitted with it, subject to the conditions in the attached schedule.

Procedural matters

2. As well as on an accompanied site visit on 14 November 2013, I visited the appeal site and Witham town centre unaccompanied on each of the three previous days. I also visited the Morrison's supermarket in Maldon on 12 November and the one in Braintree on 14 November. Both of these visits were also unaccompanied.
3. The Appellant submitted a signed Agreement pursuant to Section 106 of the Town and Country Planning Act 1990 to the Inquiry. In the discussion at the Inquiry about its contents, a third party pointed out that the foot/cycle bridge at Motts Lane, towards which the Appellant proposed to contribute £80,000, was under construction and fully funded from other sources. In these circumstances the Appellant offered to transfer this finance to support works and initiatives to be undertaken in Witham Town Centre, in order to protect its vitality and viability. I agreed to defer issuing the decision to give the Appellant and District Council an opportunity to clarify the position with Essex County Council and to seek its support for an amended Agreement. A revised Agreement was received on 30 January 2014.
4. In this Agreement the Appellant agrees to make financial contributions to the County and District Councils, to be used to fund the monitoring of a travel plan, improvements to the Witham Town Centre (WTC) and public art either within the vicinity of the appeal site or within WTC. The payments are conditioned by the

assumptions that the appeal is allowed and the approved development is implemented.

5. I am satisfied that the measures, as now set out in the Agreement, comply with the provisions of Circular 05/2005: *Planning Obligations*, are necessary to make the development acceptable in planning terms and meet the *Community Infrastructure Levy Regulations* (2010).

Main Issues

6. The main issues are: whether the proposal would
 - a) enable the development to accord with the requirements of paragraph 24 of the National Planning Policy Framework (the sequential test);
 - and
 - b) have a significant adverse impact on
 - i) the vitality and viability of Witham Town Centre, including local consumer choice;
 - and
 - ii) existing, committed and planned public and private investment in that centre.

Background

7. Planning permission for a retail store with coffee shop was granted to Safeway Stores Plc in 1993. Safeway built and operated the store until 2004 when it was acquired by Morrisons. In the years that followed re-branding in 2005, the store's turnover and its share of the convenience shopping market in Witham grew. The Appellant's household shopping survey, undertaken by telephone in November 2011, suggests that the store attracted nearly 40% of the main food shopping expenditure in the survey zone within which Witham is located. This represents about 65% of the store's main food turnover. The survey also suggests that the store is trading at a factor of 1.86 when compared to the company's average.
8. The evidence from the Appellant, minutes of a pre application meeting with the Council, the opinions of third parties and my observations on my visits to the store suggest that this is manifested at peak periods by undesirable queues at check-outs, inadequately restocked shelves and general congestion. In part this is due to the narrow aisles. Additionally, the store is unable to stock the normal range of product lines to be found in a typical Morrison store and in particular there is insufficient space for its flagship 'Market Street' offer of fresh food, which is noticeably restricted. Back of house problems, as a result of a shortage of space, are partly resolved by the use of two containers that are permanently parked in the loading bay, for storage purposes. There is a consequent inability to unload more than one delivery vehicle at a time.
9. To remedy these deficiencies and to provide a better offer to its customers, the Appellant proposes to increase the size of the store by 1769 sqm. to 6110 sqm. The floorspace devoted to retail sales would increase by 1319 sqm, about 68%. Very little of the existing floorspace is used to retail comparison goods. The Appellant proposes to increase the amount of floorspace used to retail comparison goods by 282sqm. It has agreed to restrict, through a condition, the amount of floorspace used to retail this merchandise to 25% of an overall 3248 sqm. and to

accept another condition that would prevent the subdivision of the extended floorspace into individual units. In such circumstances the Council does not consider there would be an adverse impact from the likely increase in the sale of comparison goods at the store and I agree.

Reasons

Policy

10. The Development Plan includes the *Braintree District, Local Development Framework, Core Strategy* (CS) 2011 and saved policies of the *Braintree District Local Plan Review* (RLP) 2005. Policy CS6 says that the town centre of Witham will be a primary location for retail provision and that its improvement and regeneration will be promoted. The policy makes specific reference to the regeneration of the Newlands Shopping Centre and adjoining land. It goes on to point out that proposals for retailing will be based on the sequential approach in accordance with National Planning Policy Guidance. Until revised town centre boundaries are defined in the Site Allocations Development Plan Document (DPD) the definition in Policy RLP112 should be used as the basis for applying the sequential approach.
11. The National Planning Policy Framework (Framework) now contains up-to-date National Planning Policy Guidance. Although Policy CS6 predates the Framework, it reflects the town centre first approach contained in section 2 of the Framework and should be given full weight. The appeal store already attracts a significant proportion of the convenience retail expenditure generated and retained within Witham. Its expansion would further undermine the status of the town centre as the primary location for retail provision within Witham and in this respect the proposal is contrary to Policy CS6.
12. The Framework says at paragraph 24 that a sequential test should be applied to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. Policy CS6 says that the appropriate circumstances in which impact assessments for retail proposals will be required will be established in a subsequent DPD. In its absence, the Framework should be the default guidance on such matters. In these circumstances paragraph 26 also requires an impact assessment if the development is over 2,500 sqm. The proposed additional floorspace is significantly smaller than this threshold.
13. However, the Council is concerned about the impact of the proposal on town centre vitality and viability and future investment. The Appellant therefore agreed to carry out an impact assessment and to assess the likely implications of the proposal for existing and committed investment within WTC. The impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre was also considered. Given that the proposal is contrary to the town centre first approach behind Policy CS6, this is an appropriate way forward. It was agreed that WTC was the only centre upon which the proposal could have an adverse effect.

Sequential Test

14. Paragraph 24 of the Framework says that Local Planning Authorities should require applications for main town centre uses to be located in town centres and only if suitable sites are not available should out of centre sites be considered. The sale

of goods, which would be retailed from the extension, is a main town centre use and the appeal site is in an out of centre location. It is therefore necessary to establish whether or not there are any sequentially preferable sites that are available to accommodate the development that would arise out of the proposal. The site(s) should also be suitable for the development proposed.

15. Planning for Town Centres¹ (PG) gives advice on the application of the sequential test. It says that in the case of a single retailer, it is not the purpose of national policy to require development to be split into separate sites where flexibility in their business model and the scope for disaggregation have been demonstrated.
16. The Dundee judgement² at paragraphs 24 and 27 says that suitable in the context of the sequential test means suitable to meet the requirements of the developer and/or retailer and that the focus should be on the availability of sites, which might accommodate the proposed development. However, in paragraph 28 it goes on to point out that the application of the sequential approach requires flexibility and realism from developers and retailers as well as planning authorities. It also says that the applicant is expected to have given consideration to the scope for accommodating the development in a different form, having had regard to the circumstances of the particular town centre. The advice in the Practice Guide is consistent with this judgement.
17. The Appellant has agreed to forego the petrol filling station and recycling centre, which are a part of its usual format, in any sequential assessment and the franchised dry cleaning unit would not be replaced in the extended store. This suggests that it has given some consideration to accommodating the development in a different form.
18. The PG is silent about the way extensions should be treated. However, the issue of an extension to an existing out of centre store was addressed in the Chesterfield decision³. The Inspector determining that appeal said '*If the need for the development is to do with the quality or choice of facilities then it may be justifiable to permit an extension to a store. There is a clear distinction between need which arises because of a gap or deficiency in the range, quality or choice of existing facilities and where the commercial objective of a specific developer is the prime motivation*'. Whereas that appeal concerned an extension to accommodate a larger comparison offer, this appeal primarily concerns the improvement of the shopping experience by creating more space for circulation, checkouts and eating and drinking facilities. Admittedly that is not the whole purpose of the extension, as there would be additional space for the display and sale of goods and an extension to their range. However, the majority of that space would be likely to be used to stock additional quantities and lines of convenience goods already stocked. This would improve the qualitative offer of the store to the benefit of consumers.
19. In the context of suitability the PG says that it is necessary to have a proper understanding of the scale and form of development needed but it goes on to say that it is not necessary to demonstrate that a town centre site can accommodate precisely the scale and form of development being proposed, rather to consider what contribution more central sites are able to make either individually or collectively, to meeting the same requirement. However, unless something akin to

¹ Planning for Town Centres, Practice guidance on need, impact and the sequential approach, Department of Communities and Local Government, December 2009

² Judgement given on Tesco Stores Ltd v Dundee City Council, United Kingdom Supreme Court Judgement 13 [2012]

³ APP/A1015/A/10/2120496, Sainsbury's Store, Rother Way, Brimington, Chesterfield, S41 0UB.

the appeal proposal, less the non qualitative additions to the floorspace, is sequentially tested, then the proposal would not meet its primary objective of improving the qualitative offer and the existing store would be left with its obvious deficiencies. Such an outcome would not be in the best interests of consumers who, through the wide support for this proposal from the local community, have demonstrated that the alleged qualitative deficiencies do exist.

20. The Appellant argued that nothing less than the proposal could accommodate the necessary qualitative improvements. Having visited and assessed the comparative use of the Appellant's floorspace at the Maldon store, which I was told was a good comparator to the appeal proposal, I disagree. Setting aside the differences in circulation space etc, that store has a more diverse range of durable goods on offer and in particular sells clothes. I do not consider the sale of such goods to be necessary to rectify the deficiencies in the qualitative offer at the appeal store. In this context it is not appropriate to sequentially test the entire proposal, simply the existing store plus a qualitative extension. Nevertheless the extension, necessary to satisfactorily meet the required qualitative offer, is unlikely to be much smaller than 5,500sqm.
21. Having said that, were a sequentially preferable site to be available and in the unlikely event that a store of a similar size to my reduced appeal store built there, the existing store with its obvious qualitative deficiencies would remain. This would not assist the shopping provision in the area.
22. The Council considers the Newlands shopping centre, together with adjacent land, to be sequentially preferable to the appeal site. Sainsburys Stores Plc also considers the Morrisons store in Braintree to be sequentially preferable. I disagree. Whilst the existing Morrisons store at Witham attracts over 15% of its trade from the zone in which Braintree is located (zone 12), that zone is large and includes populations that do not live in Braintree itself. Some of these reside between Braintree and Witham. The Witham Morrison's turnover derived from zone 12 represents less than 5% of the convenience expenditure generated within that zone. I suspect, given the superior convenience retail offer in Braintree town itself that very little of the current Morrison expenditure from zone 12 is derived from its population. It is very likely that the overwhelming majority of this turnover is from the rural area between the two towns and/or from people working in Witham but living elsewhere in zone 12.
23. In these circumstances the two Morrisons stores are unlikely to be in competition with one another to any significant extent. In any event, improvements at Braintree would be of little benefit to the overwhelming majority of Morrison's Witham customers who reside within and around that town. The provision of qualitative improvements to meet their needs in Braintree would be unsustainable and contrary to a key objective of the Framework. Braintree Town Centre is not an appropriate location within which to search for sequentially preferable sites for the Witham Morrison's store.
24. The Newlands site consists of the existing shopping centre and its service areas, a large surface car park to the north and a much smaller car parking area to its east (Lochran Lane), together with land on Collingwood Road that contains an occupied building. The entire area could accommodate the appeal proposal, although expanded car parking to serve the store and to fulfil the car park's existing function, with regard to the rest of the town centre, could not be achieved without decked or under-croft car parking. The site is within a conservation area and for

aesthetic reasons the Council ruled out under-croft car parking in discussions with the Appellant at an early stage. If under-croft car parking is unacceptable then I fail to see how decked or multi-storey car parking would be aesthetically appropriate. Given the limited extent of comparison goods sold in a store with a gross floor area of 5,500 sqm, a mezzanine floor is not a viable business option.

25. However, these scenarios are based on the premise that the whole site would be available. I am not convinced that this is the case. Setting aside the land and building on Collingwood Road, the ownership and availability of which is far from clear, there is no evidence that the southern part of the Newland Centre would be available. Despite ongoing discussions between the Council and New River Retail (the current owner) about the future of this area, there is no statement from New River Retail about its current intentions or indeed support for the Council's position.
26. The December 2011 Vision Document produced by New River Retail is the latest definitive word on the matter from the site's owner. The four options put forward specifically exclude the redevelopment of the southern part of the centre, which is currently occupied by a variety of small independent and national retailers. They make a significant contribution to the diversity, vitality and viability of the existing WTC. The option with the largest amount of new floorspace within a single unit would only provide a store of about 4,000 sqm. This is clearly significantly smaller than the minimum size of store that would be required to replace the existing Morrison store, extended to rectify its current qualitative deficiencies. Indeed it would be smaller than the existing store. I conclude that the Newland site is not available or suitable for the appeal proposal and is therefore not sequentially preferable.

Vitality and viability

27. WTC contains a traditional mix of business uses along Newland Street, the traditional high street, which was once the A12 and is still trafficked. Either side of this, between Maldon and Collingwood Roads, are the Grove and Newland Centres respectively. These and the adjacent parts of Newland Street contain the main concentrations of retail units, whilst there is a preponderance of service trades along the remainder of Newland Street. Both centres are anchored by convenience stores, a Tesco supermarket in the Gove Centre and Farmfoods and Iceland stores in the Newlands Centre and they have well used car parks to their rear.
28. Because of its size, some of the usual statistical indicators, such as rents and yields, by which town centre vitality and viability is often assessed, are not available in the context of WTC. The Council suggested that rents were falling but there was no empirical evidence on which to base this. There is however published data on vacancies. This suggests that despite the national recession and the increase in vacancies in many town centres during the recent period, vacancies have remained at worst constant in WTC and have probably declined slightly. At 8.33%, shortly before the Inquiry, the vacancy rate is noticeably below the national average. At the time of my site visits two of the vacant units were being fitted out for new occupiers and a further two were not being actively marketed at the site. This does not suggest that it is a centre where vacant property is difficult to let.
29. I note the increase in service uses and the fact that this sector's representation is above the national average. However, this is a characteristic of smaller town centres, particularly ones that have a weak comparison offer as a result of

competition from nearby larger centres. The Appellant's retail study suggests that the town centre convenience shops as a whole are overtrading by a factor of 1.46. This is clearly a healthy situation.

30. The Council has not undertaken any pedestrian surveys. At the times of my daytime site visits, flows along the axis between the two car parks at either end of the shopping centres were comparatively healthy, whilst those along the south-western part of Newland Street were less so. The two principle car parks behind the centres were always busy when I visited during daylight hours and at the time of my accompanied site visit, on a Thursday morning, they were almost full. Even the Mill Lane car park, which is at the southern end of Newland Street and some distance from the principle retail area, was more than half full at that time. The available evidence suggests to me that there is no reason to dispute the findings of the Council's 2012 Retail Study Update⁴ that WTC is performing reasonably well against the health check indicators of vitality and viability. I conclude that WTC is a vital and viable centre.
31. With the exception of the 10% of expenditure spent at Morrisons that the Appellant assumes is derived and would continue to be derived from beyond the study area, the Council has accepted the Appellant's assumptions and the results of its retail impact assessment. Morrisons is in an out of centre location that is for the most part surrounded by housing. WTC has an attractive shopping environment, aided by historic buildings and an attractive townscape. Nevertheless, there is no evidence that it is a significant destination for tourists. Even if it is, the separation distance suggests that expenditure generated by tourists and persons visiting businesses, in WTC and its vicinity, is unlikely to be spent at Morrisons in significant amounts. Given this context and the extent of the retail study area, I am not persuaded that 10% of Morrison's turnover is derived from outside of it. Whilst I agree that the probable inflow to Morrisons is likely to be nearer the 2.5% suggested by the Council, because of its attractive environment and the presence of a number of office employment sites in close proximity, I consider that the percentage of town centre expenditure derived from without the study area would undoubtedly be higher.
32. The worst case scenario, assuming that only 2.5% of both Morrison's and the town centre's turnover would come from outside of the study area suggests that there would be a 7.9% impact on the town centre's convenience shops. The Appellant sought to minimise the consequences of this by suggesting that as a result of the proposal there would be a net increase in the number of trips to the town centre apart from to Tesco. The rationale for this is based on the level of existing linked trips between Morrisons and the town centre, when compared to those from Tesco and the likely claw back of expenditure generated within Witham but currently spent elsewhere, following the opening of the extension.
33. However, I do not consider this argument to be credible. Whilst the Appellant identifies 22% of existing trips to Morrison's as being linked with trips to the town centre as compared to 28% of those to Tesco, the analysis is not a true reflection of linked trips to the shopping centre and in any event the sample sizes are too small to enable reliable judgements to be made from the data. The extended store will sell a wider variety of both convenience and comparison goods than the current offer so there will be fewer reasons for customers to make linked trips. Whilst the claw back would undoubtedly result in some additional linked trips to

⁴ Braintree Retail Study Update 2012, Nathaniel Lichfield and Partners for Braintree District Council.

WTC, I am not persuaded that these would replace those lost by the capture of Tesco customers who currently link their visit to that store with visits to other shops within WTC.

34. The worst case impact scenario discussed in paragraph 32 suggests that the convenience shops in the town centre would still be trading above average turnover levels by a factor of 1.27 soon after the extension opened. The Framework says that impact should be assessed for up to five years from the time the application is made. In this longer term, predicted population growth and the increased expenditure that it would generate, is expected to offset the initial losses. At the same time, the CS commitment to develop a further 1,700 dwellings at Witham will generate further expenditure to be spent in the town's shops. Additionally, the recent announcement that 600 jobs are to be created in the refurbished Mayland House, which is situated adjacent to the Grove Centre, should compound this. In consequence there would be no long term impact on the existing shops within WTC as a result of the appeal proposal
35. When considered in the round, the above considerations suggest to me that although the proposal could have an initial adverse effect on WTC, it would not be sustained or have a significantly adverse impact on the factors discussed in paragraph 26 of the Framework. I conclude that the proposal would not have a significant adverse impact on the vitality and viability of WTC, including local consumer choice.

Investment

36. The parties agree that there would not be any adverse impact on comparison goods expenditure within WTC. Convenience floorspace within that centre would still be trading above average turnovers following the opening of the extension. There would therefore be no impact on existing investment in WTC. There is no committed public or private investment that could be harmed.
37. Policy CS6 specifically refers to the regeneration of the Newlands Centre, whose appearance looks tired and is in need of investment. Whilst its new owners, New River Retail have indicated their intention to refurbish and reconfigure their investment, there are no specific proposals and in particular no planning application or consent. There was conflicting evidence as to whether the eventual proposals would consist of additional comparison or convenience floorspace or both. It was nevertheless agreed that the owners and the Council, who own the adjacent car parks, were in discussion with a discount food retailer concerning its location in a refurbished/redeveloped and possibly extended centre.
38. The evidence from the retail study, with which the Council largely agrees, suggests that the convenience floorspace within the town centre will be overtrading following the opening of the Morrison extension and by 2017 at a level of 1.25. This assessment does not take account of the additional 600 town centre workers now envisaged or the element of the 1,700 new dwellings proposed in Witham by the CS that will have been constructed by that date. Whilst the Newlands Centre Vision Document⁵ has options that propose the creation of in excess of 4,000 sqm. of new floorspace, much of this is replacement floorspace rather than new. There is no commitment to the type of retailing that would comprise the redeveloped centre but if a discount supermarket were to be a part of the scheme then in part it would be replacing the existing Farmfoods or Iceland stores. Discount

⁵ Newlands Centre, Witham, Vision Document, 2011, New River Retail.

supermarkets provide a different qualitative offer to the conventional supermarkets and although substantially smaller, because of their niche market, are often seen successfully competing with them in close proximity, let alone over a kilometre apart. I therefore conclude that the appeal proposal would not have a significant adverse impact on existing, committed and planned public and private investment in WTC.

Other considerations

39. There could be some town centre job losses as a result of the proposal. However, the appeal proposal would be likely to create about 50 new jobs. Overall there would be a net increase in jobs in an area with an unemployment rate that is higher than the average for this part of Britain. The proposal would also represent significant economic investment at a time when the Framework and other government policy documents are promoting economic development. The proposal would claw-back some expenditure currently lost from Witham to other centres. In achieving this, it is likely to reduce the average length of shopping trips and contribute to a reduction in the emission of greenhouse gases.
40. The travel plan will encourage more sustainable journeys to work and the financial contribution to community infrastructure improvements and marketing initiatives in WTC as well as the public art would help to improve its vitality, environment and attraction as a place to visit and shop, which in turn would improve its viability.

Conditions

41. The parties agreed a set of proposed conditions before the Inquiry. These were considered in the context of Circular 11/95: *The Use of Conditions in Planning Permissions*, and rationalised, amended and expanded in discussion at the Inquiry. They include a time limit for the commencement of the development and a plans condition. To enable the development to meet Development Plan policies that seek to achieve sustainable development and protect the local environment, other conditions concerning, materials, landscaping, water and energy use, external lighting, refuse disposal, construction management and a Travel Plan have been suggested and agreed. Two conditions, discussed above, that seek to protect the future vitality and viability of WTC, are also agreed.
42. The timing of the removal of a wall that would facilitate pedestrian, cycle and vehicle movement between a road owned by the Appellant and Cut Throat Lane, which leads to additional car parking, is also to become the subject of a condition. Access to this car park, which is largely used by rail users, is via another junction with Braintree Road, which causes congestion. The removal of the wall would facilitate an alternative access to this car park from the roundabout outside of the Morrisons store. The implementation of works by the highway authority, subsequent to the implementation of this condition, would aid the free flow of traffic along Braintree Road, whose daily flow of vehicles is likely to be increased following the implementation of the appeal proposal. The removal of the wall also facilitates better access for pedestrians and cyclists from the east via Cut Throat Lane.
43. I have considered the need for these conditions in the light of the guidance contained in Circular 11/95 and used the model conditions suggested in the Circular where appropriate. I consider the proposed conditions to be necessary in order to ensure that the development is of a high environmental standard, is safe

and sustainable and minimises the impact on the environment and upon the vitality and viability of WTC.

Conclusions

44. The Framework says at paragraph 14 that there is a presumption in favour of sustainable development and that where the Development Plan is silent, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
45. The Development is clearly sustainable and any adverse impact would not outweigh the benefits to consumers that would stem from the implementation of the proposal. Although contrary to the aspect of Policy CS6 that seeks to retain WTC as the primary location for retail provision within Witham, that policy defers to national guidance on the sequential test and is silent on impact.
46. I conclude that there is no sequentially preferable site and that the development accords with the requirements of paragraph 24 of the National Planning Policy Framework. I also conclude that the proposal would not have a significant adverse impact on the vitality and viability of Witham Town centre, including local consumer choice or have a significant adverse impact on existing, committed and planned public and private investment in that centre. These material considerations and the proposal's benefits for consumers outweigh the harm to Policy CS6.
47. I therefore find for the reasons discussed above and having taken account of all of the other matters raised, including the views of local residents and the representations from Priti Patel MP that the appeal should be allowed subject to conditions.

M Middleton

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

David W G Whipps, Solicitor	Holmes and Hills LLP
He called	
James Salmon BA, DipTP, MRTPI	Braintree District Council
Andrew Epsom BC, MRICS, SMNZPI	Braintree District Council
Cameron Judson BA, MRTPI, PIA	Jones Lang LaSalle

FOR THE APPELLANT:

Richard Glover, Solicitor	Squire and Sanders
He called	
David Armstrong BA, MRUP, MRTPI	Peacock and Smith
Anthony Ferguson MA, MRTPI	Peacock and Smith

INTERESTED PERSONS:

Michael Lager	Witham Town Council
Phil Barlow	Local resident
Paul M Ryland	Local resident
Peter Green	Local resident
Bob Ward	Local resident

DOCUMENTS SUBMITTED TO THE INQUIRY

- 1 Statement by Cllr Michael Lager
- 2 Comments by Bob Ward
- 3 Letter of 12 November 2013 from Priti Patel MP, in support of Cllr Lager's Statement
- 4 Title page and forward to Braintree District Local Plan Review 2005
- 5 Title page, executive summary and introduction to Braintree Core Strategy
- 6 Morrison's extended supermarket, Trade draw and impact 2017, supplied by the Appellant
- 7 Witham population and Braintree District unemployment data 2011-12, supplied by the Council
- 8 Agreed draft conditions
- 9 Submitted, signed Section 106 Agreement
- 10 Post Inquiry correspondence about the Section 106 Agreement and Conditions
- 11 Revised, signed section 106 Agreement

PLANS SUBMITTED TO THE INQUIRY

- A Location of wall, owned by Appellant adjacent to Cut Throat Lane
- B Location of footbridge to be constructed across the railway at Motts Lane between Cut Throat Lane and Eastways
- C Plans showing the boundary between retail study zones 12. Braintree and 14. Witham
- D Morrison's store, Braintree Town Centre, location plan
- E Morrison's store, Braintree Town Centre, site plan

PHOTOGRAPHS SUBMITTED TO THE INQUIRY

- 1 Likely range of fresh meat and vegetables at the extended store, based on the revamp of the Wetherby Store, supplied by the Appellant

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

6558 P(0)01 (Rev B)	Existing Site Location Plan
6558 P(0)02 (Rev E)	Proposed Site Location Plan
6558 P(0)03 (Rev B)	Existing Site Plan
6558 P(0)04 (Rev F)	Proposed Site Plan
6558 P(0)05 (Rev B)	Existing Store Plan
6558 P(0)06 (Rev D)	Proposed Store Plan
6558 P(0)07 (Rev B)	Existing Elevations
6558 P(0)08 (Rev D)	Proposed Elevations
6558 P(0)09	Existing Roof Plan
6558 P(0)10 (Rev B)	Proposed Roof Plan
6558 P(0)11 (Rev A)	Section Plan
LS19610	Lighting Plan.
- 3) The development hereby permitted shall be constructed entirely of the materials details of which are shown on the approved plans.
- 4) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (eg. furniture, signs, etc); proposed and existing functional services above and below ground (eg. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc).
- 5) Soft landscape works shall include planting plans; written specifications (including soil composition, cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; implementation programme.
- 6) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the extended building or in accordance with a programme agreed with the local planning authority. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 7) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i) The provision of a suitable access, turning and egress arrangements for construction vehicles;
 - ii) the parking of the vehicles of site operatives and construction visitors;
 - iii) loading and unloading of plant and materials;
 - iv) storage of plant and materials used in constructing the extension;

- v) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- vi) wheel washing facilities;
- vii) measures to control the emission of dust and dirt during construction;
- viii) a scheme for recycling/disposing of waste resulting from demolition and construction works.

The development shall only be carried out in accordance with the approved statement.

- 8) No development shall take place until details of the number; location and design of cycle parking facilities have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be secure, convenient, covered and provided prior to the first occupation of any part of the extended building and retained at all times.
- 9) No development shall take place until a scheme(s) including an implementation timetable for the following has been submitted to and approved in writing by the Local Planning Authority:-
 - (a) water efficiency, resource efficiency, energy efficiency and recycling measures, during construction;
 - (b) measures to secure water conservation, recycling of rain water, sustainable drainage and other devices to ensure the more efficient use of water within the completed development;
 - (c) measures for the long term energy efficiency of the building(s), and the use of renewable energy resources;
 - (d) details of the location and design of refuse bin and recycling materials storage areas (for internal and external separation) and collection points;
 - (e) details of any proposed external lighting to the site.The development shall be constructed in accordance with the approved details and thereafter so maintained.
- 10) No development shall take place until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The approved Travel Plan shall be implemented in the approved format upon first occupation of any part of the extended building and there after applied at all times.
- 11) The net sales area of the extended store shall not exceed 3248 square metres of which a maximum of 25% shall be used for the sale of comparison goods. For this purpose, net retail sales area is as defined by the National Retail Planning Forum in Appendix A of Planning for Town Centres – Practice guidance on need, impact and the sequential approach, published by the Department of Communities and Local Government in December 2009.
- 12) The extension hereby permitted shall operate as an extension to the existing store only and neither shall be sub-divided to create additional retail units.
- 13) No trading shall occur from the extension hereby permitted until the wall adjacent to Cut Throat Lane within the small area shown edged red on Drawing No. 6558P(0)02 (Revision E) has been removed and the site of the wall made up to highway adoption standards and to the immediately adjacent level of Cut Throat Lane. The opening thereby created shall thereafter be kept open for pedestrians, cyclists and vehicles at all times.

Minutes

Planning Committee 31st May 2022



Present

Councillors	Present	Councillors	Present
J Abbott	Apologies	F Ricci	Yes
Mrs J Beavis	Yes (from 7.20pm)	Mrs W Scattergood (Chairman)	Yes
K Bowers	Yes	P Schwier	Yes (from 7.17pm)
H Johnson	Yes	Mrs G Spray	Yes
D Mann	Yes	Mrs S Wilson	Apologies
A Munday	Yes	J Wrench	Apologies
Mrs I Parker	Yes		

Substitutes

Councillor T Cunningham attended the meeting as a substitute for Councillor J Wrench.
Councillor A Hensman attended the meeting as a substitute for Councillor Mrs S Wilson.
Councillor P Thorogood attended the meeting as a substitute for Councillor J Abbott.

Councillor Mrs A Kilmartin attended the meeting in her capacity as an elected Member of Witham Town Council. Councillor Mrs Kilmartin read a written statement during Question Time on behalf of the Town Council in support of Application No. 21/03618/FUL - Gershwin Park, Land North East of Reid Road, Witham.

7 **DECLARATIONS OF INTEREST**

INFORMATION: The following interests were declared:-

On behalf of Members of the Committee, Councillor Mrs W Scattergood the Chairman of the Planning Committee, declared a joint non-pecuniary interest in Application No. 21/00059/VAR – Morrisons Supermarket, Braintree Road, Witham as Councillor M Lager, who was speaking at the meeting during Question Time on behalf of Witham Town Council, was known to some of them.

On behalf of Members of the Committee, Councillor Mrs W Scattergood the Chairman of the Planning Committee, declared a joint non-pecuniary interest also in Application No. 21/03618/FUL - Gershwin Park, Land North East of Reid Road, Witham as Councillor Mrs A Kilmartin, who was speaking at the meeting during

Question Time on behalf of Witham Town Council, was an Elected Member of Braintree District Council and she was known to them.

Councillor K Bowers declared a non-pecuniary interest in Agenda Item 6 – ‘Members’ Forum Proposals – Consultation’ as his wife was an elected Member of Essex County Council and the role of Essex County Councillors was considered as part of the discussion.

Councillor T Cunningham declared a non-pecuniary interest in Application No. 21/00059/VAR – Morrisons Supermarket, Braintree Road, Witham; Application No. 21/03101/FUL - Land North of Oak Road, Halstead; Application No. 21/03618/FUL - Gershwin Park, Land North East of Reid Road, Witham; and Application No. 21/03699/HH - Brambles, White Ash Green, Halstead in his capacity as an elected Member of Essex County Council.

Councillor A Munday declared a non-pecuniary interest in Application No. 21/03699/HH - Brambles, White Ash Green, Halstead as the applicant’s agent was known to him.

In accordance with the Code of Conduct, Councillors remained in the meeting, unless stated otherwise, and took part in the discussion when the applications were considered.

8 **MINUTES**

DECISION: It was reported that the Minutes of the meeting of the Planning Committee held on 3rd May 2022 were not available for approval.

9 **QUESTION TIME**

INFORMATION: There were six statements made about the following applications. Those people who had registered to participate during Question Time made their statements immediately prior to the Committee’s consideration of each application.

Application No. 21/00059/VAR – Morrisons Supermarket, Braintree Road, Witham
Application No. 21/03101/FUL - Land North of Oak Road, Halstead
Application No. 21/03618/FUL - Gershwin Park, Land North East of Reid Road, Witham

Principally, these Minutes record decisions taken only and, where appropriate, the reasons for the decisions.

10 **PLANNING APPLICATION APPROVED**

DECISION: That the undermentioned planning application be approved under the Town and Country Planning Act 1990, including Listed Building Consent where appropriate, subject to the conditions and reasons contained in the Planning

Development Manager's report. Details of this planning application are contained in the Register of Planning Applications.

<u>Plan No.</u>	<u>Location</u>	<u>Applicant(s)</u>	<u>Proposed Development</u>
*21/03699/HH (APPROVED)	Halstead	Mr and Mrs Gage	Construction of detached two storey cart lodge together with ground floor side extension to existing dwelling, Brambles, White Ash Green.

11 **SECTION 106 AGREEMENTS**

<u>Plan No.</u>	<u>Location</u>	<u>Applicant(s)</u>	<u>Proposed Development</u>
*21/00059/VAR (APPROVED)	Witham	Wm Morrison Supermarkets Plc	Variation of Condition 11 'Trading Restrictions' of permission 20/00014/VAR granted 11/02/2014. Variation would allow: The opening created following the demolition of the section of wall shall be kept open for pedestrians and cyclists only, and shall not prejudice the formation of future vehicular access through the opening, Morrisons Supermarket, Braintree Road.

DECISION: That, subject to the applicant entering into a suitable Deed of Variation to the original legal agreement made pursuant to Section 106 of the Town and County Planning Act 1990 (as amended) in respect of access, the Planning Development Manager, or an authorised Officer, be authorised to grant planning permission for the above development in accordance with the approved plans and documents and the conditions and reasons set out in the report, as amended below. Alternatively, in the event that a suitable planning obligation is not agreed within three calendar months of the Planning Committee's decision, the Planning Development Manager be authorised to refuse planning permission. Details of this planning application are contained in the Register of Planning Applications.

In discussing this application, Members of the Planning Committee were advised that the Heads of Term within the original Section 106 legal agreement relating to town centre improvements, public art and travel plan monitoring would not be amended by the Deed of Variation. However, it was proposed that schedule 1 of the Agreement relating to access arrangements should be replaced.

The Committee approved this application, subject to the amendment of Condition No. 11 as follows:-

Amended Condition

11. Within two years of the date of this decision the wall adjacent to Cut Throat Lane within the small area shown edged red on Drawing No. 13964-DB3-290-00-DR-A-90_04 REV B shall be removed and the site of the wall made up to highway adoption standards and to the immediately adjacent level of Cut Throat Lane. The opening thereby created shall thereafter be kept open for pedestrians and cyclists at all times.

Councillor M Lager attended the meeting and spoke against this application on behalf of Witham Town Council prior to the Committee's consideration of the application.

Mr M Bradley, Essex Highways, attended the meeting for the consideration of this application

<u>Plan No.</u>	<u>Location</u>	<u>Applicant(s)</u>	<u>Proposed Development</u>
*21/03101/FUL (APPROVED)	Halstead	Bellway Homes (Essex) Ltd	Erection of 80 dwellings (Class C3) including affordable homes, public open space including local equipped area for play, access from Tidings Hill, sustainable drainage systems, landscaping and all associated infrastructure and development, land North of Oak Road.

DECISION: That, subject to the applicant entering into a suitable legal agreement pursuant to Section 106 of the Town and County Planning Act 1990 (as amended) to cover the following Heads of Term:

- Affordable Housing – 35% of units on-site (28 units in total) to be affordable housing, with a mix of 20 affordable rent and 8 shared ownership as set out within the Accommodation Schedule - revision D.
- Allotments – Financial contribution calculated in accordance with the Open Spaces Supplementary Planning Document (SPD) updated financial contributions for 2022-2023. Contribution (£2,736.70) to be spent on new or

improved allotment facilities within 2km of Townsford Mill, as identified in the District Council's Open Spaces Action Plan.

- Community Facilities – Financial contribution of £45,014 towards either the provision of new facilities at land adjacent to the car park at Butler Road, Halstead and/or the provision of new community facilities and/or upgrading of existing community facilities, and/or alterations to existing community facilities within a 2km radius of Townsford Mill.
- Ecological Mitigation – Financial contribution of £137.71 per dwelling for delivery of visitor management at the Blackwater Estuary Special Protection Area (SPA) and Ramsar site.
- Education – Financial contributions for Early Years and Childcare provision and Primary School provision in the locality. Contributions to be calculated in accordance with standard Essex County Council provisions based on the number of qualifying dwellings to be constructed, index-linked, but equating to £17,268 per additional Early Years and Childcare place and £17,268 per additional Primary School place.
- Healthcare – Financial contribution towards the provision of additional capacity at the Elizabeth Courtauld Surgery, with a financial contribution of £30,400 to mitigate the impacts of this proposal.
- Libraries – Financial contribution of £77.80 per dwelling (up to £6,224 for 80 dwellings) towards improvements to Halstead Library (or such other library as serves the town).
- Outdoor Sports – A financial contribution calculated in accordance with the Open Spaces Supplementary Planning Document (SPD) updated contribution levels for 2022-2023 (£86,233.30) to be spent on new or improved outdoor sports facilities within 2km of Townsford Mill, as identified in the District Council's Open Spaces Action Plan.
- Pedestrian Link – To submit a strategy to secure a pedestrian only link between the site and the garage parking court at the end of Grange Close. (Such a link will involve third party land – in this case Eastlight Housing and the District Council, and as such an additional pedestrian link in this location will only be possible with the landowners' consent).
- Public Open Space – (On-site) All Public Open Space and Amenity Space to be set out to an agreed specification and managed by a Management Company to an agreed specification.
- Refuse Collection – To ensure that any private roads in the development (roads which are not adopted by the Highway Authority) are built and maintained to a standard commensurate with that required by the Local

Highway Authority; to allow the Council the right to use the private roads; and that the Council shall not be subject to any claim for damage to the private roads caused as a result of reasonable use by refuse collection vehicles.

- Residential Travel Plan Monitoring Fee – Annual monitoring fee of £1,533 pa (index-linked) to be paid to Essex County Council for the monitoring of a Residential Travel Plan (which has been approved by the Council and implemented by the applicant).
- Western Link – Obligation to allow the developer of the adjoining land to construct a 3 metre wide foot/cycleway route through the Western Link Land to connect to publicly accessible and useable foot/cycle routes or estate roads within the site (only in the event that planning permission is granted for the development of the adjoining land).
- Monitoring Fees – For the District and County Councils.

(NB - All financial contributions to be index-linked).

the Planning Development Manager, or an authorised Officer, be authorised to grant planning permission for the above development in accordance with the approved plans and documents and the conditions and reasons set out in the report. Alternatively, in the event that a suitable planning obligation is not agreed within three calendar months of the Planning Committee's decision, the Planning Development Manager be authorised to refuse planning permission. Details of this planning application are contained in the Register of Planning Applications.

In discussing this application, Members of the Planning Committee were advised that the application had been considered by the Planning Committee on 19th April 2022, when it had been agreed that it should be granted subject to a Section 106 Agreement. However, it had subsequently transpired that the report relating to the application's site history had been incorrect. In the circumstances, the Committee had been requested to re-determine the application. The previous report had referred to there being an extant 'outline' planning permission for the site reference no. 18/01876/OUT, dated 19th December 2019. This extant permission had been subject to a condition requiring the submission of a 'reserved matters' application within a period of two years. However, whilst the applicant, Bellway Homes (Essex) Ltd, had submitted the current 'full' application reference no. 21/03101/FUL on 20th October 2021, a 'reserved matters' application had not been submitted within the timescale and the 'outline' planning permission had therefore ceased to be extant on 20th December 2021.

12 **PLANNING APPLICATION REFUSED**

DECISION: That the undermentioned planning application be refused for the reasons contained in the Planning Development Manager's report. Details of this planning application are contained in the Register of Planning Applications.

<u>Plan No.</u>	<u>Location</u>	<u>Applicant(s)</u>	<u>Proposed Development</u>
*21/03618/FUL (REFUSED)	Witham	BGF4 (Witham) LLP, Barchester Healthcare, and Churchmanor Estate	Development of the site to include erection of single storey building of 262m2 to provide 3 no. neighbourhood retail units (Class E), a three storey building to provide a 70 bedroom Care Home (Class C2) and 44 residential dwellings (Class C3) comprising of dwellinghouses and a three storey apartment building, alongside access, parking, landscaping and other associated works, Gershwin Park, land North East of Reid Road.

Councillor Mrs A Kilmartin attended the meeting and spoke in support of this application on behalf of Witham Town Council prior to the Committee's consideration of the application.

13 **MEMBERS' FORUM PROPOSALS – CONSULTATION**

INFORMATION: Consideration was given to a report on the proposed introduction of a Members' Forum as part of the process for determining planning applications.

Members of the Planning Committee were reminded that on 7th December 2020 the Council had approved a new Scheme of Delegation for the determination of planning applications, which included the proposed Members' Forum. The Forum would enable applicants and agents to present their proposals to Members of the Planning Committee during the pre-application, pre-submission, or application stages of the planning process prior to determination by the Committee. The draft Terms of Reference for the proposed Members' Forum were set out at Appendix A to the report. This proposal had previously been considered by the Planning Committee on 13th October 2020.

Currently, Officers and statutory consultees engaged with applicants at the early stages of the planning process, but it was considered that the process would also benefit from earlier engagement by Members. This would enable Members to gain an understanding of what applicants sought to achieve and how they intended to engage with the local community. It would also enable applicants and Officers to note any issues of concern that Members might have and how proposals might be improved before being presented to the Planning Committee.

It was acknowledged that the Members' Forum would not be a decision-making body and that it would not express a view on the acceptability of a proposal. Meetings of the Forum could be held either 'in person' and/or virtually and they would be recorded. The Forum's Terms of Reference and meeting dates would be published on the Council's website. Applications referred to the Members' Forum would primarily be those defined within Part A of the Scheme of Delegation, namely major development proposals. Nationally Significant Infrastructure Projects (NSIPs), Council-led proposals and 'significant' applications may also be referred to the Forum. The membership of the Members' Forum would comprise all Members and all Substitute Members of the Planning Committee. In addition, Braintree District Council Ward Member(s) for the Ward in which the development was proposed and the neighbouring Ward, if relevant, would be invited, together with up to two representatives of the relevant Town Council or Parish Council(s).

Prior to a meeting of the Members' Forum, Officers would prepare a factual briefing note for all Members and other representatives who would be attending in order to summarise the proposal. The applicant would also prepare an information pack which would be circulated in advance of the meeting. It was envisaged that up to three proposals could be considered at each meeting of the Forum depending on the scale of the schemes. Applicants would be invited to present their proposals, following which Members and other representatives would be able to ask questions and to seek clarification.

All Members of the Planning Committee would be required to undertake additional training prior to attendance at a Members' Forum meeting and a new guidance note would be issued to Councillors to explain the parameters of their involvement in the Forum process and to provide information on pre-determination and bias. Guidance would also be issued to representatives of Town Councils and Parish Councils. It was noted that decisions relating to the planning process would continue to be taken in accordance with the Council's Scheme of Delegation and the Planning Committee's Terms of Reference. As the Members' Forum was not a Committee of the Council, the Council's 'Members' Allowance Scheme' did not currently apply to it. However, Councillors would be able to claim expenses for attending meetings. It was proposed that meetings of the Forum should take place in the evening once every three weeks dependent on demand and that the number of Planning Committee meetings should reduce from 26 to 17 meetings per year. It was also proposed that the cost of a Forum should be met by applicants and that the Council's current fees and charges should be revised.

The Members' Forum proposals had been considered by the Developing Democracy Group on 27th May 2022 and by the Governance and Audit Scrutiny Committee on 30th May 2022. The proposals would also be subject to consultation with Town Councils and Parish Councils in June 2022 following which a final report would be submitted to Full Council at its meeting on 25th July 2022 for approval.

In discussing the proposal, Members of the Planning Committee raised a number of points, which the Planning Development Manager responded to. Specifically, it was queried whether Essex County Councillors might be invited to attend a Members' Forum meeting particularly if a site within an unparished area of the District was being considered. Furthermore, it was queried if the period for consultation with Town and Parish Councils could be extended from June 2022 to July 2022 as some local Councils might not meet again until July. It was agreed that these matters should be investigated.

DECISION: That the proposed Members' Forum and the draft Terms of Reference, as set out in the Agenda report and at Appendix A to the report, be noted.

PLEASE NOTE: The full list of standard conditions and reasons can be viewed at the office of the Planning Development Manager, Council Offices, Causeway House, Bocking End, Braintree, Essex CM7 9HB.

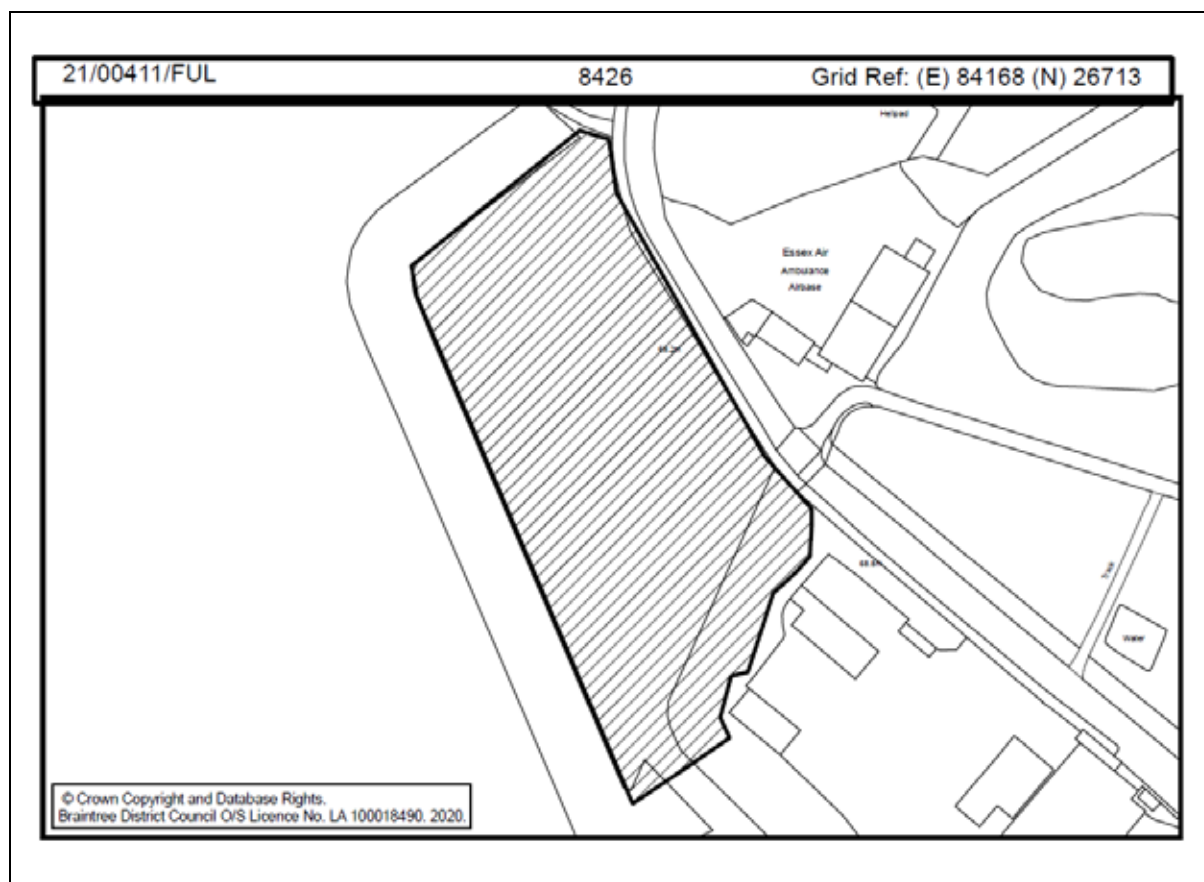
(Where applications are marked with an * this denotes that representations were received and considered by the Committee).

The meeting closed at 9.35pm.

Councillor Mrs W Scattergood
(Chairman)

Agenda Item: 5c

Report to: Planning Committee		
Planning Committee Date: 18th October 2022		
For: Decision		
Key Decision: No		Decision Planner Ref No: N/A
Application No:	21/00411/FUL	
Description:	Change of Use of land to be used as a Haulage Yard (Sui Generis) with associated works, security fencing, access and landscaping with the erection of a two-storey building to be used as ancillary office space.	
Location:	Land At The Airfield, Earls Colne	
Applicant:	Trustees Of Marks Hall Estate C/O Strutt & Parker	
Agent:	Strutt And Parker, Mrs Hayley Morley, Covall Hall, Rainsford Road, Chelmsford, CM1 2QF	
Date Valid:	19th February 2021	
Recommendation:	It is RECOMMENDED that the following decision be made: § Application GRANTED subject to the Condition(s) & Reason(s) and Informative(s) outlined within Appendix 1 of this Committee Report.	
Options:	The Planning Committee can: a) Agree the Recommendation b) Vary the Recommendation c) Overturn the Recommendation d) Defer consideration of the Application for a specified reason(s)	
Appendices:	Appendix 1:	Approved Plan(s) & Document(s) Condition(s) & Reason(s) and Informative(s)
	Appendix 2:	Policy Considerations
	Appendix 3:	Site History
Case Officer:	Janine Rowley For more information about this Application please contact the above Officer on: 01376 551414 Extension: , or by e-mail: janine.rowley@braintree.gov.uk	

Application Site Location:

Purpose of the Report:	The Committee Report sets out the assessment and recommendation of the abovementioned application to the Council's Planning Committee. The report sets out all of the material planning considerations and the relevant national and local planning policies.
Financial Implications:	The application was subject to the statutory application fee paid by the applicant for the determination of the application.
Legal Implications:	<p>Any legal implications arising out of a Section 106 Agreement will be set out in more detail within the body of this Committee Report.</p> <p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either set out the relevant Conditions & Reasons and any Informatives, or the Reasons for Refusal if applicable.</p> <p>All relevant policies are set out within the report, within Appendix 2.</p>
Other Implications:	The application has been subject to public consultation and consultation with relevant statutory and non-statutory consultees. All responses received in response to this consultation are set out within the body of this Committee Report.
Equality and Diversity Implications	<p>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:</p> <ul style="list-style-type: none"> 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; c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding. <p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race,</p>

	<p>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).</p> <p>The consideration of this application has not raised any equality issues.</p>
Background Papers:	<p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> § Application Form § All Plans and Supporting Documentation § All Consultation Responses and Representations <p>The application submission can be viewed online via the Council's Public Access website: www.braintree.gov.uk/pa by entering the Application Number: 21/00411/FUL.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> § National Planning Policy Framework (NPPF) § Braintree District Local Plan 2013 – 2033 § Neighbourhood Plan (if applicable) § Supplementary Planning Documents (SPD's) (if applicable) <p>The National Planning Policy Framework can be viewed on the GOV.UK website: www.gov.uk/.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: www.braintree.gov.uk.</p>

1. EXECUTIVE SUMMARY

- 1.1 The application site is located within the Earls Colne Airfield Employment Area, which is classified as an Employment Area within the Adopted Local Plan.
- 1.2 The site subject to this application is made up of undeveloped land, which has been previously been granted planning permission, together with land to the south to redevelop, for up to 10,220sq.m of B1, B2 and B8 employment floorspace under Application Reference 17/01157/OUT which was granted permission on the 25th November 2019. Consequently, the principle of employment and industrial development of the site has been established.
- 1.3 Policy LPP3 of the Adopted Local Plan states that within defined Employment Policy Areas proposals for the following uses will be permitted and retained: office use, research and development, and industrial processes (other than industrial processes falling within Use Class B2) (Use Class E(g)); general industrial (Use Class B2) and storage and distribution (Use Class B8); repair of vehicles/vehicle parts; waste management facilities; and services (specifically provided for the benefit of businesses or worked based on the employment area).
- 1.4 In this case, the Applicant seeks planning permission to develop the north part of the site changing the use of the land to a Haulage Yard (Sui Generis) with associated works, security fencing, access, and landscaping with the erection of a two-storey building to be used as ancillary office space. While the proposal would be contrary to Policy LPP3 of the Adopted Local Plan, it is considered that the proposal would introduce a comparable employment use in line with the objectives of Policies LPP2 and LPP3 of the Adopted Local Plan and would deliver economic and social benefits to the local community, consistent with the planning objectives contained within Paragraph 11 of the NPPF.
- 1.5 In terms of access, layout, and design, it is considered that any adverse impacts from the development are considered to be appropriately mitigated. No adverse impacts have been identified on highway grounds and the provision of the access is deemed acceptable. There would be no harm arising to neighbouring residential amenity, environmental health, ecology, or flooding. The proposal is considered to be acceptable in planning terms. Accordingly, it is recommended that planning permission is granted for the proposal.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

- 2.1 This application is being reported to Planning Committee in accordance with Part A of the Council's Scheme of Delegation as the application is categorised as a Major planning application.

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

- 5.1 The application site is located within Earls Colne Airfield which is designated as an Employment Policy Area within the Adopted Local Plan.
- 5.2 The site subject to this application contains land that has been previously been granted planning permission, together with land to the south, to redevelop for up to 10,220sq.m of B1, B2 and B8 employment floorspace under Application Reference 17/01157/OUT.
- 5.3 The site is bounded to the north, west, and south by a very substantial and well establish hedge line. To the east, the site is bounded by the Airfield perimeter road.
- 5.4 In terms of the wider context, further countryside lies to the north, west and south. Earls Colne Airfield is located immediately to the east, with the existing commercial buildings abutting part of the eastern boundary of the site and the airfield perimeter road abutting the remainder. The airstrip itself lies adjacent to the north-eastern site boundary with planes taking off directly over this part of the site.

6. PROPOSAL

- 6.1 The application seeks planning permission for the use of the land as a Haulage Yard (Sui Generis Use) with associated works, security fencing, access, landscaping, and parking, together with the erection of a two-storey modular ancillary office building to provide 250sq.m of floorspace.
- 6.2 The planning statement accompanying this application states the proposal is to meet an existing need for the relocation of David Watson Transport Limited who currently operate within the Earls Colne Business Park.

7. SUMMARY OF CONSULTATION RESPONSES

7.1 Anglian Water

- 7.1.1 No objections. The wastewater treatment from the development is in the catchment of Earls Colne Water Recycling Centre which currently does not have capacity to treat the flows the development site. Anglian Water are obligated to accept the foul flows from the development with the benefit from planning consent.

7.2 Environment Agency

- 7.2.1 Further to clarification provided during the course of the application with regard to drainage, no objections are raised.
- 7.2.2 Following a review of the GEMCO Phase 2 Geo-Environmental Assessment, February 2021, based on the information provided, confirm that they are satisfied the risk arising from previous contamination is low and we have no further comments with respect to Condition 16 of planning permission reference 17/01157/OUT.
- 7.2.3 Recommend that if during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority.

7.3 National Highways

- 7.3.1 No objections.

7.4 BDC Ecology

- 7.4.1 Raise no objections subject to securing ecological mitigation and enhancement measures.

7.5 BDC Environmental Health

- 7.5.1 Comments received which are summarised as follows:
- The geoenvironmental report provided by GEMCO (reference: 1795RO1: Issue 3, Feb 2021) identified no significant sources of contamination on the site and as such remediation conditions are not required. The noise assessment undertaken by Grant Acoustics, (Ref: GA2015-0025-R1) adequately quantifies the noise climate associated with existing adjacent industrial uses and demonstrates that it will not adversely impact on the occupiers of the proposed commercial office building. A suitable internal noise climate will be achievable within the

office with the construction and glazing types proposed without requiring additional acoustic insulation measures to the building facades.

- The noise technical note (reference: 2004420-02A) produced by Ardent Consulting Engineers that the proposed use of the site as a haulage yard will not significantly increase the ambient noise levels in the immediate vicinity of the site relative to the noise levels produced by existing adjacent industrial uses and will not cause disturbance or loss of residential amenity. Noise mitigation conditions are not required in this instance.
- The lighting assessment produced by Loveday Lighting (ref: LL1193) adequately demonstrates that lighting from the proposed development can be designed so as to have a negligible impact on the nearest residential occupiers. Provided all external lighting is installed in accordance with the specification provided in this report additional conditions with respect to lighting are not required.

7.6 ECC SUDs

- 7.6.1 No objections are raised to the Flood Risk Assessment and the associated documents, subject to a number of conditions relating to a surface water drainage scheme for the site, a scheme to minimise the risk of off-site flooding, maintenance arrangements for different elements of the surface water, maintaining yearly logs.

7.7 ECC Waste Management

- 7.7.1 No objections as the proposed poses no issues for waste or recycling collection vehicles.

8. PARISH / TOWN COUNCIL

8.1 Earls Colne Parish Council

- 8.1.1 Following clarification and a presentation by the Applicants at a Parish meeting on the 16th June 2021 no objections are raised.

9. REPRESENTATIONS

- 9.1 A site notice was displayed at the entrance to the application site for a 21 day period and immediate neighbours were notified in writing. No representations have been received.

10. PRINCIPLE OF DEVELOPMENT

- 10.1.1 Paragraph 11 of the National Planning Policy Framework (NPPF) sets out that plans and decisions should apply a presumption in favour of sustainable development. Paragraph 12 of the NPPF states, however, that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making. In addition, Paragraph 47 of the NPPF states that planning law

requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

- 10.1.2 Currently the Council's statutory Development Plan consists of the Braintree District Local Plan 2013-2033.
- 10.1.3 The site is located within an Employment Policy Area as outlined on the Proposals Map contained within the Adopted Local Plan. Policy LPP2 of the Adopted Local Plan states that all employment sites, including sites or buildings in current or recent use as an employment site, will be retained for such uses where they continue to offer a viable and sustainable location for such employment uses. Policy LPP3 of the Adopted Local Plan states that within defined Employment Policy Areas proposals for the following uses will be permitted and retained: office use, research and development, and industrial processes (other than industrial processes falling within Use Class B2) (Use Class E(g)); general industrial (Use Class B2) and storage and distribution (Use Class B8); repair of vehicles/vehicle parts; waste management facilities; and services (specifically provided for the benefit of businesses or worked based on the employment area).
- 10.1.4 Paragraph 82 of the NPPF outlines that planning policies should set out a clear economic vision and strategy which positively and proactively encourages sustainable economic growth, having regard to Local Industrial Strategies and other local policies for economic development and regeneration. Paragraph 83 of the NPPF states that planning policies and decisions should recognise and address the specific locational requirements of different sectors.
- 10.1.5 The principle of redevelopment of the site for industrial uses has been previously been accepted through the grant of outline planning permission under Application Reference 17/01157/OUT for this site, and that to the south, with all matters reserved for the erection of up to 10,220sq.m of B1, B2 and B8 employment floor space.
- 10.1.6 This application seeks planning permission for the use of the land as a haulage yard, a Sui-Generis use, with associated works, security fencing, access, landscaping, and parking, together with the erection of a two-storey modular ancillary office building to provide 250sq.m of floorspace.
- 10.1.7 The planning statement accompanying this application states the haulage yard will enable the relocation of David Watson Transport Limited, who currently operates within Earls Colne Business Park. The transport company has 100 vehicles in their fleet, 160 employees, and 7 depots across the country and are one of the largest specialist transport companies. A supporting letter from the Applicant states that David Watson started at Earls Colne Business Park in the 1980s and have 16 members of staff and 20 lorry drivers at the Earls Colne Depot. The new offices would enable the existing business to expand providing at least 4 new employees including 2 to the accounts department, a HR assistant, and a Key Account

Manager based at the new office building as proposed with this planning application. Currently, David Watson hold an operator's licence for 40 vehicles at Earls Colne but are only running on 20 from the current depot due to parking restrictions but moving to the proposed site will enable 20 extra staff to be employed over the coming years. This proposal will enable expansion of the business to meet operational needs.

- 10.1.8 As set out above, the site is located within an Employment Policy Area and employment uses have been previously accepted under the outline planning permission (Application Reference 17/01157/OUT). While the proposal would be contrary to Policy LPP3 of the Adopted Local Plan, given that the use proposed would be a Sui Generis use, it is considered that the proposal would introduce a comparable employment use in line with the objectives of Policies LPP2 and LPP3 of the Adopted Local Plan and would deliver economic and social benefits to the local community, consistent with the planning objectives contained within Paragraph 11 of the NPPF. Furthermore the proposal will continue to provide a use benefiting an existing business and workers within the Earls Colne Employment Policy Area.
- 10.1.9 Given the nature of the use as a Sui-Generis use, should the operation of the site cease to be used as a haulage yard in the future, full planning permission would be required for any further change of use or any proposed redevelopment of the site. Any such application would therefore be considered on its own merits.
- 10.1.10 Taking into account of all the above considerations, while the use proposed would be contrary to Policy LPP3 of the Adopted Local Plan, based on the economic and social benefits that would be delivered by the proposal, and the comparable nature of the Sui Generis use proposed, it is considered that the principle of development in this case can be supported.

11. SITE ASSESSMENT

11.1 Design, Appearance and Impact upon the Character and Appearance of the Area

- 11.1.1 Paragraph 126 of the NPPF states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Paragraph 134 makes reference to the requirement for good design, and how a failure to achieve good design can warrant refusal of a planning application, specifically where poor design fails to take the opportunities available for improving the character and quality of an area.
- 11.1.2 In addition to this, Policy LPP52 requires the Council to seek a high standard of layout and design in all developments in the District. The scale, layout, height and massing of buildings and overall elevation design should reflect or enhance the area's local distinctiveness and shall be in harmony with the character and appearance of the surrounding area; including their form, scale and impact on the skyline and building line.

- 11.1.3 The application site is surrounded by commercial premises to the east and south of the site. The surrounding buildings have a mixed appearance with a variety of styles and materials. The most notable buildings adjacent to the site include larger hanger buildings to the south of the site and portacabins to the south eastern corner of the site.
- 11.1.4 The proposed modular building would be located to the south section of the site accessed via a separate vehicle access from the main haulage yard. The building would be two-storey with a flat roof, and a single storey element to the side providing a roof terrace accessed from the first floor. The building being modular in construction would have a simple form and would be finished in vertical timber cladding with large areas of repeated glazing to the front elevation and canopy entrance. The timber cladding is constructed from chestnut brown hardie plank that would extend, which combined with the single steel cladding in colour merlin grey above fenestration and to the sides and rear elevation provides articulation and interest to the façade.
- 11.1.5 The appearance of the building has been subject to extensive negotiation with Officers who have engaged with the Applicant to seek amendments to the original design following concerns about the quality and appearance of the development, which in their original form resembled temporary portacabins. In this regard, the Applicant has produced several CGI images to demonstrate that the building would be high quality and appropriate to the context of the site and the surroundings. Officers are confident that the quality indicated within the CGIs would be achieved on site if planning permission is granted for the proposal. The use of modular construction however is not unacceptable in principle, and it offers a flexible, eco-friendly, and cost-effective method of construction which reduces waste and site disturbance compared to site-built structures. The amended plans submitted following a successful dialogue with the Applicant during the course of this application, have resulted in a well-articulated and interesting design providing an enhancement to the redevelopment of this site. It is considered the new office building will provide an acceptable addition to this section of the site and has been designed fit for purpose to meet the needs of the occupier.
- 11.2 Landscaping
- 11.2.1 Policy LPP65 of the Adopted Local Plan states the protection of established healthy trees which offer significant amenity value to the locality. The existing trees surrounding the hedge are to be protected. The soft landscaping proposals included seeded grass areas, 2m high native hedge to bund and infill planting areas and a maintenance plan to ensure the planting is maintained.
- 11.2.2 During the course of the application additional planting has been requested to enhance the overall appearance of the site. The Applicant has provided a revised drawing (reference 'Soft Landscaping Plan Revision B' dated 3rd

October 2022) which includes greater landscaping to all boundaries to enhance the overall appearance and soften the extent of hardstanding surface currently laid. The revised landscaping enables the site to be in keeping with the existing landscaped areas within the Earls Colne Business Park and the further afield Marks Hall Estate. The soft landscaping is a positive contribution to the scheme enhancing the overall appearance of the site.

- 11.2.3 Subject to an appropriate condition, it is considered the proposed landscaping scheme will enhance the character and appearance of the site and surrounding area.

11.3 Ecology

- 11.3.1 Policy LPP64 of the Adopted Local Plan is relevant in terms of protected species, Priority Species and Priority Habitat.

- 11.3.2 There are a number of Local Wildlife sites and Ancient Woodlands located in the vicinity of the application site, the closest being Markshall Woodlands located to the south. The Applicant has submitted a Preliminary Ecological Appraisal, (T4 Ecology Ltd May 2021). There are a number of mitigation measures identified in the preliminary Ecological Appraisal, which will be secured by condition to ensure any potential impact against protected and priority species and habitats are implemented in full to conserve protected and priority species including nesting birds, mammals and to protect the adjacent woodland habitat. The Councils Ecologist has raised no objections subject to the aforementioned mitigation measures and to ensure a wildlife friendly lighting strategy is implemented together with biodiversity enhancements.

11.4 Highway Considerations

- 11.4.1 Paragraph 104 of the NPPF is explicit that development proposals should identify and pursue opportunities to promote walking, cycling and modes of transport. Paragraph 105 of the NPPF goes on to state the planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. Paragraph 111 of the NPPF states development shall only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 11.4.2 Similarly, amongst other matters Policy LPP52 of the Adopted Local Plan, require new developments to be provided with a safe and suitable access, without detriment to the local road network, in order to maintain highway safety for all highway users.
- 11.4.3 The impact of a mixed use development on the highway network in principle was assessed at the outline planning application stage

(Application Reference 17/01157/OUT) with a thorough review of the transport assessment examining the impact of the proposed development on the existing highway network with no objections raised by Essex County Council Highways.

- 11.4.4 This application seeks to change the use of the land to the north of the site from open storage to be used as a haulage yard including a two storey ancillary office building. There are no maximum parking standards as set out in the Essex Parking Standards (2009) for the proposed Sui Generis use, the most relevant parking standards to a haulage yard include B8 external storage use which equates to 1 space per 150sq.m plus 1 space per 30sq.m for the proposed office building.
- 11.4.5 The site would be served by a 32 parking spaces which would meet the Adopted Vehicle Parking Standards. Furthermore, the proposed vehicle movements associated within the use would not result in demonstrable harm on highway safety or highway capacity on surrounding roads. No objection to the proposal was made by Essex Highways.
- 11.4.6 National Highways have also been consulted during the determination of the application and have raised no objections to the proposed development in relation to the impact on vehicle movements or highway safety on the highway network of the A120.
- 11.4.7 Taking the above into the account and with no indication that the proposal would raise parking provision above existing levels nor will the proposal impact on highway safety or the network. The proposal is considered to be acceptable and policy compliant in highways regards.

11.5 Impact upon Neighbouring Residential Amenity

- 11.5.1 One of the core principles set out in the NPPF is that planning should 'always seek to secure a high quality of design and a good standard of amenity for all existing and future occupants'. This is supported by Policy LPP52 of the Adopted Local Plan which states that 'there shall be no undue or unacceptable impact upon the amenity of any nearby residential properties'. Policy LPP70 states that proposals for new development should prevent unacceptable risks from all emissions and other forms of pollution.
- 11.5.2 There are no residential properties within the immediate locality of the site and the nearest residential properties would be sufficiently distanced from it to prevent any harm to their amenity. No impact is considered to arise to nearby commercial/industrial uses as a consequence of the development.
- 11.5.3 The noise assessment accompanying this planning application undertaken by Grant Acoustics (reference: GA2015-0025-R1) and technical note carried out by Ardent Consulting Engineers (reference: 2004420-02A) demonstrates the proposed change of use associated noise generated is similar to existing industrial uses on site, thus no objections have been raised by the Council Environmental Health Officer. Sufficient construction

and glazing types are proposed to achieve an acceptable noise climate within the office building proposed without the necessary need for further acoustic measures.

- 11.5.4 The findings detailed within the Noise Technical Note (reference: 2004420-02a) by Ardent Consulting Engineers demonstrate that the proposed use of the site as a haulage yard will not significantly increase the ambient noise levels in the immediate vicinity of the site relative to the noise levels produced by existing adjacent industrial uses and will not cause disturbance or loss of residential amenity. Furthermore, the Councils Environmental Health Officer has concluded that no noise mitigation conditions are required in this instance.
- 11.5.5 The lighting assessment produced by Loveday Lighting (ref: LL1193) adequately demonstrates that the lighting from the proposed development can be designed to have a negligible impact on the nearest residential occupiers and subject to appropriate conditions in accordance with the submitted details no objections are raised. In order to safeguard the amenities of the surrounding area a condition will be imposed ensuring that lighting is carried out in accordance with the approved details.
- 11.5.6 The application is therefore considered to satisfy national and local policies designed to safeguard neighbouring residential amenity.

11.6 Flooding and Drainage Strategy

- 11.6.1 The site is located within Flood Zone 1 (a low probability of flood risk). Given the nature of the proposed development, there is no requirement to submit a Flood Risk Assessment (FRA) or Drainage Strategy. The proposal is therefore considered to be acceptable in these regards subject to conditions recommended by Essex County Council Suds team.

11.7 Contamination

- 11.7.1 The application is accompanied by a Geoenvironmental Report (reference 1795 RO1: Issue 3, February 2021 which has found that the site is suitable for commercial development and identified no significant sources of contamination on the site.
- 11.7.2 The Councils Environmental Health has raised no objection to the application on contamination grounds.

12. CONCLUSION

- 12.1 The site is located within an Employment Policy Area as outlined on the Proposals Map contained within the Adopted Local Plan. Policy LPP3 of the Adopted Local Plan states that within defined Employment Policy Areas proposals for the following uses will be permitted and retained: office use, research and development, and industrial processes (other than industrial processes falling within Use Class B2) (Use Class E(g)); general industrial

(Use Class B2) and storage and distribution (Use Class B8); repair of vehicles/vehicle parts; waste management facilities; and services (specifically provided for the benefit of businesses or worked based on the employment area).

- 12.2 Although the proposal is for a Sui Generis use as a haulage yard, with some ancillary office accommodation, and is therefore contrary to Policy LPP3, it is considered that the proposal would introduce a comparable employment use in line with the objectives of Policies LPP2 and LPP3 of the Adopted Local Plan and would deliver economic and social benefits to the local community, consistent with the planning objectives contained within Paragraph 11 of the NPPF.
- 12.3 In terms of layout, design, and appearance, the proposal would not result in material harm to the character and appearance of the surrounding area and would not have any adverse impact arising from the change of use nor the modular building proposed by reason of design. No harms have been identified with respects to neighbouring residential amenity and no adverse impacts have been identified on highways grounds, environmental health or ecology. The proposed landscaping would enhance the overall appearance of the site, which is welcomed. The application is therefore recommended for approval.

13. RECOMMENDATION

- 13.1 It is RECOMMENDED that the following decision be made:
Application GRANTED in accordance with the Approved Plans and Documents, and subject to the Condition(s) & Reason(s), and Informative(s) outlined within APPENDIX 1.

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

APPENDIX 1:APPROVED PLAN(S) & DOCUMENT(S) / CONDITION(S) & REASON(S) AND
INFORMATIVE(S)Approved Plan(s) & Document(s)

Plan Description	Plan Ref	Plan Version
Site Plan	R-02	C
Proposed Site Plan	R-03	C
Fencing Layout/Details	R-05	A
Proposed gate details	R-06	A
Drainage Details	R-01.1	B
Drainage Details	R-01.2	C
Drainage Details	R-01.3	A
Drainage Details	D-01.1	D
Drainage Details	D-01.2	D
Drainage Details	D-01.3	C
Drainage Details	D-01.4	E
Drainage Details	D-01.5	N/A
Drainage Details	D-02	D
Site Plan	R02	N/A
Proposed Bin Collection Plan	R09	N/A
Proposed Floor Plan	DW-NO-GF/FF-EL- C	C
Landscape Masterplan	Soft Landscaping Plan	B
Proposed Elevations	DW-1090-GF-FF-EL	D
Location Plan	21094/301-1	N/A

Condition(s) & Reason(s)**Condition 1**

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

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

Condition 2

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

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

Condition 3

The external materials and finishes shall be as indicated on the approved plans and/or schedule.

Reason: To ensure that the development does not prejudice the appearance of the locality.

Condition 4

The noise attenuation performance of the noise mitigation measures set out in the submitted Grant Acoustics; (reference GA2015-0025-R1) and Noise Technical Note reference 2004420-02A completed by Ardent Consulting Engineers shall be implemented in their entirety prior to occupation of the development hereby approved and shall be maintained in perpetuity thereafter.

Reason: To ensure that the proposed noise mitigation measures are both effective and properly installed.

Condition 5

The development shall only be carried out in accordance with the submitted Biodiversity Management Plan carried out by T4 Ecology dated May 2021.

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

Condition 6

Prior to the installation of any external lighting, details with regard to the hours of lighting and lighting security measures, shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details and the submitted External Lighting Impact Assessment carried out by Loveday Lighting Report reference: LL1193 dated 11/02/2021 Revision C, Outdoor Lighting Report 10/02/2021 reference LL1193-001 dated 10/02/2021 Private Proposed Lighting Revision A Access Road, Northern Parcel, Drawing LL1193-001 dated 09/10/2020.

Reason: To minimise pollution of the environment and to safeguard the amenities of the locality and the appearance of the development.

Condition 7

The scheme of landscaping indicated on the 'Soft Landscaping Proposals Revision B' dated 3rd October 2022 shall be implemented in the first planting and seeding seasons after the commencement of the development, and shall be maintained in perpetuity thereafter.

Any trees or plants which die, are removed, or become seriously damaged, or diseased within a period of 5 years from the completion of the development shall be replaced in the next planting season in accordance with the approved landscaping scheme.

Reason: To enhance the appearance of the development and in the interests of amenity and enhance the development.

Condition 8

The principal access to serve the development shall be constructed as shown on the approved plan prior to the commencement of any work upon the commercial development on site.

Reason: In the interests of highway safety.

Condition 9

The development hereby approved shall be undertaken in accordance with the recommendations contained within the GEMCO Phase Geo-Environmental Assessment.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

Condition 10

No works except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

- Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753.
- Where infiltration is not found to be viable the discharge rate from the site should be limited to 6.5l/s for all storm events up to and including the 1 in 100 year plus 40% allowance for climate change storm event. All relevant permissions to discharge from the site into any outfall should be demonstrated.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

Reason

- To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site. To ensure the effective operation of SuDS features over the

lifetime of the development. o To provide mitigation of any environmental harm which may be caused to the local water environment/

Condition11

The development shall only be carried out in accordance with the submitted Travel Plan carried out by Journey Transport Planning reference JTP373 dated April 2021.

Reason: In the interests of highway safety and to promote sustainable forms of transport.

Condition12

The development shall only be carried out in accordance with the submitted Arboricultural Method Statement Report and Arboricultural protection measures detailed therein completed by Sharon Hosegood Associates, ref SHA 036 AMS Rev B dated 11.02.2021.

Reason: To ensure the protection of the existing trees and hedgerows on the site which are to be retained.

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission, in accordance with the presumption in favour of sustainable development, as set out in the National Planning Policy Framework.

APPENDIX 2:POLICY CONSIDERATIONSNational Planning Guidance

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)

Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP5	Employment
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP2	Location of Employment Land
LPP3	Employment Policy Areas
LPP7	Rural Enterprise
LPP45	New Road Infrastructure
LPP50	Provision of Open Space, Sport and Recreation
LPP52	Layout and Design of Development
LPP67	Landscape Character and Features
LPP68	Green Buffers
LPP69	Protected Lanes
LPP70	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP71	Climate Change
LPP73	Renewable Energy Schemes
LPP74	Flooding Risk and Surface Water Drainage
LPP75	Surface Water Management Plan
LPP77	External Lighting
LPP78	Infrastructure Delivery and Impact Mitigation
LPP63	Natural Environment and Green Infrastructure

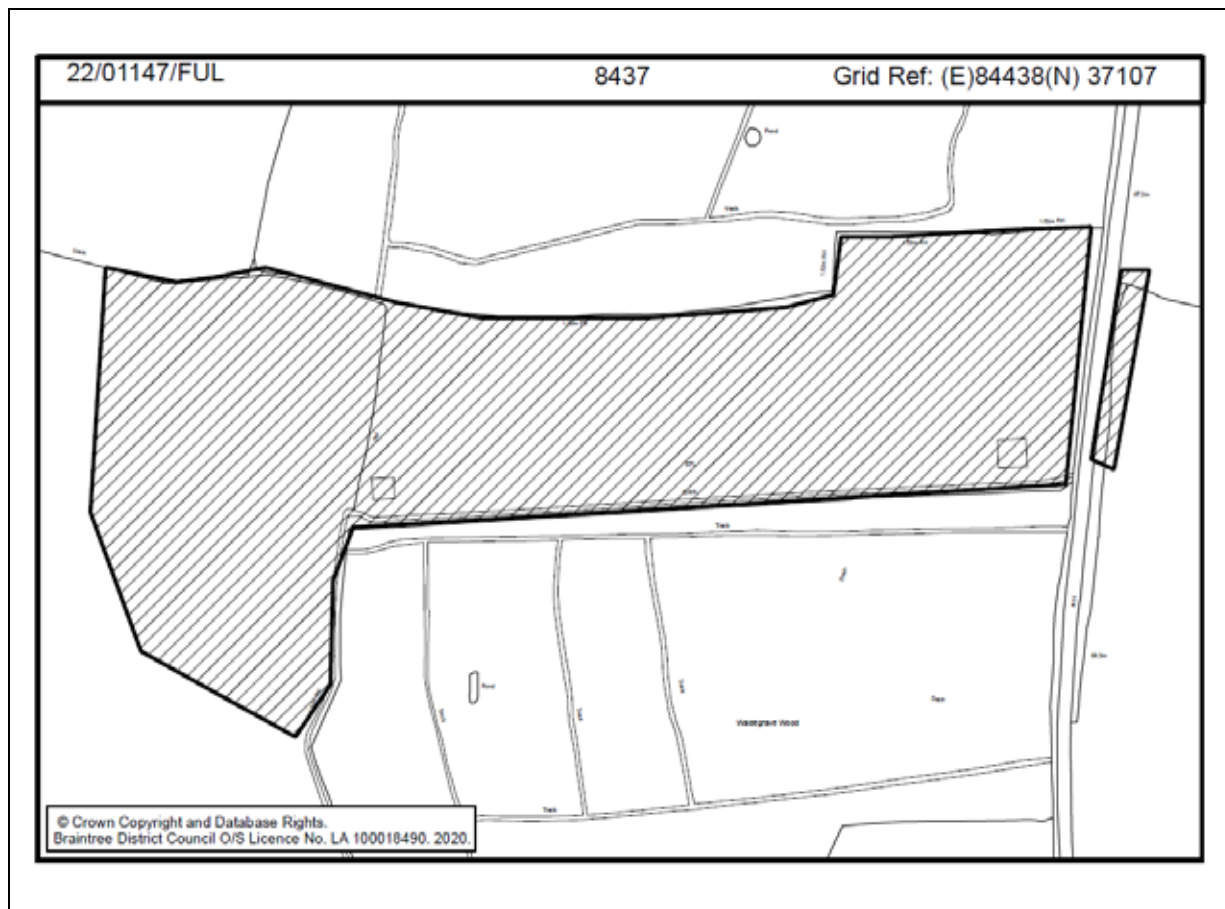
APPENDIX 3:SITE HISTORY

Application No:	Description:	Decision:	Date:
17/00002/SCR	Town & Country Planning Act 1990 (as amended), Town & Country Planning (Environmental Impact Assessment) Regulations 2011 - Screening Request - Outline Planning Application with some matters reserved - Development of 10,220sq.m. B1, B2 and B8 floor space	Screening/ Scoping Opinion Adopted	30.03.17
17/01157/OUT	Outline Planning Application with all matters reserved for the erection of up to 10,220m2 of B1, B2 and B8 employment floor space.	Granted with S106 Agreement	25.11.19
21/00373/DAC	Application for approval of details as reserved by conditions 6, 9, 12, 13, 14 and 16 of approved application 17/01157/OUT	Pending Consideration	
21/00396/REM	Application for the approval of reserved matters (in respect of layout, scale, appearance, access and landscaping) pursuant to outline planning permission 17/01157/OUT granted 25.11.2019 for the erection of up to 10,220m2 of B1, B2 and B8 employment floor space. Reserved matters relates to the development of the southern parcel of the site for B8 external storage and ancillary parking.	Granted	23.03.22
21/03483/VAR	Removal of Condition 18 (Maximum finished height) of permission 17/01157/OUT granted on	Granted with S106 Agreement	31.05.22

	25/11/2019 for: Outline Planning Application with all matters reserved for the erection of up to 10,220m2 of B1, B2 and B8 employment floor space.		
22/00787/REM	Application for the Approval of Reserved Matters (in respect of layout, scale, appearance, access and landscaping) pursuant to outline planning permission 17/01157/OUT granted 25.11.2019 for the erection of up to 10,220m2 of B1, B2 and B8 floorspace. Reserved Matters relate to the development of part of the southern parcel of the site for two buildings to provide B8 floorspace.	Pending Decision	

Agenda Item: 5d

Report to: Planning Committee		
Planning Committee Date: 18th October 2022		
For: Decision		
Key Decision: No		Decision Planner Ref No: N/A
Application No:	22/01147/FUL	
Description:	A new 400/132 kilovolt (kV) Grid Supply Point (GSP) substation including two supergrid transformers, associated buildings, equipment and switchgear, a single circuit cable sealing end compound, a new permanent vehicular access to the public highway, associated landscaping (including boundary fencing, an area for Biodiversity Net Gain, and landscape mounding) and drainage	
Location:	Land Adjacent Butlers Wood And Waldergrave Wood West Of A131 (In The Parishes Of Bulmer And Twinstead) Sudbury Road Bulmer	
Applicant:	NGET, National Grid House, Warwick Technology Park , Gallows Hill, CV34 6DA, Warwick	
Agent:	Miss Rebecca Burt, Cottons Centre, Second Floor, Cottons Lane, London, SE1 2QG	
Date Valid:	29th April 2022	
Recommendation:	It is RECOMMENDED that the following decision be made: § Application GRANTED subject to the Condition(s) & Reason(s) and Informative(s) outlined within Appendix 1 of this Committee Report.	
Options:	The Planning Committee can: a) Agree the Recommendation b) Vary the Recommendation c) Overturn the Recommendation d) Defer consideration of the Application for a specified reason(s)	
Appendices:	Appendix 1:	Approved Plan(s) & Document(s) Condition(s) & Reason(s) and Informative(s)
	Appendix 2:	Policy Considerations
	Appendix 3:	Site History
Case Officer:	Juliet Kirkaldy For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2558, or by e-mail: juliet.kirkaldy@braintree.gov.uk	

Application Site Location:

Purpose of the Report:	The Committee Report sets out the assessment and recommendation of the abovementioned application to the Council's Planning Committee. The report sets out all of the material planning considerations and the relevant national and local planning policies.
Financial Implications:	<p>The application was subject to the statutory application fee paid by the applicant for the determination of the application.</p> <p>There are no direct financial implications arising out of the decision, notwithstanding any costs that the Council may be required to pay from any legal proceedings. Financial implications may arise should the decision be subject to a planning appeal or challenged via the High Court.</p>
Legal Implications:	<p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either set out the relevant Conditions & Reasons and any Informatives, or the Reasons for Refusal if applicable.</p> <p>All relevant policies are set out within the report, within Appendix 2.</p>
Other Implications:	The application has been subject to public consultation and consultation with relevant statutory and non-statutory consultees. All responses received in response to this consultation are set out within the body of this Committee Report.
Equality and Diversity Implications	<p>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:</p> <ul style="list-style-type: none"> 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; c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

	<p>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).</p> <p>The consideration of this application has not raised any equality issues.</p>
Background Papers:	<p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> § Application Form § All Plans and Supporting Documentation § All Consultation Responses and Representations <p>The application submission can be viewed online via the Council's Public Access website: www.braintree.gov.uk/pa by entering the Application Number: 22/01147/FUL.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> § National Planning Policy Framework (NPPF) § Braintree District Local Plan 2013 - 2033 § Neighbourhood Plan (if applicable) § Supplementary Planning Documents (SPD's) (if applicable) <p>The National Planning Policy Framework can be viewed on the GOV.UK website: www.gov.uk/.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: www.braintree.gov.uk.</p>

1. EXECUTIVE SUMMARY

- 1.1 The application site measures approximately 7ha and is situated to the west of the A131 between the ancient woodlands and Local Wildlife Sites of Butlers Wood and Waldegrave Wood. It is located in the countryside outside of the defined development boundary.
- 1.2 The site is currently arable land bounded by hedgerows with an existing 400kV overhead line, with two steel lattice towers passing through the site boundary. The site is accessed to the east from the A131.
- 1.3 The application proposes a new 400/132 kilovolt (kv) Grid Supply Point (GSP) substation including two supergrid transformers, associated buildings, equipment and switchgear, a single circuit cable sealing end compound, a new permanent vehicular access to the public highway, associated landscaping (including boundary fencing, an area for Biodiversity Net Gain and landscaping mounding) and drainage.
- 1.4 The proposal forms part of the wider project proposed for reinforcement of a 400kV transmission network between Bramford Substation in Suffolk and Twinstead Tee in Essex (referred to as the 'wider reinforcement') by removing the existing 132kV overhead line. Although the submitted proposal for a Grid Supply Point substation is not a 'renewable energy scheme' it forms part of the wider proposal/strategy to distribute low carbon electricity and the aspiration to achieve 40gW of offshore wind connected to the network by 2030.
- 1.5 Alternative sites for the Grid Supply Point substation were explored and there was public consultation and stakeholder engagement. The site was chosen as the preferred location as it would have least impact on landscape character, benefits from screening effect of adjacent woodland, least negative effect in terms of historic environment, potential to create habitat linkages between woodlands, least constrained from technical perspective, short access road, short underground connection to the 132kV distribution network. It was also concluded as the lowest cost option.
- 1.6 The proposal and associated infrastructure will be visible from the A131 its utilitarian character will be at odds with the open countryside character, however, it is acknowledged that there are existing 400kV overhead line and pylons passing through the site and across the wider landscape area which alter the character of the landscape.
- 1.7 Butlers Wood and Waldegrave Wood provide effective screening when travelling along the A131 from a northerly and southerly direction (see figure 5.5 of Design and Access Statement). The views of the site from the A131 would be fleeting given the speed of traffic passing along the road and localised. The additional screening and planting proposed as it becomes established will ensure that the proposed GSP substation becomes more integrated into the landscape, reducing impacts over time.

- 1.8 The operational noise from the proposal would not give rise to unreasonable disturbance to local residents.
- 1.9 The proposal would not result in an increased detrimental impact on the setting of nearby heritage assets and would not result in harm to their significance.
- 1.10 The proposal would not result in likely major landscape effects on the Local Landscape Character Area.
- 1.11 Protected species are present in the wider environment, some in close proximity to the proposed GSP substation. There is sufficient consideration of impacts and identification of appropriate and effective mitigation proposed to provide certainty of likely impacts.
- 1.12 The proposal would deliver sufficient compensation, in excess of 10% Biodiversity Net Gain and increase connectivity with ecological functionality.
- 1.13 The need for tree protection measures, typically provided to afford protection from plant or storage, within a root protection area is considered unnecessary because of the topographical protection provided by deep wide ditches. These ditches offer equivalent protection as fencing as they prevent vehicular access and storage of materials within the woodland.
- 1.14 The loss of agricultural land (3a best and versatile) would be a localised impact, as it would only sterilise a very small amount of land comparatively to the amount of agricultural land remaining in the District.
- 1.15 Given the distance of separation, the proposal would not have a detrimental impact on neighbouring amenity in terms of overlooking, loss of light, loss of privacy, poor outlook.
- 1.16 The risk of flooding from surface water for the majority of the site is at a 'very low risk'.
- 1.17 Prior extraction of minerals at this site is not considered practical as it would extend the construction programme and would impact on the wider reinforcement programme.
- 1.18 The application was considered by Planning Committee on the 23rd August 2022. Members agreed to defer consideration of the application as they sought further clarification regarding the calculation of Biodiversity Net Gain, further detail regarding external lighting, a detailed landscaping plan and also to explore the feasibility of moving the existing pylon (nearest A131) further west which would facilitate moving the substation compound further westwards and enable an increased landscape/screening area to the east to be created.

- 1.19 Following the Planning Committee meeting, discussions have taken place and revised plans have subsequently been submitted by National Grid. The revised plans propose to move the footprint of the Grid Supply Point (GSP) a further 19 metres to the west without moving the existing pylon (4YL80). This redesigned scheme has been facilitated through advanced discussions with National Grid and potential main works contractors and is an innovative approach to the standard design specification. This revision enables the GSP to be positioned approximately 44 metres from the road (A131) at its closest point (previously 25 metres). It creates more space for planting and enables the slopes of the mounding to be slackened to include an area of woodland mix which includes a small percentage of larger specimens.
- 1.20 National Grid have clarified that the substation is unmanned and the lighting will only turn on when people visit the site. As the site visits are infrequent and usually during the day lighting may only be required during an emergency or in the event of an intruder activating the lighting. The permanent lighting will be low lux level emitting (LED) type luminaires with directable light output triggered by a motion. Fencing is proposed to be installed around the site therefore, wildlife will not activate the lighting. It is proposed to amend the lighting condition to include temporary lighting required to be installed during construction.
- 1.21 National Grid have confirmed that the revised proposals would meet the target for 10% net gain in environmental value for the proposed GSP substation and accompanying works. The Ecology Officer has raised no concerns regarding the calculation for the 10% biodiversity net gain. The Committee Report (Paragraph 12.5) elaborates further on how the calculation has been achieved. A revised Landscaping Plan has been submitted for consideration. The Tree Officer has reviewed it and is satisfied with the scheme and the indicative planting mixes proposed.
- 1.22 Overall, it is considered that there would be no significant detrimental impacts associated with the development of the GSP substation proposal. The development would however create a benefit in providing the necessary infrastructure to help facilitate the distribution of low carbon electricity. The proposal is therefore considered acceptable subject to appropriate conditions imposed relating to adherence of technical reports submitted, contamination, burning of waste materials and vegetation, surface water drainage scheme, lighting design, ecological mitigation measures, archaeological investigation and highway conditions.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

- 2.1 This application is being reported to Planning Committee in accordance with Part A of the Council's Scheme of Delegation as the application is categorised as a Major planning application.

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

- 5.1 The application site measures approximately 7ha and is situated to the west of the A131 between the ancient woodlands of Butlers Wood and Waldegrave Wood. These woodlands are also identified as Local Wildlife Sites. The site straddles the Parish boundaries of Bulmer and Twinstead. Wickham St Paul is situated to the south west of the site, Twinstead is to the south east and Bulmer Tye is situated to the north. The site is currently arable land bounded by hedgerows with an existing 400kV overhead line and two steel lattice towers passing through the site boundary. The site is accessed to the east from the A131. There are Public Rights of Way in the wider periphery surrounding the site (PROW 13/16/18/23).

6. PROPOSAL

- 6.1 The application proposes a new 400/132 kilovolt (kv) Grid Supply Point (GSP) substation including two supergrid transformers, associated buildings, equipment and switchgear, a single circuit cable sealing end compound, a new permanent vehicular access to the public highway, associated landscaping (including boundary fencing, an area for Biodiversity Net Gain and landscaping mounding) and drainage.
- 6.2 The proposal forms part of the wider project proposed for reinforcement of a 400kV transmission network between Bramford Substation in Suffolk and Twinstead Tee in Essex (referred to as the 'wider reinforcement') by removing the existing 132kV overhead line.
- 6.3 The purpose of the Grid Supply Point Substation in close proximity to the Twinstead Tee is to transform the voltage from 400kV to 132kV. This is to connect the high voltage line to the local distribution network and replace the existing electricity transmission capacity loss through the removal of the 132Kv overhead line. It is required to facilitate the removal of approximately 25km of existing 132kV overhead line, which forms part of the distribution network operator (DNO) network between Burstall Bridge in Suffolk and the Twinstead area of Essex.

- 6.4 In addition to the proposed GSP substation, other associated works will be required including replacement pylons and underground cables to tie the substation into the existing 400kV and 132kV networks. These works are either subject to Permitted Development or separate consenting processes (s37) and therefore do not form part of this planning application.

7. SUMMARY OF CONSULTATION RESPONSES

7.1 Anglian Water

- 7.1.1 No comments.

7.2 Dedham Vale and Stour Valley Project Officer

- 7.2.1 No comments.

7.3 Essex Fire and Rescue

- 7.3.1 No objection.

- 7.3.2 Following submission of revised plans a further representation was received raising no objection provided that the arrangements are in accordance with the details contained in the Approved Document to Building Regulations B5. More detailed observations on access and facilities for Fire Service will be considered at Building Regulation Consultation stage.

7.4 Essex Police

- 7.4.1 No response received.

7.5 Essex Wildlife Trust

- 7.5.1 No response received.

7.6 Forestry Commission

- 7.6.1 In summary the following comments were made:

- The NPPF Paragraph 180 refers to refusing development that would result in the loss or deterioration of irreplaceable habitats including ancient woodland, unless, 'there are wholly exceptional reasons and a suitable compensation strategy exists'. It also refers to protecting ancient woodlands with a buffer zone of at least 15 metres.
- Both woodlands have perimeter ditches, which act to protect woodlands. These are a distinctive heritage feature of ancient woodlands and should be protected from infilling or damage during construction.

- The plan incorporates Biodiversity Net Gain which includes woodland creation to the west of both woodlands this is welcomed by Forestry Commission.
- 7.6.2 A further representation was received following submission of revised plans. In summary the following comments were made:
- The proposed sub-station footprint would occupy most of the area between the two ancient woodlands, with compensatory tree and shrub planting to the west of both woodlands. We therefore request that consideration is given to positioning the substation to the west of the proposed site and compensatory tree planting is used to reconnect Butlers Wood and Waldegrave Wood.
- 7.7 Health and Safety Executive
- 7.7.1 No comments received.
- 7.8 The Ramblers Association
- 7.8.1 No response received.
- 7.9 BDC Ecology Consultant
- 7.9.1 No objection subject to securing ecological mitigation and compensation and biodiversity enhancements.
- 7.9.2 Following submission of revised plans, the Ecology Consultant was re-consulted and raised no objection. In summary, they commented that they have no concerns as to how the biodiversity net gain has been calculated and are satisfied with the proposed amendment to the lighting condition to include reference to temporary lighting installed during construction.
- 7.10 BDC Environmental Health
- 7.10.1 No objection subject to conditions relating to unidentified contamination, adherence to the submitted Construction Environment Management Plan (CEMP, April 2022) and burning of refuse, waste materials or vegetation.
- 7.11 BDC Landscape Consultant
- 7.11.1 In summary the following comments were made:
- The Landscape Visual Appraisal (LVA) has identified the landscape baseline of the study area. Only the Local Landscape Character Areas (LLCAs) have been assessed as landscape receptors, we would have expected the District and County level Landscape Character Areas to have been included. All of these have been detailed in the landscape baseline review.

The LVA makes reference to the Technical Guidance Note (TGN) 02-21 'Assessing the Value of Landscapes Outside National Designations' which provides further information on the subject matter and introduces additional factors that should be taken into consideration when assessing value. However, the methodology (Annex 1) sets out the factors used to assess value and these do not accord with those set out in the TGN. This should be reviewed and amended.

It is agreed that the proposal is not expected to result in likely major landscape effects on the LLCAs. However, the methodology (Annex 1) does not provide the criteria for 'scale/degree of effects' nor a matrix to understand how it is to be assessed. It doesn't outline the criteria for what would be deemed 'significant/important' within the assessment. We consider those effects deemed to be Major, Major/Moderate and Moderate to be 'notable/important' and would advise the applicant amends the report accordingly.

We generally agree with the majority of the visual effects judged. A visual receptor scale/degree of effects or matrix table has not been provided to understand how it is assessed. It also doesn't outline which of the criteria would be deemed 'notable/important' within the assessment.

The following matters were also raised to be addressed:

- § Though the section drawings are useful visual tool they do not show the proposed bunding alongside the proposed infrastructure. Section drawings should be extended to include these features to understand the levels and inform our judgement on planting species;
- § Clarification on positioning of fencing details;
- § Scrub planting should be explored as an option close to the sealing end compound on the western edge; and
- § On the western boundary of the site, the proposed woodland parcels should be extended to the site boundary, rather than including additional hedgerow. This would be more in keeping within existing landscape structure and allow for additional dense woodland planting.

7.12 BDC Tree Officer

7.12.1 In summary the following comments were made:

One small tree appears to incur encroachment into its RPA – T1 Oak from the western landscaping mounding. Root impaction could be a concern in this location.

Biodiversity Net Gain report references to planting up of trees and shrubs in order to improve connectivity between woodlands. No details of species, quantities of, stock size have been provided. There is a need for the planting to be native and in keeping with current location. A Planting Plan has been provided (Figure 4 of Environmental Appraisal). The Tree Officer has considered the Planting Plan provides inadequate detail therefore

proposed that a condition is imposed requesting a scheme of landscaping be submitted and approved prior to commencement. A further condition is proposed to be imposed requesting an updated Arboricultural Impact Assessment and Arboricultural Method Statement to confirm redesigning of the bund in order to lessen the impact to tree T1.

- 7.12.2 Following the submission of revised plans, the Tree Officer was re-consulted. The Tree Officer raised no further comment regarding the Arboricultural Method Statement in relation to existing trees and woodland and is satisfied that the landscaping bund encroachment into the RPA of T1 – Oak has been amended and sculpted to avoid incursion and impact on the rooting area of the Oak tree. The use of native species is preferred onsite to maintain continuity within the landscape and existing ancient woodlands. In summary, the Tree Officer is satisfied that efforts have been made to improve, mitigate and be as sympathetic as possible in the planning of the proposed substation. The application is supported subject to a Landscape and Ecological Management Plan (LEMP) condition being imposed.

7.13 ECC Archaeology

- 7.13.1 No objection subject to condition relating to archaeological monitoring.

7.14 ECC Highway Authority

- 7.14.1 Initially sought additional information from the applicant regarding extent of visibility splay, extent of highway and swept path analysis. In response to these comments the applicant provided the additional information required and the Highway Authority were re-consulted and raised no objection subject to conditions relating to submission of a construction traffic management plan and construction of access.

7.15 ECC Historic Buildings Consultant

- 7.15.1 No objection.
- 7.15.2 Following submission of revised plans, the Historic Buildings Consultant was re-consulted and raised no objection.

7.16 ECC Lead Local Flood Authority

- 7.16.1 No objection subject to conditions relating to submission of a detailed surface water drainage system for the site, a scheme to minimise the risk of offsite flooding caused by surface water runoff and groundwater during construction works and prevent pollution, a maintenance plan for surface water drainage system and yearly logs of maintenance.

7.17 ECC Minerals and Waste Planning Authority

- 7.17.1 In summary the following comments were made:

The site is located within land designated as a Mineral Safeguarding Area. A Minerals Resource Assessment is required to be submitted to establish the practicality and environmental feasibility of prior extraction of minerals to avoid the sterilisation of the resource. The site does not pass through a Waste Consultation Area or a Mineral Consultation Area. Recommend a condition requiring a detailed waste management strategy through the submission of a Site Waste Management Plan.

In response to these comments the applicant provided the additional report (Minerals Resource Assessment) required and the Minerals and Waste Planning Authority (MWPA) were re-consulted. Following review of the Minerals Resource Assessment the MWPA concluded that prior extraction is not practical due to the importance of delivery of this project in its stated timeframes in order to contribute to clean energy objectives.

8. PARISH / TOWN COUNCIL

8.1 Alphamstone Lamarsh Parish Council

8.1.1 Objection. In summary the following comments were made:

- Support the views of neighbouring Hennys, Middleton and Twinstead Parish Council;
- Proposal is too close to A131 and provides inadequate screening from the road;
- National Grid have not taken on board the concerns raised during formal consultation period.

8.2 Bulmer Parish Council

8.2.1 Objection. In summary the following comments were made:

- The substation and associated pylons now appear to be larger than previous proposals with additional pylons and overhead lines;
- Detailed lighting plan has not been provided by National Grid;
- Noise impact of installation is yet to be experienced in reality, very close to residential properties in village of Bulmer;
- Further screening measures including adjusting the siting to make the substation less visible;
- National Grid has not shown adequate plans for successional planting of trees, including linking of Butlers Wood and Waldegrave Wood;
- Alternative routes which enable cabling to be run underground for the length of the necessary route have not properly been considered;
- Visual appearance of these works is of enormous significance and will impact the locality irrevocably.

8.3 Gestingthorpe Parish Council

8.3.1 Gestingthorpe Parish Council object to the application. In summary the following comments were made:

- The proposed location is not the most suitable;
- The Parish Council recognise decisions made are not reversible without cost and delays. Therefore, the Parish Council is focusing on action needed to minimise the impact of the proposal on the area;
- The proposed GSP is located on the highest point in the area;
- Screening of the GSP from footpaths to the west and north is essential;
- The applicant is incorrect to consider only the Farmland Plateau in which the GSP will stand. The Stour Valley planning guidance states that development in adjacent areas that would impinge on the skyline view from the valley should be avoided;
- The applicant is incorrect to be dismissive of the quality of the landscape of the Stour Valley and Farmland Plateau areas because they are not yet parts of the AONB and dismissive of the Public Rights of Way passing through them because they are not named long distance paths;
- The applicant has avoided discussion about landscape value;
- The proposed GSP is only 1.8km from the special A2b Landscape Area (as defined in Essex CC Landscape Character Assessment). It would be more noticeable in the landscape;
- There would be a distant view of the proposed GSP from Gestingthorpe playing field and Stour Valley Project area, opposite the houses on Nether Hill;
- It would be visible from footpaths in the area south and east of Wiggery Wood;
- The PROW map submitted shows that there is a dense network of footpaths that can be linked up to allow long distance walks;
- The proposed tree screening to the west of the development would be inadequate in extent, height and speed of establishment;
- There should be no lighting proposed except occasionally when personnel are visiting for maintenance;
- Residents need protection from noise especially at night;
- Care is needed to avoid noise ground transmission in the underlying chalk;
- A condition should be imposed that the 132kV cable, from its new supply point south of the GSP to the 'diamond crossing' site south of Twinstead T will be removed.
- Concern regarding the suggestion of moving the GSP compound westwards as this would make it more difficult to screen.

8.3.2 Following the submission of revised plans, Gestingthorpe Parish Council were re-consulted and raised further objection stating that the revised plans had neither reorganised the GSP layout to keep within site C2 (the one originally chosen for a one transformer GSP) nor planned extra areas of planting to the west of the site to adequately screen components in site C4 which was rejected in 2012 because of the negative impact on the

landscape. The revised plans do not address concerns about the adequacy of proposed planting. There is no further information provided on lighting plan to minimise disturbance to wildlife and conserve the dark skies.

8.4 The Hennys, Middleton and Twinstead Parish Council

8.4.1 Objection. In summary the following comments were made:

- Inadequate visual assessment that fails to consider viewpoint of the motorists on the A131;
- The visual receptors are predominately on the Wickham St Paul side of the site. The locations of receptors on Twinstead/Henny site appear to have been carefully selected to avoid locations within the Stour Valley project area;
- The area which includes the landscape between Halstead and Sudbury and in particular Maplesteads, Twinstead, Henny and Bulmer will suffer significant amenity and landscape character detriment;
- National Grid recognise that the screening proposed to the west of the A131 will be inadequate on its own to screen the compound from road users views;
- There are alternative design options that minimise amenity and landscape character detriment (illustrative example included in response). Moving the substation back away from the road provides space and screening planting.

8.4.2 Following the submission of revised plans, Hennys, Middleton and Twinstead Parish Council were re-consulted and raised further objection stating that revised plans would deliver a wholly unacceptable amenity impact on the rural landscape and character of the area and insufficient screening of the site. The Parish Council further commented that the proposal should feature a substation compound located sufficiently further back to facilitate effective screening with deeper planting on a larger earth bank west of the A131. They raised concern that there is insufficient information provided regarding lighting. A further concern was also raised regarding the biodiversity land allocation west of the site.

8.5 Wickham St Pauls Parish Council

8.5.1 Objection. In summary the following comments were made:

- The compound should be sited 50 metres further away from the A131. This would give sufficient space for additional tree planting to screen the compound from the main road;
- There should be additional planting to west of compound for screening;
- As ground falls away to the west if compound was recessed 5 metres this would have less impact on the view from A131 from direction of Wickham St Paul;
- A Public Footpath should be considered alongside the compound area;
- Concern about light pollution measures should be taken to reduce this.

- 8.5.2 Following the submission of revised plans, Wickham St Paul Parish Council were re-consulted and raised further objection stating that the revisions proposed did not address their previous concerns raised.

9. REPRESENTATIONS

- 9.1 Site notices were displayed for a 21 day period in various locations around the periphery of the site at Public Footpath entrances. The nearest neighbouring properties were notified by letter. This included properties in Wickham St Paul, Twinstead, Bulmer, Little Henny and Gestingthorpe.

- 9.2 11 letters of objection were received. In summary the following comments were made:

- The map is not detailed enough;
- The landscape around the substation need to be preserved and protected;
- The substation is on high ground;
- Site is visible from a wider area;
- Could impact on local economy through loss of visitors;
- Planting is inadequate;
- There are other more suitable sites available;
- Questioning the need case for a new GSP station;
- Concern regarding noise impact and findings of noise assessment;
- Concern regarding impact from construction traffic, operational dust, noise and vibrations and night time engineering works;
- Impact of noise on local wildlife;
- Loss of agricultural land;
- The site should be screened from the A131;
- NG have ignored comments received during public consultation;
- Concern regarding light pollution;
- Concern regarding impact on setting of Listed Buildings.

- 9.3 Following the submission of revised plans a further 7 letters of objection have been received. In summary the following comments were made:

- The revised plans do not address concerns raised by the Planning Committee who deferred consideration of the application;
- It is critical that redundant pylons are removed from the area;
- The substation needs to be properly screened from the road;
- The applicant needs to provide details of how substation will be lit at night;
- A full lighting plan has not been provided with the application;
- Insufficient screening provided;
- Planting in advance of construction of the substation would be key in providing effective screening at the earliest date;
- If substation is moved any further west than currently proposed (more than the 19m proposed in the revised plans) even more additional planting/bunding will be required to enhance the screening on the western end of the proposed site;

- Inadequate landscaping scheme to the western end of the site;
- Consideration should be given to lowering the GPS below ground level (recognised this is not National Grid's policy but reference exceptions in London);
- Power could be taken from the newly positioned pylon tower to enable the substation to be moved further away from the A131 to reduce impacts.

10. STATEMENT OF COMMUNITY INVOLVEMENT

- 10.1 The application is supported by a Statement of Community Involvement (SCI).
- 10.2 The SCI refers to consultation undertaken in 2013 which sought views in respect to the provision of a substation associated to support the wider reinforcement. A Further six week consultation took place between March and May 2021. This sought views from interested parties, local residents and communities. The SCI highlights in Paragraph 2.4.4, that this consultation concerned the Bramford to Twinstead reinforcement, which the GSP substation is part of. Therefore, not all responses received concerned the GSP substation.
- 10.3 The SCI refers to 26 properties within a 1km radius of the proposed GSP substation that received an invitation newsletter to raise awareness of the consultation. It also refers to an interactive project website, ten webinars, six telephone surgeries and two live chat sessions. Consultation events were advertised in the local press and on social media.
- 10.4 Further consultation on the proposed GSP substation proposal took place between January 2022 and March 2022. The SCI states that a total of 573 feedback responses were received from members of public and interested parties. Table 2.2 of the SCI summaries the consultation responses received concerning the proposed GSP substation proposal.

11. PRINCIPLE OF DEVELOPMENT

11.1 Need Case and Wider Context

- 11.1.1 The Government is seeking to achieve Net Zero carbon emissions by 2050. In order to do this, there are a number of planned energy projects on the east coast to generate renewable energy. These include additional wind farms to generate 40GW of energy by 2040, a new nuclear substation Sizewell C (now granted consent) and other interconnector and renewable energy projects. However, while the power can be generated, it also needs to be able to be effectively distributed to the East of England and around the country. National Grid as the statutory body, are required to facilitate connection into the electricity network for these projects and manage the wider distribution.

- 11.1.2 The Network Options Assessment (NOA) (an annual report published by National Grid ESO) outlined that the current electricity transmission network around the East of England is not sufficient to be able to accommodate all of the additional renewable energy which is planned. In particular, there is an existing bottleneck in supply between Bramford and Twinstead which requires upgrading. As a consequence, National Grid are in the process of submitting a Nationally Significant Infrastructure project (NSIP) to the Planning Inspectorate for the reinforcement of the electricity network between Bramford and Twinstead (anticipated to be submitted at the end of 2022). The proposals include a new 400 kV electricity line spanning the entire route. As part of the betterment works associated with the NSIP, National Grid are seeking to remove the existing 132kV line which is operated by UK Power Networks. However in doing so, National Grid need to provide mitigation to UKPN for the loss of the 132kV line.
- 11.1.3 The mitigation in this case requires a Grid Supply Point (GSP) substation, which will provide a power supply for the remaining 132kV electricity network (as it converts 400kV electricity into 132kV electricity to be used and distributed by UKPN). National Grid also have to provide UKPN with 'electrical equivalency', meaning that the substation will need to be built with a certain capacity in order to satisfactorily offset for the loss of 132kV line. In this case, to provide electrical equivalency, National Grid have confirmed that two super grid transformers are required at the substation to maintain security of supply requirements in line with UKPN licence obligations.
- 11.1.4 The proposed GSP substation at Butlers Wood forms part of the wider Bramford to Twinstead NSIP, even though it is located some distance away from the new 400kV line. This is because it formed the best site from an options appraisal (in terms of least environmental impacts) and could connect into an existing 400kV line. This is discussed more in the 'Site Selection Considerations' section below.
- 11.1.5 In any case, National Grid have exercised their right to submit a separate, Town and Country Planning Act (TCPA) planning application (separate to the NSIP process) for the GSP substation. The reason why they have done this is it is in the interests of time; the NSIP process will take a considerable amount of time to be approved, while the TCPA application route is much more streamlined. If approved, this application will enable National Grid to build the new substation quicker, so that the overall Bramford-Twinstead programme can be built faster if approved by the Planning Inspectorate (in order to meet the Government mandate timeframes as set out above).
- 11.1.6 Overall, in the context of the wider NSIP and Government requirements, it is considered that there is a clear needs case for this GSP substation. However, the Local Planning Authority are being asked to effectively determine this GSP substation application without the benefit of an approval for the wider NSIP. If the Bramford – Twinstead NSIP were to be refused, it could have implications for the substation, as there may be a question as to whether it would still be needed or not. In this case, it is

considered that a pragmatic view is required to make this needs assessment. The electricity network between Bramford-Twinstead is in critical need of reinforcement as found by the NOA; if the NSIP is refused, then it is highly likely a further reinforcement scheme would be put forward in a similar area, which would still necessitate the need for a GSP substation. As set out in the section below, this site is the most logical for a GSP substation to be provided. In any case, any future NSIP proposal would highly likely also seek to connect into this substation, to facilitate the removal of the existing 132kV electricity line.

- 11.1.7 As such, taking a pragmatic view, it is considered that the needs case for the substation still exists whether the wider Bramford-Twinstead NSIP is approved or not. In any case, while there is a need for the GSP substation, this need would not override the need to assess the overall planning merits of the development; whether the harms outweigh the benefits. These are discussed further below.

11.2 Site Selection Considerations

- 11.2.1 In July 2012 UK Power Networks carried an initial study which identified eight options to maintain the security of local electricity. This included options to replace the 132kV circuits between Twinstead and Burstall Bridge, extending the 132kV overhead line from Twinstead, reinforcing Braintree substation and strategic locations for a new Grid Supply Point (GSP) substation. The study concluded that a new GSP substation in the vicinity of Twinstead Tee was the preferred option for replacing the capacity loss following removal of the existing 132Kv overhead line. National Grid Electricity Transmission reviewed and concurred with the findings of the study as this, *'represented the most efficient, coordinated and economical option, whilst giving rise to fewer overall environmental effects than the other options considered'* (Paragraph 4.1.3 of Design and Access Statement).

- 11.2.2 Potential sites for the proposed GSP substation were considered in a total of 8 locations across three substation study areas for more detailed appraisal. These areas included:

- Study Area A: Land north of Colne Valley Farm Park
- Study Area B: Land at Delvyns Lane
- Study Area C: Land at Butlers Wood and Waldegrave Wood

- 11.2.3 The submitted Design and Access Statement states in Paragraph 4.2.2, *'all options were assessed against technical implications, environmental effects, socio-economic impacts and cost.'* It was concluded that Study Area C (Land at Butlers Wood and Waldegrave Wood) was preferred as it would have the least impact on landscape character, visual amenity, ecology and historic environment. It was also the least constrained in technical terms and would have the shortest access road.

- 11.2.4 National Grid Electricity Transmission consulted on these 3 options in 2013 and the Design and Access Statement states in Paragraph 4.2.3, *'the majority of feedback agreed that Study Area C was the most suitable'*.
- 11.2.5 Study Area C comprised four potential siting locations. These locations are illustrated in Figure 4.2 of the Design and Access Statement.
- 11.2.6 It was concluded that location C2 (area subject to this planning application) was the preferred location as it would have least impact on landscape character, location benefits from screening effect of adjacent woodland, least negative effect in terms of historic environment, potential to create habitat linkages between woodlands, least constrained from technical perspective, short access road, short underground connection to the 132kV distribution network. It was also concluded as the lowest cost option. Therefore, location C2 was taken forward for further detailed design.

11.3 Environmental Impact Assessment

- 11.3.1 The proposed works have been subject to EIA Screening Opinion (Application Reference 21/03343/SCR). The Officer letter of response to the EIA Screening Opinion stated in the conclusion:

'The National Planning Practice Guidance (PPG) is clear that '...it should not be presumed that developments above the indicative thresholds should always be subject to assessment, or those falling below these thresholds could never give rise to significant effects, especially where the development is in an environmentally sensitive location. Each development will need to be considered on its merits' (Paragraph: 018). Only a very small proportion of Schedule 2 development will require an assessment' In this case, the development falls outside of Schedule 2 development. Having regard to the above matters, it is concluded that with reference to the scale, nature and location of the development the Local Planning Authority would not require an EIA and that an Environmental Statement will not be required to be submitted to support the planning application for this development.

In reaching this conclusion the Council consider that features of the development would not have unusually complex and potentially hazardous environmental effects, and would not occur within a particularly environmentally sensitive or vulnerable location. A range of technical reports would be required to support a formal planning application to assess the impacts of the development.'

11.4 Policy Context and the 'Horlock' Rules

- 11.4.1 The site is situated outside of the defined development boundary and therefore countryside policies apply. Policy LPP1 of the Adopted Local Plan states, *'development outside development boundaries will be confined to uses appropriate to the countryside whilst also protecting and enhancing*

valued landscapes, sites of biodiversity or geological value and soils to protect the intrinsic character and beauty of the countryside’.

- 11.4.2 Policy LPP72 of the Adopted Local Plan states that the Local Planning Authority will encourage appropriate energy conservation and efficiency measures in design of all new dwellings. Policy LPP73 of the Adopted Local Plan refers to renewable energy scheme being encouraged where the benefit in terms of low carbon energy generating potential outweighs harm.
- 11.4.3 The preamble to Policy LPP73 states in Paragraph 6.64, *‘The increase in sources of renewable energy in the District could contribute towards diversity and security of supply, reduce demand on the national power network, address fuel poverty, support the local economy and reduce harmful emissions to the environment.’*
- 11.4.4 Chapter 14 of the NPPF refers to meeting the challenge of climate change, flooding and coastal change. It states in Paragraph 152, *‘the planning system should support renewable and low carbon energy and associated infrastructure’.*
- 11.4.5 Braintree District Council declared a Climate Change Emergency in July 2019. The Climate Change Strategy (2021 to 2030). It recognises that, *‘an increased reliance on the electricity network in the future will require local and national electricity structures to be upgraded and operated more smartly to serve higher demand.’* It further states, *‘we will need to support UKPN to understand future local demand for electricity and to develop a clear plan for investing in upgrades required to the electricity distribution grid’.*
- 11.4.6 Policy LPP71 of the Adopted Local Plan, states that, *‘the Council intends the District to meet part of its future energy needs through renewable and low carbon energy sources and will therefore encourage and support the provision of these technologies subject to their impacts on landscape and visual amenity, residential amenities including, noise, pollution, heritage assets and their settings, biodiversity and designated nature conservation sites, soils and impact on the highway being acceptable.’*
- 11.4.7 National Grid devised the ‘Horlock Rules’ in 2003, updated in 2009. These are guidelines for the design and siting of substations, and were established in pursuance of National Grid duties under Schedule 9 of the Electricity Act 1989. The Horlock Rules states that environmental issues should be considered at the earliest stage to balance the technical benefits and capital cost requirements to keep adverse impacts to a reasonably practicable minimum; seek to avoid internationally and nationally designated sites; protect as far as reasonably practical areas of local amenity value, important existing habitats, landscape feature; take advantage of screening provided by landform and existing features; keep visual, noise and other environmental effects to a minimum; consider land use effect, use space effectively; make design of access roads, perimeter

fencing and planting an integral part of site layout and design; consider relationship so as to reduce the prominence of structures from main viewpoints.

- 11.4.8 Consultation on the 'Planning for New Energy Infrastructure Draft National Policy Statements for energy infrastructure' closed on 29th November 2021. The Draft Policy Statement referred to the 'Horlock Rules' and recognised the principles for design and siting of substations and other assets and should be considered by developers when putting forward a proposal.
- 11.4.9 The submitted Design and Access Statement (Table 4.1) illustrates how the 'Horlock Rules' have influenced the siting and design of the proposed GSP substation.
- 11.4.10 Overall, owing to the above, it is considered that National and Local Policy are supportive 'in principle' of this type of development. The proposed Grid Supply Point Substation would still however need to be assessed against various technical criteria. This assessment is carried out in the 'Site Assessment' section below.

12. SITE ASSESSMENT

12.1 Design, Appearance and Impact upon the Character and Appearance of the Area

- 12.1.1 Policy LPP52 of the Adopted Local Plan seeks a high standard of layout and design in all developments in the District. Given the nature of the proposal and the technical equipment required the appearance of the proposal is constrained to an extent.
- 12.1.2 The proposed Grid Supply Point substation would be enclosed within a 2.4 metre high palisade security/safety fence with 3.4 metre high electric fence to the rear to secure the site.
- 12.1.3 It is proposed that there would be 10 modular type buildings to provide office/welfare facilities for employees and to accommodate electrical equipment. This includes, 2 x welfare rooms, 1 x battery rooms, 1 x low voltage alternating current room, 1 x telecoms control room, 1 x relay room, 2 x portable relay room and 2 x workshop/storage room. These buildings are predominately clustered to the west adjacent to an access gate and parking area furthest away from the A131.
- 12.1.4 Two supergrid transformers are proposed to convert the voltage from 400kV to 132kV for onward transmission and distribution. Concrete bunds would be installed for each transformer to act as secondary oil containment measure for the air insulation oil in the transformers. A noise enclosure is proposed around each of the transformers to reduce operational noise. These measure 13.5 metre x 8.6 metre and 6.2 metres in height.

- 12.1.5 Within the substation electrical equipment would predominately be mounted on steel posts fixed to concrete foundations, typically 9 metres above ground. There would be a 13 metre high steel landing gantry structure, which supports the down leads from the adjacent existing 400kV overhead pylon to the south east.
- 12.1.6 Outside of the substation in a separately fenced enclosure is the 400kV single circuit sealing end to the west. Access to this is proposed via a compacted stone dust road. This enclosure would measure approximately 33 metres by 30 metres and would include a gantry approximately 12.5 metres high and high voltage equipment approximately 8 metres high. The enclosure would facilitate a new underground 400kV cable connection.
- 12.1.7 The access would be gained from the A131 via a permanent bellmouth junction. A timber double five rail field gate is proposed at the access. A 5 metre wide surface road is proposed.
- 12.1.8 Landscaping is proposed including a new habitat connection linking Butlers Wood and Waldegrave Wood. 10% Biodiversity Net Gain has been identified within the site boundary including a mix of native trees, shrubs and wildflower grassland. An area of proposed hedgerow tree planting and hedgerow reinforcement is proposed to the east of the A131 to south of Public Right of Way 116/23.
- 12.1.9 To the west of the site a mound is proposed approximately 2.5 metre tall with graded west facing slopes (1:11 gradient). The eastern mound is approximately 1.5metre tall with graded east facing slopes (1:4 gradient) generated from excavation areas.
- 12.1.10 Objection representations received have suggested that the site could be moved further away from the road (A131) to facilitate more screening. In the original plans submitted, the proposed GSP was situated approximately 25 metres from the A131 at its closest point. The Applicant stated that, *'the ability to relocate the GSP further west is restricted by engineering constraints'*. The submitted Statement of Community Involvement refers to Table 2.2 (Analysis of 2022 Consultation Feedback) where this point is addressed stating that, *'the ability to relocate the GSP further west is restricted by the angle that can be achieved by the proposed down leads coming from the existing tower 4YL80 and by the proposed temporary overhead line diversion to the west (required for replacing tower 4YL91). Nonetheless the location of the proposed GSP allows effective landscape screening and the creation of bunds to both the east and the west'*.
- 12.1.11 The proposal and associated infrastructure would be visible from the A131 its utilitarian character would be at odds with the open countryside character, however, it is acknowledged that there are existing 400kV overhead line and pylons passing through the site and across the wider landscape area. Butlers Wood and Waldegrave Wood provide effective screening when travelling along the A131 from a northerly and southerly direction. The views of the site from the A131 would be fleeting given the

speed of traffic passing along the road and localised. The additional screening and planting proposed as it's established will ensure that the proposed GSP becomes more integrated into the landscape, reducing impacts over time.

- 12.1.12 Paragraph 4.6.1 of Draft Overarching National Policy Statement for Energy (EN1) (2021) states *"The visual appearance of a building, structure, or piece of infrastructure, and how it relates to the landscape it sits within, is sometimes considered to be the most important factor in good design. But high quality and inclusive design goes far beyond aesthetic considerations. The functionality of an object - be it a building or other type of infrastructure - including fitness for purpose and sustainability, is equally important. Applying "good design" to energy projects should produce sustainable infrastructure sensitive to place, efficient in the use of natural resources and energy used in their construction and operation, matched by an appearance that demonstrates good aesthetic as far as possible. It is acknowledged, however that the nature of much energy infrastructure development will often limit the extent to which it can contribute to the enhancement of the quality of the area."* It further states in paragraph 4.6.3, *'Whilst the applicant may not have any or very limited choice in the physical appearance of some energy infrastructure, there may be opportunities for the applicant to demonstrate good design in terms of siting relative to existing landscape character, land form and vegetation. Furthermore, the design and sensitive use of materials in any associated development such as electricity substations will assist in ensuring that such development contributes to the quality of the area'*
- 12.1.13 The development is functional in its design and has to be secured effectively. The proposed buildings are situated at the furthest point of the site from the A131 where the site is most visible.
- 12.1.14 Moreover, as discussed above in Section 11, the proposed location was considered to be the least environmentally constrained option, partly due to it having the lowest impact on the landscape character of the area, visual amenity and the historic environment.
- 12.1.15 At the Planning Committee meeting held on 23rd August 2022, Members deferred a decision on the application to enable Officers to explore with National Grid the feasibility of repositioning the existing eastern pylon (nearest to A131) to enable the main substation compound to be moved further westwards to reduce the views of the substation from the east and the A131. Following the Planning Committee meeting discussions took place and National Grid submitted revised plans for consideration.
- 12.1.16 In a covering letter provided by National Grid (dated 21st September 2022) accompanying the revised plans, they refer to their Statement of Community Consultation where they stated, *'balancing landscape and visual considerations, design constraints and feedback, the proposed GSP has been designed to sit back approximately 25 metres from the A131 at its closest point. Furthermore, a landscaped mould is proposed between the*

GSP and the road, and the design incorporates a retaining wall whereby the eastern extent of the proposed GSP substation is approximately 1m below the surrounding ground level. This helps to further screen components of the GSP and soften views from the east. The ability to relocate the GSP further west is restricted by the angle that can be achieved by the proposed downleads coming from the existing tower 4YL80 and by the proposed temporary overhead line diversion to the west (required for replacing tower 4YL81). Nonetheless the location of the proposed GSP allows effective landscape screening and the creation of bunds to both the east (and) the west.'

- 12.1.17 The submitted covering letter provides further clarification regarding the technical difficulties in moving a pylon stating, '*moving the pylon gives rise to a number of technical difficulties. We have considered the possibility of moving Overhead Line (OHL) pylon 4YL80 to the west as requested by Members. It is noted that the tower itself already exists but will have downleads to the new GSP connected to it to feed the substation. The OHL conductor span between tower 4YL80 and the next pylon further east (4YL79) is already close to maximum span for the current pylon types, which ensures minimum safety distances between the ground and conductors (including roads). Moving tower 4YL80 to the west would therefore very likely require strengthening works to tower 4YL79. It would also require the new tower 4YL80 to be taller to offset the increased sag in the conductors from longer span. The increase in height of the pylon would be disproportionately bigger than the span increase, therefore, the visibility of the pylon, and downleads, from the A131 would be unlikely to be reduced as a result. As well as strengthening tower 4YL79, a new tower and new foundations would also be required for the new taller 4YL80. In addition to this, more substantial temporary works would be required. It is critical to maintain electrical continuity on at least one side of the pylon (one of the two circuits) and therefore the temporary OHL arrangement between towers 4YL80 and 4YL81 would need to be extended. This temporary OHL diversion would then need to extend across the road; it may also need to be in place for longer than the current planned temporary OHL diversion due to the extended nature of it. For these reasons it is not considered practical to move 4YL80 to the east*'.
- 12.1.18 The covering letter refers to the advanced discussions held between National Grid and potential main works contractors which has enabled them to explore and incorporate design innovations for the scheme. This includes a design approach whereby the downleads from pylon 4LY80 can be designed to come off at an angle, consequently allowing the footprint of the GSP itself to be moved further westwards without moving the existing pylon.
- 12.1.19 As such, in adopting this innovative approach, the revised plans submitted propose to move the GSP a further 19 metres to the west, resulting in it moving 44 metres from the road (A131) at its closest point (distance previously 25 metres from the A131). This would further facilitate an increased area of landscape screening between the GSP and the A131 as

the mounding moves west. The slopes of the mounding have been slackened and it is proposed to provide an area of woodland mix to include a small percentage of larger specimens. This is illustrated in the revised Landscape Plan submitted (*drawing number P20332-00-001 – GIL – 0100-05 rev 6*). The Tree Officer has reviewed the Landscape Plan and considers the indicative list of planting mixes acceptable and suitable for the immediate location and environment to maintain the local character including native species as found in the vicinity.

- 12.1.20 In summary, Officers are satisfied that the design and layout proposed is acceptable. It is therefore considered that the proposal accords with Policy LPP52 of the Adopted Local Plan.

12.2 Landscape Impact

- 12.2.1 Policy LPP67 of the Adopted Local Plan refers to the Local Planning Authority taking into account the different roles and character of various landscape areas in the District, and recognise the intrinsic character and beauty of the countryside in order to ensure that any development permitted is suitable for the local context. It further states that proposals which may impact on the landscape will be required to include an assessment of their impact on the landscape and should not be detrimental to the distinctive landscape features.
- 12.2.2 The application is supported by a Landscape and Visual Appraisal (LVA) (Appendix 2).
- 12.2.3 As stated in Paragraph 2.1.4 of the appraisal, *'the LVA reviews the landscape and visual baseline conditions within the site and the local landscape surrounding the site, where notable landscape and visual changes as a result of the proposed GSP substation have the potential to be readily perceived'*.
- 12.2.4 The appraisal refers to a study area defined by a 2km radius of the site, informed by Zone of Theoretical Visibility and professional judgement of similar scale projects which suggest at distances greater than 2km the notable effects on landscape character and visual amenity are unlikely to occur. The Dedham Vale Area of Outstanding Natural Beauty (AONB) and Stour Valley Special Landscape Area have been excluded as they do not fall within the 2km study area or within a distance deemed likely for landscape or visual impacts to occur. The AONB Officer has been consulted and has commented that as the site lies outside of the Dedham Vale AONB and is situated approximately 1km west of the Stour Valley Project Area boundary, they would not be submitting a response to the application.
- 12.2.5 It is noted that the appraisal is primarily based on the worst case scenario of winter views.

- 12.2.6 The appraisal refers to the national, county and district scale Landscape Character Types and Landscape Character Areas. The site is situated in the South Suffolk and North Essex Clayland (National Landscape Character Area), the Blackwater and Stour Farmlands and Stour Valley (Essex County level) Ancient Rolling Farmlands and Rolling Valley Farmlands (Suffolk County level) and the Wickham Farmland Plateau (District Level). Table 3.2 of the appraisal sets out the characteristics of these areas.
- 12.2.7 The appraisal acknowledges in Paragraph 3.3.5, that, *'although the published landscape character area descriptions state that tranquillity is a key characteristic of the wider LCAs, the site is heavily influenced by the proximity to the A131, which passes close to its eastern boundary, in addition to the existing 400kV overhead line which passes through the proposed GSP substation between the two blocks of woodland.'*
- 12.2.8 Butlers Wood and Waldegrave Wood provide a screening effect to the north and south of the site. This is illustrated in the Zone of Theoretical Visibility in Figure A2.7.
- 12.2.9 The appraisal refers to potential visual receptors in Table 3.4 including the local community, people living and moving around the settlements and isolated properties in the study area; recreational users of cycle routes and recreational users of the Public Right of Way Network.
- 12.2.10 The appraisal refers to a total of 13 viewpoints representative of the different types of receptors and a range of distances and viewing angles. These are summarised in Table 3.5 of the appraisal and illustrated on map in Figure A2.3. It is stated that, *'these have been selected through desk study, site work and agreed in consultation with stakeholders'*.
- 12.2.11 Paragraph 3.6 of the appraisal refers to future baseline related to landscape changes that are considered certain or likely to happen but not yet present in the proposals that may affect views or visual amenity. It refers to Ash trees in the study area that maybe affected by ash dieback. The appraisal states that, *'the future baseline therefore assumes that there would be a loss of ash trees in the long term across the study area, but that other tree species would occupy gaps created in the short term, and overall levels of vegetation would remain similar to existing'*. The appraisal recognises that the, *'intimate mixture of tree species reinforces the resilience of the woodlands to individual tree losses and the affected trees were irregularly scattered and there was no clear evidence of disease'*.
- 12.2.12 An external Landscape Consultant has been consulted on the application and has referred to the photography used to inform the assessment. They have commented on the format of the photography shown as A3/ A4 and refer to LI Technical Guidance Note 06/19 'Visual Representation of Development Proposals' (2019) which states that visuals should be presented as single frames on A3 sheet, supported by baseline panoramic images. They have also commented that they would have preferred to see

photograph annotations and more Type 3 visuals with baseline photograph overlaid with proposed wire models, as opposed to Type 2 3D wire models.

- 12.2.13 The Applicant has responded to this comment in an e-mail dated 17.6.2022 stating, *'the viewpoints within the LVA were discussed and agreed with the Landscape Consultant at a pre-application meeting on 5th April 2022 and during meetings for the wider reinforcement project. The wirelines presented in the Viewpoint Appraisal Annex are Type 2 and have been presented at a size and relative position, on a corresponding sheet together with baseline wirelines and baseline photography to allow a like for like comparison (as per TGN 06/19 Section 2 Guiding Principles). It is considered that this is adequate and in line with a proportionate approach to represent how the proposed GSP substation would sit in relation to the baseline. This is also in line with what has been agreed for the wider reinforcement DCO project as discussed in Thematic Meetings. The Type 2 visuals show a worst case/ bare earth scenario. The photomontage has been produced in accordance with Landscape Institute TGN 06/19 Type 4 and illustrates the embedded mitigation and also screening effects of existing vegetation.'*
- 12.2.14 The Landscape Consultant has also commented that only the Local Landscape Character Areas (LLCA) have been assessed as landscape receptors, whereas District and County Landscape Character Areas would have been expected to be included. Comment is also made that the methodology (Annex 1) sets out the factors used to assess value of landscapes (Table 2: Factors contributing to Landscape Value) however this does not accord with the Technical Guidance Note (TGN) 02-21 'Assessing the Value of Landscapes Outside National Designations' and it is recommended that this is reviewed and amended accordingly. The applicants have responded to this comment stating, *'District and County Level LCAs are considered in the baseline. The appraisal of effects on landscape character has been made on Local Landscape Character Areas to avoid double counting of effects.'*
- 12.2.15 Paragraph 2.5 of the appraisal sets out the assumed growth rates for proposed planting at year 1 and year 15. The Landscape Officer has commented that, *'In the short term (at year 1) whilst planting establishes, there are likely to be adverse visual effects on recreational receptors within close proximity to the proposed GSP substation. After 15 years, with proposed planting and mounding the visual impacts will reduce and result in no notable/important effects.'* Paragraph 6.3.6 of the appraisal refers to the year 1 and visual effects on recreational receptors within close proximity to the proposed GSP substation stating, *'these relate to people using the Public Right of Way within close proximity to the proposed GSP substation, albeit these receptors already have close up views of the existing 400kV overhead line. The greatest effects would be seen from the Public Right of Way between Butlers Hall Farm and Old Road as represented at viewpoint 9'.*

- 12.2.16 The Landscape Officer notes that for both landscape receptors and visual receptors the Methodology (Annexe 1) does not provide the criteria for 'Scale/Degree of Effects' or a matrix table to understand how they have been assessed. It also doesn't outline which of the criteria would be deemed 'notable/important' within the assessment for the visual receptors. The Applicant has responded in an e-mail that, *'Overall the approach and method followed in the production of the LVA reflects that taken on other similar projects where no notable concerns have been raised. It is considered appropriate and proportional to the proposed GSP substation proposals. It is noted that any updates in line with the suggestions would not materially change the assessment or conclusions reached.'*
- 12.2.17 The Landscape Officer sought further clarification on the fencing details provided, and where this would be located on the site. They also requested that section drawings are extended to include proposed bunding to understand planting species. They also proposed that scrub/scrub planting is explored as an option close to the sealing end compound on the western edge and that the proposed woodland parcels are extended to the site boundary as opposed to an additional hedgerow.
- 12.2.18 In response to this the applicants have responded with the following comments:

Fencing - A full category 2 electric fence system will be installed around the perimeter of the substation with two separate double manual swing gates for access to the substation and to the CSE road. Within the substation, category 3 palisade fencing, and suitable gates will be installed to delineate the HV compound bays and the UKPN compound. The single circuit CSE compound will also have a separate category 2 electric fence system with a double swing gate; as detailed in Section 5.4.3 of the Design and Access Statement and as annotated on the Block Plan (008) and Proposed CSE Compound Plan (012).

Section drawing - The location of the cross sections submitted with the planning application were chosen to show the height the gantry, as the tallest element of the proposed GSP substation, in relation to the woodlands to the north and south. The reason the bunding was not included is because it does not sit on the same longitude as the gantry. While the bunding could be superimposed in front of the gantry this would introduce inaccuracies as they are not on the same plane. An east west cross section through the bunds would not capture the woodland and would be approximately 500m long whereby the 1.5m (eastern) and 2.5m (western) bunds would not be discernible.

It is therefore considered that the cross sections and elevations provided are most appropriate for informing the assessment of impacts.

Planting over underground cables - planting scrub and shrub over cables is not possible due to the risks associated with root damage to the cables, though planting a hedgerow, generally perpendicular over cable is possible.

Hedgerow planting on the western boundary would provide more effective screening than scrub/shrub, which is thinner particularly in winter.

Hedgerow - We will explore the potential for reducing the extent of the hedgerow planting on the western boundary noting National Grid's commitment to meet 10% net gain and providing screening for the single circuit CSE compound towards the south of this boundary, particularly where it crosses the underground cables where scrub and shrub planting is not possible.

- 12.2.19 Officers are satisfied with the above comments/rational received from the applicants in response to the Landscape Consultants comments. It is noted that the Landscape Officer agreed notwithstanding the above comments that the proposal would not be expected to result in likely major landscape effects on the Local Landscape Character Area.
- 12.2.20 In summary, the existing 400Kv overhead line and pylons in the site have already altered the landscape character in this locality. It has been assessed that the proposed GSP substation would not have a significant impact on the landscape although there would be a noticeable change in landscape character over a limited area of the Wickham Farmland Plateau due to equipment, fencing, road and proposed GSP substation. The site will be screened to north and south by the existing woodlands (Butlers Wood and Waldegrave Wood) and the proposed bunding and planting would reinforce screening that within 15 years will result in negligible magnitude of change. The proposal would likely integrate into the landscape through the pattern of existing vegetation including hedgerows with trees and woodlands. Landscape proposals including planting and landscape mounding to the west and east of the site would further integrate the proposal into the landscape. There are no significant landscape or visual effects anticipated.
- 12.2.21 The proposal accords with LPP67 of the Adopted Local Plan and the NPPF.

12.3 Heritage and Archaeological Impact

Heritage

- 12.3.1 Policy LPP57 of the Adopted Local Plan states that, '*the Council will seek to preserve and enhance the immediate settings of heritage assets by appropriate control over the development, design and use of adjoining land*'. The NPPF states in Paragraph 200, that '*any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction or from development within its setting) should require clear and convincing justification.*'
- 12.3.2 Policy LPP59 of the Adopted Local Plan states that, '*where archaeological remains are thought to be at risk from development, the developer will be required to arrange for an archaeological evaluation of the site to be*

undertaken and submitted as part of the planning application.’ The NPPF states in Paragraph 194, ‘where a site on development is proposed includes, or has potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk based assessment and where necessary a field evaluation’.

- 12.3.3 The application is supported by a Historic Environment Baseline report (Appendix 6) which comprises of an asset list of known heritage assets between 250metre and 2km of the site.
- 12.3.4 The site is situated within the wider setting of numerous Listed Buildings. This includes the Grade II listed Butlers Hall Farmhouse, the Grade II Church of All Saints and Grade II listed Nether Farmhouse. The nearest listed building is over 500 metres from the site.
- 12.3.5 The Historic Buildings Consultant has been consulted and raised no objection to the proposal stating, *‘the scheme would not result in an increased detrimental impact on the setting of nearby heritage assets and would not result in harm to their significance’*. The Historic Buildings Consultant has also been consulted on the revised plans submitted, and states that there remains very limited impact upon the setting of nearby heritage assets.
- 12.3.6 The proposal is therefore considered to accord with Policy LPP57 of the Adopted Local Plan and the NPPF.

Archaeology

- 12.3.7 During the course of the application an ‘Archaeology Evaluation Interim Report (Bramford to Twinstead Reinforcement Phase 1: Land at Butlers Wood, Bulmer and Twinstead Essex’ (March 2022) was submitted.
- 12.3.8 The Archaeology Advisor has been consulted and stated that, *‘A programme of geophysics has been undertaken across the development site and a programme of archaeological trial trenching completed in March 2022. The geophysics did not detect any archaeological anomalies within the site. The evaluation found a low level of archaeological remains included a prehistoric pit with evidence for burning and possible prehistoric ditch’*. The Archaeology Advisor states that, *‘it is unclear in the information submitted whether there will be a requirement for topsoil stripping in areas of landscaping which lay beyond the evaluation areas and temporary compounds. A written scheme of investigation for the works should be submitted prior to development. An archaeological investigation will be required to preserve any archaeological remains by record that will be impacted upon by the development.’*
- 12.3.9 A condition is proposed to be imposed requiring a programme of archaeological monitoring. This accords with the NPPF (paragraph 205) and policy LPP59 of the Adopted Local Plan.

12.4 Ecology Impact

- 12.4.1 Policy LPP64 of the Adopted Local Plan, refers to Local Wildlife sites and states, *‘proposals likely to have an adverse effect on a Local Wildlife Site will not be permitted unless the benefits of the development clearly outweigh the harm to the nature conservation value of the site. If such benefits exist the developer will be required to demonstrate that impacts will be avoided, and impacts that cannot be avoided will be mitigated onsite’*. It further refers to Protected species and priority species and states, *‘where there is a confirmed presence or reasonable likelihood of presence, the developer will be required to undertake an ecological survey and will be required to demonstrate that an adequate mitigation plan is in place to ensure no harm to protected species and no net loss of priority species’*.
- 12.4.2 The application is supported by a Biodiversity Baseline Report (Appendix 3), Environmental Appraisal, Biodiversity Checklist, Biodiversity Net Gain metric calculations (Appendix 4 of the Environmental Appraisal), Construction Environment Management Plan.
- 12.4.3 Butlers Wood and Waldegrave Wood are ancient woodlands, directly adjacent to the site, and are also designated as Local Wildlife Sites.
- 12.4.4 The Ecology Officer has reviewed the submitted reports and stated that, *‘we are satisfied that, as protected species are present in the wider environment, some in close proximity to the proposed GSP substation, sufficient consideration of impacts and identification of appropriate and effective mitigation are proposed to provide certainty of likely impacts’*.
- 12.4.5 The Ecology Officer welcomes that proposed mitigation measures have been embedded into the design and good practice measures have been incorporated to avoid direct and reduce indirect impacts on these irreplaceable and Priority habitats. The good practice measures comprise those relating to pollution prevention and control; drainage; and dust management and control.

European Protected Species

Bats

- 12.4.6 Surveys have identified tree roosts within Waldegrave Wood. The Ecology Officer is satisfied that, *‘potential disturbance generated from construction noise in this location would be short term and it is likely that the line of trees and tree roost itself would attenuate any noise generated limiting the potential for indirect effects’*. A condition is proposed to be imposed to secure a wildlife sensitive lighting scheme.

Great Crested Newts

- 12.4.7 Surveys have confirmed the presence of Great Crested Newts within 250 m of the site. The Ecology Officer has responded stating, *'there is a risk these European Protected Species may enter the development footprint using connected terrestrial habitat, we welcome confirmation that the planning application includes the countersigned Great Crested Newt District Level Licensing Impact Assessment and Conservation Payment Certificate and that the final license payment will be submitted to Natural England in Autumn 2022'*. A condition is proposed to be imposed to require a copy of the District Level License.

Dormouse

- 12.4.8 Hazel Dormouse are assumed to be present in the adjacent hedgerow and woodlands. It is proposed that an experienced dormouse ecologist would undertake a fingertip search of hedgerow to be removed prior to removal. This is referred to in the Construction Environment Management Plan (CEMP) June 2022. A condition is proposed to be imposed to ensure works are carried out in accordance with the measures identified in the CEMP.

UK Protected Species

Badgers

- 12.4.9 The Ecology Officer has stated, *'we welcome the commitment to a pre-construction walkover survey to check the site for any change in protected species presence e.g. badger setts and preparation of a method statement if appropriate or a license for sett closure if there would be unavoidable damage or disturbance'*.

Reptiles

- 12.4.10 No specific reptile surveys have been completed, suitable habitats for reptiles, particularly grass snake is present within the site along the dry ditch and so common reptile species are assumed to be present, although a low number of reptiles would be affected given the extent of habitat. The Ecology Officer has stated, *'it is anticipated that harm to reptiles can be avoided by implementation of staged vegetation clearance as good practise measure B05 in the CoCP (Annex 1 of Appendix 1) and individuals would naturally disperse into adjacent habitat.'*

Priority Species

- 12.4.11 The Ecology Officer has stated, *'the proposed new woodland provides a Stag Beetle log pyramid to enhance the locality for this Priority species and this feature is included in the Landscape and Ecological Management Plan'*.

Priority Habitats

- 12.4.12 Detail has been provided with the application of the Priority habitats which may be affected by the development. A survey and classification of habitats and detailed condition assessment has also been provided. The Ecology Officer notes that, *‘Woodland areas recorded within the survey area were primarily small areas of other broadleaved woodland types but inclusive of Priority Lowland Mixed Deciduous Woodland habitat but none of grassland areas recorded are Priority habitat’.*
- 12.4.13 The Ecology Officer welcomes the Code of Construction Practice and the good practice measures for Biodiversity and notes that the development will be supported by a District Level Licencing for the Great Crested Newts. The Ecology Officer states, *‘we still expect good practice measures will be implemented during construction. We therefore recommended that measure B05 for reptiles is amended to include other mobile Priority species such as Common Toad and Hedgehog as well as any Great Crested Newt found on site during the construction phase. We therefore recommend that an updated CEMP with a final CoCP is secured by a condition of any consent.’*
- 12.4.14 In response to this comment, the applicant submitted an updated Construction Environment Management Plan (CEMP) June 2022. This was reviewed by the Ecology Officer who confirmed that this version of the CEMP sets out the mitigation measures that the applicant and its contractor would employ during construction to reduce risks to the environment and that a further update to Section 13.5 of the CEMP has been made to the approved Code of Construction Practice. A condition is proposed to be imposed that the mitigation measures embedded in the Environmental Appraisal Appendix 1 CEMP v3 are secured by a condition and implemented in full.
- 12.5 Biodiversity Enhancements and Net Gain
- 12.5.1 Policy LPP52 of the Adopted Local Plan states that, *‘landscape proposals should consist of native plant species and their design shall promote and enhance local biodiversity. Biodiversity net gain in line with the requirements of national policy through the provision of new priority habitat where appropriate is encouraged’.* The NPPF refers in Paragraph 180 (d) to securing measurable net gains for biodiversity and improving opportunities for biodiversity in and around developments integrated into their design.
- 12.5.2 The application is supported by a Biodiversity Net Gain Report (Appendix 4 of the Environmental Appraisal). The report highlights that there is commitment by National Grid Electricity Transmission to achieve a 10% biodiversity new gain using a Biodiversity Metric 3.0 calculation tool (Defra 2021). Paragraph 4.1.1 of the Biodiversity Net Gain Report confirms that, *‘the Biodiversity Net Gain Assessment has been undertaken with due regard for the good practice key principles (Defra, 2021b)’.* This is further outlined in Table 4.1 of the Biodiversity Net Gain Report.

- 12.5.3 The Biodiversity Net Gain Report states in Paragraph 6.1.1, 'in accordance with the Metric 3.0 User Guide, if the original baseline habitat is recreated in the same or better condition within two years, then these short term losses can be considered temporary. Accordingly, the proposal would see permanent loss of approximately 5.42ha of arable land and temporary loss (i.e. removal and post construction reinstatement) of approximately 5.98ha of arable land. Approximately 34 metres of hedgerow would be permanently lost to create the access to the GSP substation off the A131 and a further 45 metres of hedgerow would be reinstated where gaps were necessary to install the underground cable. Approximately 360 metres of hedgerow would be enhanced to the east of the A131. Areas of woodland, scrub and species rich grassland would be created.'
- 12.5.4 The Biodiversity Metric states that the development aims to deliver 47.54% of habitat units, 35.71% hedgerow units and 10.72% river units. Annex 1 of the Biodiversity Net Gain Report includes full calculations that lead to the final biodiversity unit scores.
- 12.5.5 Paragraph 8.1.1 of the Biodiversity Net Gain Report states that, '*National Grid will own and therefore maintain the habitats onsite for a period of 30 years*'. It then further elaborates on the monitoring and maintenance proposed for year 1 – 3, year 3 to 5 and post year 5. Paragraph 8.1.2 of the Biodiversity Net Gain Report states, '*A BNG Monitoring Report will be produced after the first monitoring visit and updated accordingly after each subsequent visit. The BNG Monitoring Report will be shared with local repositories for environmental data in accordance with the British Standard for BNG – BS8683 (BSI, 2021 and CIRIA, 2019)*'.
- 12.5.6 National Grid have confirmed in their covering letter submitted with the revised plans that, '*as shown in the revised proposals, the increase in proposed woodland edge mix and inclusion of woodland mix between the eastern extent of the GSP and the A131 would mean that we would still be able to meet the target of 10% net gain in environmental value for the proposed GSP substation and accompanying works.*'
- 12.5.7 The Ecology Officer has stated, '*we are satisfied that the Biodiversity Net Gain baseline has been appropriately calculated and that the mitigation hierarchy has been followed that the submitted Metric calculations meets the trading rules for habitat creation for compensation and delivery of net gain. We welcome the commitment to compensate for the loss of Priority hedgerow to the access road from the A131 by supplementary planting and, alongside planting proposed for the wider environment a new habitat connection between Butlers Wood and Waldegrave Wood will be created. We are satisfied with the proposals for habitat creation, woodland and wild flower grassland. If implemented in full and managed for 15 years, the proposal would deliver sufficient compensation, in excess of 10% Biodiversity Net Gain and increase connectivity with ecological functionality.*'

- 12.5.8 Following the submission of revised plans the Ecology Officer has reiterated that they have no concerns on how the Biodiversity Net Gain has been calculated.
- 12.5.9 The Ecology Officer has recommended conditions to be imposed relating to: all mitigation/enhancement measures and/or works being carried out in accordance with the details contained in the Environmental Appraisal Appendix 1 Construction Environment Management Plan (July 2022) V3; submission of a copy of Natural England mitigation licence for Great Crested Newt; submission of a wildlife sensitive lighting design scheme (to include reference to temporary lighting during construction); and submission of a Landscape and Ecological Management Plan.
- 12.5.10 Subject to these conditions, the proposal is considered to accord with Policy LPP52 of the Adopted Local Plan and the NPPF.

12.6 Tree Impact

- 12.6.1 Policy LPP64 of the Adopted Local Plan states, *'proposals resulting in the loss, deterioration or fragmentation of irreplaceable habitats such as ancient woodland or veteran trees will not normally be acceptable unless the need for and benefits of the development in that location clearly outweigh the loss'*. Policy LPP65 of the Adopted Local Plan states, *'Trees which make a significant positive contribution to the character and appearance of their surroundings will be retained unless there is a good arboricultural reason for their removal for example they are considered dangerous and in poor condition.'* The NPPF recognises in paragraph 131, *'trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change.'*
- 12.6.2 An Arboricultural Assessment (Appendix 5) has been submitted as supporting documentation with the application. This has been reviewed by the Council's Tree Officer.
- 12.6.3 The adjacent woodlands (Butlers Wood and Waldegrave Wood) are designated ancient woodlands. There are also Tree Preservation Orders in both woods.
- 12.6.4 The Arboricultural Assessment refers to Butlers Wood as a *'mixed broadleaf woodland with oak as the principal canopy species. Other species include Ash, Birch, Field Maple and small leaved lime with hazel frequent in the understorey'*. The largest trees are almost exclusively oak with a maximum height of 26 metres and canopy spread to 10 metres. The assessment refers to the majority as being, *'healthy and typically structurally sound'*. Waldegrave Wood is of similar species composition to Butlers Wood with aspen on the field edge, with fewer larger trees present at the woodland edge than at the edge of Butlers Wood. For both woodlands it is concluded that, *'the intimate mixture of species and structural diversity makes the woodland resilient to climatic and biotic stresses'*.

- 12.6.5 The Tree Constraints Plan (in Figure A5.1 of Annexe 3 of Appendix 5) identifies the constraints of existing arboricultural features in terms of their quality, stem and roots. The assessment states in Paragraph 2.5.2, *'this information was considered during design development leading to moving the proposed GSP substation approximately 3 metres further south from Butlers Wood and repositioning of security fencing to provide a greater buffer to tree canopies in Butlers Wood'*.
- 12.6.6 It is proposed to remove T12 which is of standing dead wood. Although it is beyond the development boundary its retention near to the proposed GSP substation presents a safety issue. It is also proposed to lift the canopy by removing lower branches of T24 and T25 to facilitate access.
- 12.6.7 It is stated in Paragraph 3.1.5 of the assessment that, *'the northern boundary of Waldegrave Wood mirrored Butlers Wood in being bounded by a large ditch between the woodland and agricultural field. It had been recently (within the last 12 months) cleaned to a depth of more than 1m with tree roots exposed on the upper portion of the cut ditch face. The ditch clearance provided strong evidence that the tree roots do not extend to a full depth of the ditch nor pass beneath it'*.
- 12.6.8 The Arboriculture Method Statement states in Paragraph 4.11 that, *'the need for tree protection measures, typically provided to afford protection from plant or storage, within a root protection area is unnecessary because of the topographical protection provided by deep wide ditches. These ditches offer equivalent protection as fencing as they prevent vehicular access and storage of materials within the woodlands'*.
- 12.6.9 The Tree Officer has reviewed the application and whilst raising no concerns regarding the proposed work identified in the Method Statement there was concern raised regarding the possible encroachment of root protection area for T1, Oak from the western landscaping mounding. The Tree Officer suggests that some minor sculpting of lower section of perimeter at this location would avoid or limit the root protection area incursion. The Tree Officer also requested further detail regarding list of species/ quantities of, stock size for trees and planting as the submitted Planting Plan in Figure 4 of the Environmental Appraisal was considered to be inadequate.
- 12.6.10 Following the deferred decision of the Planning Committee held on 23rd August 2022, a revised Landscape Plan has been submitted for consideration. This includes a redesign of the western landscaping bund to ensure that it no longer overlaps the route protection zone of tree T1 as discussed above in Paragraph 12.6.9. The Landscaping Plan also includes indicative planting mixes including species, percentage of the mix and the size of the species. The Tree Officer has reviewed the Landscaping Plan and is satisfied that lists providing indicative planting mixes are acceptable and suitable for the immediate location and environment to maintain the local character, including native species as found in the vicinity.

- 12.6.11 Subject to the above conditions, it is considered that the proposal accords with Policy LPP64 of the Adopted Local Plan.

12.7 Lighting

- 12.7.1 Policy LPP52 of the Adopted Local Plan refers to lighting stating, *'they will need to be in context with the local area and comply with national policy and avoid or minimise glare, spill and light pollution on local amenity, intrinsically dark landscapes and nature conservation'*. Policy LPP77 of the Adopted Local Plan refers to external lighting and seeks to ensure that proposals for external lighting within development proposals will be permitted where, *'f. there is no harm to biodiversity; natural ecosystems; intrinsically dark landscapes and / or heritage assets'*.
- 12.7.2 Paragraph 3.3.37 of the submitted Environmental Appraisal states, *'post construction security lighting will be used outside of daylight hours but their use would require trigger (i.e. not continuous) and would be on a timer. Such security lighting would be a low lux level lighting emitting diode (LED) type luminaires with directable light output and passive infrared sensor (PIP) motion activated lighting'*.
- 12.7.3 Paragraph 4.1.30 of the Environmental Appraisal refers to lighting during construction, stating, *'the primary source of temporary lighting requirements will be provided by a mobile solar lighting towers or similar. These will be limited to the Restricted and Core Working Hours. Light emissions will be reduced during start up and shut down activities which will not involve the operation of construction plant and equipment.'*
- 12.7.4 At the Planning Committee meeting held on the 23rd August 2022, Members sought to defer a decision to enable further information to be submitted on the proposed lighting of the site.
- 12.7.5 In the covering letter (dated 21.9.22) submitted by National Grid it clarifies that, *'the substation is unmanned and the lighting will only turn on when people visit the site. As site visits are infrequent and usually during the day lighting may only be required during an emergency or in the event of an intruder activating the light. It is not correct to characterise the site as one that will be lit up every night. Fencing around the site means that wildlife will not activate the lights. The purpose of external lighting is to allow the safe movement of vehicles and pedestrians between any two points they maybe be reasonably expected to negotiate at night, within the substation perimeter. It is not intended to facilitate maintenance activities, whether planned or unplanned'*.
- 12.7.6 A condition is proposed to be imposed requiring lighting detail to be submitted and approved by the Council prior to installation to ensure that it would not have a detrimental impact on the dark landscape and nature conservation. It is proposed to amend the wording of the Condition (as previously proposed when considered at Planning Committee 23rd August

2022) to include reference to the temporary lighting proposed to be installed during construction. The Ecology Officer has confirmed that the amended wording of the condition is acceptable.

12.8 Loss of Agricultural Land

- 12.8.1 The NPPF states in Paragraph 174, *'planning decisions should contribute to and enhance the natural and local environment by, recognising the intrinsic character and beauty of the countryside and the wider benefits from natural capital and ecosystems services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.'*
- 12.8.2 An Agricultural Land Classification (Appendix 9) has been submitted as supporting documentation with the application.
- 12.8.3 The report explains that a detailed survey was carried out examining the soils physical properties at five locations to a depth of 1.2 metres. At the time of the survey the land use was arable (post-harvest).
- 12.8.4 The report states that, *'the site has both relatively low rainfall and a long growing season, acting to decrease the severity of any potential soil wetness limitation, but increasing the severity of any potential soil droughtiness limitation'.*
- 12.8.5 The report concludes that the site has been mapped as Grade 3a (best and most versatile).
- 12.8.6 The Braintree District comprises a high proportion of high quality agricultural land. As stated in Paragraph 6.28 of the Adopted Local Plan, *'the majority of agricultural land in Braintree District is classified as Grade 2 or 3 with 65.8% classified as Grade 2 and 29.9% as Grade 3'.* Paragraph 6.29 of the Adopted Local Plan states, *'the amount of agricultural land in the Braintree District has a significant influence of the landscape. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.'* In this case, whilst there would be a loss of Grade 3a land this would be a localised impact.
- 12.8.7 The report refers to soil handling and reuse and states in Paragraph 6.1.2, *'this will be undertaken in accordance with Defra 2009 Construction Code of Practice for Sustainable Use of Soils on Construction Sites.'* It also makes clear that where land is reinstated or habitat created the appropriate soil conditions will be recreated to a depth of 1.2 metre (or the maximum natural soil depth if this is shallower).

12.9 Highway Considerations

- 12.9.1 Paragraph 109 of the NPPF states that development should only be prevented or refused on highway grounds if there would be an

unacceptable impact on highway safety or the residential residual cumulative impacts on the road network would be severe. Policy LPP43 of the Adopted Local Plan seeks to ensure sufficient vehicle/cycle parking is provided within new developments.

- 12.9.2 A Transport Statement has been submitted as supporting documentation.
- 12.9.3 A permanent bellmouth junction is proposed to be constructed with the A131. This will connect to a surfaced 5 metre wide track and would provide access for the periodic maintenance activities at the proposed GSP substation.
- 12.9.4 The Transport Statement states in Paragraph 4.3.1, '*the construction traffic will utilise the strategic road network closest to the site this includes the A131, A120, A12 and A14.*' It further states that during operation, '*there will be around one vehicle per month to complete maintenance checks*'.
- 12.9.5 During construction of the proposed GSP substation delivery of materials, plant and equipment including Abnormal Indivisible Loads (super grid transformers) to the site will be required. It is stated in the Transport Assessment that, '*construction traffic vehicle numbers are expected to be low with a one way daily average of 10 construction vehicles (one heavy goods vehicle (HGV) per day i.e. 10 inbound and 10 outbound)*'. It further states that construction vehicle traffic patterns will avoid peak hours, with many trips to and from the site made before 07:00 or after 19:00hrs. Table 2 of the Transport Assessment concludes that construction traffic numbers, including those associated with workers numbers is low with less than 1% impact on the A131.
- 12.9.6 The submitted plans propose 5 car parking spaces. As the proposed GSP Substation is proposed to be unmanned during operation with one Light Good Vehicle trip per month for site maintenance. The proposed parking provision is considered sufficient.
- 12.9.7 The Highway Authority sought additional information during the course of the application. This has been provided by the applicant and the Highway Authority were re-consulted raising no objection subject to conditions relating to submission of a Construction Traffic Management Plan and construction of the site access prior to construction. These conditions are proposed to be imposed.
- 12.10 Impact upon Neighbouring Residential Amenity
- 12.10.1 The NPPF requires a good standard of amenity for all existing and future occupiers of land and buildings and Policy LPP52 of the Adopted Local Plan states that development shall not cause unacceptable impacts on the amenities of nearby residential properties.
- 12.10.2 The nearest neighbouring properties to the site are over 400 metres from the site. There are no immediate residential properties abutting the site.

- 12.10.3 Given the distance of separation the proposal would not have a detrimental impact on neighbouring amenity in terms of overlooking, loss of light, loss of privacy, poor outlook.
- 12.10.4 Objection representations received have raised concern regarding noise and construction traffic/works. The impact of noise is discussed above and it is concluded that it would not have a detrimental impact on neighbouring amenity. In terms of construction traffic/works the submitted Environmental Appraisal (Construction Environment Management Plan) refers to movements and deliveries to the site, which are 07:00-19:00 Monday to Fridays and 08:00 to 17:00hours Saturday, Sunday and Bank Holidays. The Environmental Health Officer has commented that, *'as the site is not in a residential area and the distance to the nearest noise sensitive dwellings is significant, I do not consider that I can reasonably seek to request that the more standard restrictions on days and hours could be applied in this instance.'*
- 12.10.5 Conditions are proposed to be imposed relating to work hours for construction vehicles and deliveries and that applicant adheres to actions proposed in the Construction Environment Management Plan (CEMP, April 2022) before, during and after construction.
- 12.10.6 The application is considered to accord with Policy LPP52 of the Adopted Local Plan.
- 12.11 Noise Impact
- 12.11.1 The preamble to Policy LPP70 of the Adopted Local Plan states in paragraph 6.43, *'developers will need to submit a noise assessment in cases where proposals could potentially cause harm to nearby residents and amenity'*. Policy LPP70 of the Adopted Local Plan states, *'proposals for all new developments should prevent unacceptable risks from all emissions and other forms of pollution (including light and noise pollution) and ensure no deterioration to either air or water quality. Development will not be permitted where individually, or cumulatively and after mitigation there are likely to be unacceptable impacts arising from the development on natural environment, health and safety of existing residents, noise'*.
- 12.11.2 The application is supported by a Noise Assessment (Appendix 10).
- 12.11.3 It is noted that objections received to the application during the public consultation have raised concern regarding vibration impacts from the proposal. The Noise Assessment report states in Paragraph 1.1.4, *'operational substations are not material sources of vibration to an extent that is likely to lead to adverse impacts, even directly adjacent to plant. This is based on National Grids vast experience of operating substations. There is significant distance between the proposed GSP substation and nearby vibration sensitive receptors. Additionally, proposed plant would be installed*

on vibration isolation fittings as standard practice. Operational vibration is therefore scoped out of the assessment’.

- 12.11.4 The Noise Assessment refers to baseline sound level surveys obtained to assess construction and operational noise. It states in the concluding paragraph 7.1.3 of the Noise Assessment that, *‘the assessment of construction noise and vibration impact indicates that impacts would be low, principally due to the distance between the proposed GSP substation site and nearby vibration sensitive receptors. Impacts will be reduced through Best Practicable Means (site planning and prep/plant and machinery).’* Paragraph 7.1.4 of the Noise Assessment refers to operational noise which states, *‘the assessment indicates that a low impact is expected during normal operation during atypical situations, such as when the use of Super Grid Transformers (SGT) cooling plant, or when backup generators maybe required during emergency conditions. The assessment assumes that the proposed SGTs will be housed within enclosures, and this has been committed to by National Grid. No further specific mitigation measures are required’.*
- 12.11.5 The Environmental Health Officer has reviewed the report and stated that, *‘I am satisfied that noise from day to day operation of the plant once constructed should not give arise to unreasonable disturbance to local residents, and that on occasions where backup systems are required to be used then these should also not give rise to excessive impact on amenity’.* The Environmental Health Officer further states that the principles in the application, Noise Assessment and Environmental Appraisal should be adhered to. This is proposed to be imposed by Condition.
- 12.11.6 The proposal is therefore considered to accord with Policy LPP70 of the Adopted Local Plan.
- 12.12 Flooding and Drainage Strategy
- 12.12.1 Policy LPP74 of the Adopted Local Plan states, *‘new development shall be located on Flood Zone 1 or areas with the lowest probability of flooding, taking into account climate change and will not increase flood risk elsewhere. For development proposals must be accompanied by a site specific Flood Risk Assessment which meets the requirements of the NPPF and Planning Practice Guidance. Flood Risk Assessment submitted must take into account an assessment of flood risk across the life of the development taking climate change into account’.*
- 12.12.2 The NPPF states that development of ‘essential infrastructure’ is appropriate in Flood Zone 1, however, as the site area exceeds 1 ha (approximately 7ha) a Flood Risk Assessment is required.
- 12.12.3 The application is supported by a Flood Risk Assessment (Appendix 7).
- 12.12.4 The assessment states in Paragraph 2.1.3, *‘there is an agricultural drain/ditch that crosses the site in a north south orientation and flows along*

its northern boundary in a westerly direction. This drainage ditch is crossed in two places within the site boundary by existing tracks. The site is in the catchment of the Belchamp Brook which is a tributary of the River Stour. An unnamed watercourse is located 180metres south west of the site and discharges to the Belchamp Brook approximately 3km downstream of the site'.

- 12.12.5 The assessment concludes that the site has a 'very low' risk of flooding from rivers, equivalent to an annual chance less than 1 in 1,000 (0.1%).
- 12.12.6 The assessment includes a map in Figure A7.4 which identifies those areas at risk of surface water flooding. It concludes the risk of flooding from surface water for the majority of the site is at a 'very low risk' of surface water flooding, equivalent to an annual chance of 1 in 1,000 (0.1%). The land to the northern boundary of the site is at a higher risk of surface water flooding this is coincident with the drainage ditch which runs adjacent to, and extends west of Butlers Wood. There is a surface water flow path across the middle of the site which connects to the ditch. This surface water flow path is shown to be at a 'medium risk' (equivalent to an annual change of flooding between 1 in 100 (1%) and 1 in 30 (3.3%) and 'low risk' (equivalent to an annual chance of flooding between 1 in 1,000 (0.1%) and 1 in 100 (1%) chance of surface water flooding. Only small parts of the site are shown to be at 'high risk' of surface water flooding, equivalent to an annual chance of flooding (greater than 1 in 30 3.3%). In the areas of 'high risk' it is stated that floodwaters are typically predicted to be shallow, with depths of less than 300mm.
- 12.12.7 During operation the drainage ditch is retained. The assessment states, *'the access road, adjoins the existing track as it crosses the drainage ditch. Appropriate surface water drainage measures will be incorporated into the detailed design for the access track'.*
- 12.12.8 The site is at low risk of groundwater flooding.
- 12.12.9 The assessment states that, *'runoff across the site will be controlled through a variety of methods include header drains, buffer zones around water courses, onsite ditches, silt traps and bunding.'* It also states that, *'permeable surfaces will be used where ground conditions allow for access tracks and compound areas'.*
- 12.12.10 The assessment concludes that the proposed landscaping mound to the east and west of the proposed GSP substation would not have an impact on existing drainage ditches and is located in an area shown to be at 'very low risk' of flooding from surface water.
- 12.12.11 The Lead Local Planning Authority has reviewed the submitted Flood Risk Assessment and raises no objection subject to conditions being imposed relating to, submission of a detailed surface water drainage scheme for the site, a scheme to minimise risk of offsite flooding caused by surface water

run off during construction works, a maintenance plan for the surface water drainage system and yearly logs of maintenance.

12.12.12 The proposal is therefore considered to accord with LPP74 of the Adopted Local Plan and the NPPF.

12.13 Minerals Resource Assessment

12.13.1 Policy LPP63 of the Adopted Local Plan states, *'development proposals must take available measures to ensure the protection and enhancement of the natural environment, habitats, biodiversity and geodiversity of the District'*. The NPPF states in paragraph 209, *'it is essential that there is sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long term conservation'*. It is further stated in paragraph 210 (c) of the NPPF, *'planning policies should safeguard mineral resources by defining Mineral Safeguarding Area, and adopt policies so that known locations of specific minerals resources of local and national importance are not sterilised by non mineral development where this should be avoided (d) set out policies to encourage prior extraction of minerals, where practical and environmentally feasible, if it is necessary for non mineral development to take place'*.

12.13.2 The application site is located within land designated as a Mineral Safeguarding Area (MSA) and therefore the application is subject to Policy S8 of the Essex Minerals Local Plan 2014. As the site area exceeds the specified 5ha threshold upon which local resource safeguarding provisions are applied a Mineral Resource Assessment (MRA) is required.

12.13.3 The Minerals and Waste Planning Authority reviewed the submitted Minerals Resource Assessment (MRA) and accepted that prior extraction is not practical. Paragraph 4.3.10 of the MRA states, *'prior extraction would need to take place in advance of work required to construct the proposed GSP substation which is required to be constructed in advance of the wider reinforcement project. The extraction would extend the construction programme. It is important that GSP is delivered as early as feasible, to allow the removal of the existing 132kV overhead line and commencement of the wider reinforcement once Development Consent for this is secured from the Secretary of State. The programme anticipates delivery of the GSP by mid-2024, following an approximate 18 month construction programme, which would allow the commencement of the wider reinforcement (subject to consent) no earlier than late 2024.'*

12.13.4 The Minerals and Waste Planning Authority therefore concluded that, *'the MRA is sufficiently competent to conclude that the prior extraction of minerals is not appropriate at this site'*.

12.14 Contamination

- 12.14.1 Policy LPP70 of the Adopted Local Plan states, '*proposals for all new developments should prevent unacceptable risks from all emissions and other forms of pollution (including light and noise) and ensure no deterioration to either air or water quality. All applications for development where the existence of, or potential creation of pollution is suspected must contain sufficient information to enable the Local Planning Authority to make a full assessment of potential hazards*'. The NPPF states in Paragraph 183, '*decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks associated arising from land instability and contamination*'.
- 12.14.2 A Phase 1 Contaminated Land Assessment (Appendix 8) has been submitted as supporting documentation with the application.
- 12.14.3 The report concludes in Paragraph 5.1.2 that, '*the qualitative risk assessment undertaken did not identify any notable source of contamination currently present at the site or within the immediate vicinity based on current and historical land uses and therefore the contamination potential of the site is considered to be Very Low. As no current source has been identified a source-pathway*' receptor linkage has also not been identified and therefore there is not considered a risk to the proposed GSP substation'.
- 12.14.4 The Environmental Health Officer has reviewed the report and proposed a condition be imposed that should contamination be found that was not previously identified it is made safe and the Local Planning Authority is notified.
- 12.14.5 The proposal accords with Policy LPP70 of the Adopted Local Plan and the NPPF.

13 PLANNING BALANCE AND CONCLUSION

- 13.1 As set out within Paragraph 47 of the NPPF, planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise.
- 13.2 In assessing the planning balance, the adverse impacts of the proposed development, against the public benefits of the proposal needs to be considered.

Summary of Harms

Harm to the Character and Appearance of the Area and Landscape Character

- 13.3. The proposal would alter the landscape, its character and appearance. There would be a particular noticeable change in landscape character over a limited area of the Wickham Farmland Plateau due to equipment, fencing, road and proposed GSP substation. The site will be screened to north and

south by the existing woodlands (Butlers Wood and Waldegrave Wood) and the proposed bunding and planting would reinforce screening that within 15 years will result negligible magnitude of change. There are no significant landscape or visual effects anticipated. This harm is afforded moderate weight.

Ecology Impact

- 13.4 The proposal is situated adjacent to Local Wildlife Sites (Butlers Wood and Waldegrave Wood). Protected species are present in the wider environment and in close proximity to the proposal. There has been sufficient consideration of the impacts and appropriate mitigation proposed to avoid direct and reduce indirect impacts. This harm is afforded moderate weight.

Loss of Agricultural Land

- 13.5 The proposal would result in the localised loss of best and most versatile agricultural land. This harm is afforded limited weight.

Impact on Trees/Hedgerows

- 13.6 The proposal is adjacent to Butlers Wood and Waldegrave Wood both are ancient woodlands. There is a ditch between the woodland and the agricultural field which provides protection for the tree roots, it also prevents vehicular access and storage of materials within the woodlands. This harm is afforded limited weight.

Noise Impact

- 13.7 The submitted Noise Assessment indicates a low impact is expected such as when the use of Super Grid Transformers (SGT) cooling plant, or when backup generators maybe required during emergency conditions. No excessive impact is anticipated on neighbouring amenity. This harm is afforded limited weight.

Summary of Benefits

Biodiversity Net Gain

- 13.8 The proposal would deliver in excess of 10% Biodiversity Net Gain and increase connectivity with ecological functionality. This benefit is afforded moderate weight.

Facilitate Distribution of Low Carbon Electricity

- 13.9 The proposal forms part of the wider reinforcement of the electricity network between Bramford and Twinstead and would facilitate the distribution of electricity generated from renewable sources to the wider electricity network. This benefit is afforded significant weight.

- 13.10 The proposal is considered acceptable in this location. The Applicant has demonstrated that alternative sites have been explored and public engagement has taken place. The proposed location was considered to be the least environmentally constrained option, partly due to it having the lowest impact on the landscape character of the area, visual amenity and the historic environment. It is not considered that the proposal would have an adverse impact on neighbouring amenity, heritage assets, surface water flooding, ecology or the adjacent ancient woodlands. Furthermore, it is not considered that the proposal would have a significant impact on visual amenity and landscape character. The proposal for a Grid Supply Point substation would form part of the wider proposal/strategy to distribute low carbon electricity in the District and beyond.
- 13.11 It is considered that the benefits of the proposal would outweigh the harms. Against this context, it is recommended that planning permission be granted for the proposed development.

14. RECOMMENDATION

- 14.1 It is RECOMMENDED that the following decision be made:
Application GRANTED in accordance with the Approved Plans and Documents, and subject to the Condition(s) & Reason(s), and Informative(s) outlined within APPENDIX 1.

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

APPENDIX 1:APPROVED PLAN(S) & DOCUMENT(S) / CONDITION(S) & REASON(S) AND INFORMATIVE(S)Approved Plan(s) & Document(s)

Plan Description	Plan Ref	Plan Version
Location Plan	AAA_B2B_GSP_SI TELOCATIONPLAN _REV0	N/A
Concept Plan	AAA_B2B_GSP_C ONSENTING_PLAN _REV0	N/A
Planning Layout	B31000F9-JAC-ZZ- XX-DR-010 P01	N/A
General	B31000F9-JAC-ZZ- XX-DR-012 P01	N/A
General	B31000F9-JAC-ZZ- XX-DR-013 P01	N/A
Levels	B31000F9-JAC-ZZ- XX-DR-014 P01	N/A
Levels	B31000F9-JAC-ZZ- XX-DR-015 P01	N/A
General Plans & Elevations	B31000F9-JAC-ZZ- XX-DR-016 P01	N/A
General Plans & Elevations	B31000F9-JAC-ZZ- XX-DR-017 P01	N/A
Topographical Survey	B31000F9-JAC-ZZ- XX-DR-018 P01	N/A
Section	B31000F9-JAC-ZZ- XX-DR-019 P01	N/A
Fencing Layout/Details	B31000F9-JAC-ZZ- XX-DR-021 P01	N/A
Other	Construction Environment Management Plan	v3
Substation Details	PDD 21847 ELE 011 P02	N/A
Block Plan	PDD 21847 LAY 008 P02	N/A
Proposed Site Plan	PDD 21847 LAY 009 P02	N/A
Access Details	PDD 21847 LAY 020 P02	N/A
Landscape Masterplan	P20332-00-001 GI- 0100-05	REV 5

Other	Archaeological Evaluation Interim Report	N/A
Arboricultural Report	April 2022	Appendix 5
Noise Details	April 2022	Appendix 10
Highway Plan	Swept Path Assessment	21-0130.SPA24
Highway Plan	Detailed Access Drawing	PDD-21847-CIV- 022
Other	Environmental Appraisal - Planting Plan	N/A
Other	Phase 1 Contaminated Land Assessment	N/A

Condition(s) & Reason(s)

Condition 1

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

Reason: This Condition is imposed pursuant to Section 91 of the Town and Country Planning Act 1990 (as amended).

Condition 2

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

Reason: For the avoidance of doubt and in the interests of proper planning

Condition 3

Prior to commencement of development a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, shall be submitted to and approved in writing by the Local Planning Authority. The scheme should include but not be limited to:

- Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753.
- Limiting discharge rates to 1:1 Greenfield runoff rates for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.

- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- An updated drainage strategy incorporating all of the above bullet points including matters already approved and highlighting any changes to the previously approved strategy.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

Condition 4

Prior to commencement of development a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution shall be submitted to, and approved in writing by, the Local Planning Authority. The scheme shall subsequently be implemented as approved and retained thereafter.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site

Condition 5

Prior to occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, shall be submitted to and approved, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk. Failure to provide the above required information prior to occupation may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

Condition 6

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

Reason: To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

Condition 7

All ecological mitigation and enhancement measures and/or works shall be carried

out in accordance with the details contained in the Environmental Appraisal Appendix 1 Construction Environment Management Plan (CEMP) V3 and as set out in Annex A (Code of Construction Practice - CoCP), as already submitted with the planning application and agreed in principle with the Local Planning Authority prior to determination. This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

Reason: To conserve and enhance protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

Condition 8

Any works which will impact the breeding / resting place of Great crested newt, shall not in in any circumstances commence unless the Local Planning Authority has been provided with a GCN District Level Licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead.

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

Condition 9

Prior to the installation of any external lighting at the site, a lighting design scheme to protect biodiversity shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall identify those features on, or immediately adjoining the site, that are particularly sensitive for bats including those areas where lighting could cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas of the development that are to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the approved scheme and retained thereafter in accordance with the scheme.

Temporary lighting installed during construction shall be provided by mobile solar lighting towers or similar. The lux level shall be approximately 20 lux with a lumen output of 10 - 40K. The construction compound shall not be lit at night outside of core working hours except for welfare and site security cabins that will include low level lighting.

Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species.)

Condition 10

Prior to first use of the development hereby approved a Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the Local Planning Authority prior to beneficial use of the development. The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed to deliver Biodiversity Net Gain.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a 15 year work schedule (including an annual work plan capable of being rolled forward over a five-year period to deliver condition of created and enhanced habitats).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species).

Condition 11

Prior to any substation electricity equipment being erected above ground details of a hard and soft landscaping scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall incorporate a detailed specification including plant/tree types and sizes, plant numbers and distances, soil specification, seeding and turfing treatment, colour and type of material for all hard surface areas and method of laying where appropriate. All areas of hardstanding shall be constructed using porous materials laid on a permeable base unless otherwise agreed in writing by the local planning authority.

All planting, seeding or turfing contained in the approved details of the landscaping scheme shall be carried out in the first planting and seeding seasons following either substantial completion of the development or the development first being brought into use, whichever is the sooner unless otherwise previously agreed in writing by the

local planning authority. All hard surface areas agreed as part of the scheme shall be carried out before the first occupation of the buildings or upon the completion of the development whichever is the earlier. Any trees or plants which die, are removed, or become seriously damaged, or diseased within a period of 5 years from the completion of the development shall be replaced in the next planting season with others of a similar size and species unless the local planning authority gives written consent to any variation

Reason: To enhance the appearance of the development.

Condition 12

Prior to the implementation of the landscaping scheme pursuant to Condition 11 of this permission, an irrigation and maintenance regime shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall be implemented in accordance with the approved irrigation and maintenance regime.

Reason: To ensure that the landscaping scheme is able to fully establish in the interests of the appearance of the development and amenity of future and that of adjoining occupiers.

Condition 13

All areas of hardstanding shall be constructed using porous materials laid on a permeable base.

Reason: To prevent the increased risk of flooding.

Condition 14

The development shall be carried out in accordance with the management and best guidance practice measures as detailed in the approved Noise Assessment (Appendix 10).

Reason: In the interests of neighbouring amenity.

Condition 15

Prior to commencement of development a Written Scheme of Investigation (WSI) which shall include details for a programme of archaeological investigation for monitoring shall be submitted to and approved in writing by the Local Planning Authority.

Reason: The site may be of archaeological interest

Condition 16

A final archaeological report or (if appropriate) a Post Excavation Assessment report and an Updated Project Design shall be submitted to and approved in writing by the Local Planning Authority. This shall be submitted within 6 months of the date of completion of the archaeological fieldwork. This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

Reason: The site maybe of archaeological interest.

Condition 17

Prior to commencement of the development a Construction Traffic Management Plan, which shall include but not be limited to, details of vehicle/wheel cleaning facilities within the site and adjacent to the egress onto the highway, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved Construction Traffic Management Plan.

Reason: To protect highway efficiency of movement and safety in accordance with policy DM1 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

Condition 18

No occupation of the development shall take place until the proposal site access arrangements as shown in principle on planning application drawing number PDD-21847-CIV-022 Rev. P02 have been provided or completed.

Reason: To protect highway efficiency of movement and safety in accordance with policy DM1 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011

Condition 19

Should contamination be found that was not previously identified, that contamination shall be made safe and reported immediately to the Local Planning Authority. The site shall be re-assessed in accordance with Paragraph 8.2.2 of the Applicant's Environmental Appraisal (CEMP V3) and a separate remediation scheme shall be submitted to and approved in writing by the Local Planning Authority. Such approved measures shall be implemented and completed prior to the operation of the development.

Reason: In interests of neighbouring amenity.

Condition 20

There shall be no deliveries or construction vehicle movements to, from or within the premises outside the following times:

- Monday to Friday 0700 hours - 1900 hours;
- Saturday, Sundays, Public and Bank Holidays - 0800 hours - 1700 hours.

Reason: In interests of neighbouring amenity.

Condition 21

The applicant shall adhere to the actions and commitments contained within the Construction Environment Management Plan (CEMP, July 2022, V3) at all times as appropriate before, during, and after construction of the development.

Reason: In interest of neighbouring amenity.

Informative(s)

Informative 1

- Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to suds@essex.gov.uk.
- Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
- Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.
- It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners

Informative 2

- Prior to any works taking place in the highway the developer should enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works
- All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible)
- All work within or affecting the highway should be laid out and constructed by prior arrangement with and to the requirements and satisfaction of the Highway Authority, details to be agreed before commencement of the works. An application for the necessary works should be made to development.management@essexhighways.org or SMO1 - Essex Highways, 653, The Crescent, Colchester Business Park, Colchester, CO4 9YQ

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and has granted planning permission in accordance with the presumption in favour of sustainable development, as set out in the National Planning Policy Framework.

APPENDIX 2:POLICY CONSIDERATIONSNational Planning Guidance

National Planning Policy Framework (NPPF)
 National Planning Practice Guidance (NPPG)

Braintree District Local Plan 2013 - 2033

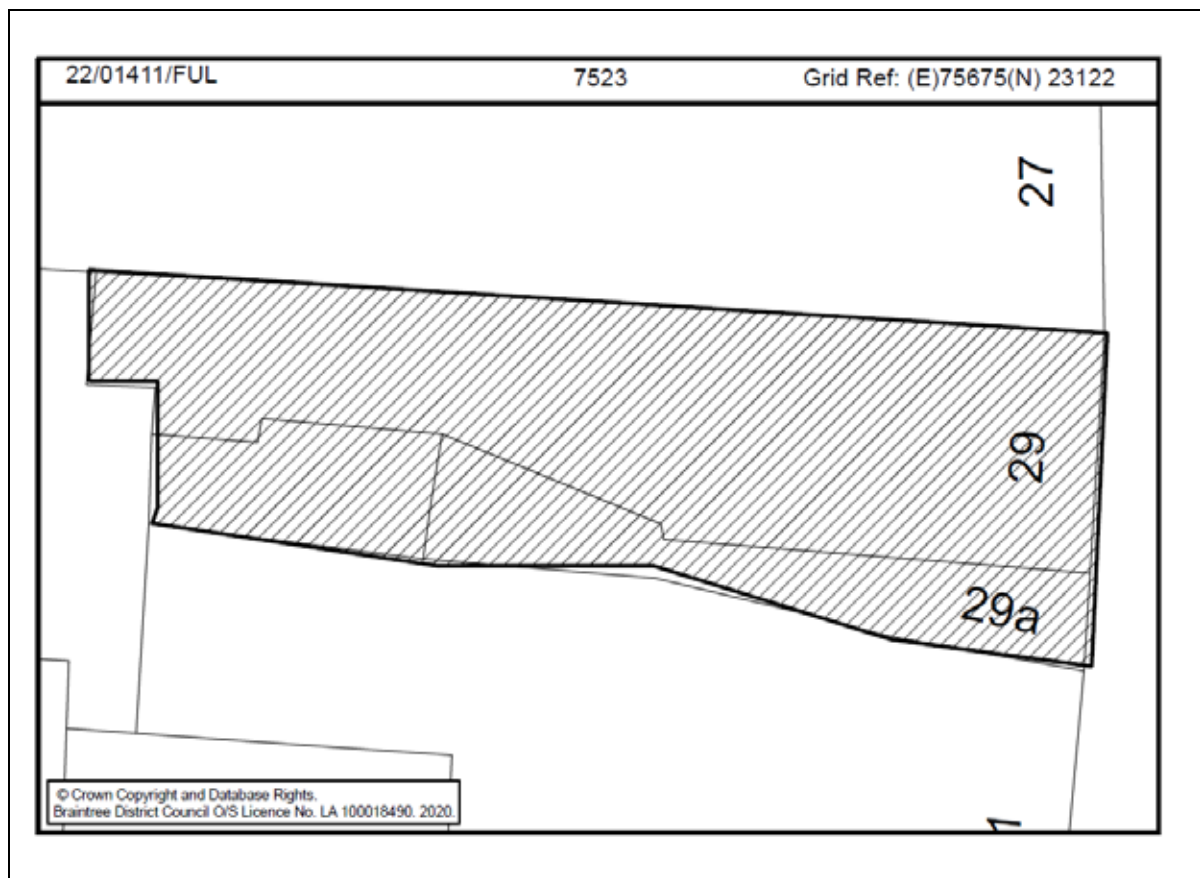
SP1	Presumption in Favour of Sustainable Development
SP6	Infrastructure & Connectivity
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP43	Parking Provision
LPP52	Layout and Design of Development
LPP57	Heritage Assets and their Settings
LPP59	Archaeological Evaluation, Excavation and Recording
LPP63	Natural Environment and Green Infrastructure
LPP64	Protected Sites
LPP65	Tree Protection
LPP67	Landscape Character and Features
LPP70	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP71	Climate Change
LPP72	Resource Efficiency, Energy Generation and Energy Efficiency
LPP73	Renewable Energy Schemes
LPP74	Flooding Risk and Surface Water Drainage
LPP77	External Lighting

APPENDIX 3:SITE HISTORY

Application No:	Description:	Decision:	Date:
90/01266/PFHN	Display Of Nameboard	Refused	12.09.90
22/70003/PPA	A new 400/132 kilovolt (kV) Grid Supply Point (GSP) substation including two supergrid transformers, associated buildings, equipment, and switchgear, a single circuit cable sealing end compound, a new permanent vehicular access to the public highway, associated landscaping (including boundary fencing, an area for Biodiversity Net Gain, and landscape mounding) and drainage		
22/01015/OHL	Overhead line works associated with proposed grid supply point substation at Butlers Wood	Granted	22.07.22

Agenda Item: 5e

Report to: Planning Committee		
Planning Committee Date: 18th October 2022		
For: Decision		
Key Decision: No		Decision Planner Ref No: N/A
Application No:	22/01411/FUL	
Description:	Change of Use of ground floor from Retail Shop (Use Class E) to Adult Gaming Centre (Use Class Sui Generis).	
Location:	Edinburgh Woollen Mill, 29 Bank Street, Braintree	
Applicant:	Merkur Slots UK Limited, C/O Agent	
Agent:	Mr James Baker, Planning Potential Ltd., Magdalen House, 148 Tooley Street, London, SE1 2TU, United Kingdom	
Date Valid:	31st May 2022	
Recommendation:	It is RECOMMENDED that the following decision be made: § Application REFUSED for the reasons outlined within Appendix 1 of this Committee Report.	
Options:	The Planning Committee can: a) Agree the Recommendation b) Vary the Recommendation c) Overturn the Recommendation d) Defer consideration of the Application for a specified reason(s)	
Appendices:	Appendix 1:	Reason(s) for Refusal Submitted Plan(s) / Document(s)
	Appendix 2:	Policy Considerations
	Appendix 3:	Site History
Case Officer:	Fay Fisher For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2507, or by e-mail: fay.fisher@braintree.gov.uk	

Application Site Location:

Purpose of the Report:	The Committee Report sets out the assessment and recommendation of the abovementioned application to the Council's Planning Committee. The report sets out all of the material planning considerations and the relevant national and local planning policies.
Financial Implications:	<p>The application was subject to the statutory application fee paid by the applicant for the determination of the application.</p> <p>There are no direct financial implications arising out of the decision, notwithstanding any costs that the Council may be required to pay from any legal proceedings. Financial implications may arise should the decision be subject to a planning appeal or challenged via the High Court.</p>
Legal Implications:	<p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either set out the relevant Conditions & Reasons and any Informatives, or the Reasons for Refusal if applicable.</p> <p>All relevant policies are set out within the report, within Appendix 2.</p>
Other Implications:	The application has been subject to public consultation and consultation with relevant statutory and non-statutory consultees. All responses received in response to this consultation are set out within the body of this Committee Report.
Equality and Diversity Implications	<p>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:</p> <ul style="list-style-type: none"> 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; c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting

	<p>understanding.</p> <p>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).</p> <p>The consideration of this application has not raised any equality issues.</p>
Background Papers:	<p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> § Application Form § All Plans and Supporting Documentation § All Consultation Responses and Representations <p>The application submission can be viewed online via the Council's Public Access website: www.braintree.gov.uk/pa by entering the Application Number: 22/01411/FUL.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> § National Planning Policy Framework (NPPF) § Braintree District Local Plan 2013 – 2033 § Neighbourhood Plan (if applicable) § Supplementary Planning Documents (SPD's) (if applicable) <p>The National Planning Policy Framework can be viewed on the GOV.UK website: www.gov.uk/. The other abovementioned policy documents can be viewed on the Council's website: www.braintree.gov.uk.</p>

1. EXECUTIVE SUMMARY

- 1.1. The application site is located on the western side of Bank Street in Braintree Town Centre. It is situated within the Braintree Conservation Area and is within the identified 'Primary Shopping Frontage' of the designated 'Primary Shopping Area' as defined within the Adopted Local Plan.
- 1.2. The proposal would involve the change of use of the building from a Use Class E retail unit to a Sui Generis Use comprising of a 24hr adult gaming centre. The operation would be as an entertainment centre providing gambling slot machines, bingo tables/tablets and similar.
- 1.3. The proposed use conflicts with Policy LPP10 of the Adopted Local Plan in that it would introduce a non-commercial use (Use Class E) or non-local community use (Use Classes F.1 and F.2) into a Primary Shopping Frontage. There are no objections raised from a heritage, environmental or highway perspective, however, the proposed use would introduce a break in the established retail frontage along Bank Street which is considered to be to the detriment of the vitality and viability of the Primary Shopping Frontage and would be harmful to the Braintree Town Centre Primary Shopping Area.
- 1.4. Whilst the application unit has been vacant since 2019, the benefits of bringing the unit into use as an adult gaming centre do not outweigh the harm identified to Braintree Town Centre and the Primary Shopping Area.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

- 2.1 This application is being reported to Planning Committee in accordance with Part A of the Council's Scheme of Delegation, as the application is deemed to be 'significant' by the Planning Development Manager.

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

- 5.1 29 Bank Street is currently a vacant Use Class E retail unit, which was last occupied by 'Edinburgh Woollen Mill' and which is located within Braintree Town Centre. The unit is situated within the identified 'Primary Shopping Frontage' of the designated 'Primary Shopping Area' as defined within the Adopted Local Plan.
- 5.2 The unit has been vacant since 'Edinburgh Woollen Mill' ceased trading in 2019 and appears to be in a poor state of repair. The building adjoins No.31 Bank Street, which is a Grade II Listed Building and it is also situated within the Braintree Conservation Area.

6. PROPOSAL

- 6.1 This application is for the change of use of the ground floor of the building from retail Use Class E to a Sui Generis Use as an Adult Gaming Centre. The Adult Gaming Centre would comprise gambling slot machine games and electronic bingo tablet/tables. The unit would be accessible to over 18s only and would operate 24 hours a day.
- 6.2 The operation would be supervised at all times with complimentary refreshments served to customers. There would be no sale or consumption of alcohol on the premises.

7. SUMMARY OF CONSULTATION RESPONSES

7.1 BDC Environmental Health

- 7.1.1 The Noise Impact Assessment 'Merkur Slots, 29 Bank Street, Braintree Noise Assessment Ref. No. PR2001_92_RI_FINAL' has been examined and subject to the adoption of the recommended controls detailed within the Noise Assessment, no comments/objections regarding this application are made on Environmental Health grounds.

7.2 BDC Historic Buildings Consultant

- 7.2.1 No objections, the proposed change of use would be considered to have a neutral impact on the character and appearance of the Conservation Area when compared to its current state.

7.3 ECC Highways

- 7.3.1 No comments to make on proposal.

8. PARISH / TOWN COUNCIL

8.1 Parish/Town Council

- 8.1.1 N/A.

9. REPRESENTATIONS

- 9.1 2 letters of representation have been received as follows:

- 9.1.1 No.82 Rosemary Avenue, Braintree - Braintree does not need an adult gaming centre it would be totally detrimental to the area and it would not be in keeping with the Conservation Area.

- 9.1.2 Elias Topping Ltd - A further gambling/gaming use within a prominent building would not contribute or enhance the main shopping area of the town. The use would replicate a number of similar betting offices located nearby and further dilute the retail offer in this part of the centre, thereby undermining the vibrancy of the Primary Frontage.

10. PRINCIPLE OF DEVELOPMENT

- 10.1 Paragraph 86 of the NPPF states that Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. Planning policies should inter alia, define a network and hierarchy of town centres and promote their long-term vitality and viability – by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters and define the extent of town centres and primary shopping areas, and make clear the range of uses permitted in such locations, as part of a positive strategy for the future of each centre.

- 10.2 With regards to the above, Policy LPP10 of the Adopted Local Plan states that “*within the Primary Shopping Areas, as defined on the Proposals Maps, primary and secondary frontages have been identified.*” It also states that “*a balance between retail shops and non-retail town centre uses has to*

be maintained in order to secure the vitality and viability of the primary shopping area”.

- 10.3 Policy LPP10 also states that “*Commercial (Use Class E) and Local Community uses (Use Classes F.1 and F.2) will be permitted within primary frontages. Pubs and drinking establishments, Hot food takeaways, Cinema, concert halls, music venues and similar will be permitted within secondary frontages.*”
- 10.4 Primary frontages have been identified as those which attract a higher level of rental income, footfall and where key stores are present and are therefore considered to be the most attractive retail areas within town centres. The secondary frontages have a lower rent profile and are not as attractive to main retail uses. However, it would still be suitable to promote town centre uses in these locations, although more flexibility is appropriate. Uses acceptable in secondary frontages include E, F1, pubs or other drinking establishments, hot food takeaways and cinema, concert halls or other music or community venues which are considered ‘Sui Generis’.
- 10.5 The site is also within the Braintree Conservation Area boundary wherein Policy LPP53 of the Adopted Local Plan states that the Council will encourage the preservation and enhancement of the character and appearance of designated Conservation Areas and their settings. These include the buildings, open spaces, landscape and historic features and views into, out from and within the constituent parts of designated areas. Built or other development within or adjacent to a Conservation Area and affecting its setting will be permitted provided the proposal enhances the character, appearance and essential features of the Conservation Area or its setting and the details of existing buildings which make a positive contribution to the character and appearance of the Conservation Area are retained.
- 10.6 In this case, the site is located within the ‘Primary Shopping Area’ of Braintree town centre, where the proposed ‘Sui Generis’ use, as an Adult Gaming Centre, falls outside the uses stated within Policy LPP10 of the Braintree District Local Plan. As such the proposal would be contrary to policy.

11. SITE ASSESSMENT

- 11.1.1 The application site is located at the historic core of Braintree Town Centre and contributes positively to the predominantly commercial character of the street. It adjoins No.31 Bank Street to the south which is a Grade II Listed building, and opposite is No.40 Bank Street which is also listed. The surrounding units provide a varied mix of uses relating to retail interspersed with banks and cafes.
- 11.1.2 The NPPF requires that local planning policies should seek to allow Town Centres to grow and diversify in response to rapid changes in retail and leisure, allowing a suitable mix of uses reflecting their character, it also

says that Local Planning Authorities should define the extent of primary and secondary shopping areas and make clear which uses will be permitted in each. As such, in accordance with the NPPF, the Adopted Local Plan clearly sets out the uses which are considered to be appropriate and acceptable within the 'Primary Shopping Frontage' of Braintree Town Centre.

- 11.1.3 Notwithstanding the clear conflict with adopted policy, Officers consider that there is some weight that can be attributed to supporting the proposal given that the unit has sat empty for some time. The Applicant has provided a marketing appraisal which shows that the unit has been marketed for approximately 18 months prior to a lease being agreed with Merkur Slots Ltd in February 2022. The appraisal also indicated that there had been interest in the building, but that feedback shows that the area is lacking in vibrancy.
- 11.1.4 From a heritage perspective, the change of use of the building is not considered to have an adverse impact on the site's contribution to the Conservation Area, nor the setting of the adjacent listed buildings. The Heritage Officer has identified that the internal alterations would be minimal and the resulting visual impact of the change of use is considered to have a 'neutral impact' on the Conservation Area when compared to the current visual impact of the empty building.
- 11.1.5 In terms of the visual impact that the new use would have on the Primary Shopping Frontage, the building, whilst not a listed building is located the Conservation Area and forms part of an attractive historic retail frontage with glazed display windows. Whilst no detail has been provided regarding the application of any vinyl window coverings, it has been identified that in other locations that Merkur Slots use vinyl coverings on the windows to obscure the visual permeability into the building. Should planning permission be granted in this case and the windows obscured in this way, it is considered that this would have a detrimental impact on the way in which the established retail frontage of Bank Street would be experienced and would create an area of dead frontage within the 'Primary Shopping Frontage' which should have activity, vibrancy and vitality and be inclusive for all to experience and enjoy. However, as stated above, no such detail has been submitted with the application to indicate that this would be the case and therefore no weight can be attributed to this. Against this context it should also be noted that such vinyl coverings would also likely not require permission from the Local Planning Authority to be installed.
- 11.1.6 Whilst the use would provide a direct service to the general public, meaning that there would be patrons coming and going from the site, this may also result in those patrons spending further time within the town centre adding to the economic activity of the area and supporting other surrounding shops and services. Notwithstanding this point however, there is no evidence to suggest that this benefit would be any greater than if the unit were to be occupied and operated by another use which is identified and deemed appropriate in this location in accordance with adopted policy. Therefore,

this benefit is not unique to the proposed 'Sui Generis' Adult Gaming Centre Use. Furthermore, the use would not be open and accessible to all being limited to over 18s only.

11.1.7 It should also be noted that the period to which the unit has been empty and marketed was during the Covid-19 pandemic and therefore it is anticipated that the potential uptake of the building would be to a lower than expected level. The building frontage is also in need of repair and this is considered to be a contributing factor in terms of the lack of potential uptake. However, the existing state of repair and lack of up-keep by the owner does not justify the introduction of an inappropriate use.

11.1.8 It is acknowledged that bringing an empty unit back into active use would be positive, particularly given that visual impact with regard to the gradual decaying façade of the building. However, it is also considered that in supporting a use which falls outside of that defined within adopted policy would not be a desirable solution in the long term. The loss of the existing retail display area is contrary to the aims of the Council in providing a vibrant and inclusive environment in this town centre location.

11.1.9 While it is accepted that the use could be supported within the Secondary Retail Frontage within the Town Centre, the visual impact of the proposed use and the loss of a retail unit within this prominent town centre location within a Primary Retail Frontage, would be harmful to the vibrancy of the historic market town of Braintree and its on-going viability as a shopping centre. As such the benefits of bringing the unit into active use do not outweigh the long-term impact of the proposal and its conflict with Policy LPP10 of the Adopted Local Plan.

11.2 Highway Considerations

11.2.1 The application site is located within a highly accessible town centre location with excellent access to public transport and public parking. It is not anticipated that there would be any highway implications from the proposed development.

11.3 Impact upon Neighbouring Residential Amenity

11.3.1 The application site is located within Braintree Town Centre which is a mixed-use area comprising a variety of commercial and residential uses. In such areas it is expected that there would be activity and operation throughout the day, including late night operation of commercial premises such as restaurants, bars and pubs. A level of noise and disturbance would therefore be experienced and expected by anyone occupying nearby residential units. This is not to say however that unrestricted operation and activity would not be harmful and its impact on residential amenity should be considered in full.

11.3.2 The use of the building for the proposed Sui Generis Use, which will operate 24 hours a day, raises concerns regarding the impact that it may

have on nearby residents. This is with regard to noise from both within the unit, and from patrons coming and going at unsociable hours when a degree of peace and quiet is to be expected. The Applicant has provided a Noise Impact Assessment, Planning Statement and supplementary literature explaining the 'Merkur Slots' business model. This provides evidence that the level of disturbance would be at a low level and unlikely to cause harm given the management, operation and number of patrons expected throughout the night. In consideration of the application submissions no objections have been raised by the BDC Environmental Health Department.

12. CONCLUSION

- 12.1 In this case, the use of the building as an entertainment venue for the provision of slot and gaming machines, falls within a 'Sui Generis' use.
- 12.2 The applicant has provided evidence that the unit has been marketed for a period of two years and there has been little uptake. The proposed use would occupy a unit which has been vacant for some time within the identified Primary Shopping Area. The benefits derived by bringing the unit back into use comprise input into the local economy, the provision of 7 jobs and the active occupation of a currently vacant unit.
- 12.3 Whilst the benefits of the proposal are noted, they do not overcome the conflict, in principle, with the Adopted Local Plan. In this case, the proposed use falls outside of the uses as defined as appropriate within Policy LPP10 of the Adopted Local Plan. The use would introduce a break in the Primary Shopping Frontage and this is considered to be detrimental to the viability and vitality of Braintree Town Centre.
- 12.4 The visual impact to the ground floor façade of the building is considered relevant and significant in this instance. The loss of the retail display areas would result in a visual break in the retail frontage, removing activity and vibrancy to the detriment of the Primary Shopping Frontage.

13. RECOMMENDATION

- 13.1 It is RECOMMENDED that the following decision be made:
Application REFUSED for the reasons outlined within APPENDIX 1.

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

APPENDIX 1:REASON(S) FOR REFUSAL / SUBMITTED PLAN(S) / DOCUMENT(S)Submitted Plan(s) / Document(s)

Plan Description	Plan Ref	Plan Version
Location Plan	N/A	N/A
Block Plan	N/A	N/A
Existing Floor Plan	999-EX-01	N/A
Existing Elevations	999-EX-02 00	N/A
Proposed Floor Plan	999-PL-10 00	N/A
Proposed Plans	999-PL-11 00	N/A

Reason(s) for Refusal

Reason 1

The proposed Change of Use to an 'Adult Gaming Centre' would introduce an inappropriate use to the Primary Shopping Frontage of the Braintree Town Centre Primary Shopping Area. The proposed use would result in a break in the primary retail frontage, removing the activity associated with a retail shop and this is considered to be to the detriment of the vitality and viability of the Town Centre location. The proposal would therefore be contrary to the National Planning Policy Framework, and Policy LPP10 of the Braintree District Local Plan 2013 - 2033.

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying the areas of conflict with adopted Policy and National Planning Guidance and setting these out clearly in the reason(s) for refusal. However, as is clear from the reason(s) for refusal, the issues are so fundamental to the proposal that it would not be possible to negotiate a satisfactory way forward in this particular case.

APPENDIX 2:POLICY CONSIDERATIONSNational Planning Guidance

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)

Braintree District Local Plan 2013 - 2033

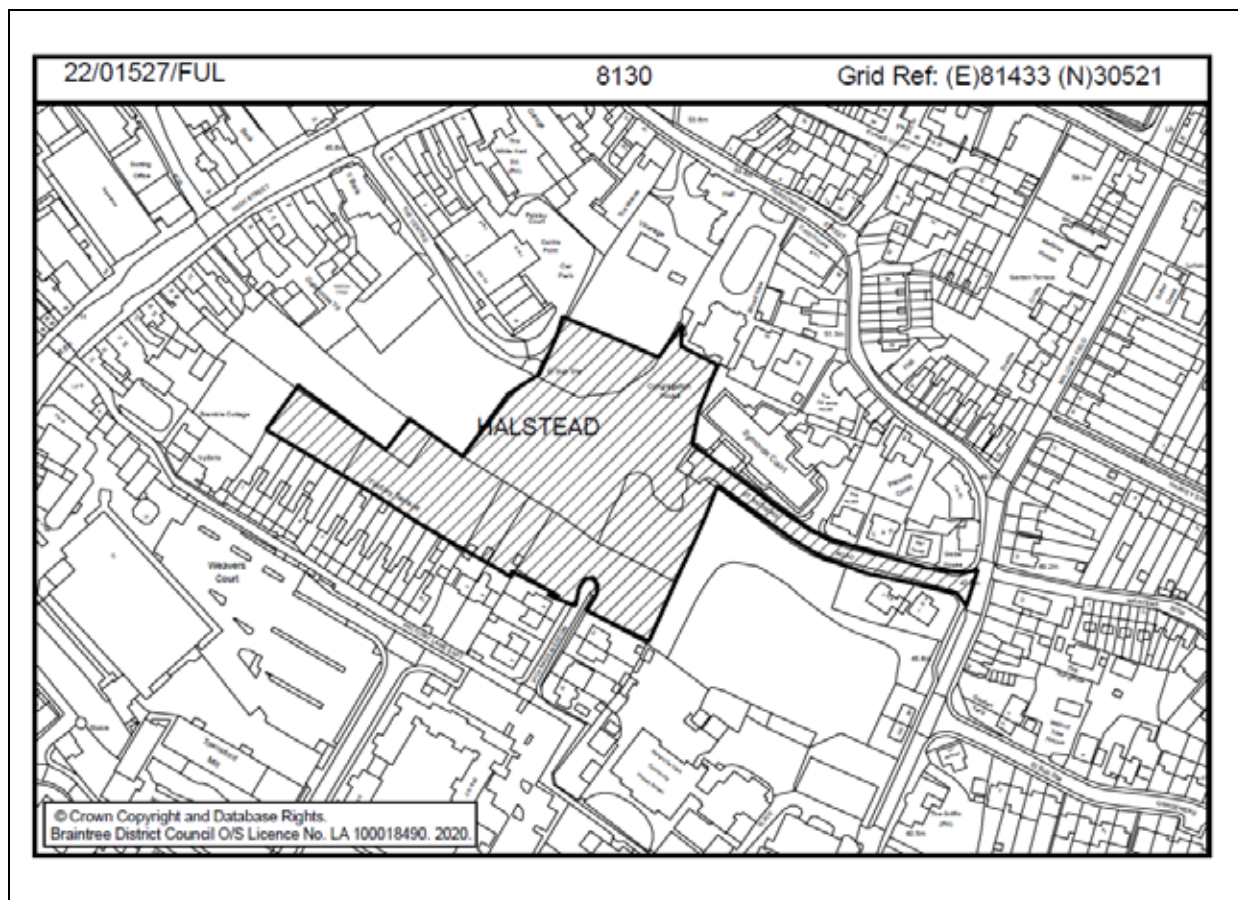
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP10	Primary Shopping Areas
LPP53	Conservation Areas
LPP57	Heritage Assets and their Settings

APPENDIX 3:SITE HISTORY

Application No:	Description:	Decision:	Date:
89/00029/P	Display of fascia and hanging projecting sign	Granted	14.02.89
92/01172/P	Proposed shop sign	Granted	27.11.92
89/00023/P	Display Of Fascia & Hanging Projecting Sign	Granted	06.02.89
91/01336/PFBN	Change Of Use From Chiropodist To Office Use For Telecommunication Company (First & Second Floor Only)	Granted	12.12.91
92/01172/ADV	Proposed shop sign	Granted	19.11.92
99/00589/ADV	Display of fascia and projecting sign	Granted	24.06.99
99/00590/FUL	Installation of new shopfront and signage	Granted	23.06.99
75/00037/A	Fascia sign, projecting sign, illuminated box sign.	Withdrawn	
75/00830/P	Shopfront and extension to form office and flat accommodation	Withdrawn	
76/00390/P	Change of use from storage to offices	Granted	04.06.76
82/01011/P	Proposed change of use from office to chiropodists practice and ancillary offices (1st and 2nd floor)	Granted	
86/00042/A	Display of illuminated fascia sign	Granted	04.12.86
86/01167/P	Erection of rear extension and installation of new shopfront.	Granted	
86/01168/LB	Erection of rear extension and installation of new shopfront	Withdrawn	
22/01412/ADV	Installation of: - 2 externally-illuminated fascia lettering signs - 1 externally-illuminated projecting sign	Pending Consideration	

Agenda Item: 5f

Report to: Planning Committee		
Planning Committee Date: 18th October 2022		
For: Decision		
Key Decision: No		Decision Planner Ref No: N/A
Application No:	22/01527/FUL	
Description:	Proposed 31 No. residential units with associated car parking, amenity areas, external works with the retention of 10 No. WWII Air Raid Shelters and 1No. Wardens Hut.	
Location:	Land East Of High Street Halstead	
Applicant:	Halstead New Homes Ltd, Sam Abraham, 20 Launcestone Close, Earley, Reading, RG6 5RY	
Agent:	B3 Architects, Mr Terry Crane, Audley House, Berechurch Hall Road, Colchester, CO2 9NW	
Date Valid:	10th June 2022	
Recommendation:	It is RECOMMENDED that the following decision be made: § Application REFUSED for the reasons outlined within Appendix 1 of this Committee Report.	
Options:	The Planning Committee can: a) Agree the Recommendation b) Vary the Recommendation c) Overturn the Recommendation d) Defer consideration of the Application for a specified reason(s)	
Appendices:	Appendix 1:	Reason(s) for Refusal Submitted Plan(s) / Document(s)
	Appendix 2:	Policy Considerations
	Appendix 3:	Site History
Case Officer:	Melanie Corbishley For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2527, or by e-mail: melanie.corbishley@braintree.gov.uk	

Application Site Location:

Purpose of the Report:	The Committee Report sets out the assessment and recommendation of the abovementioned application to the Council's Planning Committee. The report sets out all of the material planning considerations and the relevant national and local planning policies.
Financial Implications:	<p>The application was subject to the statutory application fee paid by the applicant for the determination of the application.</p> <p>There are no direct financial implications arising out of the decision, notwithstanding any costs that the Council may be required to pay from any legal proceedings. Financial implications may arise should the decision be subject to a planning appeal or challenged via the High Court.</p>
Legal Implications:	<p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either set out the relevant Conditions & Reasons and any Informatives, or the Reasons for Refusal if applicable.</p> <p>All relevant policies are set out within the report, within Appendix 2.</p>
Other Implications:	The application has been subject to public consultation and consultation with relevant statutory and non-statutory consultees. All responses received in response to this consultation are set out within the body of this Committee Report.
Equality and Diversity Implications	<p>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:</p> <ul style="list-style-type: none"> 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; c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting

	<p>understanding.</p> <p>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).</p> <p>The consideration of this application has not raised any equality issues.</p>
Background Papers:	<p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> § Application Form § All Plans and Supporting Documentation § All Consultation Responses and Representations <p>The application submission can be viewed online via the Council's Public Access website: www.braintree.gov.uk/pa by entering the Application Number: 22/01527/FUL.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> § National Planning Policy Framework (NPPF) § Braintree District Local Plan 2013 - 2033 § Neighbourhood Plan (if applicable) § Supplementary Planning Documents (SPD's) (if applicable) <p>The National Planning Policy Framework can be viewed on the GOV.UK website: www.gov.uk/.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: www.braintree.gov.uk.</p>

1. EXECUTIVE SUMMARY

- 1.1 The application site is approximately 1.8 hectares in size and is located to the east of Halstead High Street. The application site is an irregular shape and slopes from north to south with the land falling by approximately 10 metres between the northern and southern boundaries. The site is currently undeveloped and overgrown with vegetation and trees; a number of these trees are mature and subject to Tree Preservation Orders. Fifteen underground WWII air raid shelters and an above ground shelter associated with the former Courtauld's Mill and Factory remain on site, stretching along the southern boundary of the site in two staggered rows.
- 1.2 Abutting the site to the north is The Centre and the rear gardens of the Vicarage and Congregation House (a Grade II listed building) which are residential properties along Parsonage Street. Immediately to the east of the site lies the Richard de Clare Primary School playing fields and Symonds Court (which provides accommodation for older people). To the south of the site are the residential properties on Factory Lane East and Vicarage Meadow. The terraced houses along Factory Lane East are Grade II listed and situated within the Conservation Area. The residential properties on Vicarage Meadow are also situated within the Conservation Area.
- 1.3 This application is seeking full planning permission for 31no. residential units with associated car parking, amenity areas, external works. The proposals also retain 10no. WWII Air Raid Shelters and 1No. Wardens Hut.
- 1.4 The application site is an allocated site within the Adopted Local plan (Policy LPP23 - Land East of Halstead High Street between The Centre and Factory Terrace) as a Comprehensive Redevelopment Area which could include new homes, retail and commercial space, open space and community uses.
- 1.5 Officers consider that the proposals fails to provide sufficient information regarding the retention and long term maintenance and management of the remaining air raid shelters and this also means that a full assessment of the proposals in relation to the surrounding heritage assets cannot be carried out. Further harm is caused by the poor layout and design of the properties, along with the lack of affordable housing provision and specialist ecology information.
- 1.6 As set out above, Officers consider that the proposed development would result in 'less than substantial harm' to the significance of designated and non-designated heritage assets. In accordance with Paragraph 11d) (i) of the NPPF, where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless, the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. In this case the identified heritage harm provides clear reason for refusing the application.

- 1.7 On this basis, Paragraph 11d) (ii) of the NPPF is not engaged. However, in the event that the tilted balance was to apply, Officers consider that the harm identified within this report would significantly and demonstrably outweigh the public benefits and the application should be refused in any event.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

- 2.1 This application is being reported to Planning Committee in accordance with Part A of the Council's Scheme of Delegation as the application is categorised as a Major planning application.

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

- 5.1 The application site is approximately 1.8 hectares in size and lies to the east of Halstead High Street. The application site is an irregular shape and slopes from north to south with the land falling by approximately 10 metres between the northern and southern boundaries. The site is currently undeveloped and overgrown with vegetation and trees; a number of these trees are mature and subject to Tree Preservation Orders. Fifteen underground WWII air raid shelters and an above ground shelter associated with the former Courtauld's Mill and Factory remain on site, stretching along the southern boundary of the site in two staggered rows.
- 5.2 Abutting the site to the north is The Centre and the rear gardens of the Vicarage and Congregation House (a Grade II listed building) which are residential properties along Parsonage Street.
- 5.3 Immediately to the east of the site lies the Richard de Clare Primary School playing fields and Symonds Court (which provides accommodation for older people).
- 5.4 To the south of the site are the residential properties on Factory Lane East and Vicarage Meadow. The terraced houses along Factory Lane East are Grade II listed and situated within the Conservation Area. The residential properties on Vicarage Meadow are also situated within the Conservation Area. Beyond Factory Lane East to the south is the Co-Op supermarket and a number of small-scale retail units with associated car parking facilities alongside.
- 5.5 To the west of the site are the buildings which front the High Street. The built form along the High Street is characterised by established two and three storey terraces with predominantly retail units at ground floor level and commercial premises above. The majority of these buildings are also Grade II listed.

6. PROPOSAL

- 6.1 The application seeks full planning permission for 31no. residential units with associated car parking, amenity areas, external works. The proposals also retains 10no. WWII Air Raid Shelters and 1no. Wardens Hut.
- 6.2 The dwellings take the form of 2 pairs of semi-detached houses, 6 detached houses, a terrace of 5 dwellings, 2, two storey blocks of flats containing 4 units each and one two storey block of flats containing 2 units. The layout plan also indicates car parking, private gardens and public open space.
- 6.3 The application is supported by the following documents:
- Arboricultural Impact Assessment
 - Ecological Appraisal
 - Statement of Community Involvement
 - Transport Note
 - Design and Access Statement
 - Heritage Statement
 - Townscape and Visual Impact Assessment
- 6.4 The density of the development would be approximately 24 dwellings per hectare over an area of 1.28ha.

7. SUMMARY OF CONSULTATION RESPONSES

7.1 Anglian Water

- 7.1.1 There are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development boundary that may affect the layout of the site. Anglian Water would ask that an informative be included within your Notice should permission be granted.
- 7.1.2 The foul drainage from this development is in the catchment of Halstead Water Recycling Centre that will have available capacity for these flows.
- 7.1.3 This response has been based on the following submitted documents: Application form, site location plan, Drainage documentation Development will lead to an unacceptable risk of flooding downstream. Anglian Water will need to plan effectively for the proposed development, if permission is granted. We will need to work with the applicant to ensure any infrastructure improvements are delivered in line with the development. A full assessment cannot be made due to lack of information, the applicant has not identified a discharge regime, whether this be pumped or gravity. Anglian Water require this information to be submitted so that we can accurately assess the existing network. We therefore request a condition requiring on-site drainage strategy.

- 7.1.4 The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer.
- 7.1.5 Concerns raised with regards the submitted drainage documents.
- 7.2 Environment Agency
- 7.2.1 No comments to make on the above application.
- 7.3 Essex Fire and Rescue
- 7.3.1 No comments received.
- 7.4 Essex Police
- 7.4.1 BDC RPL90 (viii) states - Designs and layouts shall promote a safe and secure environment, crime reduction and prevention and shall encourage the related objective of enhancing personal safety.
- 7.4.2 Whilst recognising the important heritage value of the air raid shelters and warden building, we would seek to understand what measures will be put in place to secure them from crime and ASB. At this time there are no apparent concerns with the layout, to comment further we would require the finer detail such as the proposed lighting, boundary treatments and physical security measures.
- 7.4.3 We would welcome the opportunity to consult on this development to assist the developer demonstrate their compliance with this policy by achieving a Secured by Design Homes award. An SBD award is only achieved by compliance with the requirements of the relevant Design Guide ensuring that risk commensurate security is built into each property and the development as a whole.
- 7.5 Natural England
- 7.5.1 It has been identified that this development falls within the 'Zone of Influence' (Zoi) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS); see our recent advice to your authority on this issue (our ref: 244199, dated 16th August 2018) for further information.
- 7.5.2 In the context of your duty as competent authority under the provisions of the Habitats Regulations, it is anticipated that, without mitigation, new residential development in this area and of this scale is likely to have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when

considered 'in combination' with other plans and projects. The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Braintree District Council, working together to mitigate the effects arising from new residential development. Once adopted, the RAMS will comprise a package of strategic measures to address such effects, which will be costed and funded through developer contributions.

- 7.5.3 We therefore advise that you consider, in line with our recent advice, whether this proposal falls within scope of the RAMS as 'relevant development'. Where it does, this scale of development would fall below that at which Natural England would offer bespoke advice on this issue. However, in such cases we advise that you must undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation; you should not grant permission until such time as the HRA has been undertaken and the conclusions confirmed.
- 7.6 NHS
- 7.6.1 Financial contribution of £15,400 sought to increase capacity for the benefits of Elizabeth Courtauld Surgery. This may be achieved through any combination of extension, reconfiguration or relocation of premises and/or clinical staff, recruitment or training.
- 7.7 BDC Ecology
- 7.7.1 Holding objection due to insufficient ecological information for Protected Species (Reptiles) and Priority Habitat (Woodland).
- 7.8 BDC Environmental Health
- 7.8.1 No objection, conditions requested regarding contamination, hours of work, no burning, dust and mud control management scheme, and a piling scheme.
- 7.9 BDC Housing Research and Development
- 7.9.1 This application seeks detailed approval for a scheme comprising 31 residential dwellings. In accordance with Affordable Housing Policy CS2 (note this response was received prior to adoption of the new Local Plan), 30% of these dwellings are required to be provided as affordable homes which would equate to 9 dwellings. However, the application is completely silent on affordable housing and the layout has been designed in a manner that has clearly not considered affordable housing provision.
- 7.9.2 We would want to secure 9 units comprising a 70/30 tenure mix of rented units over shared ownership which equates to 6 and 3 units respectively laid out and designed to be appealing to interested housing associations. In line with housing need we consider the mix below would be appropriate for this site.

	No.	Affordable Rent	Shared Ownership
1 bed 2 person maisonette	2	2	0
2 bed 4 person maisonette	2	2	0
2 bed 4 person house	3	0	3
3 bed 5 person house	2	2	0
	9	6	3

7.9.3 Other expectations are that affordable units be compatible with Nationally Described Space Standards and units accessed at ground level be compliant with Building Regulations Part M(2).

7.9.4 We cannot offer any support to this application as it does not meet policy requirements for provision of affordable homes.

7.10 BDC Landscape Services

7.10.1 The application seeks a change of use from an area - largely formed of mixed scrub with an extensive woodland canopy - which will be almost wholly cleared to provide space for the required number of residential units and facilitating infrastructure.

7.10.2 A suitable arboricultural impact assessment has been prepared by Aspect Arboriculture (Ref. 10968 AIA.001 May 2022) which identifies the removal of ten significant trees and a significant amount of interior vegetation, scrub and lesser tree groups. The composition and structure of the woodland is commonplace to many similar unmanaged areas with many self-set stems; although there are only a few prominent trees of individual stature it is difficult to disregard the collective amenity and character provided by an established green canopy in proximity to the town centre along with the cumulative benefit it provides to the local setting abutting the Conservation Area.

7.10.3 A number of prominent trees including some of those covered by a tree preservation order will be retained on the edge of the development; it is also noted that the confines of the layout will require additional root protection measures are put in place to prevent damage to the root plate and root protection zones of those trees in proximity to the new road system.

7.10.4 Replacement of the lost tree cover by individual street trees in the proposed layout will inevitably provide a diminished canopy to the existing extents. Establishment of the new plantings by way of mitigation, if successful within the 5 year term of the condition, will need to be demonstrated by a suitable detailed landscape plan that fulfils the ambitions of the supporting statement in Section 5.1.3 of the supporting AIA to the effect that: - *The requirement to mitigate for tree losses with new tree planting has been recognized during design and accordingly the scheme has sufficient capacity for this to be delivered without any concerns for harming the amenity of the site or the adjacent Conservation Area -*.

- 7.10.5 If the application is approved then Landscape Services would wish to see conditions to cover a suitable Tree Protection Plan that is approved and in place before development commences on site – it is noted that two plans have been submitted with in the AIA document but this may be subject to change; a further condition requiring a suitable Landscape and Ecology and Management Plan for the effective management of the areas of public open space and with particular reference to the management of the trees around the retained air raid shelters will also be required.

7.11 BDC Waste Services

- 7.11.1 Please provide a plan on where each resident will put their bins out for collection and show where 26 tonne refuse vehicles will be able to turn to access all properties on the site. If flats, please provide suitable bin store with refuse and recycling communal bins (1100L bins).

7.12 ECC Archaeology

- 7.12.1 The proposed development lies on land to the rear of the historic town of Halstead which is medieval in origin. Historic mapping reveals that in the 19th century part of the site lay within the landscaped grounds of a garden associated with a property fronting the High Street. The HER records 15 WWII air raid shelters within the site which are recognised as non-designated heritage assets, as a group they hold both local and regional significance as the largest surviving group in Essex. The recommendations from a survey carried out in 2004 for ECC was for the preservation of the group as a whole. Paragraphs 189 and 190 of the NPPF relate to the conservation of heritage assets in a manner appropriate to their significance for the enjoyment of future generations, in order to achieve this plans should set out a positive strategy for the conservation of the structures that are at risk.
- 7.12.2 The application does not provide any detail on how the structures which are proposed to remain within the development will be maintained and there is clearly a need for a conservation management plan to be submitted with the application or to be conditioned. To facilitate this it would be recommended that a full archaeological building survey be carried out on all structures and a site walkover required to investigate the potential for further structures associated with the WWII buildings as well as any other possible historic landscape features associated with the former 19th century landscaped garden. There is potential for archaeological remains to be preserved, relating to the historic town and possibly earlier which will need to be investigated once site conditions allow.
- 7.12.3 Conditions requiring historic building recording and a programme of archaeological investigation.

7.13 ECC Education

- 7.13.1 Essex County Council will not be seeking any S106 Education contributions on this occasion. There is currently sufficient EY&C, Primary and Secondary places to accommodate this proposed development.

7.14 ECC Highways

- 7.14.1 All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to The Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate Notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway.
- 7.14.2 From a highway and transportation perspective, the impact of the proposal is acceptable to the Highway Authority subject to conditions requiring the submission of a construction traffic management plan, the provision of a residential travel information pack for each new resident, and the pedestrian and cycle link between the site and The Centre.

7.15 ECC Historic Buildings Consultant

- 7.15.1 The application site is located outside, but adjacent to the boundary of the Halstead Conservation Area. Adjacent and to the south are the terraced group of Grade II Listed Courtauld buildings on Factory Lane East and forms part of their setting. To the north-east of the site is the Grade II Listed Congregational Church on Parsonage Street. To the west of the site are the rear boundaries of various Grade II Listed buildings fronting the High Street.
- 7.15.2 Within the Site itself the surviving WW2 air raid shelters form a rare group and have an association with Courtaulds which has a fundamental place Halstead's industrial history.
- 7.15.3 The application is missing vital information regarding the management and maintenance of the air raid shelters and the warden shelter.
- 7.15.4 The acceptability of the scheme from a heritage perspective is dependent on the guaranteed future and viable use of the remaining air raid shelters. Paragraphs 196 and 197 of the NPPF are relevant in this case and these state as follows:
- 7.15.5 *196. Where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision.*

- 7.15.6 *197. In determining applications, local planning authorities should take account of: (a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. (b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and (c) the desirability of new development making a positive contribution to local character and distinctiveness.*
- 7.15.7 I note the comments from the Halstead 21st Century Group and agree with their recommendations. Their further involvement in the future could enable the management and upkeep of the structures, with the long-term aim of ensuring public access, interpretation and presentation, in line with Paragraph 197 of the NPPF.
- 7.15.8 Therefore, a Conservation Management Plan accompanying the application would be needed to fully demonstrate implementation of the heritage benefit, resulting from the preservation and reuse of the surviving air raid shelters. This should provide information on how the long-term future conservation, maintenance and management of the shelters would be financed and who is responsible for their management. In addition, further details of how the shelters would be accessed and presented within the development would be needed.
- 7.15.9 Regarding other aspects of the scheme, such as design, materials, landscaping, boundaries and layout, these can be discussed once the conservation and curation of the air raid shelters has been assured, as from a heritage perspective, the acceptability of the proposal is dependent on this element.
- 7.16 ECC Independent Living/ Extra Care
- 7.16.1 No comments received.
- 7.17 ECC Suds
- 7.17.1 No objection. Conditions recommended.
8. TOWN COUNCIL
- 8.1 Halstead Town Council
- 8.1.1 Councillors gave their opinion but did not vote. Councillors noted that the developers had shown sensitivity to the air raid shelters and intended to preserve a good number of them. They hoped that attention would also be paid to walking and cycling routes through the development into the High Street, and to installing EV charge points on all houses. They did not have any objection.

9. REPRESENTATIONS

9.1 23 representations receiving objecting to the proposals, making the following comments:

- Loss of habitat for animals
- Skyline in Halstead will change forever
- Increased traffic congestion in nearby streets
- Application site should be kept as open space
- Insufficient parking
- Insufficient infrastructure in the town
- Historical opportunities should be taken to enhance the town
- Loss of privacy to school playing field
- Lack of affordable housing
- Object to any access through Vicarage Meadow, which is a private road
- Concerns about natural springs within the site and potential for flooding
- Loss of trees, some covered by protection orders
- Loss of heritage assets
- Loss of privacy to Factory Terrace
- Application should be rejected until the wider site can be developed as a whole
- Loss of view
- Disturbance from construction noise, dust etc
- Detrimental impact on Congregation House (listed)
- Proposals are not in keeping with nearby heritage assets
- Elderly housing should be proposed
- Archaeology survey is essential
- Halstead does need another 31 residential units

9.2 **Essex Industrial Archaeology Group** - In summary EIAG opposes the development, specifically the demolition of some of the 15 underground Air Raid Shelters (ARSs) and hence we recommend refusal of the planning application and that the developers be asked to revise the scheme to include the retention of all 15 underground ARSs and then re-submit.

9.3 **Association of Industrial Archaeology** - This proposed development will reduce the surviving number of the Courtaulds Air Raid Shelters from 15 to 10 (the Wardens Hut is excluded in the calculation). These are locally listed and may also be of national importance. They are not listed and so are non-designated heritage assets and so are covered by the NPPF in Section 16. The ground of air raid shelters are an important group and it is insufficient to retain just a sample of them since their importance lies in their number, which in turn reflects the extent and importance of Courtaulds and their employees. Therefore the Association objects to the present application which should be refused.

9.4 **Subterranea Britannica** - Subterranea Britannica opposes the present development proposal because it requires the demolition of five of the sixteen Courtauld air-raid shelters which comprise this unique and

important industrial ARP group. The current development proposal is clearly non-compliant with the Local Plan.

Incremental commercial gain in this infill housing development cannot justify the loss of this unique and historic ARP group. We trust that you will ensure that, in accordance with the approved Local Plan, the retention and refurbishment of the Courtauld shelter group as an entity is a requirement of any development of this site.

9.5 3 general comments received making the following comments:

- Loss of whole group of air raid shelters. Removing any of them conflicts with the local plan.
- Loss of flora and fauna
- Water springs on site
- Could become a forest school
- Tree planting needs to be native species
- A wildlife corridor is required

9.6 **Council for British Archaeology** - The CBA are broadly supportive of the currently proposed scheme, despite the proposed loss of 5 air raid shelters, which will result in harm to their group value. In order for this application to deliver the public benefits from the site's highly locally valued heritage that is offered through the retention of the remaining ARSs, any planning permissions should be conditioned against a conservation management strategy that secures the ARSs' sustainable future. We recommend that the requirements of Paragraphs 190 and 197 of the NPPF are pertinent to this application with regard to the conservation and future management of the ARSs.

9.7 **Halstead 21st Century Group** - Our ambition would be to retain all 15 shelters and the above ground building (possible wardens building) as is set out in the new Braintree District Council Local plan, restoring them to be accessible to the community and visitors for prosperity, enjoyment, and education of future generations.

However, we recognise that this may not be possible, and if we fail to act soon to save as many as we can, they will all be gone. The continued uncertainty for the site has allowed the Air Raid Shelters, Wardens building and Conservation Area as a whole, to become a dumping ground for litter, refuse, and anti-social behaviour. The potential for harm and decay has become a real and impending risk. The continual disturbance and clearance by developer after developer has destabilised the water table and natural springs over many years, resulting in surface and ground water invasion to the shelters and beneath them. As well as encroaching on to, and potentially de-stabilising, the Grade 2 listed buildings in Factory Terrace. This has been one of the main causes of the degradation and if we do not halt this soon, there will be no shelter left to save. A number of conditions are suggested.

10. PRINCIPLE OF DEVELOPMENT

10.1 National Planning Policy Framework (NPPF)

- 10.1.1 As set out in Paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 of the NPPF explains that achieving sustainable development means that the planning system has three overarching objectives: economic; social; and environmental; which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives).
- 10.1.2 Paragraph 9 of the NPPF outlines that planning decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area. In addition, Paragraph 38 of the NPPF prescribes that local planning authorities should approach decisions on proposed development in a positive and creative way and that decision makers at every level should seek to approve applications for sustainable development where possible.
- 10.1.3 Paragraph 12 of the NPPF sets out that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making. In addition, Paragraph 47 of the NPPF states that planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise.
- 10.1.4 The NPPF underlines the Government's objective of significantly boosting the supply of homes. In this regard, Paragraph 60 of the NPPF highlights the importance of ensuring that there is a sufficient amount and variety of land that can come forward where it is needed, that specific housing requirements are met, and that land with permission is developed without unnecessary delay. Paragraph 74 of the NPPF outlines 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 (in the case of Braintree District) our 'local housing need' plus the relevant buffer.
- 10.1.5 In this regard, and in considering the overall planning balance as to whether the proposed development subject to this application constitutes sustainable development, an important material consideration in this case is whether the Council can robustly demonstrate a 5 Year Housing Land Supply. This will affect whether Paragraph 11 of the NPPF is engaged and consequently the weight that can be attributed to the Development Plan (see below).

10.2 5 Year Housing Land Supply

- 10.2.1 The Council has an up-to-date Local Plan which has an approved minimum housing target of 716 new homes per year in the District between 2013 and 2033.
- 10.2.2 To this annual supply the Council must add the backlog which it has not delivered at that level since the start of the Plan period. This figure is recalculated each year and as of April 2022 stands at 1,169 across the 5 Year Housing Land Supply.
- 10.2.3 The Council must also apply a buffer to the housing land supply based on the results of the Housing Delivery Test. In the latest results published on 14th January 2022, the Council had delivered 125% of the homes required. This means that the Council is required to apply the lowest level of buffer at 5%.
- 10.2.4 Taking the above into account the Council's latest 5 Year Housing Land Supply position for 2022-2027 shows a supply of 4.86 years. This position is marginal and with a number of strategic sites starting to deliver homes alongside other permissions that the situation is likely to change.
- 10.2.5 Nevertheless, as the Council cannot demonstrate the required 5 Year Housing Land Supply, the 'tilted balance' of Paragraph 11d) of the NPPF is engaged. It also means that the most important Development Plan policies relevant to the provision of housing are out-of-date. However, this does not mean that Development Plan policies should be completely disregarded. It is for the decision-maker to determine the weight to be attributed to the conflict with those policies.

10.3 The Development Plan

- 10.3.1 The Council's statutory Development Plan consists of the Braintree District Local Plan 2013-2033.
- 10.3.2 The application site is located within a designated town development boundary.
- 10.3.3 Policy LPP1 of the Adopted Local Plan states that development within Town Boundaries will only be permitted where it satisfies amenity, design, environmental and highway criteria and where it can take place without material detriment to the existing character of the settlement. In order for any proposal to be considered acceptable it must therefore provide an acceptable level of amenity for future occupiers and existing adjacent neighbours, be of a high standard of design, make acceptable parking and access arrangements and not have an unacceptably detrimental impact in terms of neighbours, landscape and protected trees.

11. SITE ASSESSMENT

11.1 Location and Access to Services and Facilities

- 11.1.1 Within the Adopted Local Plan part of the site is allocated as a Comprehensive Development Area. Policy LPP23 states the following:

Land East of Halstead High Street between The Centre and Factory Terrace is allocated as a Comprehensive Redevelopment Area which could include new homes, retail and commercial space, open space and community uses.

Redevelopment of the site will need to address the following issues:

- *Satisfactory vehicular, servicing and pedestrian access to the site from the adjoining streets*
- *Appropriate provision of parking, open space and community space*
- *Protection of the setting of listed buildings and enhancement of the Conservation Area including the retention and refurbishment of the air raid shelters*
- *Retention of protected trees and habitat for protected species*
- *Protection of important views into the site, including those from across the valley.*

- 11.1.2 The site's allocation as a Comprehensive Development Area along with the approved Development Brief set out the principles for a mixed-use development of the site and identify the opportunities and constraints that exist. The adoption of the Local Plan in July 2022 also establishes the principle that the site maybe suitable to meet the identified need for additional retailing and car parking with strong links being provided to the High Street and presenting one of the main opportunities for regeneration in Halstead.

11.2 Design, Appearance and Impact upon the Character and Appearance of the Area

- 11.2.1 Paragraph 126 the NPPF highlights that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable developments, creates better places in which to live and work and helps make development acceptable to communities.
- 11.2.2 Paragraph 130 states that planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting.
- 11.2.3 Policy SP7 of the Adopted Local Plan states that all new development must meet high standards of urban and architectural design and provides a number of place making principles

- 11.2.4 In addition to this, Policy LPP52 of the Adopted Local Plan also seeks to secure the highest possible standards of design and layout in all new development and the protection and enhancement of the historic environment.
- 11.2.5 As set out above, the application site forms part of the larger Comprehensive Redevelopment Site and Officers are concerned how the current proposals would enable the development of the whole site at some point in the future, and therefore enable compliance with Policy LPP23. The development proposals do not indicate how they could accommodate the wider site in terms of infrastructure and connectivity. It is extremely important that vacant land so close to the town centre should not be landlocked.
- 11.2.6 The proposed layout shows 31 units which would be a mixture of semi-detached, detached, terraced houses, and flats. The Essex Design Guide (EDG) sets out guidance for the minimum gardens sizes for new properties. In the case of the 2 bedroom property, at least 50sq.m should be provided and for a property with three bedrooms or more, at least 100sq.m should be provided. Units 1 and 7-11 have three bedrooms and have garden sizes below 100sq.m. The EDG also requires a 25m back to back distance between two storey properties. The distance between units 5 and 6 and 12 and 13 is 23.4m. The EDG also states that gardens should be at least 15m in depth where they back onto an existing property. There is a distance of only 13m between the proposed flats (24/26) and No.1 Vicarage Meadow. Unit 18 and 19 are located extremely close to the eastern boundary of the site, so much so that the ground floor windows serving unit 18 would look directly at the boundary with the school playing field belonging to Richard De Clare School. Officers are concerned that the condensed layout would result in a poor level of amenity for new and existing occupiers.
- 11.2.7 In addition to the above, the 10 flats proposed do not appear to have access to private amenity space, and the area of open space to the front of units 18 and 19 would contain two of the air raid shelters, however no details are provided to how this would be landscaped and its appearance.
- 11.2.8 Concerns have been raised by the Council's Waste Team with regards the collection of refuse from each unit. The submitted layout does not contain the relevant information with regards the where the residents of the houses would place their bins for emptying. Only one small bin store is shown for the flats, located in the shared car parking area between units 20-23 and 24-27. The Waste team is not satisfied that this would be sufficient in size for all of the flats proposed, furthermore this is not an appropriate location for units 18, 19 and 28-31. The proposed integral bin store for plots 28-31 is unacceptable due to both fire risk and odour.
- 11.2.9 The Nationally Described Space Standards (NDSS) sets out the requirements for the gross internal floor area of new dwellings at a defined level of occupancy as well as floor areas.

- 11.2.10 For the three-bedroom properties, three floor areas are provided, depending on the occupancy of the dwelling. Units 5, 6, 12 and 13 are shown to contain three double bedrooms and therefore should a minimum internal floor space of 102sq.m. They all only have a floor area of 98sq.m, 4 metres below the minimum requirement. Houses 1-4 have three bedrooms and are shown to have two double rooms and a single bedroom, however the single bedroom is the size capable of accommodating a double bed. Therefore these houses have an occupancy of 6 and would require a minimum of 108sq.m, as the accommodation is provided over three floors. However only 104.5sq.m is provided, 3.5m below the minimum requirements.
- 11.2.11 Policy LPP23 of the Adopted Local Plan states that the redevelopment of the site should include improved pedestrian access from the site to adjoining streets. The submitted block shows that pedestrian access would be provided along St Andrews Road. The plans also shows a proposed pedestrian access from the site to The Centre, however this involves land outside the red line and details have not been provided that this can be provided over either land they the applicant controls or is highway land. Another pedestrian access is shown to the south of the site lying between 6 and 7 Factory Terrace. This land lies outside the red line of the application site and is not a public right of way and therefore cannot be relied upon as a pedestrian access into and out of the site. Officers are concerned that the application site would only have one pedestrian access route, which would conflict with the requirement of Policy LPP23.
- 11.2.12 Officers consider that many of the proposed elevations are just too busy, overly crowded with detail and 'squeezed in' features, and then some others require more visual interest as there are large, whole gables of brickwork. It is considered that the scheme is architecturally fragmented rather than providing variety across the site.
- 11.2.13 The proposals are therefore unacceptable, resulting in a poor level of amenity for future occupiers, existing occupiers, a poor contrived layout with unacceptable elevational details conflicting with the NPPF, Policies SP7, LPP23 and LPP52 of the Adopted Local Plan.

11.3 Heritage

- 11.3.1 The site is located partly within the Conservation Area and abuts the boundary to the Grade II listed Factory Terrace and numerous listed properties on the east side of the High Street. The site also contributes to the setting of many other listed buildings including the Grade I listed St Andrews Church and Grade II listed United Reform Church. The proposal also involves the loss of 5 WWII curtilage listed and non-curtilage air raid shelters associated with the Courtaulds Factory (demolished in 1986) to the rear of Factory Terrace.
- 11.3.2 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that when considering a grant of planning permission that

affects a listed building special regard shall be given to the desirability of preserving its setting.

- 11.3.3 Paragraph 199 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 11.3.4 Paragraph 201 states that where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:
- a) The nature of the heritage asset prevents all reasonable uses of the site; and
 - b) No viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
 - c) Conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
 - d) The harm or loss is outweighed by the benefit of bringing the site back into use.
- 11.3.5 Policies LPP47 and LPP57 of the Adopted Local Plan seek to conserve local features of architectural, historic and landscape importance and the setting of listed buildings.
- 11.3.6 Part of the site is located within the Conservation Area Boundary. Policy LPP53 of the Adopted Local Plan states *'The Council will encourage the preservation and enhancement of the character and appearance of designated Conservation Areas and their settings. These include the buildings, open spaces, landscape and historic features and views into, out from and within the constituent parts of designated areas. Built or other development within or adjacent to a Conservation Area and affecting its setting will be permitted provided that all the following criteria are met:*
- a. Where the proposal enhances the character, appearance and essential feature of the Conservation Area or its setting*
 - b. Details of existing buildings which make a positive contribution to the character and appearance of the Conservation Area will be retained*
 - c. Building materials are of high quality and appropriate to the local context'.*
- 11.3.7 The site is surrounded by listed buildings and contains the air raid shelters, many of which are considered to be curtilage listed by virtue of their relationship with the listed Factory Terrace. Policy LPP57 of the Adopted

Local Plan states that '*Development of internal, or external alterations, or extensions, to a listed building or listed structure (including any structures defined as having equivalent status due to being situated within the curtilage of a listed building and locally listed heritage assets) and changes of use will be permitted when all the following criteria are met:*

For designated heritage assets:

The development meets the tests set out in national policy.

For all heritage assets:

- a. The works or uses include the use of appropriate materials and finishes*
- b. The application submitted contains details of the significance of the heritage asset, within a Heritage Statement which should include any contribution made by their setting*
- c. There may be a requirement for appropriate specialist recording to be carried out prior to the change of use, demolition or conversion of a listed building or associated historic building.*

The Council will seek to preserve and enhance the immediate settings of heritage assets by appropriate control over the development, design and use of adjoining land'.

- 11.3.8 The vegetated nature of the site contributes significantly to the setting of the Conservation Area and the listed buildings along its edge. In longer views from the opposite valley side, the green area of woodland contrasts with and offsets the small scale roofs of the urban development of the High Street. It provides a backdrop to the listed Factory Terrace and a foreground for St Andrews Church and the United Reformed Church, separating them from the smaller scale building on the High Street and enhancing their dominant status. The trees along The Centre obscure longer views of the mid-20th century shopping centre, which is not particularly prepossessing and is uncharacteristic of the Conservation Area, providing a pleasant counterpoint to its rather brutal architecture in views along The Centre from the High Street.
- 11.3.9 Within the site itself the surviving WW2 air raid shelters form a rare group and have an association with Courtaulds which has a fundamental place in Halstead's industrial history. Officers have visited the site recently and it is clear that the unlisted structures have had no effective upkeep. Many are backfilled or flooded and there are trees that have rooted within some examples. The wardens hut has been vandalised and is covered with graffiti. At present, while they can still be seen, access is difficult and the ability interpret their significance is limited. Over time, without intervention, their condition will continue to deteriorate. Following a survey carried out by Essex County Council in 2004, recommendations were made for the preservation of the group as a whole.
- 11.3.10 The loss of the of the five air raid shelters as proposed will inevitably result in harm to the group of non-designated heritage assets. However, the retention, restoration and effective, long-term curation of nine of the shelter structures and the warden's hut as part of any scheme, would constitute a

heritage benefit. This heritage benefit could be added to any other public benefits of the scheme, in an assessment of the balance between heritage harm and overall public benefit (in accordance with Paragraph 202 of the NPPF).

- 11.3.11 Details of how the retained structures will be presented, who will be responsible for financing their maintenance and management after the completion of the development and into the future is required at this stage of the application process, i.e. prior to determination. Along with having heritage significance, they are clearly also important and valued heritage assets to the local community and are therefore to be considered non-designated heritage assets. The air raid shelters also constitute a positive element within the setting of the Grade II Listed Courtauld buildings on Factory Lane East, having both been built by the Courtauld company, probably with the intention of being partly used by the occupants and workers housed within the adjacent dwellings.
- 11.3.12 The impact of the development on the setting of the nearby listed buildings and Conservation Area is to be considered alongside the impact on the non-designated air raid shelters themselves. Paragraph 202 of the NPPF states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 11.3.13 There is the obvious potential for the air raid shelters to be restored as an educational asset and historic attraction, which would constitute a heritage benefit. However, to guarantee this and assure their survival and the public benefit that would result, a conservation management plan would be required. This would be needed not just to set out a programme for repairs, but also set out the aim and methods of sustaining the significance of the surviving shelters for future use and their management into the future.
- 11.3.14 A structural survey of the shelters, carried out by a CARE Registered, conservation structural engineer would be appropriate in this instance, to help in the formation of the long-term conservation management plan. The Historic Buildings Consultant notes that the Archaeological Officer Teresa O'Connor has indicated that building recording would be required on all structures and as well as possible historic landscape features associated with the 19th century landscaped garden and has agreed that this would also be appropriate. The acceptability of the scheme from a heritage perspective is dependent on the guaranteed future and viable use of the remaining air raid shelters. Paragraphs 196 and 197 of the NPPF are relevant in this case and these state as follows:

196. Where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision.

197. In determining applications, local planning authorities should take account of: (a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. (b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and (c) the desirability of new development making a positive contribution to local character and distinctiveness.

- 11.3.15 The Historic Buildings Consultant notes the comments from the Halstead 21st Century Group and agrees with their recommendations. Their further involvement in the future could enable the management and upkeep of the structures, with the long-term aim of ensuring public access, interpretation and presentation, in line with Paragraph 197 of the NPPF.
- 11.3.16 A Conservation Management Plan would be needed prior to the determination of any application to fully demonstrate implementation of the heritage benefit, resulting from the preservation and reuse of the surviving air raid shelters. This should provide information on how the long-term future conservation, maintenance and management of the shelters would be financed and who is responsible for their management. In addition, further details of how the shelters would be accessed and presented within the development would be needed.
- 11.3.17 The Historic Buildings Consultant has stated that regarding other aspects of the scheme, such as design, materials, landscaping, boundaries and layout, these can only be assessed once the conservation and curation of the air raid shelters has been assured, as from a heritage perspective, the acceptability of the proposal is dependent on this element.
- 11.3.18 In the absence of the detailed information setting out the restoration, maintenance and management of the remaining air raid shelters, Officers are not satisfied that the proposals are acceptable and consider them to conflict with Policies LPP47, LPP53 and LPP57 of the Adopted Local Plan and the NPPF.

11.4 Ecology

- 11.4.1 Policy LPP64 of the Adopted Local Plan seeks to ensure that developer undertakes an ecological survey and demonstrate adequate mitigation plan is in place to ensure no harm to protected species or priority species.
- 11.4.2 Policy LPP66 of the Adopted Local Plan states, if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or as a last resort compensated for then planning permission should be refused.
- 11.4.3 The Council's Ecologist is not satisfied that there is sufficient ecological information for determination. This is because the Ecological Appraisal (Aspect Ecology, May 2022) has indicated that further reptile surveys are required to update those previously undertaken in 2010, to confirm the

status of reptiles on the site and to establish if the proposed mitigation measures are appropriate and proportionate. The Council's Ecologist concurs that a reptile survey should be conducted for this application, prior to determination, to establish the presence/population size of reptiles on site and inform appropriate mitigation and compensation measures.

- 11.4.4 These surveys are required prior to determination because the Local Planning Authority must consider the guidance under Paragraph 99 of the ODPM Circular 06/2005. This advises that the presence or otherwise of protected species, and the extent to which they might be affected by the proposed development, must be established before planning permission is granted. Therefore, if there is a reasonable likelihood of protected species being present and affected by the development, the surveys should be completed and any necessary measures to protect the species should be in place before the permission is granted.
- 11.4.5 Further, the Ecological Appraisal (Aspect Ecology, May 2022), has stated the woodland on the application site has been identified as Priority Habitat and that two thirds of woodland is to be removed to facilitate the development. This habitat has been proposed to be compensated, within the ecological appraisal, by a landscaped buffer around the site boundary. However, this landscape buffer has not been demonstrated within any submitted documents provided by the applicant. Therefore, it is indicated that we encourage the developer to provide a Biodiversity Net Gain Assessment using the DEFRA Biodiversity Metric 3.1 (or any successor), to demonstrate that measurable biodiversity net gains will be achieved for this development, in line with Paragraphs 174[d] and 180[d] of the NPPF 2021. The Biodiversity Net Gain Assessment should preferably follow the Biodiversity Net Gain Report & Audit Templates. This would inform the finalised soft landscaping scheme and Landscape and Ecological Management Plan for this application, to ensure measures meet the conservation objectives and management requirements of the Biodiversity Net Gain Assessment.
- 11.4.6 Further information is therefore required to provide the Local Planning Authority with certainty of impacts on legally Protected and Priority Species and enable it to demonstrate compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006. In the absence of the additional information the proposal is contrary LPP64 of the Adopted Local Plan.
- 11.5 Trees and Landscaping
- 11.5.1 The NPPF states in Paragraph 131, '*trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning policies and decisions should seek to ensure... that existing trees are retained wherever possible*'.
- 11.5.2 Policy LPP65 of the Adopted Local Plan states, '*trees which make a significant positive contribution to the character and appearance of their*

surroundings will be retained unless there is a good arboricultural reason for their removal for example, they are considered to be dangerous or in poor condition’.

- 11.5.3 Policy SP7 of the Adopted local Plan states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. It goes on to state that new development should enhance the public realm through additional landscaping, street furniture and other distinctive features that help to create a sense of place.
- 11.5.4 The proposals are seeking to change of use and appearance of the application site which is currently an area largely formed of mixed scrub with an extensive woodland canopy. Almost wholly of this woodland canopy will be cleared to provide space for the required number of residential units and facilitating infrastructure. The application has been supported by an arboricultural impact assessment prepared by Aspect Arboriculture (May 2022) which identifies the removal of ten significant trees and a significant amount of interior vegetation, scrub and lesser tree groups. The composition and structure of the woodland is commonplace to many similar unmanaged areas with many self-set stems; although there are only a few prominent trees of individual stature it is difficult to disregard the collective amenity and character provided by an established green canopy in proximity to the town centre along with the cumulative benefit it provides to the local setting abutting the Conservation Area.
- 11.5.5 Given that the site lies within a Comprehensive Redevelopment Area, Officers would expect for much of the vegetation to be removed from the site to accommodate the redevelopment.
- 11.5.6 A number of prominent trees including some of those covered by a tree preservation order will be retained on the edge of the development; it is also noted that the confines of the layout will require additional root protection measures are put in place to prevent damage to the root plate and root protection zones of those trees in proximity to the new road system.
- 11.5.7 Should the proposals have been acceptable a number of specifically worded conditions would be imposed with regards long term replacement tree planting, suitable tree protection and the submission of a landscape and ecology management plan.
- 11.6 Impact upon Neighbouring Residential Amenity
- 11.6.1 The NPPF requires a good standard of amenity for all existing and future occupants of land and buildings. Policy LPP52 of Adopted local Plan states that there shall be no undue or unacceptable impact on the amenity of any nearby residential property.

- 11.6.2 Existing residential properties within Congregation House, Factory Terrace and Vicarage Meadow are located to the north and the south of the application site. The proposed block plan shows two pairs of semi-detached houses located along with northern elevation. The back-to-back distance between the rear of units 3 and 4 and the rear of Congregation House is 19m, and therefore well below the 25m required by the Essex Design Guide 2005. Officers are concerned that this reduced distance is likely to result in an unacceptable relationship between the two new properties and Congregation House, in terms of privacy and outlook.
- 11.6.3 The proposed apartment No.26 both is located close to the boundary with No.1 Vicarage Meadow. The back-to-back distance between the two properties is approximately 13.2m, which is significantly below the 25m set out by the Essex Design Guide 2005. Officers are concerns that this reduced distance is likely to result in an unacceptable relationship between the two new properties and Congregation House, in terms of privacy and outlook.
- 11.6.4 Officers are satisfied that the position of unit 28-31 would maintain an acceptable relationship with the properties in Factory Terrace. Two flats are proposed close to the eastern boundary of the site that abounds the playing field belonging to Richard De Clare Community Academy. The first floor flat (Unit 19) does contain first floor windows that would overlook the playing field, however the submitted drawings indicate that all of these windows would contain obscured glass. Given this is considered that this property would maintain an acceptable relationship with the school.
- 11.7 Highway Considerations
- 11.7.1 Paragraph 111 of the NPPF states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residential residual cumulative impacts on the road network would be severe.
- 11.7.2 With the National Planning Policy Framework in mind, particularly Paragraph 111, the Highway Authority has reviewed the planning application and supporting Transport Assessment against its own Development Management Policies to ensure the proposal site can be accessed safely, any additional trips would not be detrimental to highway safety and capacity and to ensure as far as possible the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.
- 11.7.3 The Highway Authority have raised no objection subject to conditions relating to submission of a construction management plan, construction of access and visibility splays and a travel pack.
- 11.7.4 Policy LPP43 of the Adopted Local Plan seek to ensure sufficient vehicle/cycle parking is provided within new developments.

- 11.7.5 The Block Plan proposes 2 car parking spaces for each dwelling with 8 visitor parking spaces. The proposed provision accords with the Essex Vehicle Parking Standards 2009 which requires a minimum of 2 spaces for 2+bedroom dwellings and 0.25 spaces per dwelling for visitor parking.
- 11.7.6 The proposal does not accord with LPP43 of Adopted Local Plan, as insufficient parking spaces are provided for units 18, 19 and 20-27 however given the town centre location a slight reduction in car parking spaces could be considered acceptable.
- 11.7.7 No details have been provided of electric car charging points, which is required by Policy LPP42. This could be controlled by a suitably worded planning condition on any grant of permission.

11.8 Affordable Housing

- 11.8.1 Policy LPP31 of the Adopted Local Plan states that affordable housing will be directly provided by the developer within housing scheme. A requirement of 30% of the total number of dwellings on sites located in the main towns of Braintree (including Great Notley, Bocking and High Garrett), Witham, Halstead, Sible Hedingham and development sites directly adjacent to these areas.
- 11.8.2 Officers conclude that in addition to the concerns set out earlier in this report, the scheme would also fail to comply with Policy LPP31 of the Adopted Local Plan, as no affordable housing is proposed.

11.9 Flooding and Drainage Strategy

- 11.9.1 Section 14 of the NPPF is concerned with how the Government expects the planning system to consider climate change, flooding and coastal change, and recognises that planning plays a key role in, amongst other things, providing resilience to the impacts of climate change.
- 11.9.2 Policy LPP74 of the Adopted Local Plan seeks to minimise exposure of people and property to the risks of flooding by following the national guidance. Policy LPP76 of the Adopted Local Plan refers to SUDS design being an integral part of the layout and should reflect up to date standards.
- 11.9.3 The application is supported by a Drainage Strategy version P03 (prepared by Pinnacle Consulting Engineers dated July 2022).
- 11.9.4 The Lead Local Flood Authority (LLFA) have been consulted and raise no objection to the proposals.

11.10 Habitat Regulations Assessment (HRA / RAMS)

- 11.10.1 In terms of the wider ecological context, the application site sits within the Zone of Influence of one or more of the following:

- § Blackwater Estuary Special Protection Area and Ramsar site;
- § Dengie Special Protection Area and Ramsar site;
- § Essex Estuaries Special Area of Conservation.

- 11.10.2 It is therefore necessary for the Council to complete an Appropriate Assessment under the Habitat Regulations to establish whether mitigation measures can be secured to prevent the development causing a likely significant adverse effect upon the integrity of these sites.
- 11.10.3 An Appropriate Assessment (Habitat Regulation Assessment Record) has been completed in accordance with Natural England's standard guidance. Subject to the proposed mitigation measures set out in the Council's Habitat Regulations Assessment being secured these mitigation measures would rule out the proposed development causing an adverse effect on the integrity of the above European Designated Sites.
- 11.10.4 The proposed mitigation measures would consist of the securing of a financial contribution of £137.71 per dwelling erected towards offsite visitor management measures at the above protected sites.
- 11.10.5 This financial contribution would be secured by way of a Section 106 Legal Agreement.

12. PLANNING OBLIGATIONS

- 12.1 Paragraph 56 of the NPPF sets out that planning obligations should only be sought where they are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. This is in accordance with Regulation 122 of the Community Infrastructure Levy (CIL) Regulation. The following identifies those matters that the District Council would seek to secure through a planning obligation, if it were proposing to grant it permission.
- 12.2 Policy LPP78 of the Adopted Local Plan states that permission will only be granted if it can be demonstrated that there is sufficient appropriate infrastructure capacity to support the development or that such capacity will be delivered by the proposal. It must further be demonstrated that such capacity as is required will prove sustainable over time both in physical and financial terms.
- 12.3 Where a development proposal requires additional infrastructure capacity, to be deemed acceptable, mitigation measures must be agreed with the Council and the appropriate infrastructure provider. Such measures may include (not exclusively);
- Financial contributions towards new or expanded facilities and the maintenance thereof
 - On-site construction of new provision
 - Off-site capacity improvement works and/or

- The provision of land

- 12.4 Developers and landowners must work positively with the Council, neighbouring authorities and other infrastructure providers throughout the planning process to ensure that the cumulative impact of development is considered and then mitigated, at the appropriate time, in line with their published policies and guidance.
- 12.5 The following are identified those matters that the District Council would seek to secure through a planning obligation, if it were preparing to grant permission and the applicant has agreed to enter in to a S106 agreement in respect of these matters (other than affordable housing which is not proposed within the scheme):

Affordable Housing

- 12.6 Policy LPP31 of the Adopted Local Plan states that for developments of this size, affordable housing will be provided on-site with a target of 30% affordable housing provision on sites in town areas. To note the application does not provide any affordable housing and the application is recommended to be refused for this reason.

Health

- 12.7 NHS England advise that the development is likely to impact the GP practice within the vicinity of the application site and that the practice do not have sufficient capacity to meet the demand arising from a development of this size. Financial contribution of £15,400 sought to increase capacity for the benefits of Elizabeth Courtauld Surgery. This may be achieved through any combination of extension, reconfiguration or relocation of premises and/or clinical staff, recruitment or training.
- 12.8 It is acknowledged that local residents have raised concerns with regard to the impact of the development on the schools and healthcare services provided locally. However, both the Essex County Council as Education Authority and the NHS previously considered that financial contributions would allow them to carry out the necessary infrastructure improvements to mitigate against the impacts of this development.

Air Raid Shelters

- 12.9 Policy LPP23 of the Adopted Local Plan states that the enhancement of the Conservation Area and the protection of the nearby listed buildings would be achieved by a scheme that would secure the retention, refurbishment and future management of the retained air raid shelters. This should be secured by a legal agreement, to ensure that the heritage assets are safeguarded in accordance with guidance from the NPPF.

Parking, Open Space and Community Space

- 12.10 Policy LPP23 of the Adopted Local Plan relates to Land East of Halstead High Street and the application site forms part of the site that has been allocated as a Comprehensive Development Area on the Proposals Map. The policy indicates that mixed uses would be appropriate on this site, including parking, open space and community. Therefore, the provision and long term management of a car park, open space and community space should be secured by a legal agreement.

Open Space

- 12.11 Policy LPP50 of the Adopted Local Plan states that all developments will be expected to provide new open spaces in line with the requirements set out in the Open Spaces Supplementary Planning Document 2009 or successor document. The Council's Open Space SPD sets out further details on how these standards will be applied. A development of this size would be expected to make provision on-site for informal and amenity open space.
- 12.12 A financial contribution would be sought for improvements to existing outdoor sport, outdoor equipped play and allotments. The provision/contribution is based upon a formula set out in the SPD. There is also a requirement to secure the on-going maintenance/management of any public open space provided on site. These aspects could be secured through a S106 Agreement.
- 12.13 Subject to the above matters being incorporated into a legal agreement to ensure their provision, the development would be made acceptable in these respects. No such agreement is in place at the present time and therefore the development fails to satisfactorily mitigate the impacts of the development on local infrastructure and is contrary to Policies SP6, LPP31, LPP50 and LPP78 of the Adopted Local Plan.

13. PLANNING BALANCE AND CONCLUSION

- 13.1.1 The presumption in favour of sustainable development sits at the heart of the NPPF. The Framework is clear in its instruction at Paragraph 11d), that for decision-taking this means where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date (this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in Paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years), granting permission unless:
- i. The application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

- ii. 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.
- 13.1.2 As the Council cannot currently demonstrate a 5 Year Housing Land Supply, the 'titled balance' pursuant to Paragraph 11d) of the NPPF is engaged. As a consequence, the most important Development Plan policies relevant to the provision of housing are currently out-of-date due to a lack of 5 Year Housing Land Supply. However this does not mean that Development Plan policies should be completely disregarded. It is for the decision-maker to determine the weight to be attributed to the conflict with those policies. In this regard it is considered that Policy LPP1 of the Adopted Local Plan, which seeks to restrict development outside defined development boundaries to uses appropriate to the countryside, can only be afforded moderate weight. Similarly, it is considered that Policy SP3, which sets out the spatial strategy for North Essex, can only be afforded less than significant, but more than moderate weight.
- 13.1.3 In this case, it is considered that pursuant to Paragraph 11d) (i) that the application of policies in the Framework provide a clear reason for refusing the proposed development. This is because there are adverse impacts in regard to designated heritage assets.
- 13.1.4 As set out above, Officers consider that the proposed development would result in 'less than substantial harm' to the significance of designated and non-designated heritage assets. In accordance with Paragraph 11d) (i) of the NPPF, where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless, the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. In this case the identified heritage harm provides clear reason for refusing the application.
- 13.1.5 The titled balance as set out in Paragraph 11d) (ii) of the NPPF is not therefore engaged in this instance, however for completeness the adverse impacts and benefits of the proposal are set out below.

13.2 Summary of Adverse Impacts

- 13.2.1 The adverse impacts and weight that should be accorded to these factors are set out below:

Conflict with the Development Plan

- 13.2.2 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Paragraph 15 of the NPPF emphasises that the planning system should be "genuinely plan led".

- 13.2.3 The proposals would conflict with Policy LPP23 of the Adopted Local Plan as the application fails to acknowledge how the current application site would suitably sit within the wider re-development of the area. Further conflict arises from the proposals not providing suitable pedestrian links from the site to adjoining streets, providing appropriate parking, open and community space and providing suitable and detailed information regarding the retention and refurbishment of the air shelters.

Heritage Harm

- 13.2.4 The proposals fail to provide detailed information setting out the restoration, maintenance and management of the remaining air raid shelters, consider them to conflict with Policies LPP47, LPP53 and LPP57 of the Adopted Local Plan and the NPPF. In the absence of this information the Councils Historic Buildings Consultant has stated that regarding other aspects of the scheme, such as design, materials, landscaping, boundaries and layout, these can only be assessed once the conservation and curation of the air raid shelters has been assured, as from a heritage perspective, the acceptability of the proposal is dependent on this element. Given this, Officers can only conclude that the application would lead to a 'less than substantial harm' to the designated and non-designated heritage assets.

Layout and Design

- 13.2.5 The proposal by way of its design and layout would result in internal floors areas which would not comply with the Nationally Described Spaces Standards, resulting in sub-standard and unsatisfactory internal environments which would fail to provide a satisfactory amenity for future occupiers. Furthermore, many of the relationships between the units are poor with windows within close proximity to and overlooking existing boundary treatments and between new units. Insufficient information has been provided with regards waste storage and collection and pedestrian links to adjoining streets. The details of the proposed elevations are considered unacceptable for this sensitive location.
- 13.2.6 The proposals amount to poor design and layout and an overdevelopment of the site contrary to Policies SP7, LPP23 and LPP52 of the Braintree District Local Plan 2013-2033, the Essex Design Guide and the National Planning Policy Framework.

Ecology

- 13.2.7 The proposal fails to provide sufficient information regarding ecological features within the site, contrary Policies LPP23 and LPP64 of the Braintree District Local Plan 2013-2033 and the National Planning Policy Framework.

13.3 Summary of Public Benefits

- 13.3.1 The public benefits arising from the proposal and the weight that should be accorded to these factors are set out below:

Delivery of Market Houses

- 13.3.2 The development would deliver 31no. market dwellings. Although the LPA cannot demonstrate a 5 year housing land supply, only moderate weight is assigned to this benefit, given the scale of development proposed.

Location and Access to Services and Facilities

- 13.3.3 Officers are of the view that in respect of access to services and facilities, the site is considered to be in a sustainable location. In addition, there is convenient access to public transport. Substantial weight is assigned to this.

Economic and Social Benefits

- 13.3.4 The development will accrue social benefits with the provision of dwellings and economic benefits with during the construction and thereafter with the spending powers of future occupiers. However, given the scale of development only moderate weight is assigned to this.

13.4 Conclusion

- 13.4.1 As set out above Officers consider that the proposed development would result in 'less than substantial harm' to the significance of designated and non-designated heritage assets. In accordance with Paragraph 11d) (i) of the NPPF, where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless, the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. In this case the identified heritage harm provides clear reason for refusing the application.
- 13.4.2 On this basis, Paragraph 11d) (ii) of the NPPF is not engaged. However, in the event that the tilted balance was to apply, Officers consider that the harm identified within this report would significantly and demonstrably outweigh the public benefits and the application should be refused in any event.

14. RECOMMENDATION

- 14.1 It is RECOMMENDED that the following decision be made:
Application REFUSED for the reasons outlined within APPENDIX 1.

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

APPENDIX 1:REASON(S) FOR REFUSAL / SUBMITTED PLAN(S) / DOCUMENT(S)Submitted Plan(s) / Document(s)

Plan Description	Plan Ref	Plan Version
Proposed Elevations and Floor Plans	6115_ P08 REV A	N/A
Proposed Elevations and Floor Plans	6115_ P09 REV A	N/A
Proposed Elevations and Floor Plans	6115_ P10 REV A	N/A
Proposed Elevations and Floor Plans	6115_ P11 REV A	N/A
Proposed Elevations and Floor Plans	6115_ P12 REV A	N/A
Proposed Floor Plan	6115_ P13 REV A	N/A
Proposed Elevations	6115_ P14 REV A	N/A
Proposed Floor Plan	6115_ P15 REV A	N/A
Proposed Elevations	6115_ P16 REV A	N/A
Cycle Plan	6115_ P17	N/A
Section	6115_ P18	N/A
Section	6115_ P19	N/A
Section	6115_ P20	N/A
Section	6115_ P21	N/A
Location Plan	P01 C	N/A
Existing Site Plan	6115_ P02	N/A
Section	6115_ P03	N/A
Section	6115_ P04	N/A
Proposed Site Plan	6115_ P06 REV G	N/A
Proposed Roof Plan	6115_ P07 REV C	N/A

Reason(s) for Refusal

Reason 1

Based on the information submitted, the proposals would result in both direct and indirect harm to the curtilage listed air raid shelters and non-listed air raid shelters. An assessment of the impact on the nearby listed building and the Halstead Conservation Area cannot be carried out without detailed information with regards the long term maintenance of the aforementioned assets. Whilst the level of harm in this case would be less than substantial harm, taking into account the cumulative impact upon the designated heritage assets, the benefits of the proposal do not outweigh the harm to the identified assets. The proposal is therefore contrary to Policies SP7, LPP23, LPP47, LPP52, LPP53 and LPP57 of the Braintree District Local Plan 2013-2033 and the National Planning Policy Framework.

Reason 2

The proposal by way of its design and layout would result in internal floors areas which would not comply with the Nationally Described Spaces Standards, resulting in sub-standard and unsatisfactory internal environments which would fail to provide a satisfactory amenity for future occupiers. Furthermore, many of the relationships between the units are poor with windows within close proximity to and overlooking

existing boundary treatments and between new units. Insufficient information has been provided with regards waste storage and collection and pedestrian links to adjoining streets. The details of the proposed elevations are considered unacceptable for this sensitive location. In addition, the proposals do not indicate how application site would enable the wider re-development site to be fully re-developed in the future.

The proposals constitute poor design and layout and an overdevelopment of the site contrary to Policies SP7, LPP23 and LPP52 of the Braintree District Local Plan 2013-2033, the Essex Design Guide, and the National Planning Policy Framework.

Reason 3

The proposal fails to provide sufficient information regarding ecological features within the site, contrary to Policies LPP23 and LPP64 of the Braintree District Local Plan 2013-2033 and the National Planning Policy Framework.

Reason 4

Policy LPP31 of the Adopted Local Plan states that affordable housing will be directly provided by the developer within housing schemes. The proposal fails to provide sufficient information with regards the provision of affordable housing in accordance with the local need and is therefore contrary to Policy LPP31 of the Braintree District Local Plan 2013-2033.

Reason 5

The proposed development would trigger the requirement for:

- The delivery of 30% affordable housing on site;
- A financial contribution towards primary health services;
- The provision, maintenance and delivery of public open space, outdoor sports and allotments;
- Habitat mitigation payment
- Retention, refurbishment and management of air raid shelters;
- Provision of shoppers car park;
- Provision of permanent pedestrian links;
- Securing community uses on the site;
- Environmental Improvements in Halstead.

These requirements would need to be secured through a S106 Agreement. At the time of issuing this decision a S106 Agreement had not been prepared or completed. As such the proposal is contrary to the Open Space Supplementary Planning Document (SPD) and Policy LPP78 of the Braintree District Local Plan 2013-2033.

APPENDIX 2:POLICY CONSIDERATIONSNational Planning Guidance

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)

Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP2	Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
SP3	Spatial Strategy for North Essex
SP4	Meeting Housing Needs
SP5	Employment
SP6	Infrastructure & Connectivity
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP23	Comprehensive Redevelopment Area - Land East of Halstead High Street
LPP31	Affordable Housing
LPP35	Housing Mix, Density and Accessibility
LPP42	Sustainable Transport
LPP43	Parking Provision
LPP47	Built and Historic Environment
LPP50	Provision of Open Space, Sport and Recreation
LPP52	Layout and Design of Development
LPP53	Conservation Areas
LPP57	Heritage Assets and their Settings
LPP59	Archaeological Evaluation, Excavation and Recording
LPP64	Protected Sites
LPP65	Tree Protection
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP67	Landscape Character and Features
LPP70	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP74	Flooding Risk and Surface Water Drainage
LPP75	Surface Water Management Plan
LPP76	Sustainable Urban Drainage Systems
LPP78	Infrastructure Delivery and Impact Mitigation

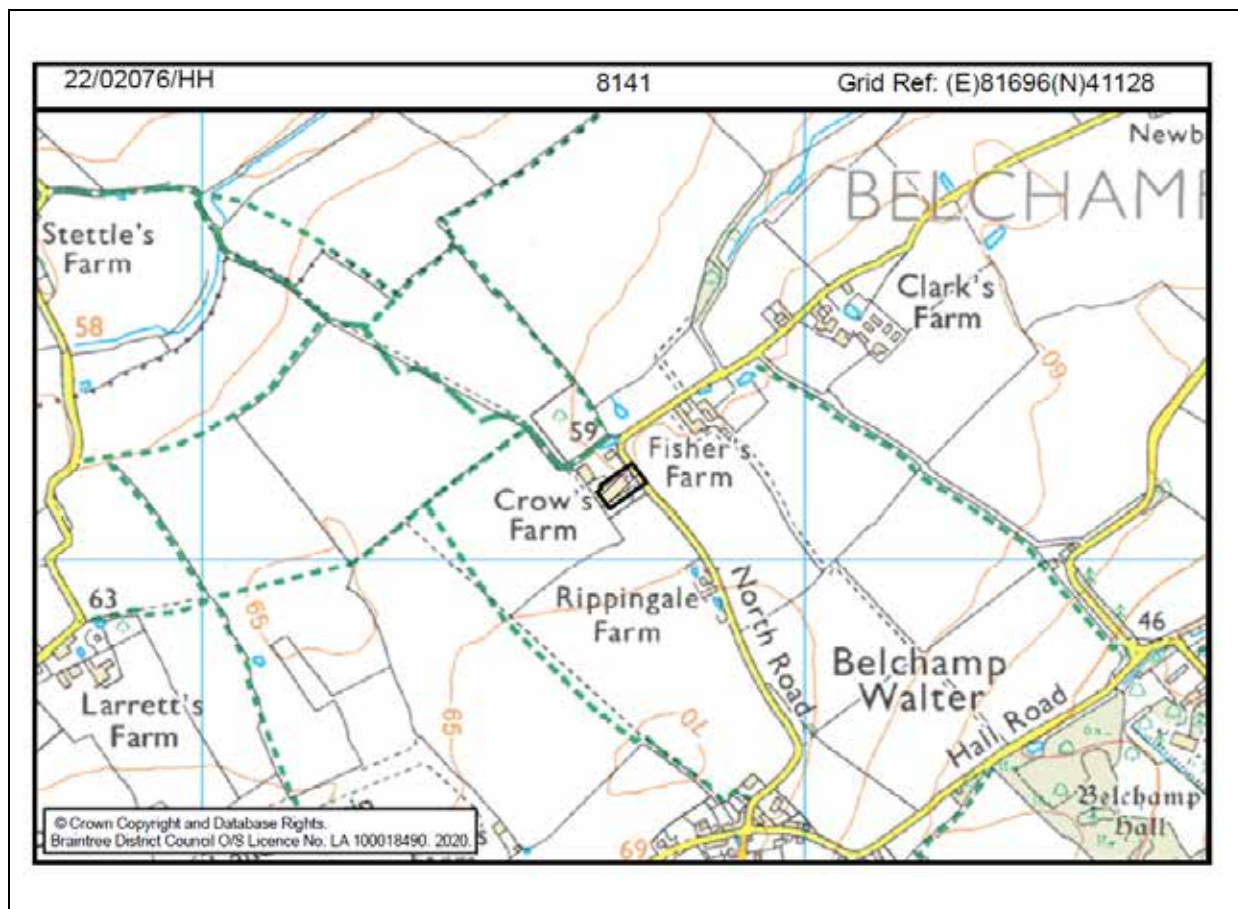
APPENDIX 3:SITE HISTORY

Application No:	Description:	Decision:	Date:
13/00513/FUL	Renovation and refurbishment of existing sheltered accommodation to provide 16 no. sheltered flats	Granted	03.07.13
14/00036/DAC	Application to discharge condition no. 3 of approved application (13/00513/FUL) - Renovation and refurbishment of existing sheltered accommodation to provide 16 no. sheltered flats	Granted	11.04.14
20/01115/LBC	Repairs to the boundary wall adjacent to Symonds Court and The Parsonage, Halstead.	Granted	21.09.20
12/01373/FUL	Erection of a food store (Use Class - A1 Retail) and car park with associated landscaping and highway works and provision of new vehicular accesses to the rear of High Street properties	Refused	24.01.13
12/01374/CON	Erection of a foodstore (Use Class - A1 Retail) and car park with associated landscaping and highway works and provision of new vehicular accesses to the rear of High Street properties	Refused	24.01.13
12/01405/LBC	Removal of 8 no. underground and 1 no. overground air raid shelters	Refused	24.01.13
12/00010/SCR	Town & Country Planning Act 1990 (as amended), Town & Country Planning (Environmental Impact Assessment) Regulations 2011 - Screening Opinion	Screening/Scoping Opinion Adopted	29.10.12

	Request - Erection of a foodstore (Use Class - A1 Retail) and car park with associated landscaping and highway works and provision of new vehicular accesses to the rear of High Street properties		
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Agenda Item: 5g

Report to: Planning Committee		
Planning Committee Date: 18th October 2022		
For: Decision		
Key Decision: No		Decision Planner Ref No: N/A
Application No:	22/02076/HH	
Description:	Construction of a three-port car garage.	
Location:	Barn At Crows Farm North Road Belchamp Walter	
Applicant:	Mr Alastair Campbell, Crows Farm, North Road, Belchamp Walter, CO10 7AP	
Agent:	Courtauld & Co. Architects Ltd, Mr George Courtauld, Knight's Farm, Colne Engaine, Colchester, CO6 2JQ	
Date Valid:	8th August 2022	
Recommendation:	It is RECOMMENDED that the following decision be made: § Application GRANTED subject to the Condition(s) & Reason(s) and Informative(s) outlined within Appendix 1 of this Committee Report.	
Options:	The Planning Committee can: a) Agree the Recommendation b) Vary the Recommendation c) Overturn the Recommendation d) Defer consideration of the Application for a specified reason(s)	
Appendices:	Appendix 1:	Approved Plan(s) & Document(s) Condition(s) & Reason(s) and Informative(s)
	Appendix 2:	Policy Considerations
	Appendix 3:	Site History
Case Officer:	Helen Reeve For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2503, or by e-mail: helen.reeve@braintree.gov.uk	

Application Site Location:

Purpose of the Report:	The Committee Report sets out the assessment and recommendation of the abovementioned application to the Council's Planning Committee. The report sets out all of the material planning considerations and the relevant national and local planning policies.
Financial Implications:	<p>The application was subject to the statutory application fee paid by the applicant for the determination of the application.</p> <p>There are no direct financial implications arising out of the decision, notwithstanding any costs that the Council may be required to pay from any legal proceedings. Financial implications may arise should the decision be subject to a planning appeal or challenged via the High Court.</p>
Legal Implications:	<p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either set out the relevant Conditions & Reasons and any Informatives, or the Reasons for Refusal if applicable.</p> <p>All relevant policies are set out within the report, within Appendix 2.</p>
Other Implications:	The application has been subject to public consultation and consultation with relevant statutory and non-statutory consultees. All responses received in response to this consultation are set out within the body of this Committee Report.
Equality and Diversity Implications	<p>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:</p> <ul style="list-style-type: none"> 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; c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

	<p>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).</p> <p>The consideration of this application has not raised any equality issues.</p>
Background Papers:	<p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> § Application Form § All Plans and Supporting Documentation § All Consultation Responses and Representations <p>The application submission can be viewed online via the Council's Public Access website: www.braintree.gov.uk/pa by entering the Application Number: 22/02076/HH.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> § National Planning Policy Framework (NPPF) § Braintree District Local Plan 2013 – 2033 § Neighbourhood Plan (if applicable) § Supplementary Planning Documents (SPD's) (if applicable) <p>The National Planning Policy Framework can be viewed on the GOV.UK website: www.gov.uk</p> <p>The other abovementioned policy documents can be viewed on the Council's website: www.braintree.gov.uk.</p>

1. EXECUTIVE SUMMARY

- 1.1 The application relates to Crow's Barn, a residential barn conversion and garden area, approved under Application Reference 21/03349/FUL. Planning permission is sought for the erection of a 3 bay garage to be associated with the barn conversion.
- 1.2 The site is located within the countryside as defined in the Adopted Local Plan. However, Policy LPP36 allows for extensions to dwellings and provision of outbuildings, such that the proposed garage is considered an appropriate form of development.
- 1.3 The proposal is considered to be subordinate and compatible with the plot and within context of the barn conversion, such that it is compliant with design policies.
- 1.4 No neighbour impacts have been identified, given the separation distance to the closest neighbouring property at Crows Farm.
- 1.5 Taking these factors into account the proposal is recommended for approval.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

- 2.1 This application is being reported to Planning Committee in accordance with Part A of the Council's Scheme of Delegation as the Agent is related to a Member of Braintree District Council.

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

- 5.1 The site is located originally within a farm complex to the north of Belchamp Walter. The site is currently in the process of being converted to a single residential unit with a driveway and garden area.
- 5.2 The site comprises a large agricultural barn set back from the road frontage, sited centrally within the plot. Previous smaller agricultural buildings to the rear of the site have since been removed.
- 5.3 The site has been the subject of various 'prior approval' applications for conversion to a dwelling. Most recently full planning permission was granted (Application Reference 21/03349/FUL) for 1no. residential dwelling and a larger area of garden land.
- 5.4 Vehicular access to the site is directly to the north of the barn, utilising an existing access which also provides access to an existing agricultural building directly to the north-west of the site.
- 5.5 The site is relatively remote with the wider area being characterised by farmsteads, the closest being Fishers Farm and Clarks Farm. The topography of the site and wider area is generally level with subsequent views of the wider countryside attainable.
- 5.6 The closest residential property is Crows Farm, unrelated in ownership to the site, sited approximately 30 metres directly to the north of the proposed development.

6. PROPOSAL

- 6.1 Planning permission is sought for the erection of a 3 bay garage which would be located to the front and of the barn currently being converted to a single residential dwelling and along the southern side of the site.

- 6.2 The proposed garage would be within a driveway area previously granted planning permission under Application Reference 21/03349/FUL.
- 6.3 The proposed garage would measure 4 metres ridge height with eaves height at 2.3 metres. The length would be 9.4 metres and depth 6.5 metres with the length orientated into the site with the shorter flank wall facing the road.
- 6.4 External materials would match the barn conversion, i.e. vertical timber cladding to the walls with a brick plinth and a standing seam dark grey metal roof and the doors would be electric metal roller doors.

7. SUMMARY OF CONSULTATION RESPONSES

- 7.1 N/A.

8. PARISH COUNCIL

8.1 Belchamp Walter Parish Council

- 8.1.1 A consultation was sent to the Parish Council and no response has been received at the time of writing this report.

9. REPRESENTATIONS

- 9.1 A site notice has been placed outside the site on a public footpath sign and Crows Farm has been notified. No representations have been received in response to this application.

10. PRINCIPLE OF DEVELOPMENT

- 10.1 The application site lies within the countryside and accordingly, Policy LPP1 of the Adopted Local Plan states that development outside development boundaries will be confined to uses appropriate to the countryside whilst also protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils to protect the intrinsic character and beauty of the countryside.
- 10.2 Policy LPP67 of the Adopted Local Plan states that proposals for new development should be informed by, and be sympathetic to, the character of the landscape as identified in the District Council's Landscape Character Assessments. Proposals which may impact on the landscape such as settlement edge, countryside or large schemes will be required to include an assessment of their impact on the landscape and should not be detrimental to the distinctive landscape features of the area such as trees, hedges, woodlands, grasslands, ponds and rivers. Development which would not successfully integrate into the local landscape will not be permitted.

- 10.3 The scheme involves the provision of a garage associated with a building which is being converted to a dwelling. Although not finished and not occupied, it is considered appropriate to assess the proposal in relation to a dwelling and therefore Policy LPP36 of the Adopted Section 2 Plan is applicable which allows for the extension to dwellings and provision of outbuildings, subject to detailed criteria which are discussed below in the report.
- 10.4 The development is acceptable in principle, subject to the above policy considerations and all other material considerations as addressed below.

11. SITE ASSESSMENT

11.1 Design, Appearance and Impact upon the Character and Appearance of the Area

- 11.1.1 The site (and wider area) started life as part of an agricultural farmstead connected with Crows Farm, with the larger barn (now being converted) forming the main building on site with various agricultural buildings and a level of hardstanding. The conversion is now substantially under way and the increased garden area has been accepted through the granting of Application Reference 21/03349/FUL.
- 11.1.2 Given that the new dwelling did not start life as such, it is not of a traditional domestic scale and this needs to be borne in mind in assessing the context of the proposed garage.
- 11.1.3 In terms of visual impact within the rural locality, the proposed garage would be sited in front of and to the side of the new dwelling, therefore visible within the locality.
- 11.1.4 However, it would be sited close to the new dwelling, within the driveway area, such that it would appear well related to the main built form on site, rather than a remote, and unjustified new building in the countryside.
- 11.1.5 It must also be accepted that with the permissive government stance on converting agricultural buildings, a residential use on site has been accepted and the overall character of that site must subsequently be expected to change.
- 11.1.6 With the above considerations and the close proximity of the proposed garage to existing built form, it is not considered there would be a detrimental visual impact on the countryside locality.
- 11.1.7 In terms of overall design and appearance, with a footprint measuring 6.5 metres depth by 9.4 metres the proposal is not an insignificant new building.
- 11.1.8 However, noting that the host new dwelling is not of a domestic scale, the proposed new garage is considered to take an appropriate cue from the

scale, design and materials of the new dwelling and the height is limited with eaves height at 2.3 metres and an overall ridge height of 4 metres.

- 11.1.9 The overall appearance would be one which responds well to the appearance of the host new dwelling and is of a simple utilitarian form and the materials in terms of the vertical timber weatherboarding to the walls would match that of the new dwelling once complete.
- 11.1.10 A more traditional domestic garage in terms of design and scale would look out of place within this locality and would appear incongruous against the main dwelling (barn conversion) and exacerbate its non-domestic scale. It is considered the proposed scale and design of the garage is appropriate in context, such that it would appear as a well related, proportionate yet subordinate and incidental building to the main building on site.

11.3 Ecology

- 11.3.1 A Biodiversity Validation Checklist has been submitted which has not identified any areas requiring further consideration.
- 11.3.2 The Case Officer, having visited the site, has not identified any matters of concern within the scope of this application.

11.4 Highway Considerations

- 11.4.1 Policy LPP43 of the Adopted Local Plan requires development proposals to provide vehicular and cycle parking in accordance with the Essex Vehicle Parking Standards.
- 11.4.2 The proposal involves the creation of covered off-street parking spaces. The original scheme was approved with off-street parking however this is a new proposal and would be sited within the driveway as proposed under the previous planning permission. The internal dimensions of the parking spaces, measuring 2.7m x 6m. This is slightly below the Adopted Parking Standards dimensions however not to a level which would prevent it being used as such and there would be ample space within the site for off-street parking.
- 11.4.3 There are no new proposals relating to vehicular access to the site.
- 11.4.4 Officers conclude that the scheme is acceptable in terms of highway considerations and complies with Policies LPP43 of the Adopted Local Plan.

11.5 Impact upon Neighbouring Residential Amenity

- 11.5.1 Policies LPP36 and LPP52 of the Adopted Local Plan states that there shall be no unacceptable impact on the amenity of any nearby properties including on privacy, overshadowing, loss of light and overbearing impact. Unacceptable impacts are considered as any factors that can carry the

potential to degrade the enjoyment of neighbouring properties in terms of overlooking, overshadowing, loss of light or loss of privacy. The National Planning Policy Framework also seeks a high-quality amenity for existing and future occupiers of neighbouring dwellings.

- 11.5.2 This is a particularly rural location; Crows Farm, which is a separate residential dwelling, under separate ownership, is the closest neighbour and is located to the north of the site and the proposed garage would be sited on the southern boundary. There is a substantial separation between the two properties relative to the scale of development being considered under this application and in any case the proposed garage has a limited height and would be used in a domestic capacity. It is not considered therefore that there would be any more impact in terms of activity than the site conversion as a whole and the built form would not cause any overbearing or other issues. The scheme is therefore considered acceptable and complies with Policies LPP36 and LPP52 of the Adopted Local Plan.
- 11.5.3 Furthermore, following the statutory publicity period, there have been no representations, adverse or otherwise, in respect of this proposal.
- 11.5.4 The proposal by merit of its siting, footprint, height, bulk and design, is therefore not anticipated to have any unruly impact on neighbouring residential amenity in terms of overlooking, overshadowing or overbearing issues, neither would it cause a loss of privacy. As such, it is considered that the proposal would be compliant with the policies as referenced above.

12. CONCLUSION

- 12.1 There are no conflicts or departures from the Adopted Local Plan which would warrant a refusal of this application. The design and materials to be used are considered acceptable in relation to the host residential conversion. As such, the application is recommended for approval.

13. RECOMMENDATION

- 13.1 It is RECOMMENDED that the following decision be made:
Application GRANTED in accordance with the Approved Plans and Documents, and subject to the Condition(s) & Reason(s), and Informative(s) outlined within APPENDIX 1.

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

APPENDIX 1:APPROVED PLAN(S) & DOCUMENT(S) / CONDITION(S) & REASON(S) AND INFORMATIVE(S)Approved Plan(s) & Document(s)

Plan Description	Plan Ref	Plan Version
Location Plan	10000 00	N/A
Existing Site Plan	10100 00	N/A
Proposed Site Plan	10200 01	N/A
Proposed Floor Plan	20000 00	N/A
Proposed Roof Plan	20100 00	N/A
Proposed Elevations	50000 00	N/A
Proposed Elevations	50100 00	N/A
Proposed Elevations	50200 00	N/A
Proposed Elevations	50300 00	N/A
Street elevation	50500 00	N/A
Street elevation	50600 00	N/A

Condition(s) & Reason(s)

Condition 1

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

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

Condition 2

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

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

Condition 3

The external materials and finishes shall be as indicated on the submitted application form.

Reason: To ensure that the development does not prejudice the appearance of the locality.

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and has granted planning permission in accordance with the presumption in favour of sustainable development, as set out in the National Planning Policy Framework.

APPENDIX 2:POLICY CONSIDERATIONSNational Planning Guidance

National Planning Policy Framework (NPPF)
 National Planning Practice Guidance (NPPG)

Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP36	Residential Alterations, Extensions and Outbuildings
LPP52	Layout and Design of Development
LPP43	Parking Provision
LPP67	Landscape Character and Features

APPENDIX 3:SITE HISTORY

Application No:	Description:	Decision:	Date:
02/01271/COU	Change of use of land from agricultural to domestic garden	Granted	02.08.02
18/01324/COUPA	Prior Approval of Proposed Change of Use of Agricultural Building to Dwellinghouse (Use Class C3), and for Associated Operational Development - Conversion of agricultural building to form 3no. dwellinghouses.	Planning Permission Required	13.09.18
19/01010/COUPA	Prior Approval of Proposed Change of Use of Agricultural Building to Dwellinghouse (Use Class C3), and for Associated Operational Development - Conversion of agricultural building to form 3no. dwellinghouses.	Withdrawn	18.07.19
20/01141/COUPA	Prior Approval of Proposed Change of Use of Agricultural Building to Dwellinghouse (Use Class C3), and for Associated Operational Development - Conversion of agricultural building to form 3no. dwellinghouses.	Planning Permission Required	16.09.20
21/00510/COUPA	Prior approval for the change of use of agricultural building to a dwellinghouse (Class C3), and for associated operational development - Change of use to 3 no. residential dwellings	Prior Approval Required and Given	14.04.21
21/03349/FUL	Retrospective application for works to existing barn comprising the removal of exterior asbestos walls and roof, laying of concrete foundations to	Granted	07.03.22

	take block and beam flooring including inner concrete plinth and external brick plinth, application of glue laminated beam to the lean to to allow for roof construction and prospective works to convert the barn into 1 no 5 bedroomed 2 storey dwelling.		
02/01271/COU	Change of use of land from agricultural to domestic garden	Granted	02.08.02
79/01786/P	Proposed extension to form rear entrance lobby and laundry.	Granted	30.11.79
98/01806/FUL	Erection of single storey side extension	Granted	19.01.99
18/01259/COUPA	Prior approval of proposed change of use of agricultural building to 3 dwellings.	Application Returned	
18/01324/COUPA	Prior Approval of Proposed Change of Use of Agricultural Building to Dwellinghouse (Use Class C3), and for Associated Operational Development - Conversion of agricultural building to form 3no. dwellinghouses.	Planning Permission Required	13.09.18
19/01010/COUPA	Prior Approval of Proposed Change of Use of Agricultural Building to Dwellinghouse (Use Class C3), and for Associated Operational Development - Conversion of agricultural building to form 3no. dwellinghouses.	Withdrawn	18.07.19
20/01141/COUPA	Prior Approval of Proposed Change of Use of Agricultural Building to Dwellinghouse (Use Class C3), and for Associated Operational Development - Conversion of	Planning Permission Required	16.09.20

	agricultural building to form 3no. dwellinghouses.		
21/00510/COUPA	Prior approval for the change of use of agricultural building to a dwellinghouse (Class C3), and for associated operational development - Change of use to 3 no. residential dwellings	Prior Approval Required and Given	14.04.21
21/03349/FUL	Retrospective application for works to existing barn comprising the removal of exterior asbestos walls and roof, laying of concrete foundations to take block and beam flooring including inner concrete plinth and external brick plinth, application of glue laminated beam to the lean to to allow for roof construction and prospective works to convert the barn into 1 no 5 bedroomed 2 storey dwelling.	Granted	07.03.22