

PLANNING COMMITTEE AGENDA

Tuesday, 5th March 2024 at 7.15pm

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

THIS MEETING IS OPEN TO THE PUBLIC

Members of the public will be able to view and listen to this meeting via YouTube.
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Members of the Planning Committee are requested to attend this meeting to transact the business set out in the Agenda.

Councillor J Abbott

Councillor J Beavis

Councillor L Bowers-Flint

Councillor T Diamond

Councillor M Fincken

Councillor J Hayes

Councillor D Holland (Vice-Chairman)

Councillor A Hooks

Councillor A Munday

Councillor I Parker (Chairman)

Councillor F Ricci

Councillor P Schwier

Councillor G Spray

Substitutes: Councillor K Bowers, Councillor M Green, Councillor P Heath, Councillor L Jefferis, Councillor J Pell, Councillor G Prime, Councillor S Rajeev, Councillor W Taylor, Councillor M Thorogood, Councillor P Thorogood, Councillor J Wrench, Councillor B Wright, Vacancy.

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 24 hours before the start of the meeting.

D GASCOYNE
Chief Executive

INFORMATION FOR MEMBERS - DECLARATIONS OF MEMBERS' INTERESTS

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

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

Public Question Time - Registration and Speaking

The Agenda allows for a period of up to 30 minutes for Public Question Time. Members of the public may ask questions or make a statement to the Committee on matters listed on the Agenda for this meeting.

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

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

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

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

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

Confirmed registered speakers will be invited to speak immediately prior to the relevant application/item. All registered speakers will have three minutes each to ask their question or 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 Committee has discretion to extend the time allocated to registered speakers and to amend the order in which they may speak.

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

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

Health and Safety

Anyone attending a meeting of the Council is asked to make themselves aware of the nearest available fire exit. In the event of an alarm sounding, you must evacuate the building immediately and follow all instructions provided by staff. You will be directed to the nearest designated assembly point where you should stay until it is safe to return to the building.

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 may be accessed via www.braintree.gov.uk

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

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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-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

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1 Apologies for Absence

2 Declarations of Interest

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

3 Minutes of the Previous Meeting

To approve as a correct record the Minutes of the meeting of the Planning Committee held on 13th February 2024 (copy previously circulated).

4 Public Question Time

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

5 Planning Applications

To consider the following planning applications.

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|-----------|--|------------------|
| 5a | App. No. 21 03748 FUL - Land West of Former Oil Depot, Hedingham Road, GOSFIELD | 6 - 31 |
| 5b | App. No. 22 03134 FUL - Deals of Kelvedon, Station Road, KELVEDON | 32 - 89 |
| 5c | App. No. 23 00651 OUT - The Mall, London Road, BRAINTREE | 90 - 123 |
| 5d | App. No. 23 02235 S106A - Plc Hunwick Ltd, Kings Road, HALSTEAD | 124 - 139 |
| 5e | App. No. 23 02893 FUL - Halstead Hall, Braintree Road, GREENSTEAD GREEN | 140 - 182 |

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

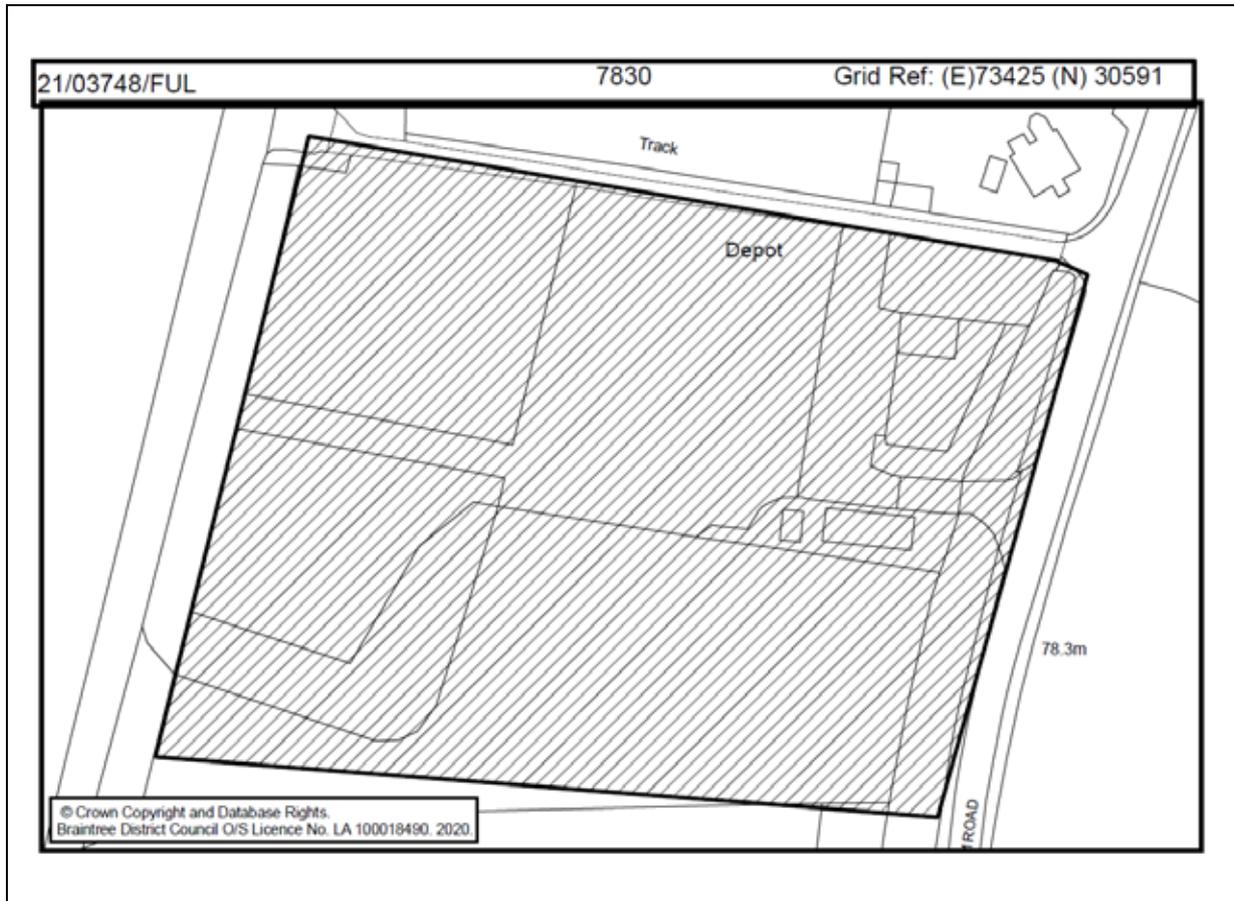
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8 Urgent Business - Private Session

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.

Report to: Planning Committee	
Planning Committee Date: 5th March 2024	
For: Decision	
Key Decision: No	Decision Planner Ref No: N/A
Application No:	21/03748/FUL
Description:	Erection of a storage building and erection of an office building, together with external ladder rack, vehicle washing bay, parking for 44no. vehicles and 10no. lorries, associated hard standing, SuDS system, and 2.4 metre high boundary fencing, to facilitate the use of the land by a scaffolding company.
Location:	Land West of former oil depot, Hedingham Road, Gosfield
Applicant:	Mr R Scotney, D&B Scaffolding Ltd, Montpelier House, Blasford Hill, Little Waltham, Chelmsford, CM3 3PG, Essex
Agent:	Mr Ben Elvin, Ben Elvin Planning Consultancy, 122 Constable Road, Ipswich, IP4 2XA
Date Valid:	8th February 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:	Lisa Page For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2516, or by e-mail: lisa.page@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>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;

	<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> <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: 21/03748/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) § 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 comprises a rectangular parcel of land of 1.65ha located to the western side of Hedingham Road, Gosfield. Part of the site was formerly used as the oil depot for the adjacent airfield and for the storage of containers and materials. The western (rear) portion of the site previously remained undeveloped.
- 1.2 This application is seeking full planning permission for the erection of a storage building and office building to facilitate the use of the land by a scaffolding company. The application also proposes external ladder racking, a washing area, and parking for 10 lorries and 44 vehicles.
- 1.3 The application site is not identified as being within a development boundary in the Adopted Local Plan and as such is on land designated as 'countryside' where there is a presumption against new development. There is no policy support within the Adopted Local Plan for the erection of new buildings to support commercial businesses in the countryside. The development is contrary to the Development Plan.
- 1.4 Whilst the general policy support within the NPPF for sustainable development and sustainable growth and expansion of businesses in rural areas is given weight, the proposal does not meet with the criteria set out, (the development is not 'well designed/beautiful' nor 'sensitive to its surroundings' within this countryside location). In addition, the proposed external storage up to a height of 6 metres, the open parking for 10 lorries, and the extent of hard standing, would result in a development that would be unduly prominent from public viewpoints along the PROW to the rear of the site, and would be harmful to the wider character and appearance of this countryside location. The development extends into areas which appear to not have been previously utilised by the former commercial use. The proposal would fail to protect and enhance the landscape and intrinsic character and beauty of the countryside. The development is therefore considered to not result in a material consideration that would indicate that permission be determined not in accordance with the Development Plan.
- 1.5 The development proposes the removal of 2no. Category A trees. These trees are considered to be of amenity value and their loss would be harmful to the character and appearance of the locality. Sufficient replacement planting for the loss of these trees, and the loss of 2 other trees and 1 group is not sufficiently justified or mitigated for.
- 1.6 The site layout demonstrates an over-provision of vehicle parking spaces above the maximum standards which has not been justified within the application submission. In addition, the plans do not detail any cycle storage provision. The over provision of parking space, and inadequate provision of cycle facilities would be contrary to the thrust of policies within the Adopted Local Plan and NPPF which seek to promote sustainable modes of transport and prioritise the needs of pedestrians and cyclists above use of the private car.

- 1.7 The development will give rise to an unacceptable impact on the amenity of the neighbouring property at Orange Hall. Due to the nature of the scaffolding use, the area assigned for external storage, the siting of vehicles across the site, and the proposed hours of use, the development will give rise to an unacceptable impact in terms of noise disturbance. Conditions could not appropriately control the operation of the site or mitigate the impact to the amenity of this neighbour.
- 1.8 The development would accrue some economic and social benefits with the additional jobs that would be created (full time equivalent of 40 jobs), however, there would be negative environmental impacts with harm to the character and appearance of the locality, the loss of trees and harm to neighbouring amenity. The over-provision of vehicle parking and insufficient cycle provision is a further factor that detracts from the sustainability credentials of the development. Overall, the development would not fall to be 'sustainable development'.
- 1.9 There is no mechanism in place to secure the open space contribution required to mitigate the impacts of the development.
- 1.10 Although the proposal complies with other considerations in regard to highway safety matters, flood risk, ecology, and contamination, this would not outweigh the in-principle objection to development in this locality and the harms as set out.
- 1.11 It is therefore recommended that planning permission be refused.

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 comprises 1.65ha of a large, rectangular area of land located to the western side of Hedingham Road, Gosfield. Part of the site was formerly used as the oil depot for the adjacent airfield and for the storage of containers and materials. (Whilst this former use is not disputed, there has not been any lawful development certificate approved for the use, nor to set out the size of building(s) or the siting and height of external storage and similar).

5.2 The trees across the frontage of the site are protected by way of a Tree Preservation Order (REF: TPO 1/22-A2). In addition, there are 2no. oak trees sited towards the western boundary.

5.3 The site is served by an access off Hedingham Road and this would be utilised for the proposed development. The site does not adjoin existing residential development, other than Orange Hall Lodge, a detached dwelling immediately to the north of the site. The site backs on to a public footpath (Public Right of Way), which is also an unmade road and beyond this is the Gosfield Airfield and associated commercial operations.

6. PROPOSAL

6.1 This application is seeking full planning permission for the erection of a storage building (24 x 15 metres) and the erection of an office (24 x 15 metres) to facilitate the use of the land by a scaffolding company. The proposed office building would be orientated to face onto the roadside elevation, with its frontage onto the proposed visitor spaces. It would be two storey in height. The proposed storage building would also be two storey in height and divided into two sections. One section contains two floors of office accommodation, meeting space etc. The other section of the building would be used for storage and has a double height ceiling. The buildings are linked by a single storey corridor.

- 6.2 The application also seeks an external ladder racking storage system along the south-western boundary. The area assigned for this external storage area is 19 x 20 metres and the height would be to a maximum of 6 metres. Also alongside the western boundary is an area designated as a 'washing bay', which would measure 35 x 19metres, and is understood to be a continuation of hardstanding for washing for vehicles.
- 6.3 An area alongside the southern boundary would be a SuDS basin, and apart from a small area of soft landscaping around the office building (and the retained site frontage tree belt), the remainder of the site would be laid to hardstanding (concrete).
- 6.4 Accommodated within the hardstanding is parking provision for 10 lorries, and 44 vehicles.

7. SUMMARY OF CONSULTATION RESPONSES

7.1 Anglian Water

- 7.1.1 Wastewater Treatment. The foul drainage from this development is in the catchment of Gosfield 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 of planning consent and would therefore take the necessary steps to ensure that there is sufficient treatment capacity should the Planning Authority grant planning permission.
- 7.1.2 Used Water Network. This response has been based on the following submitted documents: Application Form, Site location plan, Supporting Statement 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 strategy for their site, which should include connection point into the Anglian Water network, and discharge regime. We therefore request a condition requiring an on-site drainage strategy. Conditions regarding on-site foul drainage works and a surface water management strategy are requested, along with a number of informatives.

7.2 Environment Agency

- 7.2.1 No objection. Contamination and drainage conditions requested.

7.3 BDC Ecology

- 7.3.1 No objection subject to securing biodiversity mitigation and enhancement measures.

7.4 BDC Economic Development

7.4.1 No comments received.

7.5 BDC Environmental Health

7.5.1 Recommend refusal of the application. Comment that the establishment of a scaffolding business near noise sensitive receptors such as nearby rural residential properties will have a significant noise impact. Make no objection in terms of contamination.

7.6 BDC Landscape Services

7.6.1 Objection. The AIA sets out the removal of 4 trees and 1 group of trees. Whilst G2, T11 & T12 are small, and of low quality and sit within the built footprint, T9 and T10 are early mature trees of high quality, and clearly visible from the adjacent footpath. The loss of these trees has not been adequately justified. In regard to the protected tree belt to Hedingham Road, advise that with the imposition of suitable conditions there would be no adverse impact to these trees.

7.7 ECC Highways

7.7.1 Advise that from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority.

7.8 ECC Lead Local Flood Authority

7.8.1 No objection, conditions suggested.

8. PARISH COUNCIL

8.1 Gosfield Parish Council

8.1.1 Gosfield Parish Council have no objection to this application.

9. REPRESENTATIONS

9.1 No representations have been received in relation to this application.

10. PRINCIPLE OF DEVELOPMENT

10.1 The Council's statutory Development Plan consists of the Braintree District Local Plan 2013 – 2033. The most relevant 'Shared Strategic' Policies for North Essex authorities include Policies SP3 and SP5. Policy SP3 relating to the Spatial Strategy for North Essex, outlines that existing settlements will be the principal focus for additional growth, and that development will be accommodated within or adjoining settlements according to their scale, sustainability and existing role. Beyond the main settlements the authorities will support diversification of the rural economy and conservation and

enhancement of the natural environment. Policy SP5 specifically relates to employment, and outlines that a strong, sustainable, and diverse economy will be promoted across North Essex.

- 10.2 The application site is not identified as being within a development boundary in the Adopted Local Plan and as such is located on land designated as 'countryside' where there is a presumption against new development. 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.
- 10.3 There are no policies within the Adopted Local Plan that permit the consideration of new enterprises or additional buildings to support existing commercial businesses within the countryside. Whilst Policy LPP7 of the Adopted Local Plan addresses rural enterprises, it states that outside development boundaries, proposals for small-scale commercial development will be supported where it involves the conversion and re-use of existing permanent buildings, and further is subject to set criteria, including that highway matters are acceptable; that there is no unacceptable impact on residential amenity; and that there is no unacceptable impact on the character of the site or the surrounding countryside and its landscape value. In this case, the proposal does not comply with Policy LPP7 as it provides a new building as opposed to a conversion / re-use. There is also adverse impact to the character and appearance of the locality. The proposal is therefore contrary to the Development Plan.
- 10.4 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).
- 10.5 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.
- 10.6 Paragraph 87 of the NPPF states that planning policies and decisions should recognise and address the specific locational requirements of different sectors, whilst Paragraph 88 outlines that planning policies and decisions should enable the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed, beautiful new buildings.
- 10.7 In addition, Paragraph 89 of the NPPF also states that planning policies and decisions should recognise that sites to meet local business and

community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. It also states that in these circumstances, it will be important to ensure that development is sensitive to its surroundings. Paragraph 89 of the NPPF also states that the use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

10.8 The support within the NPPF in relation to such existing rural businesses is acknowledged and the majority of the site would fall to be 'previously developed land'. (Although no lawful development certificate has been approved in regard to the former use, nor to agree the size of building(s) or the siting and height of external storage and similar which may have become lawful at the site). In any event, as discussed later in this report, it is not considered that the development is 'well designed' or 'beautiful', and further, the overall associated development with external racking, lorry parking and extensive hardstanding with limited soft landscaping incorporated, would not be 'sensitive to its surroundings' within this countryside location. The development thus also fails to meet with the desires of the NPPF in meeting the need for such development.

10.9 Officers have also had regard to any wider social, environmental, or economic benefits. The application forms detail that there would be 25 additional full-time employees and 20 part-time (40 being the total full-time equivalent). This is not an insignificant number and positive weight is to be assigned to these social and economic benefits. However, as discussed later, there are further environmental concerns which weight significantly against the sustainability of the development. Overall, it is considered that the development would not result in sustainable development.

10.10 Overall, whilst the general policy support within the NPPF for sustainable development and sustainable growth and expansion of businesses in rural areas is given weight, it is not considered to result in a material consideration that would indicate that permission be determined not in accordance with the Development Plan. The scale of the development and the detailed layout and design would fail to be appropriate within this countryside location and would fail to protect and enhance the landscape and intrinsic character and beauty of the countryside. In addition, the development would not result in sustainable development. The principle of development is therefore not supported.

11. SITE ASSESSMENT

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

11.1.1 Paragraph 131 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 139 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 SP7 of the Adopted Local Plan states that all new development must meet high standards of urban and architectural design and should respond positively to local character and context, whilst Policies LPP47 and LPP52 of the Adopted Local Plan seeks a high standard of layout and design in all developments, requiring that new buildings reflect or enhance the area's local distinctiveness and be in harmony with the character and appearance of the surrounding area.
- 11.1.3 The application includes the erection of 2no. buildings (joined by a single storey corridor link). An office building would be sited parallel to (but set back from) Hedingham Road, which would measure 24 x 15 metres and be of 2 storey height, constructed with a light grey wall panel cladding with grey roof panelling. The storage building would also measure 24 x 15 metres and would be sited behind the office building, at ninety degrees to it, such that the rear elevation runs alongside the northern site boundary. The storage building would also be of two storey scale (as set out above, it is divided into two sections, with one section containing two floors of office accommodation, meeting space etc. and the other section used for double height storage) and is proposed to be constructed in the same materials as the office building.
- 11.1.4 These buildings are considered to fail to secure a high quality layout and design. The ratio of fenestration to blank façade is poor, and the size and positioning of windows, particularly to the front and flank elevation of the office building (the principal views of the building) creates a poor composition. The slack pitch of the roof adds to this stance. Overall, the buildings are considered to conflict with the above policies of the Adopted Local Plan and the NPPF.
- 11.1.5 In terms of the impact to the character and appearance of the locality, Policy LPP67 of the Adopted Local Plan is relevant. This states that in determining applications, the LPA will take into account the different roles and character of the 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. 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 landscape features of the area. Development which would not successfully integrate into the local landscape will not be permitted.
- 11.1.6 The application has not been submitted with a Landscape Visual Impact Assessment (LVIA) or similar. Given that the site is contained to the northern and southern boundary, with otherwise limited longer views, such an LVIA is not considered necessary. However, the site adjoins the PROW to the western boundary. The application makes no assessment of the visual impact of the development from this public viewpoint.

- 11.1.7 The site is located to the settlement edge, and whilst there would be views of the buildings from Hedingham Road through the wide entrance access, as they would be set back over 30 metres from the road and as the frontage building is set behind a substantial line of protected trees, the impact would be reduced. The most readily accessible view of the site would be from the western, rear boundary, wherein a PROW is sited. From this public viewpoint, there are currently open views into the site. The presence of the external ladder racking system (which would measure 19 x 20 metres to a height of 6 metres) which is proposed along the south-western boundary, would be highly prominent and out of keeping. The lorry parking area would also be highly prominent from this public view, and overall, the development with external racking, lorry parking and extensive hardstanding with limited soft landscaping incorporated, would fail to secure a high quality layout and design and would not be sensitive to its context with harm to the character and appearance of the locality. The noise impacts accumulating from the development (as discussed later in this report in regard to neighbouring amenity) would also be experienced from this PROW, and is a further factor that contributes to the proposal failing to protect and enhance the landscape and intrinsic character and beauty of this countryside setting.
- 11.1.8 The majority of the site would be laid for hardstanding with a significant lack of planting to soften the development. Whilst there is an area of proposed 'greenery' alongside the southern boundary with the proposed SuDS basin, there is otherwise only a small area of soft landscaping proposed around the office building (together with the retained site frontage tree belt). The remainder of the site would be laid to hardstanding (concrete), with parking and storage areas extending up to the site boundaries. The development extends into areas which appear to not have been previously utilised by the former commercial use at the site, and harm would result from this.
- 11.1.9 The application details that a 2.4 metre high fence is proposed to the western, rear boundary. This requires planning permission. It is considered that the siting, height, and design of the fencing would be out of keeping with its locality (there are no other means of enclosure along the PROW). Even if the fencing was considered appropriate, it would not screen the extent and full impact of the proposed development upon the rural qualities of the locality experienced from the PROW.
- 11.1.10 Officers have had regard to the fact that some of the site could be classified as previously developed land (PDL). The NPPF defines PDL as land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. The NPPF encourages the effective use of PDL, provided that it is not of high environmental value, however this should be considered in the context of the Framework as a whole. As set out above, the development proposed extends development to areas previously

undeveloped, and as already set out, it is considered that the development falls foul of other policies in the NPPF.

- 11.1.11 Officers have also had regard to the fact that there has historically been commercial use at the site with the use as an oil depot for the adjacent airfield and for the storage of containers and materials. Whilst this former use is not disputed, there has not been any lawful development certificate approved for the use, nor to set out the size of building(s) or the siting and height of external storage and similar. The application does not set out any detail in this regard which reduces the weight to be applied to any commercial re-use at the site.
- 11.1.12 In summary on this matter, Officers consider that the proposed development would fail to secure a high quality layout and design. The size and detailed design of the buildings are poor, and the overall development, including the external racking, lorry parking, size of buildings, noise associated with the use, extensive hardstanding (with limited soft landscaping to soften the development), and proposed fencing, would be highly prominent within the locality, in particular from public viewpoints along the adjacent PROW to the west and would be harmful to the wider character and appearance of this countryside location. The proposal would fail to protect and enhance the landscape and intrinsic character and beauty of the countryside and would be contrary to policies within the Local Plan and the NPPF.

11.2 Landscaping

- 11.2.1 Considerations of the impact to landscape character are set out above. This section therefore addresses the impact of existing landscaping within the site and to the site boundaries.
- 11.2.2 The NPPF states in Paragraph 136, '*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*'.
- 11.2.3 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*'.
- 11.2.4 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.

- 11.2.5 The majority of existing trees at the site are located to the road frontage, and these are protected by a Tree Preservation Order (TPO1/77- A2). They provide visual amenity to the approach into the village and help to screen the site. The submitted Arboricultural Impact Assessment (AIA) and amended parking plans demonstrate that the development would fall outside of the root protection area of these protected trees. A suitably worded condition would be imposed on any approval to ensure that the TPO trees along the road frontage of the site are suitably protected.
- 11.2.6 The AIA also details existing landscaping across the remainder of the site (and to the site boundaries). The document details a proposal for the removal of 4no. individual trees and 1 group of trees which are stated to be removed to facilitate the development. The trees proposed to be removed are set out below:

Tree Ref:	Species	Height (m)	Category
G2	Cherry and Oak	12	C
T9	Oak	12	A
T10	Oak	12	A
T11	Birch	8	C
T12	Oak	8	C

- 11.2.7 In regard to T9 and T10, these are both sited towards the western boundary and are highly prominent from public viewpoints along the PROW. There appears no justification for their removal other than that stated within the AIA which is to 'facilitate development'. Their loss is not justified and would not be supported.
- 11.2.8 The removal of G2 could be justified with appropriate replacements, as they are of poor quality (Category C) and sited behind the tree belt and thus have very limited impact to amenity of the area. In terms of T11 and T12, although these are deemed to be of poor condition (Category C), they could be retained in the site layout. Whilst their removal could be justified with appropriate replacement trees, the application details that no such replacement planting is proposed. Their removal is therefore also not supported, and the proposal would thereby be contrary to policies within the Local Plan and the NPPF.

11.3 Ecology

- 11.3.1 Policy LPP64 of the Adopted Local Plan seeks to ensure that developers undertake an ecological survey and demonstrate adequate mitigation is in place to ensure no harm to protected species or priority species is caused by proposals.
- 11.3.2 Policy LPP66 states that 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.

- 11.3.3 The Council's Ecologist has reviewed the Biodiversity Net Gains Assessment, Biodiversity Metric 3.1 calculations, Reptile Survey Report (RSR), and re-reviewed the Preliminary Ecological Appraisal (PEA), submitted by the Applicant, relating to the likely impacts of development on designated sites, protected and Priority Species & Habitats. They are satisfied that sufficient ecological information is available for determination which provides certainty for the LPA of the likely impacts on these.
- 11.3.4 The mitigation measures identified in the PEA, and the RSR should be secured and implemented in full. This is necessary to conserve protected and priority species, particularly, Badgers, Great Crested Newts, Hazel dormouse, reptiles, and breeding birds. As a result, it is recommended that a Construction Environmental Management Plan should be secured.
- 11.3.5 The Council's Ecologist also recommends that a Wildlife Friendly Lighting Strategy is implemented for this application, which follows guidance from The Institute of Lighting Professionals & Bat Conservation Trust Guidance Note 08/18: Bats and artificial lighting in the UK. Therefore, technical specification should be submitted to the LPA to demonstrate measures to avoid lighting impacts to foraging / commuting bats, which are known to be present within the local area.
- 11.3.6 In respect of the loss of Priority Habitat (Lowland Mixed Deciduous Woodland), the Council's Ecologist has reviewed the DEFRA Metric 3.1 calculations which details that a net gain of +2.9% of habitat units can be achieved for this application through habitat enhancement and creation. It is noted that it is proposed to enhance the priority habitat from a 'moderate' to 'good' condition and they concur that the proposed mitigation measures will adequately compensate for the loss of this habitat and retain ecological functionality. As a result, measurable biodiversity net gains will be able to be delivered for this scheme, as outlined under Paragraph 180 & 185 of the NPPF. Therefore, it is recommended that a Landscape and Ecological Management Plan should be secured as a condition of planning permission. This should set out the detailed management and monitoring plan to achieve the aims and objectives of the Biodiversity Metric, as well as the implementation and aftercare of any bespoke biodiversity enhancements. This will enable the LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.
- 11.3.7 Officers are therefore satisfied that the proposals comply with Policies LPP64 and LPP66 of the Adopted Local Plan and the NPPF.

11.4 Highway Considerations

- 11.4.1 Paragraph 115 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, whilst Policy LPP52 of the Adopted Local Plan requires that, the development proposed

should not have a detrimental impact on the safety of highways or any other public right of way, and its users.

- 11.4.2 The application is seeking to use an existing access road off the A1017 to serve the commercial unit. ECC Highways raise no objection to the use of this access road to serve the site in terms of highway capacity or safety.
- 11.4.3 Turning to parking provision, Policy LPP43 of the Adopted Local Plan is relevant. This states that development will be required to provide vehicular and cycle parking in accordance with the Essex Vehicle Parking Standards. The Standards set out that business uses require a maximum of 1 space per 30sq.m for office uses and 1 space per 150sq.m of storage use. Cycle provision would be applicable for the office use, with the standards requiring a minimum provision of 1 space per 100sq.m for staff plus 1 space per 200sq.m for visitors.
- 11.4.4 Based on the floor areas proposed (around 810sq.m for office use and 135sq.m for the warehouse use), this would equate to a total of 28 vehicle spaces for both uses. The submitted block plan indicate 44 vehicle parking spaces. This is a fairly significant over-provision of spaces above the maximum standards which has not been justified within the application submission (especially as it is stated that the site will employ 40 full time equivalent persons). In addition, the plans do not detail any cycle storage provision. The standards would require 12 cycle spaces. The over provision of parking space, and inadequate provision of cycle facilities would be contrary to the thrust of policies within the Local Plan and NPPF which seek to promote sustainable modes of transport and prioritise the needs of pedestrians, cyclists (as well as public transport services) above use of the private car. This reinforces the concerns outlined above, that the site is not suitable for the proposed development.
- 11.4.5 The application also seeks the provision of 10no. 'lorry bay' spaces. 3 of the spaces are shown as 17metre long lorry bays, whilst 7 are proposed as 12 metre long bays. Whilst supporting documentation within the application does not set out any commentary on this parking, it is understood to be a direct need of the scaffolding business. Given the nature of the use, the need for such lorry parking spaces is considered justified.
- 11.4.6 Overall, in regard to highway considerations, whilst Officers are satisfied that the development would be acceptable from a highway capacity and highway safety perspective, it is considered that the development would have an overprovision of vehicle parking and an under provision of cycle parking, contrary to Policies SP7, LPP43 and LPP52 of the Adopted Local Plan and the NPPF.
- 11.5 Impact upon Neighbouring Residential Amenity
- 11.5.1 The NPPF requires a good standard of amenity for all existing and future occupiers of land and buildings. Policy LPP52 of the Adopted Local Plan

requires no undue or unacceptable impact on the amenity of any nearby residential properties.

- 11.5.2 Giving the location of the site, there is only one nearby residential property which could be affected - Orange Hall - which adjoins the northern boundary (albeit separated by separated by an access track). The submitted Supporting Statement sets out that the Applicant considers no impact would occur to this neighbours amenity in terms of noise disturbance, though no supporting technical documents or similar are included with the application.
- 11.5.3 Officers are concerned that the development by reason of the nature of the scaffolding use, the area assigned for external storage, and the siting of vehicles across the site, will give rise to an unacceptable impact on the amenity of this neighbouring property from noise disturbance. The proposed hours of use are stated to be 6am-6pm, Monday to Saturday, and these hours would add to the un-neighbourliness. It is considered that the use of conditions could not appropriately control the operation of the site or appropriately mitigate the impact to the amenity of this neighbour. The Councils Environmental Health Officer has reviewed the application and recommends refusal of the application, commenting that the operation of a scaffolding business by its nature, will produce loud irregular and impulsive noise that will cause significant adverse impact on this nearby residential property.

11.6 Flooding and Drainage Strategy

- 11.6.1 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.
- 11.6.2 Policy LPP76 of the Adopted Local Plan states that all new development of 10 dwellings or more and major commercial development, car parks and hard standings will incorporate Sustainable Drainage Systems (SuDs) appropriate to the nature of the site. Such systems shall provide optimum water runoff rates and volumes taking into account relevant local or national standards and the impact of the Water Framework Directive on flood risk issues, unless it can be clearly demonstrated that they are impracticable.
- 11.6.3 SuDs design quality will be expected to reflect the up-to-date standards encompassed in the relevant BRE and CIRIA standards, Essex County Council SuDs Design Guide (as updated) and Non-Statutory Technical Standards for Sustainable Drainage Systems, to the satisfaction of the Lead Local Flood Authority.
- 11.6.4 Essex County Council as Lead Local Flood Authority has considered the strategy provided and not does raise an objection. Conditions are suggested by the Lead Local Flood Authority, if the LPA were to approve

the development. Subject to conditions, the proposal therefore accords with Policies LPP74 and LPP76 of the Adopted Local Plan.

11.7 Contamination

- 11.7.1 Policy LPP70 of the Adopted Local Plan states that proposals for all new development should prevent unacceptable risks from all emissions and other forms of pollution. Proposals for development on, or adjacent to land which is known to be potentially affected by contamination, or land which may have a particular sensitive end use or involving the storage and/or use of hazardous substances, will be required to submit an appropriate assessment of the risk levels, site investigations and other relevant studies, remediation proposals and implementation schedule prior to, or as part of any planning application.
- 11.7.2 The application is supported by a Geo-environmental report which has been reviewed by the Council's Environmental Health Team. The content of the report is considered to be satisfactory. The Environmental Health Officer has requested a number of conditions including the compliance with the assessments and the provision of certification to demonstrate this, and this can reasonably be secured by way of condition on any grant of permission.

12. PLANNING OBLIGATIONS

- 12.1 Paragraph 57 of the NPPF sets out that planning obligations should 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 regulations).
- 12.2 Policy SP6 of the Adopted Local Plan states that all development must be supported by the provision of infrastructure, services and facilities that are identified to serve the needs arising from the development. The policy refers to various types of infrastructure, services, and facilities, including transportation and travel and social infrastructure which includes health and wellbeing and open space.
- 12.3 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.
- 12.4 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.
- 12.5 Developers and land owners 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.

Open Space

- 12.6 To accord with the Open Space SPD a financial contribution is sought towards the provision of casual/informal open space and outdoor sports provision.
- 12.7 The Applicant has agreed in principle to meet the payment of the above obligation (which would be secured by Section 106 Legal Agreement). However, there is no Agreement in place to secure this contribution, and as such this also forms a reason for refusal. The development would be contrary to Policy SP6 and LPP78 of the Adopted Local Plan.

13. CONCLUSION

- 13.1 The application site is located outside of a development boundary wherein there is no policy support within the Adopted Local Plan for the erection of new buildings to support commercial businesses in the countryside. The development is contrary to the Development Plan.
- 13.2 Whilst the general policy support within the NPPF for sustainable development and sustainable growth and expansion of businesses in rural areas is given weight, the proposal is considered to not meet the tests of being 'well designed/beautiful' or 'sensitive to its surroundings'. The buildings are of poor detailed appearance and design and together with the proposed external storage, open parking and excessive hard standing, would result in a development that would be unduly prominent within the locality, (including from public viewpoints along the PROW to the rear of the site), and harmful to the wider character and appearance of this countryside location. The development is therefore considered to not result in a material consideration that would indicate that permission be determined not in accordance with the Development Plan.
- 13.3 The development proposes the removal of 2no. Category A trees. These trees are considered to be of amenity value and their loss would be harmful to the character and appearance of the locality. Sufficient replacement planting for the loss of these trees, and the loss of 2 other trees and 1 group is not sufficiently mitigated for.

- 13.4 The development will give rise to an unacceptable impact on the amenity of the neighbouring property at Orange Hall. Due to the nature of the scaffolding use, the area assigned for external storage, the siting of vehicles across the site, and the proposed hours of use, the development will give rise to an unacceptable impact in terms of noise disturbance. Conditions could not appropriately control the operation of the site or mitigate the impact to the amenity of this neighbour.
- 13.5 The site layout demonstrates an over-provision of vehicle parking spaces above the maximum standards which has not been justified within the application submission. In addition, the plans do not detail any cycle storage provision. The over provision of parking spaces, and inadequate provision of cycle facilities would be contrary to the thrust of policies within the Local Plan and NPPF which seek to promote sustainable modes of transport and prioritise the needs of pedestrians and cyclists above use of the private car.
- 13.6 The development would accrue some economic and social benefits with the additional jobs that would be created. However, there would be negative environmental impacts with harm to the character and appearance of the locality, the loss of trees and harm to neighbouring amenity. The over-provision of vehicle parking and insufficient cycle provision is a further factor that detracts from the sustainability credentials of the development. Overall, the development would not fall to be 'sustainable development'.
- 13.7 There is no mechanism in place to secure the open space contribution required to mitigate the impacts of the development.
- 13.8 Although the proposal complies with other considerations in regard to highway safety matters, flood risk, contamination, and ecology, this would not outweigh the in-principle objection to development in this locality and the other harms as set out within this report.

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
Location Plan	N/A	N/A
Existing Site Plan	1913/21/01 A	N/A
Proposed Floor Plan	1913/21/03 B	N/A
Proposed Elevations	1913/21/04 B	N/A
Other	201	P3
Proposed Site Plan	1913.21.02	G

Reason(s) for Refusal

Reason 1

The application site is located outside of a settlement boundary and within land designated as 'countryside', wherein development will be confined to uses appropriate to the countryside. Whilst the general policy support within the National Planning Policy Framework for sustainable growth and expansion of businesses in rural areas is given weight, the development is considered to not result in sustainable development, and would not result in a material consideration that would indicate that permission be determined not in accordance with the Development Plan.

The proposal would fail to secure a high quality layout and design and the overall development, including noise associated with the scaffolding use, the external racking, lorry parking, size of buildings, extensive hardstanding with limited soft landscaping, and the proposed fencing, would be unduly prominent from public viewpoints along the adjacent Public Right of Way to the West, and would be harmful to the wider character and appearance of this countryside location. The development would fail to protect and enhance the landscape and intrinsic character and beauty of the countryside.

The development would thereby be contrary to Policies SP1, SP7, LPP1, LPP47, LPP52, LPP67 of the Braintree District Local Plan 2013 - 2033 and the National Planning Policy Framework.

Reason 2

The proposed development would result in the loss of 2no. trees which are considered to be of high amenity value. In addition, the application proposes the removal of other trees and a tree group, and fails to justify their removal or adequately provide for replacement tree planting. The loss of trees would be harmful to the character and appearance of the site and rural locality, and the development would thereby be contrary to Policies SP7, LPP47, LPP52, LPP65, and LPP67 of the Braintree District Local Plan 2013 - 2033 and the National Planning Policy Framework.

Reason 3

The proposed development by reason of the nature and operation of the use, the siting of external storage, the parking of vehicles, and other general associated activities, would result in adverse impacts to the amenity of the neighbouring residential property known as 'Orange Hall' in terms of noise disturbance. The development would thereby be contrary to Policies SP7, LPP52 and LPP70 of the Braintree District Local Plan 2013-2033 and the National Planning Policy Framework.

Reason 4

The application proposes an over-provision of vehicle parking spaces above the maximum standards which has failed to be justified, and in addition, no details of cycle storage provision has been provided. The over provision of parking spaces, and inadequate provision of cycle facilities would be contrary to the thrust of policies which seek to promote sustainable modes of transport and prioritise the needs of pedestrians and cyclists above use of the private car. The development would thereby be contrary to Policies LPP42, LPP43 and LPP52 of the Braintree District Local Plan 2013-2033 and the National Planning Policy Framework.

Reason 5

In the absence of a completed Section 106 Legal Agreement to provide for a contribution towards the cost of infrastructure appropriate to the type and scale of development proposed (casual/informal open space and outdoor sports provision), the development would be contrary to Policies SP6 and LPP50 of the Braintree District Local Plan 2013 - 2033, the Council's Open Space Supplementary Planning Document (2009), and the National Planning Policy Framework.

Informative(s)

Informative 1

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 discussing these with the Applicant either at the pre-application stage or during the life of the application. However, as is clear from the reasons 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 CONSIDERATIONS

National 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
LPP7	Rural Enterprise
LPP42	Sustainable Transport
LPP43	Parking Provision
LPP47	Built and Historic Environment
LPP52	Layout and Design of Development
LPP64	Protected Sites
LPP65	Tree Protection
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP67	Landscape Character and Features
LPP75	Surface Water Management Plan
LPP76	Sustainable Urban Drainage Systems

APPENDIX 3:

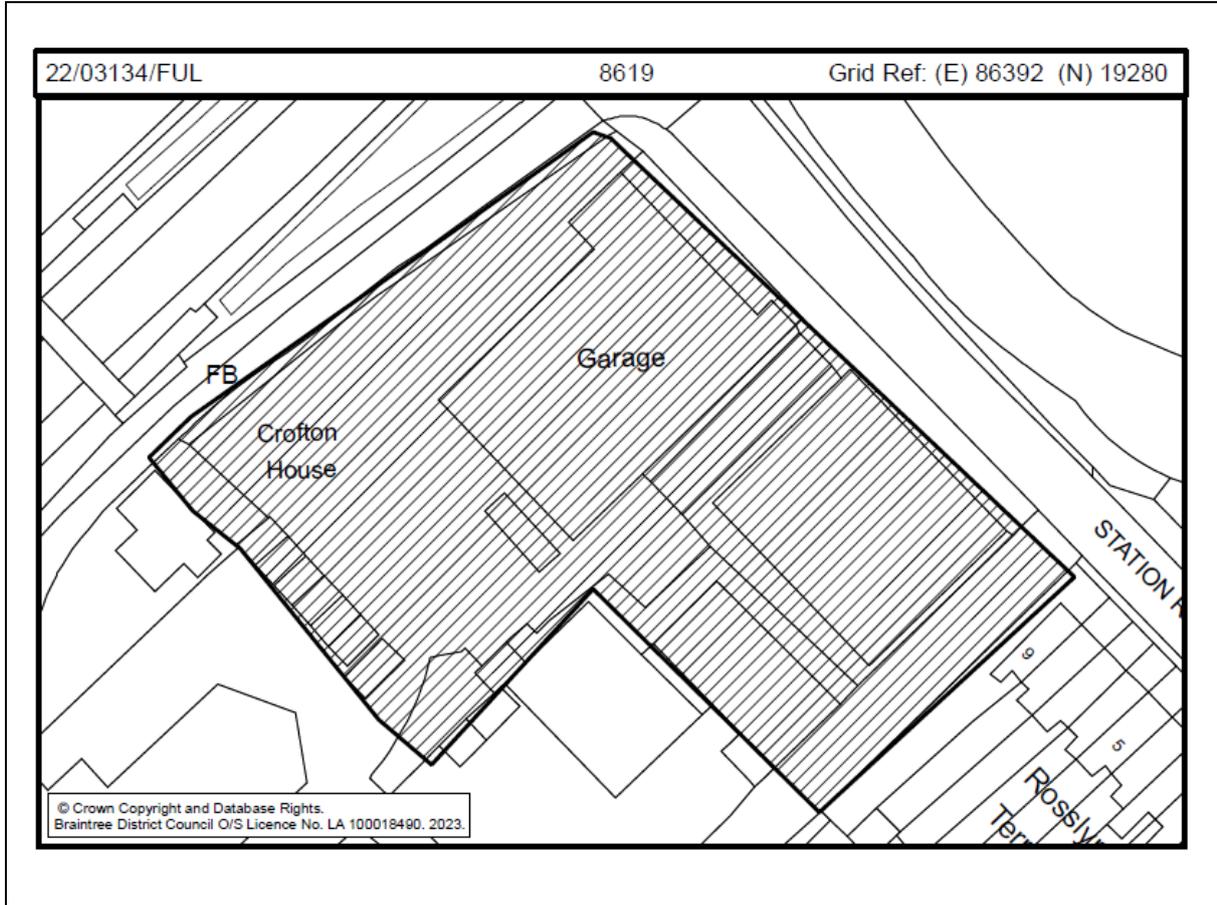
SITE HISTORY

Application No:	Description:	Decision:	Date:
19/00100/REF	Residential development of 8 new dwellings, associated parking and landscaping to replace existing industrial buildings and hardstanding on Land at Hedingham Road, Gosfield, Essex	Appeal Dismissed	02.07.20
20/00026/REF	Outline planning permission with all matters reserved apart from access for a new residential development comprising of up to 23 dwellings alongside associated works.	Appeal Dismissed	02.07.20
89/00905/	Erection of new stores, proposed car park and barrel ramp and demolition of small store.	Granted	20.06.89
89/00905/P	Erection Of New Stores, Proposed Car Park And Barrel Ramp And Demolition Of Small Store	Granted	19.06.89
93/00869/FUL	Relocation of two horizontal cylinder tanks. Removal of earth banks and replacement with concrete walls. Replacement and relocation of vehicle loading gantry	Granted	02.08.93
04/02438/MIN	Change of use to waste transfer station/recycling centre including new sorting shed, re-use of currently redundant buildings and use of land for concrete crushing and soil recycling	Withdrawn	06.04.05
05/01495/ECC	Change of use to waste transfer station/recycling centre including new sorting shed re use of	Deemed Refused	18.10.05

	currently redundant buildings and use of land for concrete crushing		
17/01607/FUL	Proposed development of 40 no. new residential dwellings	Refused	11.12.17
18/01255/FUL	Residential development of 8 new dwellings, associated parking and landscaping to replace existing industrial buildings and hardstanding on Land at Hedingham Road, Gosfield, Essex	Refused	31.01.19
19/01804/OUT	Outline planning permission with all matters reserved apart from access for a new residential development comprising of up to 23 dwellings alongside associated works.	Refused	19.02.20

Report to: Planning Committee	
Planning Committee Date: 5th March 2024	
For: Decision	
Key Decision: No	Decision Planner Ref No: N/A
Application No:	22/03134/FUL
Description:	Demolition of existing buildings, mixed use development comprising 24 residential apartments with a ground floor retail unit in Block A and ground floor commercial space within Blocks B and C, associated access, parking, and landscaping
Location:	Deals Of Kelvedon, Station Road, Kelvedon
Applicant:	Kelvedon Village Developments Ltd., C/O Agent
Agent:	Mrs Lisa Skinner, Stirling House, Denny End Road, Waterbeach, Cambridge, CB25 9PB
Date Valid:	15th November 2022
Recommendation:	It is RECOMMENDED that the following decision be made: § That had the Local Planning Authority been in a position to determine the application, that it be 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>
<p>Background Papers:</p>	<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: 22/03134/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 (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 site is situated within the defined development boundary for Kelvedon which is identified as a Key Service Village in the Adopted Local Plan. The site is allocated in the Adopted Local Plan as an 'Employment Policy Area' and a 'car park'. The site is situated adjacent to Kelvedon railway station which is situated on the mainline from London to Norwich. The site currently comprises of a car sales / repair garage which has a frontage onto Station Road. Opposite is the River Blackwater and flood plain. Within the site to the rear is an existing associated car park and garage buildings.
- 1.2 The north west boundary of the site fronts onto Station Approach which provides access to the railway station (east platform). The site is currently accessed from Station Road. To the east of the site there are residential dwellings (Rosslyn Terrace) fronting onto Station Road. The site lies outside of, but adjacent to the designated Conservation area. There is a change in site topography with the land rising from Station Road to rear of the site with a difference of approximately 3.5 metres.
- 1.3 The application proposes demolition of the existing buildings (garage, showroom, canopy, rear concrete garages and rear brick garage) on the site and proposes a mixed-use scheme comprising of 3 buildings providing 24 residential flats, a new retail shop unit, commercial space. A new access road is proposed centrally through the site from Station Road. The proposals include associated landscaped amenity space and car/cycle parking. Block A and B are both 3 storey in height and Block C has 2 storeys.
- 1.4 It should be noted that the Applicant has appealed against the non-determination of the planning application. Notification of the appeal against non-determination was received by the Local Planning Authority on 8th February 2024. The date for the Appeal Hearing has been set by the Planning Inspectorate for 18th June 2024. Therefore, the Local Planning Authority can no longer determine this application, but outline its position for the forthcoming appeal, by setting out its putative reasons for refusal in this case.
- 1.5 The proposals would fail to preserve or enhance the setting of the Kelvedon Conservation Area resulting in a low level of less than substantial harm to its significance. Further harm would be caused by the poor layout and design of the proposals, poor internal and external amenity for future residents, an unneighbourly relationship with existing occupiers, insufficient parking spaces, contrary to Policies LPP2, LPP3 and LPP43 of the Adopted Local Plan. The proposal would also fail to provide on-site affordable housing or an adequate financial contribution in lieu of on-site affordable housing.
- 1.6 It is recommended that had the Local Planning Authority been in a position to determine the application, that planning permission would be refused.

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.

2.2 It should be noted that the Applicant has lodged an appeal against non-determination. Notification of the appeal against non-determination was received from the Planning Inspectorate on 8th February 2024. The date for the Appeal Hearing has been set by the Planning Inspectorate for 18th June 2024. Therefore, the Local Planning Authority can no longer determine this application, but outline its position for the forthcoming appeal, by setting out its putative reasons for refusal in this case.

2.3 Members are advised that Officers had been working with the Applicant in a positive and proactive manner through the lifetime of the application to seek to resolve or narrow down both technical and design related issues. This has involved Officers accepting both revisions to the detailed design of the scheme, including the reduction in the number of units from 29 to 24 and the additional of commercial floorspace to the ground floor of Blocks A and B, and the submission of revised technical reports, including supporting information for highways and drainage. Officers also arranged for the Applicant to engage with ECC Highways between August 2023 and December 2023, in order for a holding objection to be resolved. At the time of the appeal submission, additional drainage information was submitted in order to overcome a holding objection from the Essex County Council Suds team. Officers duly re-consulted ECC earlier this year, and the holding objection was subsequently removed.

2.4 Officers were in the process of finalising assessment of the application and drafting a Committee Report, when the appeal for non-determination was submitted to the Planning Inspectorate.

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 situated within the defined development boundary for Kelvedon which is identified as a Key Service Village in the Adopted Local Plan. The site is allocated in the Adopted Local Plan as an 'Employment Policy Area' and as a 'car park'.

- 5.2 The site is situated adjacent to Kelvedon railway station which is situated on the mainline from London to Norwich. The site currently comprises a car sales / repair garage which has a frontage onto Station Road. Opposite is the River Blackwater and flood plain. Within the site to the rear is an existing associated car park and garage buildings.
- 5.3 The north west boundary of the site fronts onto Station Approach which provides access to the railway station (east platform). The site is currently accessed from Station Road. To the east of the site there are residential dwellings (Rosslyn Terrace) fronting onto Station Road.
- 5.4 The site is located outside, but adjacent to the designated Conservation Area. There is a change in site topography with the land rising from Station Road to rear of the site with a difference of approximately 3.5 metres.

6. PROPOSAL

- 6.1 During the life of the application, Officers accepted revised plans and the number of residential units reduced from 29 to 24 and additional commercial floor space were introduced on the ground floor of Blocks A and B.
- 6.2 The application proposes demolition of the existing buildings (garage, showroom, canopy, rear concrete garages and rear brick garage) on the site and proposes a mixed-use scheme comprising of 3 buildings providing 24 residential flats, a new retail shop unit, and commercial space.
- 6.3 A new access road is proposed centrally through the site from Station Road.
- 6.4 The proposals include associated landscaped amenity space and car/cycle parking. Block A and B are both 3 storey in height and Block C would have 2 storeys.

7. SUMMARY OF CONSULTATION RESPONSES

7.1 Anglian Water

- 7.1.1 Assets Affected- There are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.
- 7.1.2 Wastewater Treatment- The foul drainage from this development is in the catchment of Coggeshall Water Recycling Centre which currently does not have capacity to treat the flows from the development site. Anglian Water are obligated to accept the foul flows from the development with the benefit of planning consent and therefore would take necessary steps to ensure there is sufficient treatment capacity.
- 7.1.3 Used Water Network- The response has been based on the following submitted documents: Applications form/FRA. The sewerage system at

present has available capacity for these flows. If developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991.

7.1.4 Surface Water Disposal- The preferred method of surface water disposal would be to a sustainable drainage system (SUDs) with connection to sewer 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. From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets. The Local Planning Authority should seek the advice of the Lead Local Flood Authority or Internal Drainage Board.

7.2 Environment Agency

7.2.1 We have reviewed the documents as submitted and have no objection to the proposed development on the basis that conditions regarding ground water protection are included. Without these conditions, the proposed development would present an unacceptable risk to the environment.

7.2.2 Flood Risk- The Flood Zone extents in the Flood Map for Planning have been updated at this location since the Product 4 data was supplied to the Applicant. The updated Flood Map shows that none of the proposed development falls within Flood Zone 3, and all building is located within Flood Zones 1 and 2.

7.2.3 The proposals are for the redevelopment of commercial land into a mixed use development. The residential flats are classified as 'more vulnerable development', whereas the commercial units are considered 'less vulnerable', as defined in Annex 3: Flood Vulnerability Classification of the National Planning Policy Framework (NPPF).

7.2.4 Flood Risk Assessment

- Finished ground floor levels have been proposed at 23.25 mAOD. This is above the 1% (1 in 100) annual probability flood level including climate change of 23.095 and therefore all more vulnerable development is not at risk of internal flooding during the design event.
- The finished ground floor levels (23.25 mAOD) are below the 0.1% (1 in 1000) annual probability flood level including an allowance for climate change (23.415m AOD). Therefore, the ground floors of the 'more vulnerable' development in block 'b', and the 'less vulnerable' ground floor space in block 'c', are at risk of flooding to a depth of 0.165m during an extreme event.

7.2.5 Higher refuge is available to the occupants of the self-contained ground floor dwellings in block 'b'. However, the refuge will be limited to stairways and landing areas. The Local Planning Authority should determine whether the higher refuge provided is suitable for occupants.

7.2.6 The FRA states that it is essential that occupants produce Emergency Flood Plans. These plans should be submitted to the Local Planning Authority who should determine their adequacy to ensure the safety of occupants.

7.3 Essex Fire and Rescue

7.3.1 Access- Access for Fire Service purposes has been considered in accordance with the Essex Act 1987 - Section 13. Fire service access to the proposed development appears sufficient, meeting the requirements of Section B5 Approved Document "B". More detailed observations on access and facilities for the Fire Service will be considered at Building Regulation consultation stage.

7.3.2 Building Regulations- It is the responsibility of anyone carrying out building work to comply with the relevant requirements of the Building Regulations. Applicants can decide whether to apply to the Local Authority for Building Control or to appoint an Approved Inspector. Local Authority Building Control will consult with the Essex Police, Fire and Crime Commissioner Fire and Rescue Authority (hereafter called "the Authority") in accordance with "Building Regulations and Fire Safety - Procedural Guidance". Approved Inspectors will consult with the Authority in accordance with Regulation 12 of the Building (Approved Inspectors etc.) Regulations 2010 (as amended).

7.3.3 Water Supplies- The architect or Applicant is reminded that additional water supplies for firefighting may be necessary for this development. The architect or Applicant is urged to contact Water Section at Service Headquarters, 01376 576000.

7.3.4 Sprinkler Systems- There is clear evidence that the installation of Automatic Water Suppression Systems (AWSS) can be effective in the rapid suppression of fires. Essex County Fire & Rescue Service (ECFRS) therefore uses every occasion to urge building owners and developers to consider the installation of AWSS. ECFRS are ideally placed to promote a better understanding of how fire protection measures can reduce the risk to life, business continuity and limit the impact of fire on the environment and to the local economy. Even where not required under Building Regulations guidance, ECFRS would strongly recommend a risk-based approach to the inclusion of AWSS, which can substantially reduce the risk to life and of property loss. We also encourage developers to use them to allow design freedoms, where it can be demonstrated that there is an equivalent level of safety and that the functional requirements of the Regulations are met.

7.4 Essex Police

7.4.1 Braintree District Local Plan 2022 states: LPP52 (h) Designs and layouts shall promote a safe and secure environment, crime reduction and prevention, and shall encourage the related objective of enhancing

personal safety with the maximum amount of natural surveillance of roads, paths and all other open areas and all open spaces incorporated into schemes LPP52 (j) The design and level of any lighting proposals will need to be in context with the local area, comply with national policy and avoid or minimise glare, spill and light pollution on local amenity, intrinsically dark landscapes and nature conservation LPP52 (m) The development proposed should not have a detrimental impact on the safety of highways or any other public right of way, and its users.

7.4.2 We thank you notification of the additional documents attached to this planning application. We would again wish to state that 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 benefitting both the resident and wider community.

7.5 Natural England

7.5.1 To be provided to Members at the Planning Committee Meeting.

7.6 NHS

7.6.1 Requests that the sum of £11,800 be secured through a planning obligation in the form of a S106 agreement is linked to any grant of planning permission in order to increase capacity for the benefit of patients of the Primary Care Network operating in the area. 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 No objection subject to securing:
a) a proportionate financial contribution towards visitor management measures for the Blackwater Estuary SPA/Ramsar Site and Essex Estuaries SAC.
b) ecological mitigation and enhancement measures.

7.8 BDC Emergency Planning

7.8.1 The team have considered the available documentation and would make the following comments. We recognise that this is an area at risk of flooding. As such we:

7.8.2

- Strongly recommend safe access and egress for emergency vehicles is incorporated in any plans.
- Recommend that developer provides a guidance sheet for purchasers on preventing/alleviating flood damage to homes/commercial properties and preparing a home emergency/evacuation plan

- Recommend that properties are raised off the ground to a sufficient height or electrical sockets are of a sufficient height to avoid flooding.

7.9 BDC Environmental Health

7.9.1 The Council Environmental Team has made four sets of comments on the application, over the past year. They are set out below:

Comments on Original Submission

- 7.9.2 Assessment of the information submitted with the application leads to Environmental Health concluding that there are matters that make this site unsuitable for residential accommodation.
- 7.9.3 Noise- The noise report identifies the high noise levels existing due to local transport systems in particular the adjacent railway but also local roads. The noise report recommended building envelope mitigation for the noise affected dwellings thereby being reliant on closed windows to meet reasonable internal noise level BS8233 Table 4 (Sound Insulation and Noise reduction in Buildings)) in habitable rooms. Occupiers not being able to open windows will lead to poor thermal comfort conditions. It is further noted that the design also proposes commercial development below/in vicinity of the residential development with the associated noise that may be created affecting the residential occupiers. The maximum levels (LAFmax) at the time of car door slams at residential property is the limit of what would be considered acceptable (i.e. 45dB(A) internal) from the slamming of car doors as indicated by a 60dBLAFmax at residential window locations (section 5.4 of acoustic report).
- 7.9.4 The overheating report provided indicates that the provision of mechanical ventilation systems will not be sufficient to prevent over heating conditions arising for those future occupiers that need to keep windows closed for external noise reasons so as not to be exposed to higher internal noise levels relative to the internal noise recommendations in BS8233 Table 4 Sound Insulation and Noise reduction for Buildings) unless there is provision of integral blinds as indicated to reduce the solar gain. This leads to properties requiring closed windows, blinds which may reduce natural lighting and reliance on mechanical ventilation for thermal comfort. These systems also need to be accounted for in the noise assessments as they can introduce additional noise to the internal spaces. The effect on internal air quality of reliance on mechanical ventilation systems might also need to be considered. The noise report does not consider any outside amenity space and therefore it is not clear if there is any private amenity space provided for use exclusively by the occupiers. It is evident that the use of some balconies presents high external daytime levels in excess of the upper daytime 16 hour average and therefore it would not be concluded by environmental health that balconies where the noise levels are greater than 50dB(A) as an LAeq offer would provide quiet outside amenity space.

- 7.9.5 Contaminated land- Historical uses on or in the vicinity of the site namely gas works, vehicle repair garages have the potential to carry significant risks to the end users of the proposed site. The desk study report assessment submitted by Geo Environmental states in Table 3.6 Plausible Pollutant Linkages & Qualitative Risk Assessment that there is high risk of harm to end users of the site. High risk meaning from Table 3.2 that *Harm is likely to arise to a designated receptor from an identified hazard Realisation of the risk is likely to present a substantial liability. Urgent investigation (if not already undertaken) is required and remediation works may be necessary in the short term and are likely over the longer term.*
- 7.9.6 The report submitted is a desk top study relying on previous site investigation reports dating back to April 2000 and intrusive sampling at around the same time period. It would be appropriate to carry out an intrusive site investigation prior to a decision being made on this application to determine the current contamination on site and its potential to impact and risks of harm to end users of the site including groundwater. Environmental Health would object to the granting of this application prior to the provision of this information. For air quality there are no exceedances of objective levels highlighted so no adverse comments raised apart from the need for dust controls if demolition works proceed. It shall be confirmed that the proposed living accommodation meets acceptable room sizes for bedrooms and living spaces.
- 7.9.7 In conclusion Environmental Health would object to the application due to concerns about the living amenity from the adverse effects of noise and the insufficient information on contaminated land to make a decision on the site without an updated intrusive site investigation.

Comments on Revised Proposals

- 7.9.8 Environmental Health refers to the Geo Environmental Preliminary Contaminated Land Report for the site dated 3rd July 2023. The report confirms the contamination on site due to past industrial/contamination uses in particular the gas works. There is evidence presented that confirms pollution to ground water and that the industrial pollutants are present beyond the boundary of the site. It is necessary to acquire an opinion from the Environment Agency given the risks to controlled waters as to monitoring and remediation requirements both post and prior to any demolition or development. It is noted that the EA has been consulted.
- 7.9.9 Environmental Health would accept demolition of existing buildings only subject to a remediation scheme being approved and adhered to for the demolition works as agreed by the Planning Authority. This will then allow further investigation of the contamination on/off site to be able to confirm that redevelopment is viable and safe for the proposed future use of the site and other receptors. The ongoing monitoring requirements may be determined in more detail and the viability of the development confirmed. Environmental Health would wish to avoid the requirement for long term

monitoring or maintenance and it would be appropriate to have information on the costs and timescales.

- 7.9.10 Until such time that the viability of remediation works can be confirmed post demolition for the site then Environmental Health is not able to conclude that the site can be made suitable for the proposed development and therefore would object to development. Environmental Health will review the position following the Environment Agency response.

Comments from EH after submission of comments from the Environment Agency

- 7.9.11 Further to environmental health's previous response then there has been further site investigation and information provided in regard to the contaminated land and Environmental health modifies its response as follows.
- 7.9.12 Contaminated Land- It is also noted that the EA as the authority responsible for pollution to controlled waters has agreed that conditions are appropriate to manage the risks as the full extent of the contamination on the subject and the neighbouring sites (that might affect the proposed site) may not be fully determined until there is further excavation and testing following demolition of existing structure and breaking up of hardstanding. (EA reference :AC/2023/131648/01-L01 dated 08 August 2023) For the contaminated land then Environmental Health also now agrees to the recommendation of contaminated land conditions if there is a decision to grant consent. A number of conditions are requested.
- 7.9.13 Air Quality- For air quality there are no exceedances of objective levels highlighted so no adverse comments raised apart from the need for dust controls if demolition works proceed.
- 7.9.14 Housing Condition- Final internal layout plans shall meet acceptable room sizes for bedrooms and living spaces.
- 7.9.15 Noise- In regard to the concerns about noise then Environmental Health is not aware of any updated noise report for the site so the comments remain as follows The noise report identifies the high noise levels existing due to local transport systems in particular the adjacent railway but also local roads. The noise report recommends building envelope mitigation for the noise affected dwellings thereby being reliant on closed windows to meet reasonable internal noise level BS8233 Table 4 (Sound Insulation and Noise reduction in Buildings)) in habitable rooms. Occupiers not being able to open windows will lead to poor thermal comfort conditions.
- 7.9.16 It is further noted that the design also proposes commercial development below/in vicinity of the residential development with the associated noise that may be created affecting the residential occupiers. The maximum levels (LAFmax) at the time of car door slams at residential property is the limit of what would be considered acceptable (i.e. 45dB(A) internal) from

the slamming of car doors as indicated by a 60dB_{LAFmax} at residential window locations (section 5.4 of acoustic report). The overheating report provided indicates that the provision of mechanical ventilation systems will not be sufficient to prevent over heating conditions arising for those future occupiers that need to keep windows closed for external noise reasons so as not to be exposed to higher internal noise levels relative to the internal noise recommendations in BS8233 Table 4 Sound Insulation and Noise reduction for Buildings) unless there is provision of integral blinds as indicated to reduce the solar gain. This leads to properties requiring closed windows, blinds which may reduce natural lighting and reliance on mechanical ventilation for thermal comfort. These systems also need to be accounted for in the noise assessments as they can introduce additional noise to the internal spaces. The effect on internal air quality of reliance on mechanical ventilation systems might also need to be considered.

- 7.9.17 The noise report does not consider any outside amenity space and therefore it is not clear if there is any private amenity space provided for use exclusively by the occupiers. It is evident that the use of some balconies presents high external daytime levels in excess of the upper daytime 16 hour average and therefore it would not be concluded by environmental health that balconies where the noise levels are greater than 50dB(A) as an LA_{eq} offer would provide quiet outside amenity space. In conclusion Environmental Health is not in a position to recommend approval due to concerns about the living amenity from the adverse effects of noise.
- 7.9.18 Notwithstanding this, a number of planning conditions are requested.

Comments on Noise Report submitted with the Appeal

- 7.9.19 The submitted report highlights the need for additional noise conditions if there is a decision to grant. The site does not seem to provide good living amenity for the proposed residents, but ultimately for the Planning Authority to decide whether the points raised by environmental health are relevant and on balance make the site unsuitable for residential development where keeping windows closed and therefore air conditioning systems to the residential property is necessary as well as the limited availability of quiet private external amenity.
- 7.9.20 Within the noise report appeal statement it states that:
4.6 Internal noise levels can therefore be adequately controlled, where required, using closed windows and passive means of ventilation. However, if overheating (due to the need to keep windows closed) is predicted to be a problem in any of these rooms, and the overall balance of having a MVHR (or similar forced air) system is beneficial (when all factors, including sustainability are considered) then such a system could be included in the scheme design. If this were to be the case, acoustic specification for the system would need to be drawn up after planning permission has been granted once all necessary details are known.

4.7 It is normal practice in this situation for a local authority to impose a condition in the planning permission requiring a more detailed submission showing glazing, ventilation and screening required for the finalised scheme design, based on finalised layout, room sizes and window areas once these are known.

7.9.21 My recent response does provide comment on the concerns of the closed window approach to insulate against road and traffic and other noise and the risks to the occupiers from overheating and insufficient ventilation. It does mention the requirements given in the overheating report to provide integral blinds if the design is to PASS the overheating assessment. Environmental Health would query whether this is sufficient as integral blinds are not part of the building design or envelope that would be maintained. The comment above in 4.6 of the noise report does use the words 'if mechanical ventilation is beneficial'. Environmental Health would conclude that the building will need air conditioning to provide cool air to maintain comfortable internal air temperatures and acceptable thermal comfort conditions for the proposed occupiers particularly when elevated temperatures are present. A feasible building design solution has not been provided to manage overheating and as this is a matter of the sustainability of the project (i.e. need to power and maintain the air conditioning system) then it is a matter in Environmental Health's view that needs to be agreed as acceptable by the Planning Authority prior to determination and overheating concerns were raised in my previous response as well as the recent one.

7.9.22 My response also considers 5.4 extract (below) in the noise statement which considers LA_{max} from car park activity where this is at 60dB(A) predicted at the residential façade and if windows to bedrooms were left open then noise levels may give rise to sleep disturbance as with a reduction of 15dB from the partially open window then internal noise levels (if a bedroom) would be at the trigger noise level for sleep disturbance (WHO).

5. If the car park were to be used before 0700 hours or after 2300 hours (ie. during the night), the LA_{eq,1h} at the closest residential would be 35dB and the maximum noise level window would be 60dB, LA_{max}.

In 5.7 No more than one delivery could take place at a time, as there is only one delivery bay and deliveries would be only between 0900 and 1700 hours on any day.

7.9.23 Environmental Health does not consider this unreasonable if the development proceeds subject to the confirmation that any barrier between the receptor and the noise sensitive receptor realises the 15dB of reduction due to screening from vehicle noise and 20dB of screening for unloading noise.

7.9.24 For plant then the consultant suggests –

5.12 The rating level of noise emitted by all fixed plant on the site shall not exceed 43dB at any noise sensitive premises between 0700 and 2300 and 33dB between 2300 and 0700 hours. The measurement and assessment shall be made according to BS4142:2014+A1:2019.”

7.9.25 If there is a decision to grant then in addition to the conditions mentioned within the Environmental Health memo previously submitted then it would be appropriate to agree conditions for plant noise (i.e 5.12 above may not be accepted) , delivery times, implementation of noise attenuation measures from commercial/retail activity etc. It is noted then for many tables then the noise levels are given as L_{in} and no overall A weighted noise level readings which would assist with the assessment of the noise report. Environmental Health would require that L_A levels are also provided where possible for the overall noise level in tables where appropriate and it would be appropriate to carry out a BS4142 assessment for commercial noise when rating noise from commercial premises (i.e. the vehicle repair premises) in a mixed residential/commercial area.

7.9.26 If the application is granted then there will be a need for submission of a further noise report before first occupation of residential property to confirm that the necessary noise attenuation measures have been implemented and conditions to control noise effects on the residential occupiers.

7.10 BDC Housing, Research and Development

7.10.1 This application now seeks detailed approval for a mixed use scheme that includes a reduced number of residential flats from 29 previously to 24 now, comprising 14 x 1 bed flats and 10 x 2 bed flats.

7.10.2 In accordance with Affordable Housing Policy LP31, 40% of these flats (equalling 9) are required to be provided as affordable housing. To address housing need we would usually want to secure a mix of flat types and tenure on site. Commonly, there would be requirement for a 70/30 tenure mix of rented units over shared ownership, equating to 6 and 3 units respectively, as shown in the table below.

	No.	Affordable Rent	Shared Ownership
1 bed flat	6	4	2
2 bed flat	3	2	1
	9	6	3

7.10.3 However, the design of this scheme is such that affordable housing cannot be separated from units intended for market sale. As affordable units would share entrances and common areas, this scheme is not considered suitable for on-site affordable housing provision. Added to this, it has been confirmed by a number of Register Providers (RP's) that they would have no interest in purchasing affordable homes from this scheme.

7.10.4 We feel therefore a more appropriate approach in this case is to seek a commuted payment in lieu of affordable housing. The usual methodology when calculating commuted payments is to formulate the calculation on the amount of subsidy an RP would require to purchase comparable homes elsewhere. This subsidy is based on market values for each of the unit types shown above, less what an RP could typically offer for the flats if they were being provided on site. Two RP's have been approached and they have provided us figures on market values along with sums they could theoretically offer for the units. These figures have been averaged for the purpose of calculating the commuted sum.

7.10.5 Accordingly, we recommend a commuted payment of £667,596 should be sought and secured by s106 agreement.

7.11 BDC Landscape Services

7.11.1 No comments received.

7.12 BDC Waste Services

7.12.1 For the residential block (Block A) there needs to be sufficient refuse storage facilities for 45 litres per resident per week. An additional 45 litres per resident per week is required for recycling storage. The surface between the bin store and where the dust cart can safely stop must be free of shingle, flat, level, and no steps. Drop curbs must be installed where there are any curbs.

7.12.2 On viewing supplementary document 5412_PA_27__Bin Storage. There is not enough capacity to accommodate refuse collections. There will need to be space for 2 x 1100 litre refuse bins, and 2 x 1100 litre co mingled recycling bins. Co-mingled recycling does not include glass. Braintree District Council currently do not collect glass or food from flats, as such please ensure the managing agent dos not put a food or glass bin into the residential bin store, as there is no current service to collect.

7.13 ECC Archaeology

7.13.1 Recommendation for conditions requiring archaeological and geoarchaeological evaluation.

7.14 ECC Highways

7.14.1 All residential 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 commencement of the development must provide guaranteed deposits, which will ensure the new street is constructed in accordance with a

specification sufficient to ensure future maintenance as highway by the Highway Authority.

7.14.2 From a highway and transportation perspective, providing the development is carried out in accordance with submitted drawing 5412 PA_03 Rev G, the impact of the proposal is acceptable to the Highway Authority subject to conditions regarding the submission of a construction traffic management plan and the provision of a 2m wide footway as shown on drawing 5412 PA_03 Rev G.

7.15 ECC Historic Buildings Consultant

7.15.1 The application site is adjacent to, but not within, the Kelvedon Conservation Area. There is a high concentration of listed buildings within the Conservation Area, particularly along the High Street, which is south of the application site. The site is not a positive or strongly contributing part of the setting of any listed buildings, however due to the proximity of the site to a high number of designated heritage assets, including the Conservation Area, development should seek to not introduce dominant or incongruous built form which detracts from local character or the setting of these assets. A heritage statement has been submitted in support of this application which details the history of the site and assesses the significance of heritage assets in sufficient detail.

7.15.2 As part of the proposal, the existing car showroom and other buildings within the site will be demolished and three blocks constructed on the site, two of which (B and C), front the street. It is concluded that the demolition plans will have a minor beneficial impact on the setting of the Conservation Area due to the removal of existing negative features. The increase in height proposed by the new development will have a negligible adverse effect on the Conservation Area; the overall impact on the setting of the Conservation Area when considered from Station Road is deemed neutral. In other areas where the application site can be considered or viewed, the effect on the Conservation Area is considered between minor beneficial to no impact.

7.15.3 Whilst I agree that there will be a positive impact upon the setting of the Kelvedon Conservation Area due to the removal of the existing car showroom buildings, I have concerns that the proposed replacement buildings fail to make adequate reference to the character of the area and will introduce out of scale and incongruous architectural elements into the setting of the Conservation Area. Although the former factory building north of the railway (Kings Meadow Court) provides context for the proposed height of the new structures, it should not necessarily set the precedent for taller buildings on the application site. The separation of the Kings Meadow Court and the village caused by the railway line emphasises its distinction and difference, removed from the lower height and smaller scale of buildings within the Conservation Area. In contrast, the application site has a far more discernible relationship with the Conservation Area and the increase in density and height of built form will affect not only how the

Conservation Area is viewed, but how it is interpreted. This would constitute a low level of less than substantial harm to the significance of the Conservation Area, as is indicated within the Applicant's heritage statement which, as stated above, summarises the proposal will have a negligible adverse effect on the Conservation Area. A reduction in height of the new buildings, particularly block B, is recommended.

- 7.15.4 Furthermore, the proposed balconies on Blocks and A and B, and the terraced first floor area on Block C, add a dynamic frontage and depth to the buildings which is uncharacteristic for the village. Removal of these elements is also recommended. Many aspects of the proposal are nevertheless acceptable, and the proposed use of brick and slate reflects the prevailing character of the area. Subject to the provision of further specifications, the materials would be considered acceptable from a built heritage perspective. The fenestration of the new blocks, subject to the removal of balconies, is regular and balanced, whilst the gabled roof form of the buildings is largely responsive to the location, despite the height of the structure.
- 7.15.5 When considering this application, the local planning authority should consider section 192, 202 and 206 of the NPPF. Braintree's policy LPP 53 and LPP 54 are also applicable, as is section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. (Comments made prior to Dec 2023).
- 7.15.6 Additional comments following the submission of amended drawings and documents by the Applicant. It should be read in conjunction with my letter dated 16/12/2022. Reading through the additional and revised documentation, I do not feel the design changes are sufficient to overcome my concerns. My original letter therefore remains applicable, as the changes to the design are marginal. Further commentary and justification for the design has been provided by the Applicant in the form of an addendum to their design and access statement, to which I make the following comments.
- 7.15.7 Whilst the Applicant has given examples of external balconies and flat roofs within the conservation area and wider village, I do not think that these few, sparing examples, can be considered indicative of a prevailing local character nor set a precedent for their use on this site. The balconies shown as examples are far smaller, whilst the flat roofs provided as examples are clearly later extensions or additions to the conservation area, and not a prevailing feature. Similarly, projecting flat roofs for shop fronts, where present, do not typically project or span across such a width as the new proposed building. The examples they give of flat roofs within the conservation area are not directly comparable, and in no way do I think they provide justification for the design proposed.
- 7.15.8 I do not wish to alter my judgment re. Kings Meadow Court, which is notably separated by the railway line with a different topography, layout and relationship to the village.

7.15.9 Fundamentally, there is a disagreement between myself and the architect in terms of appropriate design and the prevailing architectural characteristics which contribute to the significance of the conservation area. I do note the Applicant's heritage consultant (in both reports) says there will be a negligible degree of harm to the conservation. Whilst this may mean low, it doesn't mean no harm. The Applicant states the harm is outweighed by the public benefits of the scheme, and its Braintree's decision to either agree or disagree when determining the application. In my professional opinion, there will be harm to the conservation area due to the introduction of dominant development within its setting which alters and detracts from how the conservation area's special interest is understood and appreciated. Whilst I agree it would be at the mid-lower end of the scale of 'less than substantial' harm to the asset, I do not agree that it would be negligible, which infers the lowest amount of harm.

7.15.10 Section 202 of the NPPF is applicable and should be considered by the local authority when determining this application. (Comments made prior to Dec 2023).

7.16 ECC Independent Living/Care

7.16.1 No comments received.

7.17 ECC SuDS

7.17.1 No objection, subject to conditions.

8. PARISH COUNCIL

8.1 Kelvedon Parish Council

8.1.1 Kelvedon Parish Council supports this application. The Parish Council commented as follows (in respect of the revised proposals).

8.1.2 The Parish Council has noted that on Block B there appears to be a flight of steps leading from the ground floor doors directly onto the pavement/road frontage at Station Road, with no visible perimeter/safety barrier such as a fence or low wall being proposed. As this is a very busy area for traffic movements, the Parish Council are concerned that this could be hazardous.

8.2 Feering Parish Council

8.2.1 Feering Parish Council object to this application as currently proposed. We would like it noted that a development of this scale will intrinsically serve the residents of both Kelvedon and Feering and as the parish boundary is the River Blackwater, we would have hoped that we would have been consulted as part of the application. Feering Parish Council were only

added to the list of consultees after the Feering Clerk contacted the Planning Officer to ask for the deadline of this application.

- 8.2.2 Station Road together with the junction at Kelvedon High Street, will not be able to sustain the continuous level of traffic which will be using the road to serve this development, along with the other developments which have already been granted planning permission. The traffic data does not take into account the cumulative impact of the developments which have already been approved. Table 4.4 of the Transport Assessment states that there will be a "very small net increase of 4 two-way vehicle trips during the AM peak hour and 12 two-way vehicle trips during the PM peak hour". So how will this be a commercially viable project? If, as stated, users will come via foot or cycle, there does not appear to be anywhere for users to leave their bikes in front of Block B or C. The statement indicates that there will be one space for residents and one space for staff to leave cycles, and we feel that this is insufficient.
- 8.2.3 We would assume from the size of the retail development that the size of the delivery vehicles which will have to service the unit will have a negative impact on the road. The road is not wide enough to allow the vehicles to turn into the service area without impacting on both lanes of the road.
- 8.2.4 Feering Parish Council have read the statement by the Heritage Consultant and share the concerns of the consultant. We have noticed that Block C is forward of the built line of Rosslyn Terrace and Block B and will have a negative effect on the street scene.
- 8.2.5 Feering Parish Council have declared a climate emergency within the Parish and as this is a substantial development, we would like to see energy efficiency, energy conservation and environmental sustainability measures included.
- 8.2.6 Feering Parish Council accept that this is a good brownfield development which could be supported in future, if the above comments are taken into account. We do not support this application as it stands.

Comments from Feering PC on revised proposals

- 8.2.7 Feering Parish Council continue to object to this application. The agent has not addressed the comments in our previous objection in December 2022 regarding the traffic data not taking into account the cumulative impact of the development which have already been approved. We would like to reiterate this objection. We have also read the objection from 1 Rosslyn Terrace regarding insufficient parking for the shop and commercial premises and we support these comments as we also have concerns that there will be insufficient visitor parking for the shop and commercial premises. As we previously stated in our objection there still does appear to be any provision for users who come by foot or cycle to leave their bikes / prams / dogs outside of the premises.

- 8.2.8 Feering Parish Council support the comments made by the Environment Agency regarding the site de-contamination. We would also reiterate our previous comment regarding Block C being forward of the built line of Rosslyn Terrace which does not appear to have been addressed. We have also noted that there is a thermal modelling report and the entire building will be mechanically ventilated. If this is the case, why is there a need for balconies? The presumption appears to be that there will not be any windows opened due to the mechanical ventilation and the proximity to the train line and traffic.
- 8.2.9 Having reviewed the details again, we have also noted that routes through the buildings have steps to take account of the level differences. Also, there does not appear to be any lifts or disabled access provision for the flats and building B. Can it be confirmed that this is an inclusive and Equality Act compliant development? Feering Parish Council would also like confirmation that each parking space for the accommodation will have EV charger points installed and not just the provision for them to be added at a later date. As previously stated the Parish Council accept that this is a good brownfield development and could be supported in future, if the above comments are taken into account.

9. REPRESENTATIONS

9.1 A site notice was displayed adjacent to the site for a 21 day period and immediate neighbours were notified by letter and the following comments have been made.

9.2 Parking/Highway Issues

- Concern insufficient parking provision would lead to users parking in the existing permit parking spaces for residents of Rosslyn Terrace.
- All vehicles/plant must be accommodated onsite.
- Road system is insufficient to handle traffic in village.
- Concern that proposed use of existing unadopted concrete roadway (Lane D) has no provision for a separate pedestrian footway representing a clear danger to pedestrian safety and would also cause gridlock with traffic due to conflicting movements (buses moving in an out of depot).

9.3 Neighbouring Amenity

- Concern regarding loss of amenity for neighbouring residents of proposed lanes B and D due to increased usage and noise nuisance from vehicles.
- Antisocial behaviour occurs in existing commuter car parking area.
- Areas of existing commuter car park need to be designated for the intended new users. CCTV/barriers must be provided to ensure commuter car park is used for a valid reason.
- The workshop area into which Applicants business will transfer, if application is approved, must be refurbished to take account of all

current noise attenuation options, as well as current emission controls and lighting measures.

9.4 Flooding Issues

- Concern previous brownfield land requires excavation to be carried out to compensate for development encroaching into existing flood plain.

9.5 Design and Layout

- Lack of access/lifts for disabled users.
- Photo voltaic panels should be included.
- Proposed bin area is located too close to existing residents.

9.6 Other

- Recommendations in the Land Contamination Assessment must be made a requirement of the application.
- Support the regeneration of the site.
- Improve the appearance of the site.

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 76 of the NPPF requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth (plus the relevant buffer) of housing for decision making purposes where the relevant application was made prior to the publication of the December 2023 version of the NPPF.
- 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 Paragraph 76 of the NPPF sets out that local planning authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years worth of housing for decision making purposes if: their adopted plan is less than five years old; and that adopted plan identified at least a five year supply of specific, deliverable sites at the time that its examination concluded. The Council's Local Plan is up to date and complies with the NPPF.
- 10.2.2 However, Footnote 79 of the NPPF sets out that this provision only applies to planning applications which were submitted on or after the date of publication of the revised NPPF (December 19th 2023). As this application was received prior to that date, the Council must consider it in relation to the 5 year housing land supply.
- 10.2.3 The Braintree District Local Plan has an approved minimum housing target of 716 new homes per year in the District between 2013 and 2033. To this annual supply the Council must add the cumulative shortfall since the start of the Plan period. This figure is recalculated each year. 873 new homes per year are therefore required to be delivered within this 5 year period (2023-2028). Taking the above into account, the Council's latest 5 Year Housing Land Supply position for 2023-2028 shows that the Council has a 5.8 years supply.
- 10.2.4 The Council considers this a robust position and as the Council is able to demonstrate an up to date 5 year housing land supply, the presumption (at Paragraph 11d of the Framework) is not engaged. Consequently, and given that they were only recently adopted, the policies within the Development Plan are considered to have full weight in decision making. Planning

applications must therefore be determined in accordance with the Development Plan, unless material planning considerations indicate otherwise.

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 site is situated within the defined development boundary. Policy LPP1 of the Adopted Local Plan states that development within development 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 The site is allocated on the proposals map of the Adopted Local Plan as an 'Employment Policy Area'. The allocation extends beyond the site boundary encompassing land to south and west. Policy LPP3 of the Adopted Local Plan states, *'the following uses will be considered appropriate and will be permitted and retained:*

a) Office use, research and development, and industrial processes (other than industrial processes falling within Use Class B2) (Use Class E(g)).

b) General industrial (use Class B2) and storage and distribution (use Class B8)

c) Repair of vehicles and vehicle parts

d) Waste management facilities as appropriate taking into account neighbouring uses

e) Services specifically provided for the benefit of businesses or workers based on employment area.

Changes from B2 or B8 to E (other than E (g) Offices, Research and Development, Light Industrial) will not be permitted.

10.3.4 This site is also allocated as 'car park'. Policy LPP43 of the Adopted Local Plan states, *'existing car parks serving... train stations are allocated on the Proposals Map and set out below and will be protected for this use: i) Station Car Park, Kelvedon. Proposals for alternative uses of the above sites will only be acceptable where it can be shown to the satisfaction of the Local Planning Authority that these car parking spaces are being re provided in an equal or better position to serve that main use.'*

10.3.5 The NPPF refers in Chapter 11 to 'Making effect use of land' and states in Paragraph 123, *'planning decision should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.'* Paragraph 6.38 of the Adopted Local Plan states, *'the Council wishes to encourage the use of previously developed land, sometimes known as brownfield land, and seeks to ensure appropriate uses of such sites.'*

- 10.3.6 The Kelvedon Neighbourhood Plan (Adopted on 25th July 2022). Chapter 18 of the Neighbourhood Plan refers to ‘aspiration sites’. Paragraph 18.2 states, ‘*whilst they are beyond the remit of this Neighbourhood Plan, they are included as long term aspirations. These aspirational site statements are not to be regarded as planning policies; they do however, set out the current provision of KPC and how it is believed the sites would best be developed, given the current surrounding uses and needs of the community*’. The Station Road Employment area is identified as an ‘aspiration site’. Paragraph 18.10 states, ‘*the plan supports the principle of redevelopment on this site. Any such development would have to provide:*
- *a comprehensive master plan that incorporates the whole or the main parts of the site (the parade of shops and second hand van sales sites being ancillary sites, which, although desirable to be redeveloped could be excluded);*
 - *a commuter car park of at least the same square meterage area/number of car parking spaces as is currently utilised as such. Alternatively, the provision is made for such car parking elsewhere off site to service rail commuters;*
 - *mixed use development, providing active frontages at ground level;*
 - *improvements to the setting of the Quaker Meeting House;*
 - *Provision of Public Open Space;*
 - *Improved pedestrian and vehicular accesses to the site and, in particular, pedestrian access to the railway station from the High Street;*
 - *Following design principles set out in the Kelvedon Design Guide.’*
- 10.3.7 The Kelvedon Neighbourhood Plan refers to a ‘mixed use scheme’ on the site whereas the Adopted Local Plan has allocated the site as an ‘Employment Policy Area’ and ‘Car pPark’. The Kelvedon Neighbourhood Plan and Section 2 of the Local Plan were adopted on 25th July 2022. The Council have sought legal advice on the matter and confirm that the last item on the Committee agenda would take precedent in terms of policy. The Adopted Braintree District Local Plan 2013 – 2033 therefore sets the precedent in terms of policy position for the site.
- 10.3.8 Consequently, the submitted proposal for a mixed use scheme which is residential led with commercial units on ground floor (Class E) is contrary to Policies LPP2, LPP3 and LPP43 of the Adopted Local Plan. The principle of development is not supported.

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 109 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 SP1 of the Adopted Local Plan states the Local Planning Authorities will take a positive approach that reflects the presumption in favour of sustainable development contained within the NPPF.
- 11.1.3 Policy SP3 of the Adopted Local Plan relates to the spatial strategy for North Essex. It states that existing settlements will be the principal focus for additional growth across the North Essex Authorities area within the Local Plan Period. Development will be accommodated within or adjoining settlements according to their scale, sustainability and existing role both within each individual district and where relevant, across the wider strategic area.
- 11.1.4 It goes onto state that future growth will be planned to ensure existing settlements maintain their distinctive character and role, to avoid coalescence between them and to conserve their setting. Re-use of previously developed land within settlements is an important objective, although this will be assessed within the broader context of sustainable development principle, particularly to ensure that development locations are acceptable by a choice of means of travels.
- 11.1.5 The Adopted Local Plan sets out that the broad spatial strategy for the Braintree District should concentrate development on the town of Braintree, Witham and the A12/Great Eastern Mainline corridor and Halstead.
- 11.1.6 Policy SP7 of the Adopted Local Plan seeks to create, *'well connected places that prioritise the needs of pedestrians, cyclists and public transport services above the use of the private car'*.
- 11.1.7 Kelvedon is identified as a 'Key Service Village' in the Adopted Local Plan. Paragraph 3.5 of the Adopted Local Plan states, *'The Key Service Villages are large villages who serve a wider rural hinterland. The ability to meet day to day needs is normally possible in a Key Service Village through the availability of early years care and primary school, primary health care facilities, convenience shopping facilities, local employment opportunities and links by public transport and road to larger towns'*.
- 11.1.8 The site is located within close proximity to the mainline railway between London and Norwich providing access to Chelmsford and Colchester, the nearest cities. This provides a sustainable alternative mode of travel for prospective occupiers reducing reliance on the private vehicle. The site is also located within close walking distance to the High Street where there are convenience shopping facilities and services available.
- 11.1.9 In terms of sustainability of the site, Officers conclude that the site is sustainable in terms of its location.

11.2 Heritage

- 11.2.1 Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states, *'in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case maybe the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses'*.
- 11.2.2 Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states, *'In the exercise, with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area'*.
- 11.2.3 Paragraph 205 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.
- 11.2.4 Paragraph 208 of the NPPF states that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 11.2.5 Policy LPP47 of the Adopted Local Plan seeks to secure a high standard of design and layout in all new development and the protection and enhancement of the historic environment in order to respect and respond to local context where development may affect the setting of listed buildings, conservation areas.
- 11.2.6 Policy LPP53 of the Adopted Local Plan encourages the preservation and enhancement of the character and appearance of designated Conservation Areas and their settings.
- 11.2.7 A Heritage Statement (prepared by Bidwells dated October 2022) has been submitted as supporting documentation with the planning application.
- 11.2.8 The site is situated outside of, but adjacent to the designated Conservation Area for Kelvedon. It is situated at an entry point into the Conservation Area from the north of the High Street and serves an important part of the setting informing how it is viewed, understood, and appreciated.
- 11.2.9 There is a high concentration of listed buildings within the Conservation area, particularly along the High Street, which is to the south of the application site. The Heritage Statement has assessed the relationship of the site with the listed buildings and concludes there is negligible adverse, negligible minor or no contribution to the assets setting.

- 11.2.10 The Historic Buildings Consultant who has been consulted on the application has also commented that *'the site is not considered to be a positive or strongly contributing part of the setting of any listed building, however, due to the proximity of the site to a number of designated heritage assets, including the Conservation area, development should seek to not introduce dominant or incongruous built form which detracts from local character or setting of these assets'*.
- 11.2.11 The Heritage Statement concludes in Paragraph 9.5 *'In relation to the Kelvedon Conservation Area, it is considered that the site in its present form makes a moderate adverse contribution to the significance of the asset as a result of impacts on its setting. This is due to the detracting effect of the existing showroom buildings and structures on the Station Road frontage, the random and dilapidated effect of the various structures further into the site, and the characterless appearance of the very large areas of hard-standing. None of these contribute positively to the setting of the Conservation Area and, in fact, they offer nothing beneficial to Kelvedon in terms of their appearance or identity. Clearance and replacement with a well-designed re-development has the potential to replace this lack of character with a positive addition to the Conservation Area's setting.'*
- 11.2.12 It further states at Paragraph 9.6 *'The present buildings on site are of a scale and character which is considered to detract from the setting of the Kelvedon Conservation Area. The only substantial, traditionally-built structures on the existing site are the former Gas Board Cottages and Crofton House. Nevertheless, these are of no historic interest and their removal is neutral in effect. Overall, we therefore consider that the effect of the site's clearance will have a minor beneficial impact on the setting of the Conservation Area as a result of removing existing detracting features'*.
- 11.2.13 The Heritage Statement assesses the impact of the proposed development on the setting of the Conservation Area in Station Road and states in Paragraph 9.13, *'if there is any perceived perception of impact arising from the extent of change from the current (detracting) conditions, the impact of increased height could only be regarded as being of negligible adverse impact on the setting of the Conservation Area. Coupled with the considerable improvement in the quality of the streetscene resulting, any such adverse impact would be far outweighed by the townscape and visual benefits in heritage terms – whereby an adverse frontage on the edge of the Conservation Area is regenerated in a manner which creates enclosure to the street, active elevations and an appropriate identity'*. It concludes an overall 'neutral' impact on the Conservation area setting in Station Road.
- 11.2.14 The Heritage Statement further assesses the impact of the proposed development on the Conservation Area from the junction of the High Street and Station Road, where *'at present the view northwards along Station Road gives an awareness of the Blackwater meadows on the eastern side, a focal point of the railway bridge, and then the untidy showroom structures and canopies on the left-hand side'*. The Heritage Statement acknowledges that the height and mass of the proposed development will be greater than

is currently the case, and *'in this viewpoint, the height of the first block (Block C) along Station Road will bring a graded stepping up of height above that of the existing terraces. The block beyond, Block B, on the corner of Station Approach will step up in height above Block C. This arrangement is intentional so as to provide a corner turning marker. From this view point, the corner block will appear taller than the buildings in the foreground, but it will be distant and closely associated with the presence of the railway line and bridge'*.

- 11.2.15 The Heritage Statement further recognises that the increase in height from existing conditions maybe regarding as being 'slightly adverse' in terms of relationship with Conservation Area, as the blocks are taller than those that prevail within the designated area. It states, *'but it should be appreciated that increased scale and mass is already evidence in Kelvedon on the north side of the railway lines at Kings Meadow Place in the form of a converted former warehouse. Such building types are typical of positions alongside the railway and the contemporary reference to them in design helps to support the legibility of the settlement and its constituent parts – not all character areas of the village having evolved solely from the medieval plots along High Street.'* It concludes that, *'introduction of good quality active frontage and identity within Station Road is at least minor beneficial in effect'*.
- 11.2.16 The Heritage Statement also assesses the impact on Conservation Area from views across the water meadows and concludes that, *'the development will bring a new frontage to Station Road in form of two blocks which would be visible from the meadows. They rise in height from adjacent residential terrace and this rise reflects the change in character from 'the historic' village towards the railway land'*. It is considered that there would be a minor beneficial impact on setting of Conservation Area.
- 11.2.17 In assessing the impact from positions along the B1024 (north of site, beyond railway bridge) the heritage statement concludes there would be no impact on the Conservation Area setting from this approach.
- 11.2.18 The Heritage Statement refers to the impact from the north of Conservation Area and concludes that the proposed development will have a neutral impact on the setting stating, *'the proposed new development will introduce a built form which is contextually appropriate for this location. Blocks A and B draw inspiration for massing and design from the existing Kings Meadow Place warehouse. This will bring a stronger sense of place to station area... cementing the legibility of the station within the settlement as a whole.'*
- 11.2.19 The Historic Buildings Consultant has raised concern that, *'the proposed replacement buildings fail to make adequate reference to the character of the area and will introduce out of scale and incongruous architectural elements into setting of Conservation Area'*. The Historic Buildings Consultant has further commented on the former factory building north of the railway (Kings Meadow Court) referred to in the Heritage Statement as states, *'it should not set a precedent for taller buildings on the application*

site'. The Historic Buildings Consultant refers to the separation of Kings Meadow Court from the village by the railway line which emphasises its distinction and difference, removed from the lower height and smaller scale buildings within the Conservation Area. The Historic Buildings Consultant further comments that the site has a *'far more discernible relationship with the Conservation Area and the increase in density and height of built form will affect not only how the Conservation area is viewed but how its interpreted. This would constitute a low level of less than substantial harm to the significance of the Conservation Area'*. In conclusion the Historic Buildings Consultant seeks a reduction in height of the proposed buildings, in particular Block B (nearest railway line).

- 11.2.20 The Historic Buildings Consultant has further raised concern regarding the proposed balconies on Blocks A and B and terraced first floor area on Block C as they, *'add a dynamic frontage and depth to the buildings which is uncharacteristic for the village'* and recommends removal of these aspects.
- 11.2.21 The Historic Buildings Consultant acknowledges the acceptable aspects of the submitted proposal including proposed use of brick and slate, reflective of the prevailing character of the area and the balanced fenestration proposed.
- 11.2.22 During the life of the application, the appearance of the scheme has been slightly modified, however the Historic Buildings Consultant does not feel the design changes are sufficient to overcome their concerns. The original comments (set out above) therefore remain applicable, as the changes to the design are marginal. Further commentary and justification for the design has been provided by the Applicant in the form of an addendum to their design and access statement.
- 11.2.23 Whilst the Applicant has given examples of external balconies and flat roofs within the Conservation Area and wider village, the Historic Buildings Consultant does not think that these few, sparing examples, can be considered indicative of a prevailing local character nor set a precedent for their use on this site. The balconies shown as examples are far smaller, whilst the flat roofs provided as examples are clearly later extensions or additions to the conservation area, and not a prevailing feature. Similarly, projecting flat roofs for shop fronts, where present, do not typically project or span across such a width as the new proposed building. The examples they give of flat roofs within the Conservation Area are not directly comparable, and in no way does the Historic Buildings Consultant think they provide justification for the design proposed.
- 11.2.24 The Historic Buildings Consultant does not wish to alter their judgment regarding Kings Meadow Court, which is notably separated by the railway line with a different topography, layout, and relationship to the village.
- 11.2.25 Fundamentally, there is a disagreement between the Historic Buildings Consultant and the Architect in terms of appropriate design and the

prevailing architectural characteristics which contribute to the significance of the Conservation Area. The Historic Buildings Consultant does note that the Applicant's Heritage Consultant (in both reports) says there will be a negligible degree of harm to the Conservation Area. Whilst this may mean low, it doesn't mean no harm. The Applicant states the harm is outweighed by the public benefits of the scheme. In their professional opinion, the Historic Buildings Consultant states that there will be harm to the Conservation Area due to the introduction of dominant development within its setting which alters and detracts from how the Conservation Area's special interest is understood and appreciated.

- 11.2.26 Whilst the Historic Buildings Consultant agrees it would be at the mid-lower end of the scale of 'less than substantial' harm to the asset, they do not agree that it would be negligible, which infers the lowest amount of harm.
- 11.2.27 Contrary to Paragraph 212 of the NPPF, the proposed development would fail to preserve or enhance the setting of the Kelvedon Conservation Area. As a result, the proposal would result in a low level of less than substantial harm to its significance.
- 11.2.28 Therefore, Paragraph 208 of the NPPF is relevant, which states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. In the assessment of the balance between harm to public benefit, great weight is to be given to the conservation of the heritage assets, in accordance with Paragraph 205 of the NPPF.
- 11.2.29 Officers are not satisfied that the proposals are acceptable and consider them to be contrary to Policies LPP47 and LPP53 of the Adopted Local Plan and the NPPF. The conflict with these policies provides a clear reason for refusing the development on the basis that it is considered that the public benefits of the proposal cited below would not outweigh the heritage harm identified in this case.

11.3 Urban Design

- 11.3.1 Paragraph 131 of 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.
- 11.3.2 Paragraph 135 states that planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting.
- 11.3.3 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.

- 11.3.4 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.
- 11.3.5 The application proposes demolition of the car showroom/office, canopy, concrete garages and brick outbuilding. This is a total area of 1181.7sq.m (canopy not included).
- 11.3.6 The submitted layout plan (PA_03 rev G) proposes the construction of 3 blocks (referred to as Block A, B and C). Block B and C are situated on the road frontage with Station Road. Block A is situated to rear of Block B.
- 11.3.7 There is a new access road proposed which dissects through the site from Station Road, between Block B and C. This access road connects to Lane A which provides residential and commercial parking for Block A and Lane C which provides retail parking for Block C. The access road widens adjacent to Block C to provide 2 parking spaces for delivery / managed staff parking.
- 11.3.8 There is an area of green space (480sq.m) proposed between Block A and B. The northern boundary of the site, which runs alongside the unnamed road into the railway station, is proposed to be enclosed partly with a 1.8m high brick wall and partly with a low level brick wall, railings and planting.
- 11.3.9 Block A – A three storey building is proposed with 8 residential flats 4 x 1 bedroom and x 2 bedroom and 110sq.m of commercial floor space on the ground floor. It has a width of approximately 17.6 metres and a depth of 17.9 metres. There is an area proposed for undercroft car parking. Pedestrian access into the building is gained from the undercroft car parking area.
- 11.3.10 Block B – A three storey building is proposed with 12 residential flats 8 x 1 bedroom and 4 x 2 bedroom. On the ground floor, an area of general purpose commercial space (300sq.m) is proposed. The commercial space has a frontage onto Station Road and into the site at the rear. It would be accessed from stairs into 5 separate entrances. There are areas of green space (defensible frontage) separating the stairs. The pedestrian access into the flats is proposed to the rear of the building. The building has a width of 25.6 metres and a depth of 15.1 metres. Block B is located in the corner of the site, nearest to the railway line and railway bridge.
- 11.3.11 Block C – A two and half storey building is proposed with 2 x 1 bedroom flats and 2 x 2 bedroom flats on the first floor each with a balcony. On the ground floor a retail area of 423sq.m is proposed. Access into the retail area is proposed to the northern corner of the block next to the junction of the new internal access road and Station Road. Access into the flat stair well is proposed to the side of the block adjacent to the access road. Block C is located nearest to the residential dwellings in Rosslyn Terrace. The

building has a width of 21 metres and a depth of 24 metres. The submitted elevations propose that the retail area will protrude forwards to create a single storey frontage with a balcony above which will serve the flats on the first floor.

- 11.3.12 A residential bin store and bike store for Block A are shown to the north of Block A adjacent to the unnamed road. A space for the commercial bin store for Block A is shown in the north facing elevation of Block A. A further standalone bin store is shown to the south of Block A and is marked for commercial purposes. To the north west of this is a buildings proposed to incorporate both residential and commercial bin storage. Beyond this is a further building marked to be used for residential bins and commercial cycle parking. Directly to the rear of Block B is a structure shown to serve as residential cycle parking. An internal cycle store is show in the north facing elevation of Block C.
- 11.3.13 Officers consider that the Design and Access Statement (DAS) does nothing to establish what are the better elements of Kelvedon to respond to architecturally or with regard to place making and therefore it is considered that the resulting layout is somewhat alien to the village as a consequence. It is considered that this is largely related to the massing of the three blocks which do not relate well to the village.
- 11.3.14 The resulting townscape created within this development is a street lined with car parking and bin stores. The soft landscaping proposed fails to mitigate the dominance of car parking and the utilitarian storage buildings lining the north side of the access road. In place making terms this is considered to be a poor design approach.
- 11.3.15 The bin stores opening on to a narrow pavement would hinder the removal of bins because there is not enough space when the doors are open and the commercial car parking spaces are occupied. Similarly, the cycle stores appear deeper than the pavement that serves them. It is considered that such functionality must be poor design.
- 11.3.16 Accessible parking spaces for disabled persons are provided but Officers note that none of the blocks have lifts to the residential flats. It is considered that the central open greenspace is poorly accessible, as steps are proposed at all the convenient access points.
- 11.3.17 The DAS and supporting documentation implies that window detailing is not required for modern buildings. It is already stated above that the DAS inadequately assesses the better aspects of Kelvedon and fails to demonstrate an enhancement (a requirement of the NPPF) that will use the better aspects of design and detail to make this proposal 'belong' in Kelvedon.
- 11.3.18 The DAS uses photos of obscure and random poor buildings in Kelvedon to justify the paired down architectural approach. It states that the scheme has incorporated brick window headers into brick elevations. As these are just

soldier courses, the proposal cannot be considered an enhancement and just in this one detail falls far short of the wealth of fine details found in the better elements of the village. The implication that because the styling is modern, it does not need decoration nor embellishment, which is not a justification for poor design.

- 11.3.19 Officers are disappointed that the buildings have been designed in such a disingenuous manner. The traditional appearance of a façade is used to hide a large flat roof, rather than reflecting how the traditional brick-built buildings of the village use cross wings and multiple roofs to span traditional widths and depths. It is considered that this, along with the weak landscaping is a result of an overly ambitious density, which fails to achieve good design that reflects local distinctiveness.
- 11.3.20 Therefore, Officers are not satisfied that the proposals are acceptable in terms of design, layout and appearance and its general impact upon the character and appearance of the area. The proposal is therefore considered to be contrary to Policies SP7 and LPP52 of the Adopted Local Plan and the NPPF.

11.4 Amenity for Future Occupiers

- 11.4.1 Paragraph 135 in the NPPF states that 'planning policies and decisions should ensure that development that create places that are safe with a high standard of amenity for all existing and future occupants of land and buildings'. Policy LPP52 of the Adopted Local Plan also states that residential developments shall provide a high standard of accommodation and amenity for all prospective occupants. Policy LPP35 of the Adopted Local Plan requires all new development to be in accordance with the Nationally Described Space Standards (NDSS).
- 11.4.2 Single aspect north facing flats are expressly not acceptable, as policy in the Local Plan dictates. In this scheme there are two flats that have only a northerly outlook and will receive no sunlight other than, briefly at sunrise. Ten of the flats will have north facing balconies, which offer poor quality amenity with scant opportunity receive sunlight, that could cause problems of dampness where the surfaces dry too slowly.
- 11.4.3 The flats above the retail unit (Block C) would have limited outlook, creating poor internal amenity. Unit C2 has a dining area window that would face east that would directly over the window on the end of Rosslyn Terrace. As the Applicant has already made the side windows of flat C3 obscured this window in C2 would need to be similarly treated to ensure the amenity of the neighbouring occupier if protected, making C2 single aspect north facing.
- 11.4.4 The side window of the habitable room of unit C1 has a direct view into the bedroom windows of flats B9 and B15. The Essex Design Guide 2005 (EDG) requires a privacy set back of 35 metres from habitable upper floor windows and the distance between Blocks B and c is 10m. Obscuring the

glazing to this window, by condition, would make this flat a single aspect, north facing flat.

- 11.4.5 Flats with limited outlook, albeit southern facing are also located above the retail unit. Both south facing flats would have a reasonable size balcony over the larger ground floor but in order to protect existing residential amenity from overlooking and provide safety to future residents the enclosure to these balconies would need to be of sufficient height that they cannot be looked over. It would be possible to secure a suitable enclosure by condition, but such enclosure would have very limiting effects on the outlook of these single aspect dwellings.
- 11.4.6 Drawing 5412 PA_08 Rev C proposes a calculation of private shared amenity space, however Officers consider this to be inaccurate. For example, the north facing spaces and steps to the ground floor of Block B have no value as amenity space to future residents. These spaces are not private, have no sunlight and are concrete steps or fully planted shrubberies. Similarly, the pavements around the business use on the ground floor of Blocks A and B cannot be considered as usable communal space for the residents of the upper floors.
- 11.4.7 Officers consider that if you discount northern balconies, unenclosed spaces that are not private, little spaces that have no function beyond visual amenity, what remains is inadequate space. 24 flats require 600sq.m of outdoor amenity space as set out in the EDG. Officers would suggest that for those flats without adequate quality balconies there would be an inadequate amount of enclosed communal outdoor space. The most usable area being just 189sq.m.
- 11.4.8 In addition to the inadequacies and poor design of the outdoor spaces, much of the internal design of dwellings do not meet the requirements of the NDSS.
- 11.4.9 The 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. For one bedroom dwellings two floor areas are provided, one person occupancy would require at least 39sq.m and for two-person occupancy, at least 50sq.m would be required. For two-bedroom dwellings two floor areas are provided, three-person occupancy would require at least 61sq.m and for four-person occupancy, at least 70sq.m would be required.
- 11.4.10 Units A4, A5, A8 and A9 in Block A and units B5, B6, B7, B8, B11, B12, B13 and B14 in Block B are single bedroom, double occupancy flats and all have floor areas below the minimum requirements of the NDSS, some by up to 6sq.m.
- 11.4.11 Units B9, B10, B15 and B16 in Block B and C3 and C4 in Block C are two bedroom, 4 person flats and have floor areas below the minimum requirements of the NDSS.

- 11.4.12 Officers consider that the entrance to Block A flats is dark, uninviting, and poorly designed in the undercroft car parking. This appears to be a shared access with the commercial floor. This is not considered to be safe nor good design in which residents can identify who lives there from anyone that may enter their building on business. The narrow access past parked cars is likely to cause worry for private car owners and obstacles for deliveries which must negotiate a less than well designed, shared entrance. The commercial waste bins storage for Block A is attached to the building but only illustrated in plans, it is not shown on the elevations. Odours drifting up to open residential windows and an increase chance of fire risk make this a poor design and unacceptable location for such facilities.
- 11.4.13 Block B also features a shared entrance between commercial and residential, with the associated lack of security and privacy. This building is remote from its car parking which cannot be seen from the apartments. The quantum of parking provision on the site is dealt with in Section 11.8 however the dysfunctional nature of this part of the site is compounded by the poor concept of bollard space control of all spaces which is not considered good design, nor a good place to live.
- 11.4.14 Officers also consider that both of the existing B2 uses adjacent to the site could be operated by any noisy and unrestricted industrial use regardless of current occupation and outside the control of this application. This would clearly have further impacts on the amenity of future residents who must also contend with the noise of the mainline railway, the retained commuters car park and the poorly designed mix of uses.
- 11.4.15 Following the submission of the appeal against non-determination, the Agent submitted a noise report in order to overcome the concerns raised by the Environmental Health team. As set out earlier in this report, the Environmental Health Officer considers the site unsuitable for residential development where keeping windows closed and therefore air conditioning systems to the residential property is necessary as well as the limited availability of quiet private external amenity.
- 11.4.16 The proposals are therefore unacceptable, resulting in a poor level of internal and external amenity for future occupiers, contrary to Policies SP7, LPP35 and LPP52 of the Adopted Local plan, the Essex Design Guidance, the NDSS and the NPPF.

11.5 Affordable Housing

- 11.5.1 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.

11.5.2 In accordance with Policy LPP31 of the Adopted Local Plan, 40% of these flats (equalling 9) are required to be provided as affordable housing. To address housing need, the Housing, Development and Research Officer would usually want to secure a mix of flat types and tenure on site. Commonly, there would be requirement for a 70/30 tenure mix of rented units over shared ownership, equating to 6 and 3 units respectively, as shown in the table below.

	No.	Affordable Rent	Shared Ownership
1 bed flat	6	4	2
2 bed flat	3	2	1
	9	6	3

11.5.3 However, the design of this scheme is such that affordable housing cannot be separated from units intended for market sale. As affordable units would share entrances and common areas, this scheme is not considered suitable for on-site affordable housing provision. Added to this, it has been confirmed by a number of Register Providers (RP's) that they would have no interest in purchasing affordable homes from this scheme.

11.5.4 The Housing, Development and Research Officer feels therefore a more appropriate approach in this case is to seek a commuted payment in lieu of affordable housing. The usual methodology when calculating commuted payments is to formulate the calculation on the amount of subsidy an RP would require to purchase comparable homes elsewhere. This subsidy is based on market values for each of the unit types shown above, less what an RP could typically offer for the flats if they were being provided on site. Two RP's have been approached and they have provided us figures on market values along with sums they could theoretically offer for the units. These figures have been averaged for the purpose of calculating the commuted sum.

11.5.5 Accordingly, it is recommended a commuted payment of £667,596 should be sought and secured through a Section 106 Agreement.

11.5.6 The planning application was accompanied by an Affordable Housing Statement prepared by Kift Consulting Ltd (KCL). During the life of the application, and following the comments made by BDC Housing, Development and Research Officer, the Applicant submitted a further statement prepared by KCL. These statements make the following conclusions:

Under Local Plan Policy (LLP31), the Council requires nine affordable housing dwellings (40%) to be delivered on site at Staton Road. Kelvedon Village Developments Limited (KVDL) had made a commercial decision to deliver an affordable scheme on site. Both the Council and the developer agree that due to a lack of interest by the Council's affordable housing partners, a commuted sum in lieu of the nine affordable housing

apartments is now more appropriate. The commuted sum calculated by the Council of £667,596 makes the scheme unviable as it ignores the additional costs (£297,000) incurred by KVDL of converting the affordable housing to private sale.

To bring the scheme back into viability would require a maximum commuted sum in lieu of affordable housing payment of £126,000 and would be in accordance with the assumptions used in the Viability Study which informs the 2022 Local Plan.

KVDL recognises that a financial payment in lieu of affordable housing is appropriate and necessary. However, both KVDL & KCL believe that the affordable housing commuted sum calculator fails to recognise the additional costs that will be incurred by KVDL and yet in this instance, they are not to blame for the lack of interest by RPs in this site, which meets all the standards set by the Government and Homes England.

KCL believes that a fair and reasonable approach would be for the commuted sum payment to be set at a level which captures some of the additional development value but also brings the scheme back into viability by generating the same level of profit for private sale. Taking account of a fair and reasonable approach to the financial payment, KCL has been authorised by KVDL to, without prejudice, make a commuted sum offer in lieu of affordable housing of £126,000.

- 11.5.7 The result of this is that the commuted sum suggested by the Applicant is £126,000, equating to £541,596 less than the amount requested by the Council's Housing, Research and Development Officer.
- 11.5.8 During the life of the application, Officers sought advice from an Independent Viability Expert. Assessment is ongoing, and an update on the progress of this will be provided to Members at the Planning Committee meeting.
- 11.6 Archaeology
- 11.6.1 Policy LPP59 of the Adopted Local Plan states that, *'where archaeological potential is identified but there is no overriding case for an any remains to be preserved in situ, development which would destroy or disturb potential remains will be permitted subject to conditions ensuring an appropriate programme of archaeological investigation, reporting and archiving'*.
- 11.6.2 The Archaeology Consultant has reviewed the application and stated that, *'The site lies within the historic settlement at Kelvedon, which was a small Roman town within close proximity to Iron Age and Roman settlement evidence. Due to the industrial use of the site historically and today there is likely to have been previous disturbance to any archaeological remains, however, some areas of the site are open and may only have suffered minimal disturbance. The impact from previous development will need to be established in order to determine the impact of the development on*

potential archaeological remains associated with the Iron Age and Roman settlement evidence in the vicinity. The land contamination report recommends intrusive investigation be carried out to determine the geo-environmental issues and possible need for remediation. These works should be monitored under archaeological supervision to record the level of disturbance and / or truncation due to the previous and current land use. Should this not be feasible, archaeological test pits / trenches will be required in areas of open ground to determine the potential for survival of archaeological remains and to determine the impact of the proposal upon them (NPPF, 200).'

11.6.3 The Archaeology Consultant has therefore proposed that a number of planning conditions are imposed relating to archaeology investigation.

11.7 Ecology

11.7.1 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.

11.7.2 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.

11.7.3 The application is supported by a letter from 'Practical Ecology' dated 5th April 2022 which confirms that on 16th March 2022 and updated ecological walkover of Deal Motors, Kelvedon was undertaken. This follows a Preliminary Roost Assessment (PRA) survey undertaken in May 2020 with a following Bat Survey in July 2020.

11.7.4 The Ecology Officer has reviewed the application and supporting documentation and is satisfied that sufficient ecological information is available for determination of the application. This provides certainty for the Local Planning Authority of the likely impacts on Protected species and Priority Species/Habitats and, with appropriate mitigation measures secured the development can be made acceptable.

11.7.5 The Ecology Officer commented that conditions should be imposed to ensure that, *'the mitigation measures as detailed in the Bat Survey Report (Practical Ecology July 2020) must be secured and implemented in full. This is necessary to conserve protected and priority species, particularly bats (sensitive lighting) and nesting birds. The biodiversity enhancement measures, as outlined in the Updated Site Walkover (Practical Ecology, April 2022) should be delivered to secure net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework'*. Comments pre-date Dec 2023 version of the NPPF.

11.7.6 The proposal accords with Policies LPP64 and LPP66 of the Adopted Local Plan.

11.8 Trees and Landscaping

- 11.8.1 The NPPF states in Paragraph 136, '*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*'.
- 11.8.2 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.
- 11.8.3 Officers consider that there has been no meaningful attempt by the developer to create a tree lined street in accordance with Paragraph 136 of the NPPF. The development site should create a tree lined street however the planting scheme proposed is sparse and sporadic and not acceptable.
- 11.8.4 Officers consider that the planting proposals are not climate change proof. The site plan and planting plan illustrate little strips of planting between foundations and haunches that are likely to dry out and fail. In this regard it is considered that the landscaping scheme proposed is very much compromised by the density and amount of accommodation. As such Officers consider that the proposals would not result in a well-designed place required by national and local guidance. The poor quality soft landscape fails to enhance the scheme and is considered poorly integrated.
- 11.8.5 The proposals fail to comply with Policy SP7 of the Adopted Local Plan and the NPPF.

11.9 Highway Considerations

- 11.9.1 Paragraph 115 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.
- 11.9.2 The Highway Authority 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.
- 11.9.3 The Highway Authority have raised no objection subject to conditions relating to submission of a construction management plan, construction of vehicular and pedestrian access and a travel pack.

- 11.9.4 Concerns have been raised by local residents regarding the loss of the on-street parking bays on Station Road. Site layout drawing PA_03 rev G and a formal response from the Applicant's transport consultant confirms that the existing on-street parking bay will remain in-situ where they are currently located.
- 11.9.5 Policy LPP43 of the Adopted Local Plan seek to ensure sufficient vehicle/cycle parking is provided within new developments.
- 11.9.6 The Essex Parking Standards 2009 requires the minimum of one space per one-bedroom flats and two spaces per two-bedroom flat, 1 space per 14sq.m of retail space and 1 space per 30sq.m of commercial floor space. This results in 84 spaces. In addition to this 6 visitor parking spaces would be required. The plans indicate that 38 car parking spaces would be provided, but no visitor spaces.
- 11.9.7 The Standards also state that reductions of the vehicle standard may be considered if the development is in an urban area (including town centre locations) that has good links to sustainable transport. In this case, the site is located nearby to the village centre and railway station. This is a location where it may be reasonable for the LPA to accept a lower level of parking provision.
- 11.9.8 That said, in this case, the proposed parking provision is considered unacceptable given each residential property could accommodate at least two people and no visitor car parking is provided. Furthermore, there is an under provision in parking spaces for the new commercial uses.
- 11.9.9 Despite the sites location, within the defined development boundary, it is considered the scheme underprovides car parking for the proposed scheme and given the number of potential occupiers and visitors, the proposal could result in cars parking on the nearby highway, which is unacceptable. Furthermore, the lack of sufficient car parking within the site layout is a further indication that the proposals represent an overdevelopment of the site.
- 11.10 Impact upon Neighbouring Residential Amenity
- 11.10.1 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.
- 11.10.2 The proposed layout plan indicates that an access to an existing car parking area outside of the red line is to be grassed over, albeit with a linking pavement constructed. Aerial photography indicate that this car parking is well used with most spaces full. It is not clear whether this will intensify activity on Station Road (Lane D on the application drawings) and past the closest house of Rosslyn Terrace and this has not been adequately explained by the application documents. If this intensification is

possible and outside the control of the Applicant, then the existing amenity of the existing residential occupiers of Rosslyn terrace would be compromised by the proposal.

- 11.10.3 Further to this potential compromise is the placement of car parking spaces and manoeuvring space on Lane D. As there is a habitable room window on the northwestern elevation of Rosslyn Terrace the unregulated activity of residential car parking at any time of day or night has highly negative impacts on this existing dwelling. Glare from headlights and fumes may enter this window from the manoeuvring of parking vehicles, the queuing of cars accessing car parks beyond and the clanking of droppable bollards whenever residents of the proposed scheme wish to use their spaces would severely impact on the amenity of neighbouring occupiers.
- 11.10.4 This existing side window is also overlooked by habitable room of flat C2 and the garden of this dwelling will be overlooked by anyone using the terrace that serves flat C3.
- 11.10.5 Officers are not satisfied that the proposals are acceptable and consider them to be contrary to Policy LPP52 of the Adopted Local Plan and the NPPF.

11.11 Refuse and Recycling

- 11.11.1 Policy LPP52 of the Adopted Local Plan states that designs shall incorporate details of waste storage and collection arrangements, including provision for recycling, within the site to ensure that the impact on amenity and character are considered and recycling is optimised.
- 11.11.2 The BDC Waste Team have assessed the details submitted in support of the application and do not raise any objection to the proposed design, size, and siting of the proposed bin stores. Officers are satisfied that the proposals are acceptable and comply with Policy LPP52 of the Adopted Local Plan.

11.12 Flooding and Drainage Strategy

- 11.12.1 A Flood Risk Assessment and Drainage Strategy (prepared by INGENT dated January 2021 and a Technical Note dated January 2024) has been submitted as supporting documentation.
- 11.12.2 The front portion of the site is located within Flood Zone 2 and an extremely small portion of the site is located within Flood Zone 3 and 3b in association with the River Blackwater.
- 11.12.3 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.

- 11.12.4 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.
- 11.12.5 The Environment Agency (EA) states that the Flood Zone extents in the Flood Map for Planning have been updated at this location since the Product 4 data was supplied to the Applicant. The updated Flood Map shows that none of the proposed development falls within Flood Zone 3, and all building is located within Flood Zones 1 and 2. As such, the application fits the criteria for National Flood Risk Standing Advice with the exception of the site falling within 20m of a statutory main river.
- 11.12.6 The proposals are for the redevelopment of commercial land into a mixed-use development including 24 residential flats, a retail unit, commercial units, access routes and onsite parking. The residential flats are classified as 'more vulnerable development', whereas the retail and commercial units are considered 'less vulnerable', as defined in Annex 3: Flood Vulnerability Classification of the National Planning Policy Framework (NPPF).
- 11.12.7 The EA have assessed the flood risk assessment that accompanied the planning application and have made the following comments:
- Finished ground floor levels have been proposed at 23.25 mAOD. This is above the 1% (1 in 100) annual probability flood level including climate change of 23.095 and therefore all more vulnerable development is not at risk of internal flooding during the design event.*
- The finished ground floor levels (23.25m AOD) are below the 0.1% (1 in 1000) annual probability flood level including an allowance for climate change (23.415m AOD). Therefore, the ground floors of the 'more vulnerable' development in block 'b', and the 'less vulnerable' ground floor space in block 'c', are at risk of flooding to a depth of 0.165m during an extreme event.*
- 11.12.8 Higher refuge is available to the occupants of the self-contained ground floor dwellings in Block 'b'. However, the refuge will be limited to stairways and landing areas. The Local Planning Authority are required to determine whether the higher refuge provided is suitable for occupants. Officers are satisfied with these refuge arrangements. The EA also suggest that occupants should produce Emergency Flood Plans, and this should be secured by planning condition.
- 11.12.9 The Lead Local Flood Authority (LLFA) were consulted on the application, as it proposes more than 10 dwellings. The LLFA have reviewed the Flood Risk Assessment, associated drainage documents and technical note which accompanied the planning application confirmed that they have no objection to the grant of planning permission subject to recommended planning conditions.

11.12.10 Given this, the proposals accord with Policies LPP74 and LPP76 of the Adopted Local Plan and guidance from the NPPF.

11.13 Contaminated Land

11.13.1 Policy LPP70 of the Adopted Local Plan states that proposals for all new development should prevent unacceptable risks from all emissions and other forms of pollution. Proposals for development on, or adjacent to land which is known to be potentially affected by contamination, or land which may have a particular sensitive end use or involving the storage and/or use of hazardous substances, will be required to submit an appropriate Page 23 of 179 assessment of the risk levels, site investigations and other relevant studies, remediation proposals and implementation schedule prior to, or as part of any planning application.

11.13.2 The Environment Agency state that the proposed development site has several potentially contaminating former uses including gas works, petrol station and vehicle maintenance which present a high risk of contamination that could be mobilised during construction to pollute controlled waters. Controlled waters are particularly sensitive in this location because the proposed development site is located in a SPZ 3, upon a secondary aquifer A, within 50m of the River Blackwater and in a surface water safeguard zone.

11.13.3 The Geo-environmental PRA Desk Study October 2022 and the Preliminary Ground Investigation Report July 2023 submitted with the application, demonstrate that it will be possible to manage the risk posed to controlled waters by this development. Further detailed information will however be required before built development is undertaken. The EA believe that it would place an unreasonable burden on the developer to ask for more detailed information prior to the granting of planning permission and therefore a number of planning conditions are requested.

11.13.4 Following a re-consultation, the Council's Environmental Health team concurs with the view of the EA and agrees with the recommendation of a number specifically worded planning conditions.

11.14 Habitats Regulations Assessment (HRA/RAMS)

11.14.1 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.

11.14.2 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.

- 11.14.3 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.
- 11.14.4 The proposed mitigation measures would consist of the securing of a financial contribution of £156.57 per dwelling erected towards offsite visitor management measures at the above protected sites.
- 11.14.5 This financial contribution would be secured by way of a Section 106 Legal Agreement.

12. PLANNING OBLIGATIONS

- 12.1 Paragraph 57 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 land owners 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.

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 40% affordable housing provision on sites in other areas outside of the main towns. The application does not provide any affordable housing on site, or a sufficient financial contribution in lieu of on-site provision, and the application is recommended to be refused for this reason.

NHS

- 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. A financial contribution of £11,800 is sought to increase capacity for the benefits of patients of the primary care network operating in the vicinity of the proposed development. This may be achieved through any combination of extension, reconfiguration, or relocation of premises.

Open Space

- 12.8 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 SPD. The Councils Open Space SPD sets out details on how standards will be applied. A development of this size would be expected to make provision.
- 12.9 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. These aspects could be secured through a Section 106 Agreement.

Essex RAMS

- 12.10 As identified above, the site is situated within the Zone of Influence (ZOI) for the Blackwater Estuary SPA/Ramsar and Dengie SPA and RAMSAR sites.
- 12.11 As such, the developer is required to pay a financial contribution towards off-site visitor management measures for the Blackwater Estuary SPA and Ramsar site, currently £156.57 per dwelling for the uplift in the number of dwellings (24no) which equates to £3,757.68.

Refuse Vehicle Access

- 12.12 To ensure that both the private and adopted roads are built to the standards commensurate with that required by the Local Highway Authority and that access for the Council to pass and repass over these roads can be permitted at all times.
- 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 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 a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being); and
- an environmental objective (to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy).

13.1.2 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: (a) the local planning authority cannot demonstrate a five year supply (or a four year supply, if applicable, as set out in Paragraph 226) of deliverable housing sites (with a buffer, if applicable, as set out in Paragraph 77) and does not benefit from the provisions of Paragraph 76; or (b) where the Housing Delivery Test

indicates that the delivery of housing was below 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.

13.1.3 As indicated above, the Council's latest 5 Year Housing Land Supply position for 2023-2028 shows that the Council has a 5.8 years supply. The Council considers this a robust position and as the Council is able to demonstrate an up to date 5 year housing land supply, and because the most important policies for determining the application are not out of date, the presumption (at Paragraph 11d of the Framework) is not engaged. Consequently, the policies within the Development Plan are considered to have full weight in decision making. Planning applications must therefore be determined in accordance with the Development Plan, unless material planning considerations indicate otherwise.

Development Boundary Designation within the Development Plan

13.1.4 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".

13.1.5 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 a defined development boundary where the principle of development is acceptable. The proposal therefore accords with Policy LPP1 of the Adopted Local Plan. However, the submitted proposal for a mixed use scheme incorporating residential with a commercial unit on ground floor (Class E), is contrary to Policies LPP2, LPP3 and LPP43 of the Adopted Local Plan. The principle of development is therefore not supported. Significant weight is attributed to this conflict.

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:

Heritage Harm

13.2.2 Contrary to Paragraph 212 of the NPPF, the proposed development would fail to preserve or enhance the setting of the Kelvedon Conservation

Area. The proposal would be contrary to Policies LPP47 and LPP53 of the Adopted Local Plan and the NPPF. Significant weight is attributed to this harm.

Layout and Design

- 13.2.3 Further harm is caused by the poor layout and design of the proposals, specifically the unattractive building with a contrived design, poor internal and external amenity for future residents, unneighbourly relationship with existing occupiers at neighbouring properties, poor landscaping scheme, and insufficient parking space provision parking spaces, contrary to Policies LPP43, LPP47, LPP52 and LPP65 of the Adopted Local Plan. Significant weight is attributed to this harm.

Insufficient Affordable Housing Contribution

- 13.2.4 The development does not provide for any affordable housing on site, and are proposing an insufficient financial contribution in lieu of on-site affordable housing, contrary to Policy LPP31 of the Adopted Local Plan. Significant weight is attributed to this harm.

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 Dwellings

- 13.3.2 The development would deliver 24no. market dwellings. As the Council can demonstrate a 5 Year Housing Land Supply, only moderate weight is assigned to this benefit.

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 would 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 and Planning Balance

- 13.4.1 Taking into account the above, while the proposal complies with some Development Plan policies which weigh in favour of the proposal, it is

considered that the proposal conflicts with the Development Plan as a whole. In addition to being contrary to Policy LPP1, Officers also consider that the proposals would be contrary to Policies SP7, LPP2, LPP3, LPP35, LPP43, LPP47, LPP52 and LPP52 of the Adopted Local Plan.

- 13.4.2 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, an important material consideration is whether the Council can demonstrate a 5 Year Housing Land Supply and consequently, whether Paragraph 11d) of the NPPF is engaged.
- 13.4.3 As indicated above, the Council is currently able to demonstrate a 5 Year Housing Land Supply and therefore Paragraph 11d) of the NPPF is not engaged.
- 13.4.4 When considering the planning balance and having regard to the adverse impacts and benefits outlined above, Officers have concluded that the adverse impacts of granting permission would outweigh the benefits, when assessed against the policies in this Framework taken as a whole. Consequently, Officers consider that there are no material considerations that indicate that a decision should be made other than in accordance with the Development Plan. It is therefore recommended that planning permission is refused for the proposed development.
- 13.4.5 Notwithstanding the above, if the 'tilted balance' was engaged, it is considered that [the adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Against this context, it would be recommended that planning permission be refused for the proposed development.

14. RECOMMENDATION

- 14.1 It is RECOMMENDED that the following decision be made:
Had the Local Planning Authority been in a position to determine the application that planning permission would have been 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
Planning Layout	2201-WWA-XX-XX-DR-L-0301-S4 P02	N/A
Landscaping	2201-WWA-XX-XX-DR-L-0101-S1 P09	N/A
Proposed Site Plan	PA03	G
Floor Plan	PA06	C
Roof Plan	PA05	E
Proposed Plans	PA 10	D
Proposed Elevations	PA 11	D
Proposed Plans	PA 13	D
Proposed Elevations	PA 14	N/A
Proposed Plans	PA 16	E
Proposed Elevations	PA 17	F
Proposed Plans	PA 18	C
Public Open Space Details	PA_08	C
Materials Details	PA_22	N/A
Perspective	PA_23	N/A
Perspective	PA_24	N/A
Perspective	PA-25	N/A
Perspective	PA_26	N/A
Proposed Bin Collection Plan	5412 PA 15 A	N/A
Topographical Survey	22841SE-02	N/A
Location Plan	N/A	N/A
Topographical Survey	22841SE-01	N/A
Proposed Plans	3624:01 A	N/A
Proposed Plans	45635BDLS-01	N/A
Proposed Plans	45635BDLS-02	N/A
Proposed Plans	45635BDLS-04	N/A
Proposed Plans	45635BDLS-05	N/A
Location Plan	PA_01	N/A
Existing Site Plan	PA_02	N/A
Demolition Plan	PA_07	N/A
Proposed Plans	PA_19	N/A

Reason(s) for Refusal

Reason 1

The proposed development would fail to preserve or enhance the setting of the Kelvedon Conservation Area resulting in a low level of less than substantial harm to its significance. Whilst the level of harm in this case would be less than substantial harm, the benefits of the proposal do not outweigh the harm to the identified heritage asset. The proposal is therefore contrary to Policies SP7, LPP47 and LPP53 of the

Braintree District Local Plan 2013-2033 and the National Planning Policy Framework.

Reason 2

The principle of development is not supported and the submitted proposal for a mixed use scheme which is residential led with commercial units on ground floor (Class E) is contrary to Policies LPP2, LPP3 and LPP43 of the Braintree District Local Plan 2013-2033.

Reason 3

The proposal would result in a poorly considered scheme which fails to secure a high standard of design and layout. The design fails to reflect the context of its surroundings, unsympathetic to its sensitive location and the amenity of future occupiers will be harmed by the inadequate internal and external amenity and a lack of car parking. Furthermore, the scheme relates poorly to neighbouring development, detrimental to residential amenity.

The proposals amount to poor design and layout failing to add to the quality of the area and an overdevelopment of the site, and would fail to provide a satisfactory level of amenity for future occupiers contrary to Policies SP7, LPP35, LPP52 and LPP65 of the Braintree District Local Plan 2013-2033, the Essex Design Guide, 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 proposed development has not been designed to accommodate affordable housing on site, and in the absence of this provision, the proposal fails to provide a sufficient financial contribution in lieu of on-site provision of affordable housing in accordance with the local need. The proposal therefore fails to comply with Policy LPP31 of the Braintree District Local Plan 2013-2033.

Reason 5

The proposed development would trigger the requirement for:

- A financial contribution in lieu of on-site provision;
- A financial contribution towards primary health services;
- Financial contribution towards outdoor sports, equipped play and allotments;
- Habitat mitigation payment;
- Refuse Vehicle Access.

These requirements would need to be secured through a S106 Agreement. At this time, 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.

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying the matters of concern and discussing these with the

applicant either at the pre-application stage or during the life of the application. Unfortunately, it has not been possible to resolve those matters within the timescale allocated for the determination of this planning application. The applicant may wish to seek further advice from the Local Planning Authority in respect of any future application for a revised development.

APPENDIX 2:

POLICY CONSIDERATIONS

National 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
LPP2	Location of Employment Land
LPP9	Retailing and Regeneration
LPP16	Housing Provision and Delivery
LPP31	Affordable Housing
LPP35	Housing Mix, Density and Accessibility
LPP42	Sustainable Transport
LPP43	Parking Provision
LPP46	Broadband
LPP47	Built and Historic Environment
LPP48	An Inclusive 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
LPP61	Local Community Services and Facilities
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP71	Climate Change
LPP72	Resource Efficiency, Energy Generation and Energy Efficiency
LPP73	Renewable Energy Schemes
LPP74	Flooding Risk and Surface Water Drainage
LPP75	Surface Water Management Plan
LPP76	Sustainable Urban Drainage Systems
LPP78	Infrastructure Delivery and Impact Mitigation

Kelvedon Neighbourhood Plan 2017-2033

HO1	New Housing and Associated Infrastructure
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HO4	Mix of Housing Types
HO5	Affordable Housing
HO6	Minimum Garden Sizes
HO8	Housing Development on Previously-developed Sites within the Village Development Boundary
DE1	Design of New Development
DE2	High Quality Building and Design
DE3	Well Designed Energy Efficient Buildings and Places
MA1	Traffic Congestion and Parking Stress
MA4	Parking Provision
NE8	Flood Prevention
BR5	Protection of Business Uses
DC1	Developer Contributions

APPENDIX 3:

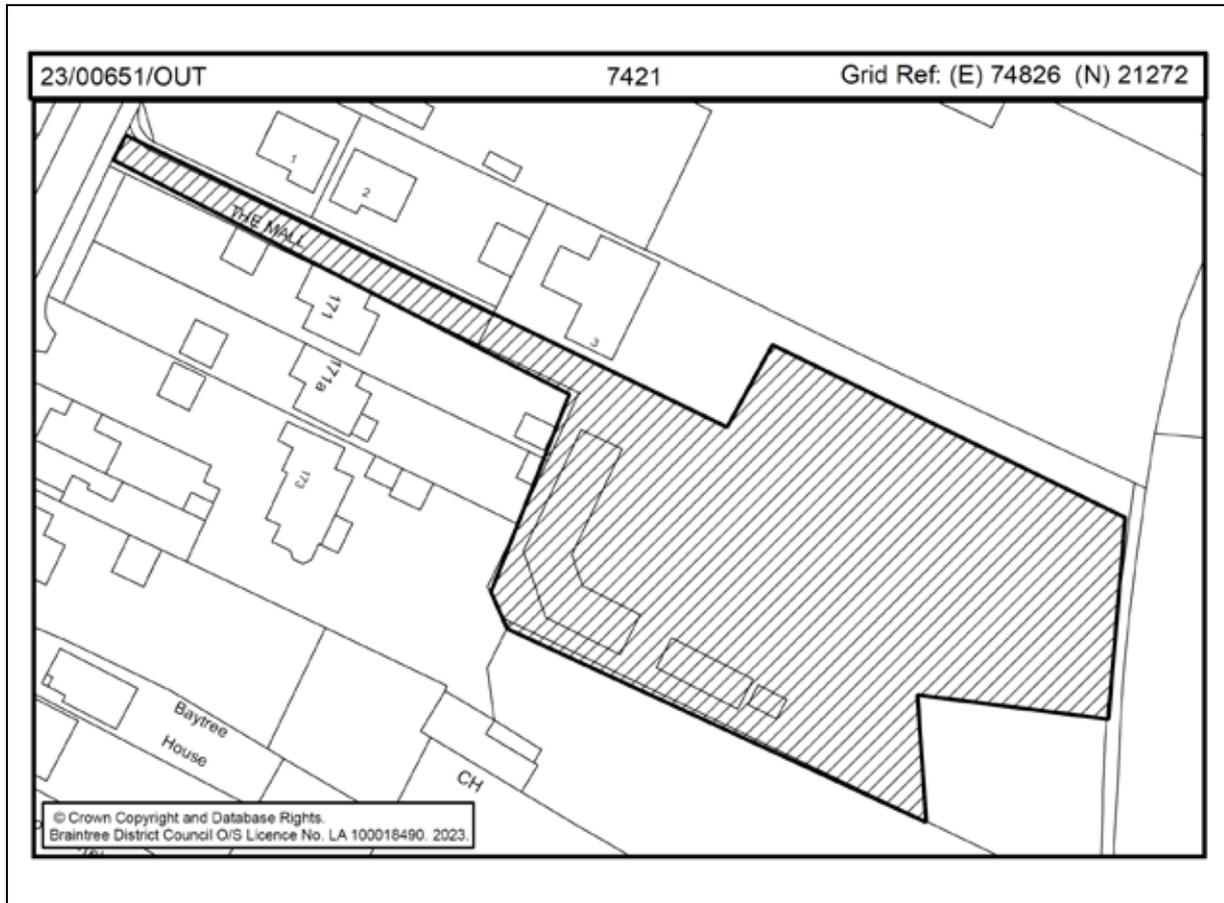
SITE HISTORY

Application No:	Description:	Decision:	Date:
24/00006/NONDET	Demolition of existing buildings, mixed use development comprising 24 residential apartments with a ground floor retail unit in Block A and ground floor commercial space within Blocks B and C, associated access, parking and landscaping	Pending Consideration	
01/00848/TEL	Installation of upgraded telecommunications equipment	Permission not Required	15.06.01
89/01388/P	Erection Of First Floor Offices, Enclosure Of External Car Sales Showroom & Proposed Alterations To Ground Floor	Granted	25.10.89
91/00423/PFWS	Display Of Internally And Externally Illuminated Fascia Signs	Refused	08.07.91
91/00772/PFWS	Change Of Use From Retail Sale Of Motor Accessories To Sale Of Motor Vehicles	Granted	06.08.91
91/01372/PFWS	Display Of Fascia Signs	Granted	13.01.92
92/00391/PFWS	Erection Of Single Pole Sign	Refused	22.05.92
96/00022/COU	Proposed change of use for the erection of 20m telecommunication mast, antennae and associated equipment	Withdrawn	19.07.96
12/01130/T56	Existing 3 no. DBDP antennas to be replaced with 3 no. CS9833A antennas and 3 no. CS9638 antennas on replacement 6 antenna headframe. 1 no. proposed future OPCS 600mm dish. 3 no. proposed cabinets and	Permission not Required	02.10.12

	removal of two existing cabinets		
17/00481/PDEM	Application for prior notification for proposed demolition of 9 No. buildings/containers used for storage and light industrial	Permission not Required	11.04.17

Report to: Planning Committee	
Planning Committee Date: 5th March 2024	
For: Decision	
Key Decision: No	Decision Planner Ref No: N/A
Application No:	23/00651/OUT
Description:	Outline planning application for up to 9no. residential units.
Location:	The Mall London Road Braintree
Applicant:	Mr David Williams, JVIL (London Road) Ltd., C/O Agent
Agent:	Mr James Firth
Date Valid:	16th March 2023
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:	Janine Rowley For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2551, 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:	<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>
<p>Background Papers:</p>	<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: 23/00651/OUT.</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 (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 seeks outline planning permission for up to 9no dwellings, with access for approval at this stage. Appearance, landscaping, layout, and scale are reserved for future consideration. An indicative layout plan has been submitted to demonstrate one way in which the quantum of development could be accommodated on the site.
- 1.2 The application site is located within the defined Development Boundary of Great Notley, where the principle of development is supported by Policy LPP1 of the Adopted Local Plan. The site is well placed such that future occupiers could conveniently access the wide range of services and facilities on offer within Great Notley and Braintree, and furthermore, is in an accessible location in terms of sustainable transport, with nearby bus-stops, which would enable future occupiers to travel other than in a private vehicle.
- 1.3 The application fails to demonstrate that a development of this number of units can adequately be accommodated on the site and comply with design and amenity standards. The layout by reason of the quantum of units, would have a significant impact on the existing trees within the site and the trees would impact upon the amenity of future occupiers.
- 1.4 Officers consider that the red line has been artificially construed to fall below the 0.5ha threshold for providing affordable housing. No valid planning reason has been given as to why the areas shown as blue land could not be contained with the red line site location plan.
- 1.5 When considering the planning balance, Officers have concluded that the adverse impacts of granting permission would outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Consequently, it is recommended that planning permission is refused for the proposed development.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

2.1 This application is being reported to Planning Committee in accordance with Part B of the Council's Scheme of Delegation, at the request of the Chair and Vice Chair of the Planning Committee.

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

5.1 The site area is approximately 0.49 hectares and currently comprises part of the rear garden of 3 The Mall, including annexe and ancillary outbuildings. The land is situated to the east of London Road and within Great Notley.

5.2 To the immediate east of the site is the strategic growth location, Land East of Great Notley, which is allocated for up to 1750 new homes, employment uses, and a primary school within the Adopted Local Plan.

5.3 The existing site is subject to a TPO (06/2023) which covers all the existing trees within the rear garden of 3 The Mall, London Road and a few other trees on adjacent properties, namely one Oak on the rear garden of 173 London Road, Braintree.

6. PROPOSAL

6.1 The application is in outline form with access sought for approval at this stage. All other matters including appearance, landscaping, layout, and scale are reserved for future consideration.

6.2 The application is submitted with an indicative site plan to demonstrate one way in which the quantum of development could be accommodated on site.

6.3 The indicative plans show 9no. two storey dwellings (7no. detached and 1 semi-detached pair) with associated private amenity areas and car parking. Access would be taken from The Mall, the existing access serving 1, 2 and 3 The Mall.

6.4 The application has been submitted with a planning statement, tree survey and arboricultural impact assessment, flood risk assessment, transport statement, ecology, biodiversity net gain, and environmental statement.

6.5 During the course of the planning application, plans have been amended, and therefore this report formally assesses the amended plans received on the 30th November 2023.

6.6 It is noted that the land to the north and south east corner of the site edged in blue is annotated as ecological enhancement areas retaining the existing protected trees subject to TPO (06/2023).

7. SUMMARY OF CONSULTATION RESPONSES

7.1 Essex Fire and Rescue

7.1.1 No objections subject to the road being able to accommodate Essex Appliances including a road surface of up to 18 tonnes.

7.2 BDC Ecology

7.2.1 BDC Ecology are satisfied that sufficient ecological information is available for determination. This provides certainty for the LPA of the likely impacts on designated sites, Protected and Priority Species & Habitats and, with appropriate mitigation measures secured, the development can be made acceptable. Therefore, the mitigation measures as detailed in the Preliminary Ecological Appraisal/Low Impact EcIA (Hybrid Ecology Ltd, January 2023), must be secured and implemented in full. This is necessary to conserve protected and priority species and habitats, particularly bats, Great Crested Newts, reptiles, nesting birds and mammals and amphibians that may commute and forage across the application site during the construction period.

7.2.2 A Wildlife Friendly Lighting Strategy would be required to be controlled by condition. A number of biodiversity enhancement measures would be required to be dealt with by condition.

7.2.3 We have reviewed the further information submitted by the Applicant including the Indicative Biodiversity Net Gain Calculation (James Blake Associates Ltd, October 2023) and the DEFRA Metric 4.0 calculation spreadsheet (James Blake associates Ltd, November 2023).

7.2.4 As a result, we have the additional comments:
In regard to the Biodiversity Net Gain Report, it is indicated that we are satisfied that the assessment has been completed by a competent person. The assessment indicates that the development will deliver an increase of 0.97 habitat units (29.50%). As a result, we are satisfied that a measurable biodiversity net gain can be achieved in principle, in line with Paragraph 180d and 186d of the National Planning Policy Framework 2023.

7.2.5 We note that 7 of the proposed urban trees in the public open spaces are proposed to be of moderate size (DBH 30 – 90cm). Therefore, it would be beneficial to have some further clarification on how the proposed 7 x medium trees can achieve a diameter of >30cm in a period of 27 years.

This should be based on further information on planting specifications, tree vigour, geography, soil conditions, sunlight, precipitation levels and temperature. In addition, it is highlighted that urban tree planting included within private ownership cannot be accounted towards the overall metric calculations. However, we acknowledge that this further detail could be secured as part of planting specifications or a Biodiversity Net Gain Plan.

7.2.6 We therefore recommend that a Biodiversity Net Gain Plan should be secured at reserved matters stage which should set out the detailed management and monitoring plan to achieve the aims and objectives of the biodiversity metric.

7.2.7 This will allow the LPA to demonstrate compliance under the NPPF 2023, as well as its biodiversity duty under the NERC Act 2006 (as amended).

7.3 BDC Environmental Health

7.3.1 No objections subject to a number of conditions relating to site clearance, contaminated land, piling, a dust and mud control management scheme.

7.4 BDC Housing Enabling Officer

7.4.1 The outline application for up to 9 new residential dwellings is on a site which looks like the red line may appear to create a site area below 0.5ha to avoid triggering an affordable housing contribution.

7.4.2 The site in the current application has been reduced in area both from the north and south and in addition further reduced with an area to the southeast described as an Ecology Enhancement Area. The question that needs to be addressed is whether the site is to be considered as being 0.5ha or more. If it is, then in accordance with Policy LPP31, 30% affordable housing should be provided which would equate to 2.7 affordable units.

7.4.3 The Council has high levels of housing need and on-site provision of affordable housing is usually always our preferred approach to address this. Specifically in this case, however, it's our view a commuted payment in lieu of affordable housing would be more appropriate. At the present time it is not likely there would be interest from partner Registered Social Housing Providers due to site being accessed by a narrow private road and merely two affordable units being provided.

7.4.4 Based on the proposal for 9 new dwellings, we recommend a payment of £271,687 ($9 \times 30\% = 2.7 \times £100,625$) in lieu of affordable housing be secured in a Section 106 Agreement. This payment would provide subsidy to deliver affordable rented housing elsewhere in the district.

7.5 BDC Landscaping

7.5.1 The proposed outline application site boundary 'red line' peculiarly excludes all of the trees shown to be retained on the proposed plan and arboricultural tree protection plan. This exclusion is highly concerning regarding the future ownership and maintenance responsibilities of these trees. The trees have as a result recently been protected via a Tree Preservation Order (06/2023/TPO) which partially resolves the concerns in that the trees will be legally protected and any future requirement for pruning works will need to be applied for.

7.5.2 The exclusion of the trees from the 'red line' site application boundary does not remove the trees as a material consideration for the proposed outline application.

7.5.3 *Tree removals*

The proposed development will see 11 trees removed predominantly to the centre of the site and to the east boundary. The proposal outline design will result in the required removal of 9 No. Oak trees and 2 No. Willow trees in order to facilitate the development of Units 2, 3, 5 and associated garage for unit 5. 9 Oaks have been categorised as category C and the 2 Willows also category C. 3 trees were classified as U category, of which only 1 is being removed. It is clear the proposed plans have tried to limit tree losses and where not possible restrict this to lower value trees. It's also good to see retention of dead or U category trees as where there's no safety issues, these are an important and declining habitat.

Design Incursion of RPA's

7.5.4 The design previously proposed garages incurring into the Root Protection Area (RPA's) of retained trees, particularly 2 no. Cat B Oaks T1 & T2, this has now been avoided in the amended plans by bringing the Units closer to the street providing increased space between the dwellings and the trees to the back gardens. However, there is still incursion of the RPA at the joint garage block for units 4 & 5, for 1 No. Cat B Oak T17 and 1 No. Cat U Oak T14. The RPA encroachment is not quantified but appears minimal, and likely within the tree's tolerance. Hard surfacing has been designed well to minimise incursions of retained trees RPA's. Only the very minor extents of Cat B Oak T46 and Cat C Oak's T42 & T43 are incurred. Again, this is minimal and likely within the tree's tolerances.

Design pressure on retained trees

7.5.5 An amended design now includes x4 adjacent units that are within the 'shadow' of 1 No. Cat A Oak T52 (the only Cat A tree recorded) This tree is likely to receive a significant increase in pressure by new inhabitants by the x4 residential dwellings (units 6,7,8 & 9) due to future pressures and perceived risk. This is namely due to the position of the proposed dwellings and the context of the amenity space in relation to the existing tree shown for retention. It is foreseeable that issues will arise as a result of an array of seasonal issues such as leaf litter, acorn fall, bird droppings, aphid honeydew, and shading of which will predominantly affect new

homeowners more in the spring and autumn due to the position of the houses in relation to the tree and the lower level rising/setting sun casting longer shadows. This Oak tree is owned privately and the development proposals therefore places the pressures of new residents and the various inevitable issues as a result of the proposed plan unfairly onto the tree owner.

- 7.5.6 The Oak T52, along with 45 other Oak trees on site have now been protected by a TPO (06/2023/TPO), the revised plan has increased amenity space for the adjacent residential units and a new 'Overshadowing Assessment' for Units 6, 7, 8 & 9 has been provided. This assessment shows that it complies with the BRE criteria for gardens and amenity space in that over half of the garden space receives at least two hours of sunlight on 21st March. Unit 9 however only just meets the threshold whereby it receives 55.9% of sunlight with the trees included on March 21st. This does however improve to 75.7% on June 21st when in leaf.
- 7.5.7 There is further future pressure foreseeable to trees shown to be retained, whereby the northern boundary has again peculiarly excluded trees T1 to T7 from the newly proposed gardens spaces. The garden spaces have been increased in size slightly compared with the previous plans which helps to alleviate some of the earlier issues mentioned regarding creating a burden of maintenance on new inhabitants. However, the trees being fenced off and left in an unusable area approx. 3m wide strip of land referred to as 'Ecology Enhancement' with no clear indication of ownership or way of accessing the trees for future maintenance is concerning as these areas towards the rear gardens of residential units typically become an ideal location for residents to dump rubbish or garden waste which if left to build up around the bases of tree trunks can lead to conditions that are perfect for decay, for instance piled up grass clippings around tree trunks has been known to cause heating up of their roots and creating anaerobic conditions of the bark. Some clarification as to who will own and maintain this land and the trees is needed. Preferably, it would be better to see the trees included in the garden spaces to ensure there is clear ownership and responsibility for their maintenance.
- 7.5.8 Following a review of aerial images from Bing maps demonstrates the extent of shading the site receives during a summer period with the trees in leaf. The north and eastern boundary trees, in particular this relates to T1, T2 & T3 which form an important nature corridor for habitat connectivity when in full leaf will excessively shade the rear garden amenity spaces of Units 2, 3, 4 & 5 supporting the above points regarding limited useful amenity garden space provision.
- 7.5.9 A shading arc plan has been received which shows the shading predominantly outside of the amenity spaces, but this does not correspond to the aerial imagery which shows actual on site shading to be a significant concern. Due to the juxtaposition of tree and garden space and considering the potential for future growth it is foreseeable that there will be significant

undue pressure for future felling or unsightly heavy pruning of the trees T1 to T3.

- 7.5.10 Due to the density in regard to the number of houses proposed in the site, the garden spaces of unit 4 is disproportionately sized compared to other units and with at least half of the garden space taken up by tree canopy overhanging the rear without consideration given for future growth allowance and the burden placed upon the new inhabitants.

Utilities provisions/Underground Services

- 7.5.11 The outline application does not have any indicative locations of utilities and provisions for underground services which although due to the layout is unlikely, it may have an impact on existing TPO trees shown for retention.

Offsetting for tree losses

- 7.5.12 This revised outline application, includes a biodiversity net gain report, the amended plans now increased the proposal to plant 25 new street trees instead of the previous 13 proposed and 7 new medium sized trees. The proposal appears to plant street trees too close to the dwellings, at least x7 were measured to be less than 1m from structures which is not recommended and will inevitably result in them being removed by new inhabitants due to being impractical, with no room for future growth or causing issues with a need for repeat ongoing maintenance, direct damage, utility damage, or subsidence. This kind of planting proposal will limit the tree species to dwarf stock, ornamental trees or shrubs only and does not go far enough to offset the loss of trees for the development. This is contrary to BS:5837 Section 5.6.

- 7.5.13 Planting of trees around the boundaries to supplement existing trees would be a better method for offsetting the loss of existing trees whilst increasing connectivity of existing habitat than the limited benefits that the proposed 25 small street trees have.

- 7.5.14 Again, the above statement further supports the issue regarding density of proposal resulting in a lack of space for an adequate tree replacement planting and landscape plan.

- 7.5.15 In summary the proposed removals and offsetting proposals are not adequate in this outline application and would need to be reconsidered in any future planning application.

Ecological implications

- 7.5.16 PRF (Potential Roost Features) were identified to be present in trees to be retained. The ecological report identifies these trees to be three oak trees T1, T3 and T46 all of which are shown to be retained.

Conclusion

- 7.5.17 Landscape Services objects to the proposed outline planning application for up to 9No. residential units for the following reasons:

- The proposed offsetting with replacement planting of small street trees is not achievable for feasible long-term amenity in many of the proposed locations, Contrary to BS5837 Section 5.6.
- Excessive pressure by new inhabitants on trees shown to be retained. - Supports the decline of mature Oak habitat – a keystone species, and denying the potential for it to achieve ancient status. The above reasons are a result of the proposed density of development on the Applicant site as the primary cause.

The outline application is contrary to Policy LPP65 and BS5837 Section 5.6.

7.6 BDC Waste Services

- 7.6.1 No objections following confirmation of the vehicle tracking provided and drag distances.

7.7 ECC Archaeology

- 7.7.1 The proposed development site lies adjacent to a Roman road linking the Roman settlements at Chelmsford, Braintree and Long Melford. The presence of the road has been confirmed further south, including evidence of metalling and roadside ditches. Little archaeological investigation has taken place within the immediate area however cropmarks recorded prior to the Great Notley development depict trackways and ringditches which suggest archaeological activity related to settlement and possible ritual activity. Antiquarian records report finds indicative of a high-status Roman burial in the area set back from the Roman road, the precise location is unknown. Recent archaeological evaluation to the south has revealed evidence for Roman and medieval settlement activity. The Chapman and Andre map of 1777 show dispersed settlement along London Road and Ludham Hall is identified by name. The boundary of the development site follows the route of a historic parish boundary which is likely to be medieval or earlier in origin. There is potential for archaeological remains associated with Roman activity and medieval settlement activity within the areas of the proposed development.

- 7.7.2 An archaeological trial trench investigation will be required to determine the impact of the development on archaeological remains in line with the NPPF if the application is deemed acceptable, to be controlled by condition.

7.8 ECC Highways

- 7.8.1 From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to the following requirements:

1. 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 the submitted drawing 2105351-001 Rev C. Access shall include but not be limited to a clear to ground visibility splay with dimensions of 2m by 43m in both directions

b) Residential Travel Information Packs in accordance with Essex County Council guidance.

7.9 Essex SUDS

7.9.1 No objection subject to a number of conditions relating to surface water drainage.

8. PARISH / TOWN COUNCIL

8.1.1 N/A

9. REPRESENTATIONS

9.1 Six letters of representation have been received stating:

- At the moment the refuse collection is made from the entrance to the Mall because the collection truck is unable to drive down and turn around due to the width of the road and gates belonging to No.3. There is quite a considerable volume of refuse left overnight on the road outside adjacent to other properties.
- Parking is required to meet policy but residents are concerned the visitor spaces would be used then result in excess vehicles along London Road.
- The water pressure to No.1 and No.2 The Mall is quite low which will worsen with the proposed dwellings.
- The access to the Mall was never designed to accommodate two cars passing this needs to be reviewed in more detail.
- The traffic flow would increase significantly.
- Access gates at No.3 and the annex would restrict access to the new dwellings for refuse, deliveries and visitors.
- The increased traffic and drivers vision when existing The Mall is restricted by a high wall which would result in a serious incident.
- Transport statement is incorrect council contracted refuse collectors do not enter The Mall to collect the weekly refuse and piled up on the street.
- Parking provision is on adequate giving growing families.
- The category Oak tree cannot be removed as outside of the boundary.
- There has been no end to new houses along this stretch of London Road and these houses haven't sold so there is no demand for them.
- Surprised the TPO has been applied to a private garden at the rear of a private party.

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 76 of the NPPF requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth (plus the relevant buffer) of housing for decision making purposes where the relevant application was made prior to the publication of the December 2023 version of the NPPF.
- 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 Paragraph 76 of the NPPF sets out that local planning authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years worth of housing for decision making purposes if: their adopted plan is less than five years old; and that adopted plan identified at least a five year supply of specific, deliverable sites at the time that its examination concluded. The Council's Local Plan is up to date and complies with the NPPF.
- 10.2.2 However, Footnote 79 of the NPPF sets out that this provision only applies to planning applications which were submitted on or after the date of publication of the revised NPPF (December 19th 2023). As this application was received prior to that date, the Council must consider it in relation to the 5 year housing land supply.
- 10.2.3 The Braintree District Local Plan has an approved minimum housing target of 716 new homes per year in the District between 2013 and 2033. To this annual supply the Council must add the cumulative shortfall since the start of the Plan period. This figure is recalculated each year. 873 new homes per year are therefore required to be delivered within this 5 year period (2023-2028). Taking the above into account, the Council's latest 5 Year Housing Land Supply position for 2023-2028 shows that the Council has a 5.8 years supply.
- 10.2.4 The Council considers this a robust position and as the Council is able to demonstrate an up to date 5 year housing land supply, the presumption (at Paragraph 11d of the Framework) is not engaged. Consequently, and given that they were only recently adopted, the policies within the Development Plan are considered to have full weight in decision making. Planning applications must therefore be determined in accordance with the Development Plan, unless material planning considerations indicate otherwise.

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 the defined Development Boundary of Great Notley, where the principle of development is supported within Policy LPP1 of the Adopted Local Plan.
- 10.3.3 The immediate site to the east of the site is a strategic allocation for new development for approx. 1,750 new homes over a large area (BLAN 114 – Land East of Great Notley, South of Braintree) as set out within Policy LPP17 of Adopted Local Plan. This Strategic Growth location includes land immediately to the north, east and south of the application site.

- 10.4 Application Site Capacity and Affordable Housing Thresholds
- 10.4.1 When assessing applications against the Local Plan thresholds for Affordable Housing provision, the Council will carefully consider whether an Applicant has sought to avoid the threshold through design.
- 10.4.2 In this case it is Officers view that the Applicant has created an artificial application site where the land within the red line area (0.49ha) is just below the affordable housing threshold (0.5ha) but the adjoining 'blue land' (land which they also own/control) is left outside the red line. In this instance, there is a narrow strip to the immediate north of the site and an area to the south east corner outlined in blue which are outside of the red line and propose to retain existing trees and provide 'Ecological Enhancement Areas'. The two areas are not associated with or required in connection with the development of land identified in Policy LPP17 of the Adopted Local Plan (Strategic Growth-Land east of Great Notley).
- 10.4.3 Officers are of the view the red line has been artificially construed to fall below the 0.5ha threshold for providing affordable housing. No valid planning reason has been given as to why the areas shown as blue land could not be contained with the red line.
- 10.4.4 The proposed red line site area excludes all of the trees shown to be retained. This exclusion is highly concerning regarding the future ownership and maintenance responsibilities of these trees particularly with reference to the narrow strip to the north which would only be 3m wide and given the extent of preserved trees along this boundary, it is not clear how access, including with any machinery required to maintain these trees, could be achieved. Access is also dependent on entering No.3 The Mall.
- 10.4.5 The trees have been protected via a Tree Preservation Order (06/2023/TPO) which partially resolves the concerns in that the trees will be legally protected and any future requirement for pruning works will be controlled. However, the exclusion of the trees from the red line site does not remove the trees as a material consideration for the proposed outline application. The Applicant has proposed the blue land as ecology enhancement suggesting it a benefit of the scheme. In addition, a number of proposed trees required to mitigate those to be lost (detail further below) are shown to be planted within the blue areas. As such the blue land is being used to mitigate against the proposed development, yet the Applicant then wishes it to be discounted when considering the requirement to provide affordable housing and other planning obligations.
- 10.4.6 In Officers' opinion the Applicant has deliberately engineered the application site, introducing ecology enhancement areas, which could be contained within the red line application site, to avoid the requirement for affordable housing and other planning obligations.
- 10.4.7 It is noted that a scheme for 4no. units nearby on London Road, approved in 2020, took a similar approach to the red and blue lines, however in that

case the blue land was not relied upon to provide mitigation for the scheme and part of the blue land was allocated as structural landscaping within the Local Plan. It was therefore logical in that case for it to not form part of the red line site area. It is not therefore considered that this scheme is directly comparable.

10.5 Housing Mix

- 10.5.1 Policy LPP35 of the Adopted Local Plan states that an assessment carried out for the Council by independent consultants indicates that the need for open market housing in the District is 4% one bedroom, 31% two bedroom, 45% three bedroom and 20% four bedroom. All new developments are expected to meet this broad range of sizes for open-market housing, unless it can be proven to the satisfaction of the Local Planning Authority that the site may be more suited to an alternative mix of housing types.
- 10.5.2 The proposed development would include 9no. dwellinghouses, which are all large, detached/semi-detached properties. The proposed mix would include 7 x 4 bedrooms and 2 x 5 bedrooms. The proposal does not meet the requirements of the current policy and no justification has been given as to why an alternative mix would not be suitable. The proposal therefore conflicts with Policy LPP35 of the Adopted Local Plan in this regard.

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 Great Notley, together with Braintree (with Bocking and Witham) and Halstead, are considered to be the main towns within the District, which provide availability of schools, primary health care facilities, convenience shopping facilities, local employment opportunities and similar and are well served by public transport provision. Development within these identified towns will be permitted, where it satisfies amenity, design, environmental and highway criteria, where it can take place without material adverse detriment to the existing character and historic interest of the settlement.
- 11.1.3 This site is well placed such that future occupiers could conveniently access the wide range of services and facilities on offer within Great Notley and Braintree. Furthermore, the site is in an accessible location in terms of sustainable transport, being located close to nearby bus-stops, which would enable future occupiers to travel other than in a private vehicle. Therefore, in respect of access to services and facilities, the site is considered to be in a sustainable location.

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

- 11.2.1 The NPPF seeks a high-quality design as a key aspect to achieving sustainable development. Further, Policy LPP52 of the Adopted Local Plan seeks to ensure a high-quality design and layout in all developments. At the national level, the NPPF is also clear in its assertion (para 126) that ‘good design is a key aspect of sustainable development’ and that (para 130) developments should ‘function well and add to the overall character of the area... are visually attractive as a result of good architecture, layout and effective landscaping...(and should) establish or maintain a strong sense of place’.
- 11.2.2 The application seeks outline permission with access sought for approval at this stage, and layout, scale, appearance, and landscaping reserved for future consideration. The application has been submitted with an indicative layout plan which demonstrates one way in which the application site could accommodate the proposed quantum of development. The Applicant seeks permission for the erection of up to 9no. dwellings (the site plan suggests the following floor areas; 4 no. type A 4 bed 170sq.m, 3 no. type B 4 bed 195sq.m and 2 no. type C 5 bed 220sq.m).
- 11.2.3 The character of the area to the immediate east of the site along The Mall and London Road itself is large, detached dwelling houses with a mix of two storey properties on the eastern side of London Road and single storey bungalows to the west. The dwellings are of varying designs such there is no uniform aesthetic in terms of elevational design. Appearance and scale are not however for consideration at this stage.
- 11.2.4 Officers are concerned in relation to the proposed layout and quantum of development and the resulting impact that this has on the trees to be retained on and off site. The layout and relationship with the existing and proposed trees is discussed in more detail below.
- 11.2.5 In respect of layout, the proposed indicative scheme appears at odds with the grain of the surrounding development which is dominated by large properties on generous plot sizes with good distance to the plot boundaries. The proposal, due to the number of units, results in a cramped and contrived layout with little separation distances to plot boundaries. It is not considered therefore that 9no. units could be accommodated on site to a high-quality layout.
- 11.2.6 Concerns are also raised in respect of the visitor parking and garages proposed, particularly those isolated from the dwelling in the case of Plot 7 and the visitor parking spaces opposite Plots 9 and 4. Given the quantum of development the layout results in parking spaces and a turning head directly outside of Plots 4 and 5 with no meaningful landscaping to mitigate against the extent of hardstanding to the front of the dwellings.

- 11.2.7 In relation to refuse and bin collections, the Councils waste team has confirmed that subject to the turning head as shown on the submitted drawings being provided, refuse collection vehicles will be able to turn without having to encroach on private driveways.

Proposed residential amenity

- 11.2.8 The Nationally Described Space Standards, which are incorporated into Policy LPP35 of the Adopted Local Plan, set out the requirements for internal space in new dwellings. In accordance with planning policy four-bedroom eight person dwellings require an internal floorspace of 124sq.m and between 110sq.m to 128sq.m for 5-bedroom properties depending on whether it is for six persons or 8 persons respectively. The three types of dwelling houses proposed are in excess of the standards.

Amenity Space

- 11.2.9 The Essex Design Guide (EDG) recommends minimum garden sizes of 100sq.m for three plus properties, all of the properties would benefit from private amenity space in accordance with policy however, there is concern in relation to the overall usability of the amenity space in terms of coverage of trees whereby the Councils Landscaping Services have confirmed units 2, 3, 4 and 5 will have excessive shading when the trees T1, T2 and T3 to the north and eastern boundaries are in full leaf, resulting in a poor standard of external amenity space. This is discussed in more detail below.

11.3 Trees

- 11.3.1 Paragraph 185 of the NPPF is explicit that planning decisions should contribute to and enhance the local environment by minimising impacts on, and providing net gains for, biodiversity, whilst also recognising more generally the benefits of trees. 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 good arboricultural reason for their removal.
- 11.3.2 The site is subject to a group Tree Preservation Order (06/2023/TPO) covering all trees within the existing rear garden of 3 The Mall, London Road and a few other trees on adjacent properties, namely one Oak in the rear garden of 173 London Road. The trees protected by the Tree Preservation Order are visible from publicly accessible areas.
- 11.3.3 The Tree Survey carried out by Underhill Tree Consultancy accompanying this application indicates the proposed development would result in the loss of eleven trees. Ten trees are C-category, low value trees including 2 weeping willows and 8 oak trees. The remaining tree to be removed is a U category Oak tree.

BS 5837 Category	A High Quality	B Moderate Quality	C Low Quality	U Unsuitable for retention
Individual trees	0	0	T8, T9, T10, T11, T12, T15, T48, T49, T50	T16
Groups	0	0	0	0
Hedges	0	0	0	0
Woodlands	0	0	0	0
Removed/Total	0/1	0/21	10/27	1/3

11.3.4 The Tree Survey carried out by Underhill Tree Consultancy states:

“The loss of trees will be low due to the size of the trees concerned, and the high tree population on, and adjacent to the site. The visual impact from outside the site will be minimally changed due to all boundary trees remaining. As mitigation, 32 new trees are being planted, 7 that will grow to medium-sized trees and 25 that will grow to small-sized trees”.

11.3.5 The Arboricultural Officer has reviewed the proposal and states the proposed development will see 11 trees removed predominantly to the centre of the site and to the east boundary. The proposed outline design will result in the required removal of 9 No. Oak trees and 2 No. Willow trees in order to facilitate the development of Units 2, 3, 5 and associated garage for unit 5. 9 Oaks have been categorised as category C and the 2 Willows also category C. 3 trees were classified as U category, of which only 1 is being removed. It is clear the proposed plans have tried to limit tree losses and where not possible restrict this to lower value trees.

11.3.6 The Arboricultural Officer has confirmed there are a number of design pressures on the retained trees, for example, Oak T52 (the only category A tree recorded) is likely to receive significant pressure by the new inhabitants of Plots 6, 7, 8 and 9 due to future pressures and perceived risk. In addition, there are concerns in respect of the trees being fenced off to the northern boundary and left in an unusable area, approximately 3m wide, referred to as an ecological enhancement area, with no access to maintain the trees. Furthermore, the extent of shading from the trees to the north and eastern boundary of the site will significantly affect the garden usability due to excessive shading of Plots 2, 3, 4 and 5 and it is likely these existing trees (T1, T2 and T3) will be under significant pressure for felling or heavy pruning.

11.3.7 The Arboricultural Officer acknowledges the offset for tree losses however, the proposal appears to plant street trees too close to the dwellings, at least 7 of the new street trees proposed were measured to be less than 1m from structures and will inevitably result in them being removed by new inhabitants due to being impractical, with no room for future growth or

causing issues with a need for repeat ongoing maintenance, direct damage, utility damage, or subsidence. This kind of planting proposal will limit the tree species to dwarf stock, ornamental trees or shrubs only and does not go far enough to offset the loss of trees proposed. In addition, 7 medium sized trees are to be planted outside of the red line within the blue line, whereby as stated above, there is no access to maintain the trees and it is not clear with respect to the overall ownership. This is contrary to BS:5837 Section 5.6. The planting of trees around the existing boundaries of the site would enable the offsetting of trees lost and increase connectivity within the site.

- 11.3.8 The Arboricultural Officer recommends refusal of the application. The proposed offsetting with replacement planting of small street trees is not achievable for feasible long-term amenity in many of the proposed locations and thus would not mitigate adequately against the tree loss proposed, contrary to BS5837 Section 5.6. In addition, there will be excessive pressure by new inhabitants to reduce or fell the trees shown to be retained given the shading they will cause. Furthermore, the proposal supports the decline of mature Oak habitat which is a keystone species, and denying the potential for it to achieve ancient status. The Arboricultural Officer has raised concerns to a number of the existing trees being located within the blue edged land surrounding the site and there is no information in respect of ownership and maintenance.
- 11.3.9 In light of the above, it is considered the indicative site plan demonstrates that 9no. dwellings cannot be successfully accommodated on site to a good standard of design and layout and have an acceptable relationship with the existing trees on or adjacent to the site. The proposal is therefore contrary to Policies SP7, LPP1, LPP52 and LPP65 of the Adopted Local Plan and the National Planning Policy Framework.

11.4 Ecology

- 11.4.1 Policy LPP64 of the Adopted Local Plan is relevant in terms of Protected Species, Priority Species and Priority Habitat. It details that Nationally Designated sites (including Sites of Special Scientific Interest (SSSIs)), should be protected from development which is likely to adversely affect the features for which they are designated. In regard to the protected species, it details that where there is a confirmed presence or reasonable likelihood of protected species or priority species being present on or immediately adjacent to a development site, 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.
- 11.4.2 The Councils Ecology Officer has reviewed the proposal in conjunction with the Preliminary Ecological Appraisal/Low Impact ECLA (Hybrid Ecology) together with the updated information in respect of the Indicative Biodiversity Net Gain Calculation. No objections are raised based on the satisfactory information submitted in terms of likely impacts on designated

sites, protected and priority species and habitats with appropriate mitigation measures secured including all works recommended within the ecology survey, a wildlife sensitive lighting design scheme and biodiversity enhancement strategy.

- 11.4.3 In respect of Biodiversity Net Gain (BNG), it is not required to be demonstrated for this proposal given the provisions for small sites does not come in to force until 2nd April 2024. In any event this will only apply to applications submitted after this date. Nonetheless BNG has been mentioned in the application documentation. Although initial indications from the information submitted suggest a 29.5% increase in habitat units, both the ecology officer and Arboricultural Officer have raised concerns that the gain proposed may not be achievable, especially given some of the trees proposed. Given the layout is only indicative at this stage, it would be reasonable to look to secure a Biodiversity Net Gain plan at a reserved matters stage, should it be justified.

11.5 Highway Considerations

- 11.5.1 Paragraph 109 of the NPPF is explicit that development proposals should identify and pursue opportunities to promote walking, cycling and modes of transport. Paragraph 107 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 115 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.
- 11.5.2 The proposed vehicle access is from the Mall which connects to London Road. Concerns have been raised in relation to the intensification of the site and likely impacts upon vehicular and pedestrian safety entering and existing London Road.
- 11.5.3 A transport assessment carried out by Ardent Consulting Engineers (November 2023) accompanies this application. The report confirms the Mall is a private road with a carriageway width of 5m and a footway on the north side with a width of 1.6m. The Mall provides access to property numbers 1, 2 and 3. The achievable visibility splays from the existing access junction with The Mall accords with the Manual for Streets (MfS) standard 'y' distance of 43m in each direction for a 30mph major road speed from 2.0m 'x' distance.
- 11.5.4 ECC Highways have reviewed the proposal and confirmed the site access as shown on the submitted drawing (ACE's Drawing 2105351-001C) is acceptable subject to a condition ensuring the ground visibility splays with dimensions of 2m by 43m in both directions are retained.

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. This is reinforced by Policies LPP47 and LPP52 of the Adopted Local Plan which requires residential development to provide a high standard of accommodation and amenity for all prospective occupants with no undue or unacceptable impact on the amenity of any nearby residential properties.
- 11.6.2 Given the outline nature of the application, detailed layouts do not form part of the proposal, however, an indicative layout has been provided. Officers consider taking into account the indicative layout and orientation of properties proposed, a scheme could be designed to prevent unacceptable overlooking, loss of light or similar. However, this would be a matter of full consideration on any forthcoming reserved matters application(s).

11.7 Heritage Assets and archaeology

- 11.7.1 Both the Development Plan and the NPPF seek to ensure that new developments preserve the significance of heritage assets and their settings. The application site is not located within a Conservation Area or within the setting of a listed building.
- 11.7.2 The Archaeology consultant has confirmed that the proposed development site lies adjacent to a Roman road linking the Roman settlements at Chelmsford, Braintree and Long Melford. The presence of the road has been confirmed further south, including evidence of metalling and roadside ditches. Little archaeological investigation has taken place within the immediate area however cropmarks recorded prior to the Great Notley development depict trackways and ringditches which suggest archaeological activity related to settlement and possible ritual activity. Antiquarian records report finds indicative of a high-status Roman burial in the area set back from the Roman road, the precise location is unknown. Recent archaeological evaluation to the south has revealed evidence for Roman and medieval settlement activity. The Chapman and Andre map of 1777 show dispersed settlement along London Road and Ludham Hall is identified by name. The boundary of the development site follows the route of a historic parish boundary which is likely to be medieval or earlier in origin. There is potential for archaeological remains associated with Roman activity and medieval settlement activity within the areas of the proposed development.
- 11.7.3 In light of this, if the application is deemed acceptable a condition will be imposed to ensure investigation/evaluation work is carried out.

11.8 Flooding and Drainage Strategy

- 11.8.1 The application site is located within Flood Zone 1 (a low probability risk of flooding), however, given the scale of development, there is a requirement for the application to be supported with a Flood Risk Assessment (FRA).

The application is accompanied by an FRA and Drainage Document which the Local Lead Flood Authority (LLFA) have reviewed.

11.8.2 The LLFA raise no objections subject to the imposition of conditions on any grant of consent.

11.9 Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS)

11.9.1 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;
- Essex Estuaries Special Area of Conservation.

11.9.2 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.

11.9.3 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.

11.9.4 The proposed mitigation measures would consist of the securing of a financial contribution of £156.76 per dwelling erected towards offsite visitor management measures at the above protected sites.

11.9.5 This financial contribution has been secured and the Applicant has made the required payment under S111 of the Local Government Act 1972.

11.10 Contamination

11.10.1 Policy LPP70 of the Adopted Local Plan states that proposals for all new development 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.

11.10.2 The Council's Environmental Health Officer has raised no objections to the proposed development subject to the imposition of a number of conditions on any grant of consent.

11.11 Planning Obligations

11.11.1 As stated above Officers are of the view that the application site area has been engineered in a manner to avoid the affordable housing threshold. For that reason, it is considered that affordable housing should be provided.

- 11.11.2 In accordance with Policy LPP31 of the Adopted Local Plan, 30% of affordable housing should be provided on site equating to 2.7 affordable units. The Council's Housing Enabling Officer has confirmed that the Council has high levels of housing need and on-site provision of affordable housing is the preferred approach to address this. Specifically in this case, however, a commuted payment (£271,687) in lieu of affordable housing would be more appropriate. This payment would provide subsidy to deliver affordable rented housing elsewhere in the district.
- 11.11.3 The affordable housing element has not been secured and a Section 106 Agreement has not been signed by the relevant parties.

NHS

- 11.11.4 The NHS will seek a contribution towards healthcare for all major developments. A financial contribution would be required in order to increase capacity for the benefit of patients of the primary care network operating in the area. This may be achieved through any combination of extension, reconfiguration, or relocation of premises and/or clinical staff recruitment or training.

Open Space

- 11.11.5 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 SPD. The Councils Open Space SPD sets out details on how standards will be applied. A financial contribution would be sought for the provision of new or improved outdoor sport and allotments to help mitigate the additional demand generated by this development for such facilities. There is also a requirement to secure the ongoing management and maintenance of any public open space and amenity areas provided within the site.

Refuse

- 11.11.6 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. Policy LPP52 of the Adopted Plan states designs shall incorporate details of waste storage and collection arrangements.
- 11.11.7 A Section 106 Agreement would need to require the submission of the Refuse Strategy prior to the occupation of the site to ensure that the refuse and recycling is collected and removed.

12.1 PLANNING BALANCE AND CONCLUSION

12.1.1 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 a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being); and
- an environmental objective (to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy).

12.1.2 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: (a) the local planning authority cannot demonstrate a five year supply (or a four year supply, if applicable, as set out in Paragraph 226) of deliverable housing sites (with a buffer, if applicable, as set out in Paragraph 77) and does not benefit from the provisions of Paragraph 76; or (b) where the Housing Delivery Test indicates that the delivery of housing was below 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.

12.1.3 As indicated above, the Council's latest 5 Year Housing Land Supply position for 2023-2028 shows that the Council has a 5.8 years supply. The Council considers this a robust position and as the Council is able to demonstrate an up to date 5 year housing land supply, and because the most important policies for determining the application are not out of date,

the presumption (at Paragraph 11d of the Framework) is not engaged. Consequently, the policies within the Development Plan are considered to have full weight in decision making. Planning applications must therefore be determined in accordance with the Development Plan, unless material planning considerations indicate otherwise.

Development Boundary Designation within the Development Plan

- 12.1.4 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”.
- 12.1.5 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 a defined development boundary where the principle of development is acceptable. The proposal therefore accords with Policy LPP1 of the Adopted Local Plan and this weighs in favour of the proposal in the overall planning balance.

Summary of Adverse Impacts

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

Site Area and Ecology Enhancement Areas

- 12.1.7 It is Officers’ opinion that the site has been artificially engineered at 0.49ha to fall below 0.5ha major development threshold. No valid planning reason has been given as to why blue land as shown on the site plan cannot be included with the red outlined site area. This specifically impacts upon the future management of the TPO trees. Furthermore, the blue land is relied upon as a benefit of the proposal and for mitigation planting yet is discounted in relation to providing affordable housing and planning obligations. Significant weight is afforded to this conflict.

Harm to Trees

- 12.1.8 The application submission and indicative plans, fail to demonstrate that the quantum of development could be accommodated on the site due to the impact on the existing trees, resulting in the loss of a number of trees and vegetation. The proposed offsetting with replacement planting of small street trees is not achievable for long term amenity, such the loss of the trees has not be adequately mitigated and some of those trees are to be planted beyond the red lined site. In addition, there will be excessive pressure from future occupiers on the trees shown to be retained to be reduced or felled due to the shading they will cause and impact on the dwellings and the level of amenity experienced, especially within rear

gardens. Furthermore, the proposal supports the decline of mature Oak habitat, which is a keystone species, and denying the potential for it to achieve ancient status. Significant weight is afforded to this harm.

Future Occupiers Amenity

- 12.1.9 The proposal fails to provide acceptable standard of amenity space due to the extent of shading from existing trees. Significant weight is afforded to this harm.

Layout and quantum of development

- 12.1.10 The proposed indicative scheme appears at odds with the existing grain and pattern of surrounding development resulting in a cramped and contrived arrangement. Furthermore, some of the parking is located remote from its associated dwelling and no meaningful landscaping can be incorporated to mitigate against the extent of hard surfacing. The site cannot therefore satisfactorily accommodate up to 9no. units. Significant weight is afforded to this harm.

Dwelling Mix

- 12.1.11 The proposed development would include 9no. dwellinghouses, which are all large, detached/semi-detached properties. The proposed mix would include 7 x 4 bedrooms and 2 x 5 bedrooms. The proposal does not meet the requirements of the current policy and no justification has been given as to why an alternative mix would not be suitable. The proposal therefore conflicts with Policy LPP35 of the Adopted Local Plan in this regard.

Planning Obligations

- 12.1.12 There is no agreed Section 106 Agreement to secure all the identified planning contributions required to mitigate the impacts of increased demand for services and facilities, including affordable housing, health provision, open space, or a refuse strategy. The failure to acquire the required planning contributions and on-site provision would result in unacceptable pressure and detrimental impacts on these infrastructure. Significant weight is therefore afforded to this harm.

12.2 Summary of Public Benefits

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

Delivery of Market and Affordable Housing

- 12.2.2 The provision of 9no. dwellings would provide the delivery of market housing. Limited weight is afforded.

Economic and Social Benefits

- 12.2.3 The proposal would undoubtedly deliver economic benefits during the construction period and economic and social benefits following occupation of the development, in supporting local facilities. However, given the scale of development proposed, this is only afforded moderate weight.

12.3 Summary of Neutral Factors

Biodiversity Net Gain

- 12.3.1 Biodiversity Net Gain is not required to be demonstrated for this proposal. Although a gain is indicated, concerns are raised that this may not be achievable. As such no weight is given to this as a benefit as the actual gain, or whether there will be a gain, is unknown.

12.4 Conclusion and Planning Balance

- 12.4.1 Taking into account the above, while the proposal complies with some Development Plan policies which weigh in favour of the proposal, it is considered that the proposal conflicts with the Development Plan as a whole.
- 12.4.2 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, an important material consideration is whether the Council can demonstrate a 5 Year Housing Land Supply and consequently, whether Paragraph 11d) of the NPPF is engaged.
- 12.4.3 As indicated above, the Council is currently able to demonstrate a 5 Year Housing Land Supply and therefore Paragraph 11d) of the NPPF is not engaged.
- 12.4.4 When considering the planning balance and having regard to the adverse impacts and benefits outlined above, Officers have concluded that the adverse impacts of granting permission would outweigh the benefits, when assessed against the policies in this Framework taken as a whole. Consequently, Officers consider that there are no material considerations that indicate that a decision should be made other than in accordance with the Development Plan. It is therefore recommended that planning permission is refused for the proposed development.
- 12.4.5 Notwithstanding the above, if the 'tilted balance' was engaged, it is considered that [the adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Against this context, it would be recommended that planning permission be refused for the proposed development.

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
public right of way plan	1431-10100-46	N/A
Location Plan	1431 SAP XX XX DR A 100000 SO REV 3	N/A
Existing Site Plan	1431 SAP XX XX DR A 100003 SO REV 2	N/A
Proposed Site Plan	1431 SAP XX XX DR A 10100 SO	48
Access Details	2105351-001	C

Reason(s) for Refusal

Reason 1

The application fails to demonstrate that the site can accommodate up to 9no. dwellings and satisfy design, layout, and amenity standards resulting in a contrived layout which would be out of keeping with the urban grain of the area. Furthermore, the proposal for 9no. 4 and 5 bedroomed homes does not meet the identified housing need and no justification has been given as to why an alternative mix would be more suitable.

The proposal is contrary to Policies SP7, LPP1, LPP35 and LPP52 of the Braintree District Local Plan 2013-2033 and the National Planning Policy Framework.

Reason 2

The proposal would result in significant pressure on the existing preserved trees (subject to a TPO) to be removed or reduced given the extent of shading they will cause to rear gardens and the subsequent impact upon residential amenity. In addition, the proposed replanting of small street trees, some of which are beyond the site area, is not achievable for long term amenity and therefore fails to adequately mitigate those trees to be lost. Furthermore, the proposal supports the decline of mature Oak habitat, which is a keystone species, denying the potential for it to achieve ancient status.

The application is contrary to Policies SP7, LPP1, LPP52 and LPP65 of the Braintree District Local Plan 2013-2033 and the National Planning policy Framework.

Reason 3

The red line site area has been artificially engineered to fall below the 0.5ha threshold for providing affordable housing and other planning obligations and no valid planning reason has been given as to why the areas shown as blue land could not be contained with the red line.

Adopted policies and Supplementary Planning Documents applicable to the proposed development would trigger the requirement for:

- Affordable Housing
- A financial contribution for the NHS
- Provision of and contribution towards open space and ongoing onsite maintenance of open space
- A refuse strategy

These requirements must be secured through a Section 106 Agreement, however a Section 106 Agreement has not been prepared or completed. In the absence of securing such planning obligations, the proposal would be contrary to Policies SP6, LPP31, LPP50 and LPP78 of the Braintree District Local Plan 2013-2033, and the Open Space Supplementary Planning Document (2009).

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 discussing these with the applicant either at the pre-application stage or during the life of the application. 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 CONSIDERATIONS

National 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
LPP31	Affordable Housing
LPP35	Housing Mix, Density and Accessibility
LPP42	Sustainable Transport
LPP43	Parking Provision
LPP47	Built and Historic Environment
LPP50	Provision for Open Space, Sport and Recreation
LPP52	Layout and Design of Development
LPP64	Protected Sites
LPP65	Tree Protection
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP70	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP71	Climate Change
LPP72	Resource Efficiency, Energy Generation and Energy Efficiency
LPP74	Flooding Risk and Surface Water Drainage
LPP76	Sustainable Urban Drainage Systems
LPP78	Infrastructure Delivery and Impact Mitigation

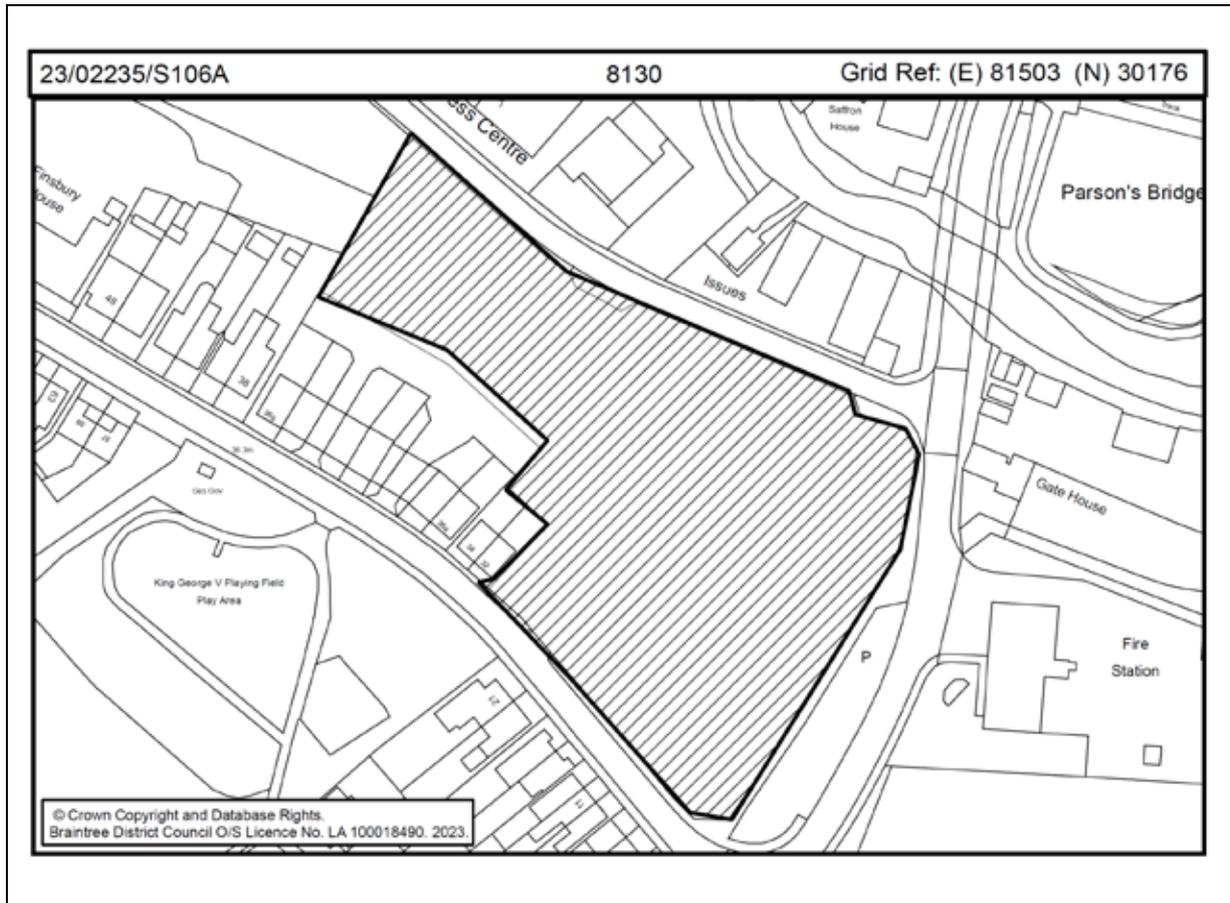
APPENDIX 3:

SITE HISTORY

None relevant to this application.

Report to: Planning Committee	
Planning Committee Date: 5th March 2024	
For: Decision	
Key Decision: No	Decision Planner Ref No: N/A
Application No:	23/02235/S106A
Description:	Application made under Section 106A of the Town and Country Planning Act 1990 (as amended) and the Town and Country Planning (Modification and Discharge of Planning Obligations) Regulations 1992 (as amended) - Application to modify details in relation to Affordable Housing to allow for a commuted sum in lieu of on-site provision required under S106 Legal Agreement relating to 19/02304/OUT.
Location:	Plc Hunwick Ltd Kings Road Halstead
Applicant:	AR Clarke (Builders) Ltd, The Old Airfield, Gosfield, CO9 1SA
Date Valid:	4th September 2023
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) Overtturn the Recommendation d) Defer consideration of the Application for a specified reason(s)
Appendices:	Appendix 1: Policy Considerations
	Appendix 2: 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>As outlined above, it is recommended that the decision is subject to the 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>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 the 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 changes to the Section 106 agreement, 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

	<p>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> <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: 23/02235/S106A.</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 (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 Outline planning permission was granted at appeal in April 2021 under Application Reference 19/02304/OUT for the following:

Outline application for four x 2 bed houses, five x 4/5 bed houses, 12 flats and 10 commercial units for B1(a) office purposes (with all matters reserved other than means of access, layout, and scale).

1.2 The outline permission was the subject of a legal agreement which covered the following matters:

- A financial contribution for Healthcare.
- 30% Affordable Housing on-site.
- The on-site provision of open space and amenity areas together with arrangements for the on-going management of these areas.
- A financial contribution for the provision or improvement of outdoor sport.
- A financial contribution for the provision or improvement of equipped play.
- A financial contribution for Habitat Mitigation (RAMS).

1.3 An application was made for approval of the Reserved Matters and the Applicant proposed that the 30% affordable housing would take the form of 6no. one-bedroom flats. Officers were satisfied with the affordable housing provision and the reserved matters were granted consent in April 2022. (Application Reference 21/02718/REM).

1.4 The application is seeking to amend the original Section 106 Agreement from providing the 6no. one-bedroom flats on-site to a commuted sum of £280,000 which the Council can use towards the provision of affordable housing in the District.

1.5 The proposed alteration to the Section 106 Agreement is considered to be acceptable. Accordingly, the application is therefore 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 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 within the Town Development Boundary of Halstead and is allocated as a Comprehensive Development Area in the Adopted Local Plan.
- 5.2 The site measures approximately 0.67 hectares and construction work has begun on the site in relation to the development permitted by Application References 19/02304/OUT and 21/02718/REM for four x 2 bed houses, five x 4/5 bed houses, 12 flats and 10 commercial units for class B1(a) office purposes.
- 5.3 Over half of the application site is located within Flood Zone 2 and a small portion to the east is located within Flood Zone 3.
- 5.4 The application site is surrounded on three sides by highway, namely Kings Road, Parsonage Street and Factory Lane West.
- 5.5 The site has existing industrial and residential uses to the north and west, residential to the south, and the fire station and one dwelling to the east.

6. PROPOSAL

- 6.1 This application is seeking the Council's agreement to vary Schedule 4 of the agreed Section 106 legal agreement for Application Reference 19/02304/OUT, namely the on-site affordable housing provision. The details of the specific changes sought are set out in more detail below.

7. SUMMARY OF CONSULTATION RESPONSES

7.1 BDC Research, Housing and Development

- 7.1.1 Braintree District Council is committed to securing on-site affordable homes on development schemes in accordance with planning policy wherever possible to address high levels of housing need in the District. Planning

approval for the subject scheme includes an obligation for 6 x 1 bed flats to be provided as affordable rented homes.

- 7.1.2 The Applicant, A R Clarke (Builders) Ltd, recently contacted us seeking advice on what they should do because after an initial offer for the 6 affordable units was made by a registered provider of affordable housing, it was later withdrawn. Despite contacting the other registered housing providers that work in Braintree, they have been unable to secure any interest for these units.
- 7.1.3 As no willing housing provider can be identified, this has unfortunately placed us with no other option but to consider a commuted payment in lieu of the 6 affordable units.
- 7.1.4 The usual methodology when calculating commuted payments is to base the calculation on typical market value of a unit less what an RP would be able to offer. However, in regard to the subject case, we have the added benefit of details of the withdrawn offer to base our calculation on rather than relying on generalised assumptions. Accordingly, we recommend a commuted payment of £280,000 is accepted and secured by a modified Section 106 Agreement.
- 7.1.5 This payment equates to the likely subsidy required to enable similar affordable homes elsewhere in the District.

8. PARISH / TOWN COUNCIL

8.1 Halstead Town Council

- 8.1.1 The Town Council objected strongly to the application on the grounds that it is unacceptable that the developer is prepared to ignore the needs of certain parts of the population for affordable housing.

9. REPRESENTATIONS

- 9.1 One representation received making the following comments:
- Concerns about the scrapping of the affordable housing and that sufficient efforts have not been carried out to find a housing association.
 - Request the application goes to planning committee for determination.

10. BACKGROUND

- 10.1 Outline planning permission was granted at appeal in April 2021 under Application Reference 19/02304/OUT for the following:

Outline application for four x 2 bed houses, five x 4/5 bed houses, 12 flats and 10 commercial units for B1(a) office purposes (with all matters reserved other than means of access, layout, and scale).

10.2 The outline permission was the subject of a legal agreement which covered the following matters:

- A financial contribution for Healthcare.
- 30% Affordable Housing on-site.
- The on-site provision of open space and amenity areas together with arrangements for the on-going management of these areas.
- A financial contribution for the provision or improvement of outdoor sport.
- A financial contribution for the provision or improvement of equipped play.
- A financial contribution for Habitat Mitigation (RAMS).

10.3 The subsequent reserved matters were granted consent in April 2022. (Application Reference 21/02718/REM).

11. PROPOSED ALTERATIONS TO THE SECTION S106 AGREEMENT.

11.1.1 The Applicant has requested that the Council vary the Section 106 Agreement and accept a commuted sum in lieu of the on-site provision of six units of affordable housing.

11.1.2 The agreed Section 106 Agreement requires a 30% on-site provision of affordable housing. The Reserved Matters approved the development of 21 new dwellings, so the required 30% affordable housing provision equated to 6 dwellings. Based on the advice of the Council's Housing Enabling Officer, and with reference to local housing need, the Reserved Matters included details of 6no. one-bedroom flats.

11.1.3 Policy LPP31 of the Adopted Local Plan states that where it is impractical to achieve on-site or off-site provision, a financial contribution in lieu of broadly equivalent value, may be accepted.

11.1.4 As is normal practice, once the developer secured the planning permission, they sought a registered provider of affordable housing ('Registered Providers') who would agree to take the affordable housing that was to be provided in the development. As Members will be aware, whilst the Section 106 Agreement secures the affordable housing, the developer will not be expected to provide the units at nil cost to the Registered Provider. Having secured planning permission, developers will market the affordable housing to a range of Registered Providers and will seek bids from interested parties. Whilst Registered Providers would not be offering the equivalent of the full open market value of the properties, a developer would reasonably expect a financial offer to be made. The value of the offer will vary according to the tenure mix and type of affordable housing being provided.

11.1.5 The Applicant sets out in their supporting statement for this application that after a year of due diligence trying to secure offers from Registered Providers, the one offer they had received was later withdrawn. All other

Registered Providers who were approached found the project unacceptable and made no offer to take the six flats.

- 11.1.6 The developer has provided a summary of the Registered Providers that they approached and the responses they received.

Registered Provider	Response
CHP	Offer withdrawn as it no longer fits strategic requirements/is not financially viable for CHP
Clarion Housing Group	They look for a minimum of 35 units so this is too small
Eastlight Community Homes	They need 20+ flats and not all one bed flats
Flagship Housing	They wouldn't want communal areas mixed between HA and private, also the shape of the rooms
Habinteg	They specialise in wheelchair and accessible housing under Part M(4)2 and 3 so this development not suitable
Home Group	4 attempts by email, 3 by phone - no response
Legal & General	They usually like 25+ units
Sage Housing	No thanks due to size
Sanctuary	No thanks prefer land led opportunities allowing them to deliver both the s106 & outright sale/additionality

- 11.1.7 The Council's Housing Enabling Officer has been consulted on the application and they state that as no willing Registered Provider can be identified, this has unfortunately placed the Council with no other option but to consider a commuted payment in lieu of the 6 affordable units.

- 11.1.8 The Housing Enabling Officer goes on to state that the usual methodology they would apply when calculating commuted payments is to base the calculation on typical market value of a unit less what a Registered Provider would be able to offer. However, in regard to the subject case, BDC Housing have the added benefit of details of the withdrawn offer to base our calculation on rather than relying on previously gained knowledge. Accordingly, BDC Housing recommend a commuted payment of £280,000 is accepted and secured by a deed of variation to the Section 106 Agreement.

- 11.1.9 The commuted payment from the developer is intended to enable the Council, in conjunction with a registered social housing provider, to provide affordable housing elsewhere in the District. Because the level of payment being secured is based on the amount of subsidy that would be required by a registered social housing provider to purchase units on the open market, the Council's Housing Enabling Officer is satisfied that the contribution would allow the Council to facilitate the provision of an equivalent number

of units as affordable housing elsewhere in the District. On this basis the payment is considered to meet the relevant CIL Compliance tests:

- **necessary to make the development acceptable in planning terms** (it will still help to deliver affordable housing, as required by Policy LPP31 of the Adopted Local Plan, albeit the housing will not be delivered on-site);
- **directly related to the development** (the contribution is in-lieu of the on-site provision that was originally secured to comply with Policy LPP31); and
- **fairly and reasonably related in scale and kind to the development** (the level of contribution is calculated with reference to the estimated value of the discount that a Registered Provider would receive if they purchased the units as affordable homes).

11.1.10 Officers acknowledge the concerns of the Town Council and the local resident who made a representation on this application, however the money received through commuted payments is ring-fenced and under the terms of the legal agreement can only be used to enable the provision of affordable housing elsewhere in the District. Officers do not believe that the developer has tried to avoid providing the 6no. one-bed flats, and it is an unfair to characterise this as a developer who is trying to renege on planning obligations without good grounds. The developer has evidenced that reasonable efforts have been taken to try and find a Registered Provider to take the units. The District Council cannot take the units as the Council are no longer a holder of affordable housing stock. Whilst Officers, like the Town Council and the objector, would very much like to see the provision of six new 1-bed flats that could be let on an Affordable Rent tenure, this is only possible if there is a willing Registered Provider.

11.1.11 Given this, whilst the affordable housing provision will not be provided on-site, Officers consider that commuted sum would be sufficient to satisfy the requirements of Policy LPP31 of the Adopted Local Plan and allow the site to continue to be developed and built out whilst still helping to provide additional affordable housing.

12. CONCLUSION

12.1 The proposed alteration to the Section 106 Agreement is considered to be acceptable. Accordingly, the application is therefore recommended for approval.

13. RECOMMENDATION

13.1 It is therefore RECOMMENDED that subject to the Applicant 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:

- Amend Schedule Four of the agreement and remove the requirement to provide 30% Affordable Housing on-site and replace this with an

obligation to pay a financial contribution of £280,000 (index linked) prior to the occupation of more than 10 dwellings.

- 13.2 The Planning Development Manager or an authorised Officer be authorised to agree the terms of a Deed of Variation to the original Section 106 agreement.
- 13.3 Alternatively, in the event that a suitable legal agreement is not agreed within three calendar months of the date of the resolution to approve this Deed of Variation by the Planning Committee, the Planning Development Manager may use his delegated authority to refuse the application.

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

APPENDIX 1:

POLICY CONSIDERATIONS

National Planning Guidance

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

Braintree District Local Plan 2013 - 2033

SP6	Infrastructure & Connectivity
LPP31	Affordable Housing
LPP78	Infrastructure Delivery and Impact Mitigation

APPENDIX 2:

SITE HISTORY

Application No:	Description:	Decision:	Date:
19/00017/REF	Construction of seven dwellings comprising four x three bed houses, two x 2 bed houses and one x 1 bed flat	Appeal Allowed	19.08.19
18/01119/FUL	Construction of seven dwellings comprising four x three bed houses, two x 2 bed houses and one x 1 bed flat	Refused	17.08.18
18/01121/OUT	Outline application for four x 2 bed houses, eight x 3 bed houses, 28 flats and 8 commercial units for B1(a) office purposes (with all matters reserved other than means of access, layout and scale).	Refused	19.12.18
19/01856/DAC	Application for approval of details reserved by conditions 3 & 4 of approved application 18/01119/FUL	Granted	13.01.20
19/02304/OUT	Outline application for four x 2 bed houses, five x 4/5 bed houses, 12 flats and 10 commercial units for B1(a) office purposes (with all matters reserved other than means of access, layout and scale).	Granted with S106 Agreement	23.04.21
20/02124/NMA	Non-Material Amendment to permission 18/01119/FUL granted 17.08.2018 for: Construction of seven dwellings comprising four x three bed houses, two x 2 bed houses and one x 1 bed flat. Amendment would allow: Incorporation of the two stores to the ground floor of plot 5, incorporation part of the	Granted	25.01.21

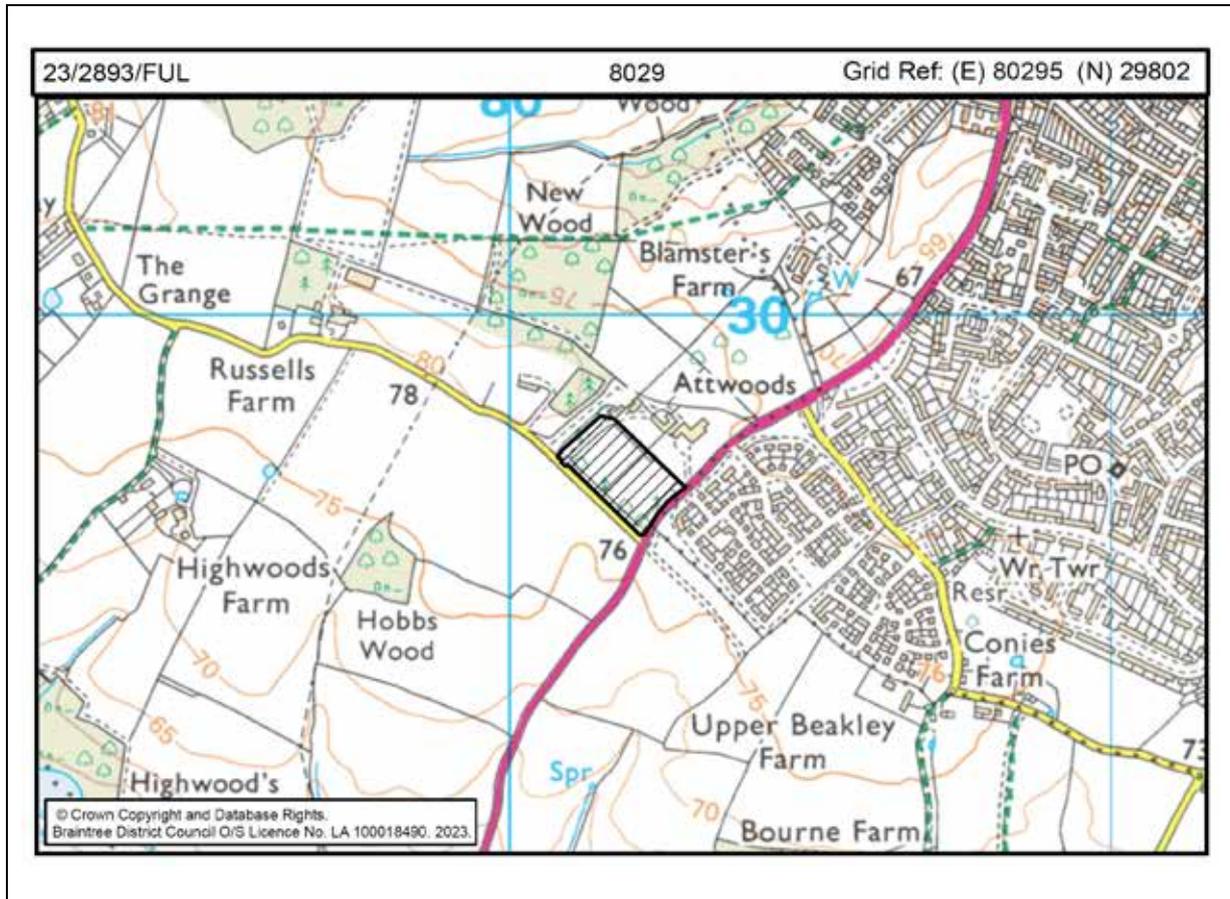
	first floor flat of plot 7 to plot 5, enlargement of staircase to serve plot 7, creation of large store for plot 7, insertion of additional ground floor window to front elevation of plot 5 and amendment to size of window that would now serve plot 5, rather than plot 7.		
21/02718/REM	Application for the approval of reserved matters (in respect of appearance and landscaping) pursuant to outline planning permission 19/02304/OUT granted 23.04.21 for the erection of for four x 2 bed houses, five x 4/5 bed houses, 12 flats and 10 commercial units for class B1(a) office purposes.	Granted	13.04.22
22/00948/NMA	Non-Material Amendment to permission 21/02718/REM granted for: Application for the approval of reserved matters (in respect of appearance and landscaping) pursuant to outline planning permission 19/02304/OUT granted 23.04.21 for the erection of for four x 2 bed houses, five x 4/5 bed houses, 12 flats and 10 commercial units for class B1(a) office purposes. Amendment would allow- Re-siting of electrical substation and parking adjustment to flats.	Refused	11.05.22
22/01376/VAR	Variation of Condition 2 (Approved Plans) of permission 19/02304/OUT granted 23.04.2021 for: Outline application for four	Refused	23.09.22

	<p>x 2 bed houses, five x 4/5 bed houses, 12 flats and 10 commercial units for B1(a) office purposes (with all matters reserved other than means of access, layout and scale).</p> <p>Variation would allow for:</p> <ul style="list-style-type: none"> - Re-siting of substation and adjustment of parking area to flats, to avoid large water main and UK Power Networks require two pods. 		
22/01637/DAC	Application for approval of details as reserved by conditions 4,14,19, 22 and 23 of approved application 19/02304/OUT	Part Grant, Part Refused	10.10.22
22/03021/DAC	Application for approval of details as reserved by condition 14 of approved application 19/02304/OUT	Granted	01.12.22
23/00010/VAR	<p>Variation of Condition 2 (Approved Plans) of approved application 19/02304/OUT granted 23.04.2021 for: Outline application for four x 2 bed houses, five x 4/5 bed houses, 12 flats and 10 commercial units for B1(a) office purposes (with all matters reserved other than means of access, layout and scale).</p> <p>Variation would allow for: Changes to the layout, including resiting of electrical substation and adjustment of associated parking. Separation of Plots 13/14 and 15/16 to provide detached houses.</p>	Granted with S106 Agreement	28.04.23
23/00017/VAR	Variation of Condition 1 (Approved Plans) of approved application 21/02718/REM granted 13.04.2022 for: Application	Granted	24.04.23

	<p>for the approval of reserved matters (in respect of appearance and landscaping) pursuant to outline planning permission 19/02304/OUT granted 23.04.21 for the erection of for four x 2 bed houses, five x 4/5 bed houses, 12 flats and 10 commercial units for class B1(a) office purposes. Variation would allow for: Changes to the layout, including resiting of electrical substation and adjustment of associated parking, separation of Plots 13/14 and 15/16 to provide detached houses - landscaping scheme, plans & elevations and street scene have been revised accordingly.</p>		
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Report to: Planning Committee	
Planning Committee Date: 5th March 2024	
For: Decision	
Key Decision: No	Decision Planner Ref No: N/A
Application No:	23/02893/FUL
Description:	Erection of 23 residential dwellings (including 6 affordable)
Location:	Halstead Hall, Braintree Road, Greenstead Green
Applicant:	Mr Elliot Clarke-Gifford, Bennett Homes, Low Green, Nowton, Bury St. Edmunds, IP29 5ND
Date Valid:	8th December 2023
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:	Carol Wallis For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2534, or by e-mail: carol.wallis@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>
<p>Background Papers:</p>	<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: 23/02893/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 (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 site is approximately 1.55 hectare in size and used to be part of the wider hinterland owned by the neighbouring care home facility, known as Halstead Hall, in the south-western fringe of Halstead town. It is located to the north of the junction of Russell's Road and A131 Mount Hill in Halstead. It is located outside of the town development boundary. Planning permission was granted at the application site under Application Reference 21/02449/FUL in 2022, securing a total of 20 residential dwellings. The site was subsequently sold and no longer forms part of the ownership nor operation of the care home facility.
- 1.2 The proposed development is for 23 dwellings on the same application site, with a broadly similar layout to the approved scheme with all houses enclosed by a circular ring-road. As compared to the consented scheme, the main differences include the increase in market dwellings, increase in development bulk and height, change in design and appearance, introduction of terraced properties and detached/linked double garage, as well as the relocation of visitor parking bays to the outer side of the ring-road.
- 1.3 The current proposal places a greater emphasis on 2-storey dwellings and provides for larger dwelling types, contrary to the housing mix requirements of the District.
- 1.4 Officers consider that the revised design and layout are of a poor standard, contrived to fit in additional and larger dwellings without due consideration to the built environment, leading to Officers having concerns regarding the accessibility, highway safety and private amenity provisions of the scheme. The design and layout results in adverse effects on the character and appearance of the area.
- 1.5 Furthermore, the proposal results in a harmful loss of trees. The tree loss has consequential impacts on the habitats of bats, which are a protected species, and is not proposed to be mitigated or compensated to a sufficient standard. The Applicant also failed to demonstrate that there would not be unacceptable surface water drainage impacts.
- 1.6 The proposed development would have an impact on built and natural infrastructure, for which contributions would be required to be made to mitigate such impact. No legal agreement securing such financial contributions has been received.
- 1.7 In light of these findings, and taking account all material planning considerations, Officers consider the proposal to be unacceptable. It is therefore recommended that planning permission is refused.

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 site is approximately 1.55 hectare in size and used to be part of the wider hinterland owned by the neighbouring care home facility, known as Halstead Hall, in the south-western fringe of Halstead town. It is located to the north of the junction of Russell's Road and A131 Mount Hill in Halstead. It is located outside of the town development boundary.

5.2 The site is largely vacant, mainly covered with grass. There is a derelict shed in the southern part. It is largely enclosed by mature trees and vegetation along all the site boundaries. Whilst the site is relatively flat, it slopes slightly downhill from the north towards the south, with ground levels changing from about 77.80m above ordnance datum (AOD) to about 76m AOD near to edge of Russell's Road to the south.

5.3 To the immediate north are a group of mature trees separating the curtilage of Martlett's Hall, including some mature trees protected by Tree Preservation Orders. To the northeast is Green Lodge and the wider curtilage of Halstead Hall caring home complex. Opposite the A131 Mount Hill, there is a new housing development to the southeast, which is within the town development boundary. Arable fields can be found to the west opposite Russell's Road, to the south and to further west and north directions.

5.4 The site forms part of a wider scheme with previous approval granted in June 2022 under Application Reference 21/02449/FUL, for a development consisting of alterations and extension of Green Lodge to provide a 25-bed dementia unit and erection of 20 bungalows and houses in the western parcel of land. Out of the 20 units, 8 of those are bungalows, including 6 as affordable dwellings. The consented scheme would provide 14 market dwellings and 6 affordable dwellings. Following the consent, the western parcel of land was sold off separately and no longer forms part of the care home ownership nor operation.

6. PROPOSAL

- 6.1 This current application relates to the parcel of land with previous consent for the erection of 20 residential dwellings. The Applicant proposes to intensify the provision of dwellings on the site, an increase from 20 units to 23 units. The 3 additional dwellings are all market dwellings and there is no change on the number of affordable housing. The proposed scheme would provide a total of 17 market dwellings and 6 affordable housing (Plots 14 to 19).
- 6.2 The submission indicated that there will be a total of 9x2-bed, 10x3-bed and 4x4-bed dwellings. No 1-bed unit nor bungalow would be provided. All proposed dwellings are 1.5- to 2-storey in height.

Table 1. Detail breakdown of the residential scheme

	Type	No. of bed	Garden Area (m2)
Plot 1	Detached	4	255
Plot 2	Detached	3	158
Plot 3	Detached	4	290
Plot 4	Detached	4	224
Plot 5	Detached	4	248
Plot 6	Detached	3	238
Plot 7	Detached	3	244
Plot 8	Detached	3	212
Plot 9	Detached	2	200
Plot 10	Detached	2	242
Plot 11	Detached	2	197
Plot 12	Detached	2	142
Plot 13	Detached	2	131
Plot 14	Semi-Detached - M4(3)	3	105
Plot 15	Semi-Detached - M4(3)	3	75
Plot 16	Terraced	2	118
Plot 17	Terraced	2	67
Plot 18	Terraced	2	66
Plot 19	Terraced	2	108
Plot 20	Detached	3	306
Plot 21	Detached	3	319
Plot 22	Detached	3	212
Plot 23	Detached	3	193

- 6.3 Each of the dwellings would be provided with at least 2 parking spaces. Single or double garages would be provided for market dwellings and off-street parking bays would be provided for the affordable housing. A total of 8 visitor parking bays would also be provided in the form of lay-bys along the internal access road.

6.4 Together with the submitted suite of plans and drawings, the application is accompanied by the following documents:

- Arboricultural Impact Assessment (AIA)
- Bat Roost Survey
- Design Statement
- Drainage Strategy and associated drawings
- Ecological Assessment
- Flood Risk Assessment (FRA)
- Infrastructure/Utility Assessment
- Ground Investigation Report
- Phase 1 Desk Study (Land Contamination)
- Planning Statement
- SUDS and Surface Water Drainage Management Plan
- Updated Ecological Walkover Survey (dated 6 October 2023)

7. SUMMARY OF CONSULTATION RESPONSES

7.1 Active Travel England

7.1.1 No comments or objections.

7.2 Anglian Water

7.2.1 There are assets owned by Anglian Water (AW) or those subject to an adoption agreement within or close to the development boundary that may affect the layout of the site.

7.2.2 The foul drainage from this development is in the catchment of Braintree Water Recycling Centre that will have available capacity for these flows.

7.2.3 The sewerage system at present has available capacity for the flows of the development. If the developer wishes to connect to AW's sewerage network, they should serve notice under Section 106 of the Water Industry Act 1991. AW will then advise them of the most suitable point of connection.

7.2.4 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.

7.2.5 From the details submitted, the proposed method of surface water management does not relate to AW operated assets. The LPA should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board on the suitability of the surface water management. The Environment

Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse.

7.3 Essex Fire and Rescue Service (Protection)

7.3.1 Access for Fire Service purposes has been considered in accordance with the Essex Act 1987 - Section 13. Access is considered satisfactory subject to the following:

- Access routes and hard standings should be capable of sustaining a minimum carrying capacity of 18 tonnes.
- The overhanging trees could impinge on the ability of the fire appliance to use the full extent of the access, trees should be kept trimmed to maintain access requirements.

7.3.2 Fire service access to the proposed development appears sufficient, meeting the requirements of Section B5 Approved Document "B" Fire Safety Volume 1.

7.3.3 More detailed observations on access and facilities for the Fire Service will be considered at Building Regulation consultation stage.

7.4 Essex Fire and Rescue Service (Water Services)

7.4.1 Due to what would be considered an excessive distance to the nearest existing statutory fire hydrant, it is considered necessary that additional fire hydrants are installed within the curtilage of the site.

7.4.2 Should the development proceed, once in receipt of the new water main design scheme for this development from the local Water Authority, the service will liaise with them directly to ensure that all necessary fire hydrants are provided.

7.5 Essex Police

7.5.1 Finer detail such as the proposed lighting, and physical security measures are required. Would welcome the opportunity to consult on this development to assist the developer to demonstrate their compliance with Policy LPP52 by achieving a Secured by Design (SBD) 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 benefitting both the resident and wider community.

7.5.2 From experience pre-planning consultation is always preferable in order that security, landscaping, and lighting considerations for the benefit of the intended residents and those neighbouring the development are agreed prior to a planning application.

7.6 Natural England

7.6.1 No objection subject to securing the appropriate mitigation for recreational pressure impacts on Habitat Sites (National Site Network, formerly known as European Sites).

7.7 NHS

7.7.1 The proposed development is likely to have an impact on the services of the Surgery which operates within the vicinity of the application site. The existing GP practice does not have capacity to accommodate the additional growth resulting from the proposed development. The development could generate approximately 55 new residents and subsequently increase demand upon existing constrained services.

7.7.2 The proposed development will be likely to have an impact on the NHS funding programme for the delivery of primary healthcare provision within this area and specifically within the health catchment of the development.

7.7.3 The capacity of primary healthcare facilities in the area of the proposed development is already below the recognised standards of provision for the existing population. Additional population growth in the area resulting from new development would add to the deficit and so would be unsustainable if unmitigated.

7.7.4 The ICS therefore requests that the sum of £11,200 be secured through a planning obligation in the form of a S106 agreement is linked to any grant of planning permission in order to increase capacity for the benefit of patients of the Primary Care Network operating in the area. This may be achieved through any combination of extension, reconfiguration or relocation of premises.

7.8 BDC Ecology

7.8.1 Holding objection due to insufficient ecological information on European Protected Species (Bats). A Bat Activity Survey should be submitted prior to determination to support this application.

7.8.2 The proposal will not deliver measurable biodiversity net gains, as the proposed loss of trees has not been appropriately offset within a soft landscaping plan. The developer is encouraged to provide a biodiversity net gain assessment to demonstrate that a measurable biodiversity net gain can be achieved under Paragraph 180d of the NPPF.

7.9 BDC Environmental Health

7.9.1 No objection in principle, subject to conditions on unexpected land contamination, construction management plan including dust and mud control and operation hours, as well as piling details.

7.9.2 Previous concerns on the potential road traffic noise impact from the A131 to the nearest properties has not been incorporated into the consent granted. Whilst the same concern remains for this similar proposal, request for a Noise survey nor mitigation measures in this instance may be successfully appealed on the grounds that these were not previously requested.

7.10 BDC Housing

7.10.1 Objection. Whilst it is supportive in principle for both 3-bed affordable housing units to comply with Building Regulations Part 4(3), it is doubtful that the second bedroom of all these affordable units would be able to accommodate 2 people.

7.10.2 The Council would not accept 2-bed 3-persons units as they restrict the number of Applicants that can be housed. 4-person units reduce the need for occupiers to move home and ensure the flexibility of new affordable housing.

7.10.3 There is also doubt that the proposed 3-bed affordable housing units are compliant to be classified as wheelchair accessible homes under Part M4(3). The ground floor bedroom is a single bedroom and the WC facility needs to be enlarged to accommodate a level access shower/wet room arrangement to accommodate a family with wheelchair user. The drawings do not show wheelchair turning circles or room sizes. These units will need to be designed to accommodate a minimum of 5 persons for the similar reasons listed above.

7.10.4 The proposal is required to be revised to address the above concerns and to be in within the unit and tenure mix shown in the table below:

	No.	Affordable Rent	Intermediate Tenure – Preferably Shared Ownership
2-bed 4-person house - Part M4(2)	4	1	3
3-bed 5-person house - Part M4(3)(2)(a)	2	2	0
Total	6	3	3

7.11 BDC Landscape Services

7.11.1 Objection. The report makes limited reference to the existence of veteran trees, highlighting T190 as a “veteran tree” and T193 as “veteran form” within the survey data. It is unclear if these terms are intended to be interchangeable or distinct, and the main text of the report does not mention veteran trees at all.

- 7.11.2 There are many other trees being of significant size/diameter for their species, and having veteran characteristics such as crown retrenchment, and cavities/significant decay (e.g. T1, T8, T19, T63, T186, T187, T191, T192) – given the importance placed on these trees within key policy documents and the NPPF, it is a concern that this has not been further addressed within the documents. The planning guidance advice that a buffer zone of 15x the tree diameter (or 5m beyond the canopy, whichever is greater) would apply in such an instance, and that a greater level of impact assessment is required for such trees. This is a significant failing of the report.
- 7.11.3 Tree losses are significant, but unclear at 1.7 the report states that 1 cat B tree, 16 cat C trees, 5 cat c groups, and 33 Cat U trees will be impacted, but at 7.1.1 it states 17 cat c and 3 cat c groups, and adds a further cat u group. These also included potential veteran trees. W1 is not included within the impacted trees list, but the plans appear to show a significant portion of this area removed.
- 7.11.4 It is stated that the tree loss can adequately be mitigated through the landscape proposal, but no further detail is provided and there are no separate landscape proposals within the supporting documents.
- 7.11.5 On a similar note, it is noted that T352 is suggested for translocation, but no further detail of this is provided.
- 7.11.6 Where indicative new planting is shown on the site plan I have concerns regarding its feasibility, e.g. of the 5 trees north of plot 2, 4 are likely to cause future issues with adjacent structures, unless very small canopy species are used. While full details of planting is not expected at this stage, it is expected to see evidence that commensurate replacement planting is achievable, and this is lacking.
- 7.11.7 There are also issues with other mitigation, such as the proposed alignment of TPF is likely unachievable, and no dig sections fail to account for parking bays.
- 7.11.8 Further to all this, it is noted that the supporting arboricultural information involves significant detail relating to trees and work outside of the application boundary (such as the loss of T85), and the tree numbering as shown on plans does not follow a linear pattern, suggesting some trees were surveyed at different times or by different people – this is not explained, which makes it difficult to properly assess the exact impacts of the proposal, albeit noting the data sheets list a single surveyor and date.
- 7.11.9 The report states that 182 trees, 7 groups and 1 wood were surveyed, but the survey data includes 193 overall arboricultural features, and 20 of these are apparently groups of trees, (albeit the suffix system is varied).
- 7.11.10 There are significant issues with the report, and the Landscape Officer cannot conclude with any confidence that the impact assessment has been

carried out accurately or appropriately, nor that the proposal could be carried out without significant harm to trees. The Landscape Officer recommends that the application be refused.

7.12 BDC Waste Services

7.12.1 The shared surface road that serves the entirety of the planned development, needs to be built to adopted highway standards and maintained as such, in order to be able to support the weight of the 26 tonnes waste collection vehicles. BDC will not take liability to repair this shared surface access road, should it incur damage as a result of the collection vehicles using it for access.

7.13 ECC Archaeology

7.13.1 Conditions on archaeological evaluation are required.

7.13.2 The Essex Historic Environment Record (HER) shows that the proposed development lies within an area of historic and archaeological potential. The proposed development lies adjacent to Halstead Hall, formerly known as Attwoods and close to Blamsters farmhouse, a 15th century listed building. Attwoods is depicted on the Tithe map of c.1840 and was enlarged by the 1st edition OS map, c.1870. The building was a large country house set into its own grounds which had both formal and informal landscaping. The site is identified as land under pasture on the Tithe map of c.1842.

7.13.3 Recent excavation at Mount Hill has revealed evidence for prehistoric activity suggestive of nearby settlement in the Bronze Age and remains relating to a possible Medieval farmstead. To the south a medieval tile kiln was revealed located close to the road and further prehistoric and medieval evidence recorded. Roman findspots lie to the north of the area close to the route of a postulated Roman Road. Any groundworks within the area of the development has the potential to disturb or destroy surviving archaeological remains.

7.14 ECC Education

7.14.1 When estimating the number of children that a new housing development will generate, and that will require a school place (yield), ECC takes account of the number of houses and flats that are suitable to accommodate children. One-bedroom units and some dwellings, such as student and elderly accommodation, are excluded from the education calculation.

Education

7.14.2 With reference to the details above, a development of 23 dwellings can be expected to generate the need for up to 2 Early Years and Childcare

(EY&C) places; 6.9 Primary School places, and 4.6 Secondary School places.

- 7.14.3 According to ECC's latest childcare sufficiency data, there are 5 providers of early years and childcare in the area. Of these, 2 are Independent Schools, 1 is a holiday club for school age children, 1 is a term-time nursery and 1 is a childminder. There is 1 unfilled place available with the childminder and 14 available within the independent schools. There are no vacancies for children aged 0-2 years or for school aged children.
- 7.14.4 The demand generated by this development would require a contribution towards the creation of additional places. A developer contribution of £38,850, index linked to Q1-2023, is sought to mitigate its impact on local Early Years & Children provision. This equates to £19,425 per place.
- 7.14.5 There are currently sufficient places available in the area at this time for primary education places and secondary education places.
- 7.14.6 A contribution toward Post16 education is not required at this time. However, in accordance with ECC Developers' Guide to Infrastructure Contributions (Revised 2020), an Employment and Skills Plan (ESP) should be prepared to set out how the developer will engage with and maximise local labour and skills opportunities.

School Transport

- 7.14.7 Having reviewed the proximity of the site to the nearest Primary & Secondary schools, ECC will not be seeking a School Transport contribution at this time. However, the developer should ensure that safe direct walking and cycling routes to local Schools are available. Where appropriate, engagement with Essex Highways is advised to ensure this is achieved. All sites will be suitably assessed in accordance with the current climate and national and local drive to provide more sustainable modes of travel and to meet the initiative towards active travel provision.

Libraries

- 7.14.8 ECC may seek contributions to support the expansion of the Library Service to meet customer needs generated by residential developments of 20+ homes. The provision of a Library Service is a statutory duty under the 1964 Public Libraries and Museums Act and it's increasingly become a shared gateway for other services such as for accessing digital information and communications.
- 7.14.9 The suggested population increase brought about by the proposed development is expected to create additional usage of Halstead library, which is approximately 0.75 miles away from this development. A developer contribution of £1,789.40 is therefore considered necessary to improve, enhance and extend the facilities and services provided and to

expand the reach of the mobile library and outreach services. This equates to £77.80 per unit, index linked to April 2020.

Monitoring Fees

7.14.10 In order to secure the delivery of the various infrastructure improvements and to meet the needs arising from development growth, ECC needs to monitor Section 106 (S106) planning obligations to ensure they are fully complied with on all matters. ECC has a resultant obligation to ensure the money is received and spent on those projects addressing the needs for which it was sought and secured. To carry out this work, ECC employs a staff resource and charges an administration/monitoring fee towards funding this requirement. The Monitoring Fee will be charged at a rate of £700 per obligation (financial and otherwise).

7.14.11 If planning permission is granted, a S106 agreement to mitigate its impact on EY&C and libraries is required. The final payments of the above will be based on the actual dwelling unit mix and the inclusion of indexation.

7.15 ECC Highway

7.15.1 Objection. The developer has not demonstrated that the proposal would be acceptable in terms of highway safety, efficiency, and accessibility to public transport. Therefore, the proposal as submitted, would be contrary to the Development Management Policies as adopted as County Council Supplementary guidance in February 2011.

7.15.2 Additional information is required to demonstrate pedestrian connectivity from the site. The pedestrian route should include an uncontrolled pedestrian crossing point and refuge island suitable to enable safe and convenient access to the bus stops in the vicinity of the site on the A131.

7.15.3 The Applicant should be aware the layout as proposed will not be considered for adoption by the Highway Authority.

7.16 ECC SUDS

7.16.1 Holding objection. The submitted Flood Risk Assessment and the associated documents are not acceptable and revisions are required (dated 4 Jan 2024).

8. PARISH / TOWN COUNCIL

8.1 Greenstead Green and Halstead Rural Parish Council

8.1.1 No objection subject to an updated Transport Statement addressing concerns about poor visibility and access leaving Russell's Road and turning right onto the A131; footpath extended along the northern edge of the A131 from the bus stop to the northeast corner of the site; and a proportion of the S106 money for this Parish Council as the Greenstead

Green playing field is identified as an existing play area on the approved Open Spaces Plan.

9. REPRESENTATIONS

9.1 None received.

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 76 of the NPPF requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth (plus the relevant buffer) of housing for decision making purposes where the relevant application was made prior to the publication of the December 2023 version of the NPPF.

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 Paragraph 76 of the NPPF sets out that local planning authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years worth of housing for decision making purposes if: their adopted plan is less than five years old; and that adopted plan identified at least a five year supply of specific, deliverable sites at the time that its examination concluded. The Council's Local Plan is up to date and complies with the NPPF.
- 10.2.2 However, Footnote 79 of the NPPF sets out that this provision only applies to planning applications which were submitted on or after the date of publication of the revised NPPF (December 19th 2023). As this application was received prior to that date, the Council must consider it in relation to the 5 year housing land supply.
- 10.2.3 The Braintree District Local Plan has an approved minimum housing target of 716 new homes per year in the District between 2013 and 2033. To this annual supply the Council must add the cumulative shortfall since the start of the Plan period. This figure is recalculated each year. 873 new homes per year are therefore required to be delivered within this 5 year period (2023-2028). Taking the above into account, the Council's latest 5 Year Housing Land Supply position for 2023-2028 shows that the Council has a 5.8 years supply.
- 10.2.4 The Council considers this a robust position and as the Council is able to demonstrate an up to date 5 year housing land supply, the presumption (at Paragraph 11d of the Framework) is not engaged. Consequently, and given that they were only recently adopted, the policies within the Development Plan are considered to have full weight in decision making. Planning applications must therefore be determined in accordance with the Development Plan, unless material planning considerations indicate otherwise.

10.3 The Development Plan

- 10.3.1 The Council's statutory Development Plan consists of the adopted Braintree District Local Plan (2013-2033).
- 10.3.2 Since the previous approval, the site has been sold separately and no longer forms part of the care home ownership nor operation. Therefore, this application is assessed on its own merits.
- 10.3.3 The site is located outside a defined development boundary and is not allocated for housing, therefore it is located within the countryside, wherein

development will be strictly controlled to uses appropriate to the countryside, in order to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside.

- 10.3.4 However, as the principle of development has been established under the previous planning consent covering the larger site, there are no objections to the principle of development in this case, subject to compliance with other policy requirements as set out below. The previous planning consent (Application Reference 21/02449/FUL), which was granted on 9th June 2022, can still be implemented and therefore represents a fallback position.

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 109 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 The strategy set out in the Adopted Local Plan within Policy SP3 is to concentrate growth in the most sustainable locations by adopting a spatial strategy that promotes development in the most sustainable locations, where there are opportunities for walking, cycling and public transport links to shops, services, and employment. This means that 'the broad spatial strategy for the District should concentrate development in Braintree, Witham and the A12 corridor and Halstead.'

- 11.1.3 In this case, the site is on the fringe of one of the District's main towns, has good access to local services and facilities as well as good public transport links. As such it is a sustainable location which weights in favour of the development.

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

- 11.2.1 Paragraph 131 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 135 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 Paragraph 139 states that development that is not well designed should be refused, especially where it fails to reflect local design policies and

government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.

- 11.2.4 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. 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 there is an extant consent for the previous application, the main consideration of this application is the comparison of the current proposal with the residential element of the previous scheme. The Applicant has not provided a drawing to clearly demonstrate the comparison of the 2 schemes, however, based on the submitted drawings, the main differences of the 2 schemes include the increase in market dwellings, increase in development bulk and height, change in design and appearance, introduction of terraced properties and detached/linked double garages, as well as relocation of visitor parking bays to the outer side of the ring-road.
- 11.2.6 The general site layout follows the consented layout, with dwellings facing onto the internal circular ring-road. As compared to the consented scheme, the current proposal would increase the total number of dwellings by 3 units, with the building bulk increased from a mix of 8 bungalows and 1.5-storey dwellings to no bungalow but all 1.5- to 2-storey high dwellings. The previous scheme would have ridge heights ranging from 5.19m (bungalows) to 7.87m (1.5-storey). The current scheme would have the proposed 1.5-storey dwellings having a ridge height of 7m to a maximum 8.9m for 2-storey dwellings.
- 11.2.7 Officers consider that the current proposal represents a poor design solution for a number of reasons. Principally, the proposal represents a more mundane and uniform development with repetition of facades, materials and detailing with very little architectural variety or diversity in character, not to mention the lack of references to the detailing and design elements in the locality.
- 11.2.8 Furthermore, in order to achieve the increased quantum of development and accommodate reasonable rear gardens, the proposed dwellings and their accompanying parking spaces are pushed close and tight to the edge of the carriageway leaving very little room for a meaningful decent street trees planting or landscaping.
- 11.2.9 The proposed garages are considered to be squat in form, visually dominant in the streetscene and reducing the building separation distances. The proposed corner plot dwellings failed to address the public elevations, with substantial areas of un-fenestrated facade facing onto the roadway. The sum total of these design characteristics make for an unattractive

street scene and poor place-making attributes, contrary to the objective of making beautiful places as required in the National Design Guide.

- 11.2.10 The previous permitted scheme was a lot less intense in terms of housing numbers, offered more distinctive house types and included 40% bungalows that are typical of the local area. In stark contrast, the current proposal is dominated by 2-storey dwellings of a generic form and appearance, with no attempt to create style and detail that references the nearby adjacent buildings nor any of the better local precedents. The predominance of 2-storey properties and introduction of terraced properties are alien to the local area, which represents a dilution from the previous development.
- 11.2.11 The use of pantiles across so many roofs is not considered an appropriate choice. Pantiles feature in very limited use in the local vernacular and rarely on traditional form above one storey. These would be acceptable for single storey but not for 2-storey dwellings. Halstead Hall and Green Lodge to the immediate northeast of the site have some strong characteristics that could easily be accommodated within this proposal, including the dominance of render as a wall finish, the strong vertical emphasis to fenestration with decorative surrounds, slate roofs, and tall chimneys. However, these have not been incorporated into this development.
- 11.2.12 The proposed layout is also problematic. In order to accommodate 3 more dwellings, some of the front gardens are compromised and the side elevation of some proposed dwellings are pushed much closer to the edge of the carriageway. The category A1 Oak tree could have been better integrated into the site layout instead of proposing to be translocated (to be discussed further later in this report).
- 11.2.13 The internal road width is less than 6m wide which is below an adoptable standard. Car parking and garages also dominate the public realm and it would appear wheelie bins may have to be dragged from one house across another's driveway. The relocation of visitor parking spaces onto the outer ring would also mean a slight reduction in the peripheral landscaping. The overall layout therefore demonstrates deficiencies in a number of areas pointing to a contrived development that fails to respect local character and fails to deliver a suitable environment for future occupiers.
- 11.2.14 Whilst sub-urban form of development would appear on the site as a result of the previous approval (21/02449/FUL), the consented scheme represents a much better design solution with appropriate development intensity than the current proposal and therefore represents a better fallback position.
- 11.2.15 Taken as a whole, the proposed development represents an intensive and bland form of development that is not aimed to reflect the local vernacular or to fit in with the surrounding built and natural environments. It would be an incongruous form of development contrary to Policies SP7 and LPP52 of the Adopted Local Plan.

- 11.2.16 Policy LPP35 of the Adopted Local Plan requires development to provide a mix of house types and size that reflects the local need and housing mix should be in line with the identified local need as set out in the Strategic Housing Market Assessment (SHMA, 2015).
- 11.2.17 The SHMA identifies that the District would require 35.46% of market dwellings to be 1 to 2 bedrooms properties. The proposal mainly focuses on the provision of 3-bed or larger units (71%). There are no 1-bed units proposed. Moreover, all the market dwellings contains either a large annexe or a study that could be used as a bedroom, it further demonstrates that the proposed housing mix is aiming to provide larger private properties. The weight to be afforded in the planning balance would be significantly reduced as it would not contribute to meet the District's identified need for smaller properties.
- 11.2.18 In view of the above, the proposed development would impose detrimental harm to the existing character and appearance of the local area, therefore conflicts with NPPF, National Design Guide, Essex Design Guide (2005) as well as Policies SP7, LPP35 and LPP52 of the Adopted Local Plan.

11.3 Residential Amenity

- 11.3.1 Although there is a care home to the northeast of the site, there is a significant distance between it and the nearest proposed residences with a large landscaping buffer retained in between. In this relationship, Officers consider that there would not be any adverse impacts on the amenity of existing neighbours as a result of this development post construction.
- 11.3.2 The proposed layout for the development accommodates a ring-road within which dwellings would sit facing outwards. In this arrangement, rear elevations of the houses would face towards each other, separated by the rear private gardens. Officers consider that the layout of the scheme achieves the requisite rear garden depth and back-to-back distances set out in the adopted Essex Design Guide. On this basis, overlooking is not considered to be an issue and, due to the orientation and spacing of the proposed dwellings, it is also unlikely to result in overshadowing.
- 11.3.3 Noise has been raised as a concern from the Environmental Health Officer in respect of passing traffic on the A131. Similar concern was also aired on the previously approved application (Application Reference 21/02449/FUL) and, in that instance, the relationship between the proposed dwellings and the A131 was considered such that noise was not an issue. For the current case, the proposed dwellings are set a moderate distance (at least 22m) away from the A131 carriageway and behind a retained landscape buffer including the scheme's own internal road. The distance has not been significantly reduced between the proposed dwellings and the A131, which is similar to those of the consented scheme, Officers therefore do not consider that noise would be so adverse as to cause detriment to the amenity of future residents.

- 11.3.4 In terms of private amenity space, the Council requires a minimum size of 100sq.m private garden for dwellings with 3-bedroom or more. The submission indicates that the 3-bed property of Plot 15 would only have a rear garden of 75sq.m in size. Whilst all the other proposed dwellings meet the standards set out in the Essex Design Guide in terms of private amenity space, Plot 15 would fail thus providing poor living conditions for those prospective residents.
- 11.3.5 The Applicant has indicated that both Plots 14 and 15 would be affordable 3-bed units complying with Building Regulation M4(3) as wheelchair adaptable dwellings. Whilst the total floorspace meets the Nationally Described Space Standard (2015) of 93sq.m, only 1 of the bedrooms would be able to count as a double bedroom. The other 2 bedrooms are of a size less than 11.5sq.m in size, hence would only be able to use as single bedroom. These 2 dwellings would therefore only be able to accommodate 4 persons. As highlighted by the Housing Officer, the internal design of these 2 dwellings is also insufficient to accommodate wheelchair users.
- 11.3.6 In summary, whilst the proposal would generally provide a reasonable degree of amenity for future residents, the lack of sufficient garden space for Plot 15, coupled with the deficiencies in meeting wheelchair users' needs in both Plots 14 and 15, would result in unacceptable living conditions for those occupiers. The proposal would therefore be contrary to the Essex Design Guide and would conflict with Policies LPP47, LPP48 and LPP52 of the Adopted Local Plan, which seeks a high standard of amenity to be provided in all developments.
- 11.4 Trees, Landscaping and Ecology
- 11.4.1 The Applicant submitted an AIA within the original application documents, and subsequently revised the AIA in January 2024, incorporating the correct site layout to tally with the rest of the submission. At paragraph 1.5.6, the AIA reports that 17 individual trees and 3 groups of trees are to be removed with one further group to be partially removed. However, the detailed schedule of tree works in Appendix 5 of the AIA contradicts this, reporting that some 50 trees and 5 groups require felling to facilitate the development.
- 11.4.2 With no evidence to substantiate the lower figure cited by the Applicant, Officers must rely on the detailed schedule at Appendix 5 to assess the development's impact. On this basis, trees requiring removal include 2 category B trees, 19 category C trees and 34 unclassified trees. It is also proposed to translocate an existing category A Oak tree (T352) in the southern part of the site, which was not previously identified in the previous tree survey for the previous consent. A further 114 trees will be required to be pruned.
- 11.4.3 Whilst existing trees and hedgerows around the site's perimeter would largely be retained, Officers consider there to be a significant loss of trees

across the application site for which a proposed landscaping scheme would fail to replace/compensate. Officers are also concerned that tree loss and/or tree works associated with providing visibility splays at the proposed site entrance are not accounted for or reported upon within the AIA. Officers are not content that the category A English Oak tree (T352) is proposed to be translocated and do not consider it possible to undertake such relocation and retain the character, quality, or integrity of the tree. The oak should be a feature that influences the design and layout of the scheme, rather than deemed an obstruction in the way of development.

- 11.4.4 The Council's Landscape Officer has raised objection to the proposal. The submitted AIA has not been carried out accurately or appropriately. It makes limited reference to the existence of veteran trees. There are many other trees being of significant size or diameter for their species, and having veteran characteristics. The NPPF highlighted that development resulting in the loss or deterioration of irreplaceable habitats, including veteran trees, should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy. However, these are not included within the submission.
- 11.4.5 The conflicting information within the AIA does not give Officers confidence that appropriate consideration has been given to tree retention or protection. This also influences Officers' views on ecological impacts. The revised ecological walkover survey from the Applicant confirms that there is moderate potential for bat roosting, foraging, and commuting within the application site. However, that walkover survey predicts minimal impacts because: "As existing woodland and tree belts are being retained, no further activity, or roost emergence surveys on trees with BRP are considered necessary." The Council's Ecology Officer observes that Arboricultural Impact Assessment Report (EnviroArb Solutions Ltd, October 2023) contradicts this position and, as such, the Ecology Officer reports insufficient information regarding the impact on bats. With bats being a protected species, the level of conflict with their habitat is considered unacceptable.
- 11.4.6 In addition, Officers consider that the proposals would not deliver measurable biodiversity net gains, as the proposed loss of trees has not been appropriately offset within an appropriate soft landscaping plan. Whilst the application was submitted prior to Biodiversity Net Gain becoming a mandatory requirement for major developments, this is subject to transitional arrangements. Officers find that the unmitigated loss of landscaping and ecology interests in the site would be wholly unacceptable.
- 11.4.7 On this basis, the proposal demonstrably conflicts with Policies LPP52, LPP63, LPP65, LPP66 and LPP67 of the Adopted Local Plan, which combined seek to secure and protect the natural environment and the delivery of development that is compatible with local landscape and biodiversity features.

11.5 Highway Considerations

- 11.5.1 The scheme would be accessed from an entrance on Russell's Road that forms the western boundary into the site. From there, the scheme would be serviced by an internal ring road that wraps around and encloses all of the houses. Each dwelling would have its own private driveway and the majority would be supported by garaging. A total of 8 visitor parking bays would be provided on the outside edge of the ring road.
- 11.5.2 Officers note that the linked double garages for Plots 3, 4 and 5 are all below the minimum internal measurement (7m x 6m). Although 2 additional off-street parking spaces are available on plot to comply with the parking requirements, this illustrates the poor design, and the intention to provide additional spaces that are not fit for purposes but to allow provision of the annexe above.
- 11.5.3 The Highway Authority has raised objection to the proposal as the developer fails to demonstrate that it would be acceptable in terms of highway safety, efficiency, and accessibility to public transport. Additional information is required to demonstrate pedestrian connectivity from the site.
- 11.5.4 The Highway Authority has also clarified that the proposed layout would not be adopted. Officers observe that the ring road would be a 'shared surface' with a maximum width of 5.8m, with some instances where the width of the carriageway would be less. This would be below the 6m width required for an adoptable standard. With no footpath or cycleway illustrated on the plans, this would mean a constrained shared surface within which vehicles, pedestrians and cyclists would share. Furthermore, waste service operatives would not seek to enter into a road that is not of an adoptable standard. This raises serious concerns about how the development would be accessed. No tracking diagrams have been submitted to show larger vehicles could enter and navigate around the roads safely, even if they could the restricted road width would give rise to an unacceptable highway safety hazard.
- 11.5.5 Some of the visitor bays are only 2.2m wide as opposed to the expected standard of 2.9m. Some visitor bays are also shown in a curved shape, whilst no accessible parking spaces for disabled persons are proposed. Whilst the Building Regulations require a minimum of 1 electric vehicle (EV) charging plug for each new dwelling, there is no arrangement in the submission to provide EV charging facilities for the visitor parking spaces. Overall, this points to an unsatisfactory parking arrangement adding to complications of access and level of hazard manoeuvring around the proposed development, making the shared surface less than attractive for use by pedestrians and cyclists.
- 11.5.6 Therefore, the proposal would conflict with Policies LPP42, LPP43 and LPP52 of the Adopted Local Plan that seek to prioritise sustainable transport modes and the provision of safe access for all highway users.

11.6 Drainage and Flood Risk

- 11.6.1 Paragraph 166 of the NPPF states that when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere. It states that priority should be given to the use of sustainable drainage systems.
- 11.6.2 Paragraph 174 of the NPPF states that the planning policies and decisions should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability.
- 11.6.3 The site is located within Flood Zone 1 with the least risk of coastal flooding. However, the western corner of the site has been identified with low to medium risk of surface water flooding whilst a small strip of land along the southwestern boundary is also subject to low risk of surface water flooding. A FRA has been submitted in support of the application. The application was also accompanied by a drainage strategy, a surface water drainage management plan including details of Sustainable Urban Drainage (SuDs) measures and a plan showing drainage construction details.
- 11.6.4 However, it is noted that the site used to assess the flood risk and drainage strategy is smaller than the application site, and hence did not capture the full picture of the flooding and drainage situations.
- 11.6.5 Essex County Council as Lead Local Flood Authority (LLFA) also raises objection to the submission. Specifically, there are concerns regarding proposed surcharging in the 1 in 1 year event and that the drainage calculations use incorrect factors. Further recommendations are made that the Applicant regarding a maintenance plan and using up-to-date guidance to inform the drainage strategy.
- 11.6.6 In the absence of evidence to the contrary, Officers are in agreement with the LLFA that the drainage strategy fails to give assurances that surface water would be managed effectively from the site. With insufficiently robust SuDs in place, there is a likelihood the proposal could give rise to surface water flooding both within the site and outside of its boundaries onto surrounding land, to detriment of health, safety, and the environment.
- 11.6.7 Therefore the scheme would not suitably or safely deal with surface water, conflicting with the objectives of Policies LPP75 and LPP76 of the Adopted Local Plan.

11.7 Habitat Regulations Assessment (HRA / RAMS)

- 11.7.1 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.

- 11.7.2 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.
- 11.7.3 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.
- 11.7.4 The proposed mitigation measures would consist of the securing of a financial contribution of £156.76 per dwelling erected towards offsite visitor management measures at the above protected sites.
- 11.7.5 Instead of an up-front payment, the Applicant has indicated that this financial contribution will be secured by a S106 legal agreement. However, the contributions have not been secured until a S106 legal agreement has been signed by the relevant parties.

11.8 Construction Activity

- 11.8.1 In order to safeguard the amenity of existing residents in the locality, should the application be approved, a condition is recommended requiring the Applicant to submit for approval a comprehensive Construction Management Plan covering for example construction access; hours of working; dust and mud control measures; contractor parking; points of contact in case of complaints; construction noise control measures and details of any piling to be carried out on site.

11.9 Climate Change, Energy and Resource Efficiency

- 11.9.1 Policy LPP71 of the Adopted Local Plan requires the Applicant to demonstrate measures to lower carbon emissions, increase renewable energy provision and adapt to impacts of climate change. Policy LPP72 of the Adopted Local Plan requires all development to improve resource and water efficiency, and to include renewable and low carbon energy technology to improve energy performance.
- 11.9.2 Paragraphs 6.36 to 6.39 of the submitted Planning Statement outline the Applicant's measures to achieve the sustainability measures, including working to exceed Building Regulations requirement in terms of carbon reduction, using higher levels of thermal insulation of fabric elements, improve standards of air permeability and accredited standards at all

junctions in the construction phase, as well as the use of air-source heat pumps.

12. PLANNING OBLIGATIONS

12.1 Paragraph 57 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) Regulations. The following identifies those matters that the District Council would seek to secure through a planning obligation, if permission is granted.

12.2 Affordable Housing

12.2.1 In accordance with Policy LPP31 of the Adopted Local Plan, new development would be provided to provide 30% affordable housing. The proposal would provide 6 affordable units and therefore would generally comply with the requirement, subject to a Section 106 Agreement being entered into.

12.2.2 The Council's Housing Enabling Officer has advised on the unit size and tenure mix of housing which would be sought. However, objection has been raised on the internal design of the affordable dwellings, as these units only contains 1 double bedroom that fulfils the required size and specifications. The other bedroom(s) within each of the affordable properties is too small to be regarded as double/twin bedroom. Therefore, the proposed 3-bed affordable housing are incapable of accommodating a minimum of 5 persons, whilst the 2-bed affordable units would not be capable to accommodate a minimum of 4-persons.

12.2.3 It is also important to highlight that for properties to be regarded as wheelchair adaptable units, a level access shower/wet room arrangement is required. The wheelchair turning circles or room sizes are not clearly shown on the submitted drawings and it appears that the affordable housing would not be able to fulfil the Part M4(3) specifications of the Building Regulations and the Nationally Described Space Standards (2015).

12.2.4 Officers also note that the affordable housing units are of much smaller size as compared to other market dwellings, both in terms of footprint and amenity space. The affordable housing units are also the only staggered terrace in the development and without garages. These would make the affordable dwellings to be clearly distinguished from the other housing, failed to allow these to be genuinely blended in with the rest of the housing development, which is not acceptable.

12.3 Open Space

- 12.3.1 Policies SP6 and LPP78 of the Adopted Local Plan require all development to be supported by the provision of the infrastructure, services and facilities to meet the identified needs arising from the development, which includes good provision of high quality and accessible green space. New developments are required to make appropriate provision for publicly accessible green space or improvement of existing accessible green space in accordance with adopted standards. 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 for on-site amenity green space.
- 12.3.2 The indicative site layout shows an open space together with a play area would be provided in the eastern part of the site, however it is unclear on the size of the provision.
- 12.3.3 As informal outdoor open space is proposed within the scheme, it would need to be designed to be in line with the Council's open space specification. A financial contribution would be sought for outdoor sport, outdoor equipped playgrounds and allotments based upon the formula set out in the SPD. There is also a requirement to secure the on-going maintenance of any public open space provided on site. These would need to be secured as part of the Section 106 Agreement, should approval be given.

12.4 NHS

- 12.4.1 The nearest GP surgery directly impacted by this development would be Elizabeth Courtauld Surgery, which is already below the recognised standards of provision for the existing population. The development would increase the population and therefore adding to the deficit and would be unsustainable if unmitigated. A financial contribution of £11,200 towards increasing capacity for the primary care network operating in the area would need to be secured by as part of the Section 106 Agreement.

12.5 Education

- 12.5.1 Financial contribution towards education and libraries would be required to be secured by a Section 106 Agreement, to mitigate the impacts of the development. An Employment and Skills Plan would also be required.

12.6 Summary

- 12.6.1 Whilst the Applicant has indicated that they would be prepared to enter into an agreement to provide the appropriate infrastructure mitigation, no such agreement is in place at the present time. The development therefore fails to satisfactorily mitigate the impacts of the development on local infrastructure and is contrary to Policies SP7 and Policy LPP78 of the Adopted Local Plan.

13. PLANNING BALANCE AND CONCLUSION

13.1.1 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 a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being); and
- an environmental objective (to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy).

13.1.2 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: (a) the local planning authority cannot demonstrate a five year supply (or a four year supply, if applicable, as set out in Paragraph 226) of deliverable housing sites (with a buffer, if applicable, as set out in Paragraph 77) and does not benefit from the provisions of Paragraph 76; or (b) where the Housing Delivery Test indicates that the delivery of housing was below 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.

13.1.3 As indicated above, the Council's latest 5 Year Housing Land Supply position for 2023-2028 shows that the Council has a 5.8 years supply. The Council considers this a robust position and as the Council is able to demonstrate an up to date 5 year housing land supply, and because the

most important policies for determining the application are not out of date, the presumption (at Paragraph 11d of the Framework) is not engaged. Consequently, the policies within the Development Plan are considered to have full weight in decision making. Planning applications must therefore be determined in accordance with the Development Plan, unless material planning considerations indicate otherwise.

Development Boundary Designation within the Development Plan

- 13.1.4 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”.
- 13.1.5 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, as there is an extant planning permission for residential development on the site, the principle of development is acceptable. Whilst the site is outside defined development boundaries and therefore conflicts with Policy LPP1 of the Adopted Local Plan, this conflict is afforded minimal weight given the fallback position that exists.

13.2 Summary of Adverse Impacts

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

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

- 13.2.2 The proposed scheme would result in overdevelopment of the site without complying with the relevant design requirements and standards. It fails to reinforce local distinctiveness, appearing incongruous and discordant with the character and appearance of the local area. The proposed development intensity and building bulk would also be out of keeping with existing development in the area. This weighs against the proposal and is afforded significant weight.

Harm to Trees and Hedgerows

- 13.2.3 The proposal, when compared to the consented scheme, would result in additional loss of existing trees and vegetation which currently offer localised visual and landscape values. It would also result in the unjustified loss of trees with veteran characteristics, which could qualify to be irreplaceable habitats. No suitable compensation strategy has been proposed. This weights against the proposal and is afforded substantial weight.

Ecology and Biodiversity

- 13.2.4 The proposal would result in works carried to trees with moderate and/or high bat roosting potential, therefore failed to demonstrate that there would not be adverse harm upon protected species. It would not deliver measurable biodiversity net gains as the proposed tree loss has not been appropriately compensated. These together amounts to significant harm.

Harm to Residential Amenity

- 13.2.5 The development fails to provide acceptable level of amenity to some of the future occupants. As this amount to a small proportion of future users, only limited weight is afforded to this harm.

Highways Considerations

- 13.2.6 The under-sized visitor parking spaces would impose danger to other road users and hinder the traffic flow of the internal road. The lack of safe and efficient pedestrian crossing would also impose highway hazards and fail to encourage the use of public transport. This harm is therefore afforded moderate weight.

Harm to SPA, RAMSAR and SAC

- 13.2.7 The proposal would increase the recreational pressure on the designated sites. The lack of secured financial contributions would impose detrimental impacts on these protected sites. The harm is afforded significant weight.

Lack of Planning Contribution

- 13.2.8 There is no agreed Section 106 Agreement to secure all the identified planning contributions required to mitigate the impacts of increased demand for services and facilities, including health provision, education, open space, affordable housing, provision of pedestrian crossing. The failure to acquire the required planning contribution and on-site provision would insert unacceptable pressure and detrimental impacts on these infrastructure. Significant weight is therefore afforded to this harm.

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 and Affordable Housing

- 13.3.2 The proposal is for 17 market dwellings and 6 affordable housing would be provided. However, the proposed housing mix is not in line with the District's identified housing needs for smaller units, whilst the affordable

housing is not designed to the standards to meet the identified local need. In view of the scale of development proposed and the mismatch to the housing needs, the contribution to meet local housing needs would only be afforded limited weight.

Location and Access to Services and Facilities

- 13.3.3 Given the edge of town location, distances to facilities and the availability of sustainable transport options, it is considered that a large proportion of journeys could be conducted by walking, cycling, or short trips utilising the regular bus services. Officers are of the view that in respect of access to services and facilities, the site is considered to be in a sustainable location. 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 and Planning Balance

- 13.4.1 Taking into account the above, while the proposal complies with some Development Plan policies which weigh in favour of the proposal, it is considered that the proposal conflicts with the Development Plan as a whole. Officers consider that the proposals would be contrary to Policies SP2, SP6, SP7, LPP31, LPP35, LPP43, LPP47, LPP50, LPP52, LPP63, LPP64, LPP65, LPP66, LPP67, LPP75, LPP76 and LPP78 of the Adopted Local Plan as well as the Essex Design Guide and the National Design Guide.
- 13.4.2 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, an important material consideration is whether the Council can demonstrate a 5 Year Housing Land Supply and consequently, whether Paragraph 11d) of the NPPF is engaged.
- 13.4.3 As indicated above, the Council is currently able to demonstrate a 5 Year Housing Land Supply and therefore Paragraph 11d) of the NPPF is not engaged.
- 13.4.4 When considering the planning balance and having regard to the adverse impacts and benefits outlined above, Officers have concluded that the adverse impacts of granting permission would outweigh the benefits, when assessed against the policies in this Framework taken as a whole. Consequently, Officers consider that there are no material considerations that indicate that a decision should be made other than in accordance with

the Development Plan. It is therefore recommended that planning permission is refused for the proposed development.

- 13.4.5 Notwithstanding the above, if the 'tilted balance' was engaged, it is considered that [the adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Against this context, it would be recommended that planning permission be refused for the proposed development.

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
Accommodation Plan	5001	A
Location Plan	0001	N/A
Proposed Site Plan	1001	G
Other	1501	A
Proposed Elevations and Floor Plans	2001	A
Proposed Elevations and Floor Plans	2002	A
Proposed Elevations and Floor Plans	2003	A
Proposed Elevations and Floor Plans	2004	A
Proposed Elevations and Floor Plans	2005	A
Proposed Elevations and Floor Plans	2006	A
Proposed Elevations and Floor Plans	2007	A
Proposed Elevations and Floor Plans	2008	A
Proposed Floor Plan	2008.1	A
Proposed Elevations and Floor Plans	2009	A
Garage Details	2501	A
3D Visual Plan	3001	N/A
3D Visual Plan	3002	N/A
Height Parameters Plan	4002	A
Refuse Information	4003	A
Drainage Details	4017.SK01	P1
Drainage Details	4017.SK0	P2
Drainage Details	4017.SK02	P2
Tree Plan	EAS-093.23 TCP	N/A
Boundary Treatment	4001	A

Reason(s) for Refusal

Reason 1

The proposed development would fail to integrate with the surrounding built and natural environment by reason of an unsympathetic urban design. The architectural style, mass, scale, height, and palette of materials for the proposed dwellings would starkly contrast with the prevailing character of the area, appearing as an alien feature within the locality. The proposal is overly focused on the provision of larger dwellings. The proposed housing mix is not in line with the identified housing needs for smaller units as specified in the District's Strategic Housing Market Assessment (2015). The design and layout provide poor living standards for prospective occupiers of Plots 14 and 15 by virtue of inadequate internal room size and insufficient private amenity space. Altogether, the proposed development represents a poor and contrived design solution that would be incongruous to the local area and would not demonstrate good place-making design. The development would be contrary to Policies SP7, LPP35, LPP43, LPP47 and LPP52 of the adopted Braintree District Local Plan (2013-2033), the Essex Design Guide, and the National Design Guide.

Reason 2

The Applicant has failed to demonstrate that the development would not result in an increase in surface water flooding within the site and in the surrounding areas. The development is therefore contrary to the objectives of Policies LPP75 and LPP76 of the adopted Braintree District Local Plan (2013-2033).

Reason 3

The proposed layout fails to provide a suitable internal access of unadoptable standard and free from obstruction from the visitor parking. The Applicant also fails to demonstrate pedestrian connectivity from the site. The proposal therefore would be detrimental to highway safety, contrary to Policies SP7, LPP43, LPP47 and LPP52 of the adopted Braintree District Local Plan (2013-2033) as well as the Highway Authority's Development Management Policies (2011).

Reason 4

The submitted Arboricultural Impact Assessment fails to properly assess veteran trees and fails to provide accurate and appropriate information in terms of the potential impacts on existing trees. The proposed urban layout would result in the significant loss of trees of local visual and landscape values, including potential veteran trees which are irreplaceable habitats. Such loss is not wholly justified and there is no evidence to demonstrate adequate compensatory measures nor replacement planting is achievable. The development therefore would be contrary to Policies LPP64 and LPP65 of the adopted Braintree District Local Plan (2013-2033) as well as the National Planning Policy Framework

Reason 5

The proposal fails to demonstrate that there would not be adverse impacts on protected species. The lack of compensation for the proposed tree loss would lead to a failure to deliver biodiversity net gains as required by the National Planning Policy Framework. The development therefore would be contrary to Policies SP7, LPP52, LPP63, LPP66, LPP67 of the adopted Braintree District Local Plan (2013-2033).

Reason 6

The proposed development fails to secure appropriate mitigation with regards to increased recreational pressure on the Blackwater Estuary Special Protection Area and RAMSAR, and the Essex Estuaries Special Area of Conservation. In the absence of such mitigation, the proposed development would result in, on its own and in combination with other projects, detrimental impacts on the integrity of these European designated sites protected under Regulation 63 of the Conservation of Habitats and Species Regulations 2017. The proposed development is therefore contrary to Policies SP2 and LPP64 of the adopted Braintree District Local Plan (2013-2033).

Reason 7

Adopted policies and Supplementary Planning Documents applicable to the proposed development would trigger the requirement for:

- On-site Affordable Housing.
- A financial contribution towards outdoor sport, equipped play, and allotment

- Ongoing maintenance for on-site public open space.
- A financial contribution for the NHS to ensure that the impacts of increased demand for services can be accounted for.
- A financial contribution towards education and/or library facilities and outreach services.
- Monitoring fees for each planning obligation.

These requirements would be secured through a S106 Agreement. At the time of issuing this decision, a Section 106 Agreement has not been prepared or completed.

In the absence of securing such planning obligations the proposal is contrary to Policies SP6, LPP31, LPP50 and LPP78 of the adopted Braintree District Local Plan (2013-2033), the Open Space Supplementary Planning Document (2009) and Essex County Council Developers' Guide to Infrastructure Contributions (2020).

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 CONSIDERATIONS

National 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
LPP31	Affordable Housing
LPP35	Housing Mix, Density and Accessibility
LPP42	Sustainable Transport
LPP43	Parking Provision
LPP46	Broadband
LPP47	Built and Historic Environment
LPP48	An Inclusive Environment
LPP50	Provision of Open Space, Sport and Recreation
LPP52	Layout and Design of Development
LPP57	Heritage Assets and their Settings
LPP59	Archaeological Evaluation, Excavation and Recording
LPP63	Natural Environment and Green Infrastructure
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
LPP71	Climate Change
LPP72	Resource Efficiency, Energy Generation and Energy Efficiency
LPP74	Flooding Risk and Surface Water Drainage
LPP75	Surface Water Management Plan
LPP76	Sustainable Urban Drainage Systems
LPP77	External Lighting
LPP78	Infrastructure Delivery and Impact Mitigation

Other Material Considerations

- OMC01 The Essex Design Guide (2005): Page 67, Daylight
- OMC06 Parking Standards, Design & Good Practice (2009)
- OMC09 Open Spaces Supplementary Planning Document (2009)
- OMC13 External Artificial Lighting Supplementary Planning Document (2009)
- OMC14 Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (2020)

APPENDIX 3:

SITE HISTORY

Application No:	Description:	Decision:	Date:
19/00075/NONDET	Demolish outbuildings, extend and refurbish existing redundant building to form 25 bed dementia unit and erect bin and cycle stores, erect 30 bungalows and layout associated car parking, drainage and landscaping.	Appeal Dismissed	18.08.20
03/00717/FUL	Erection of two storey rear extension	Granted	10.07.03
81/00047/	Alterations, conversion and change of use from coach house and flat to single dwelling	Granted	10.03.81
82/00620/	Erection of detached double garage and formation of access	Granted	06.12.82
83/01369/	Change of use from private residence to residential home for the elderly	Granted	14.02.84
86/00646/	Erection of shed in connection with operation of residential home	Granted	22.07.86
86/00839/	Erection of double garage and summer house	Granted	08.07.86
88/00098/	Erection of front and rear extensions	Withdrawn	29.03.88
88/00098/P	Erection Of Front And Rear Extensions	Withdrawn	29.03.88
89/02061/P	Erection Of Single Storey Extension, Loft Conversion And Existing Front Porch Infilled	Refused	12.12.89
89/02307/P	Loft Conversion And Existing Front Porch Infilled.	Granted	17.01.90
93/01249/FUL	Proposed conservatory to side of existing building.	Granted	11.11.93
98/01208/FUL	Erection of two storey rear extension and minor alterations	Granted	08.10.98

05/01446/FUL	Proposed staircase enclosure, minor roof re-alignments, window and internal alterations	Granted	13.09.05
07/00110/TPO	Notice of intent to carry out works to trees protected by Tree Preservation Order No. 1/66 A1 - Fell 1 Beech tree	Granted	19.02.07
07/00628/TPO	Notice of intent to carry out works to trees protected by Tree Preservation Order No: 1/66 - A1 - Prune back lowest branch of a Desdar Cedar	Granted	23.04.07
18/01367/FUL	Single storey rear extension to provide ancillary spaces to service nursing home. Construct brick entrance piers to both main and staff entrances to the site.	Granted	24.09.18
18/01481/FUL	Demolish outbuildings, extend and refurbish existing redundant building to form 25 bed dementia unit and erect bin and cycle stores, erect 30 bungalows and layout associated car parking, drainage and landscaping.		13.09.19
21/00014/FUL	Re surfacing and marking out public and staff car parking spaces and provision of bin store.	Granted	23.03.21
21/02449/FUL	Demolish outbuildings, extend and refurbish existing redundant building to form 25 bed dementia unit and erect bin and cycle stores, erect 20 bungalows and layout associated car parking, drainage and landscaping	Granted with S106 Agreement	09.06.22
22/02211/FUL	Extension and refurbishment of existing redundant building to form 37-bed dementia unit with	Refused	02.02.24

	associated car parking and landscaping.		
22/03366/OUT	Outline application for the erection of 34 dwellings (including 24 market units and 10 social affordable units) with permission sought for access and layout.	Pending Consideration	
96/00018/REF	Erection of residential clinic and teaching centre for integrated natural medicines, change of use of existing bungalow and formation of 45 No car spaces and 5 No staff spaces	Appeal Dismissed	27.03.97
74/00397/	Outline for one dwelling.	Granted	10.09.74
78/00217/	Proposed rebuilding of garden store and carport.	Granted	27.04.78
78/00755/	Application to determine whether planning permission is required: use ogf land and byuildings as stud farm: Riding School and commercial stables.	Planning Permission Required	07.07.78
78/00948/	Erection of loose boxes and hay/straw storage, tackroom and toilet building septic tank drainage, storage building and premises as commercial stables riding school and stud farm.	Withdrawn	29.11.78
83/00773/	Change os use of part of first floor of stable block to residential with alterations and stationing of a caravan for temporary period whilst works are in progress.	Granted	30.08.83
86/01836/	Alterations and extension to existing cottage.	Granted	03.03.87
87/01734/	Change of use of part of dwelling to Massage/Homeopathy	Granted	22.12.87
88/02018/P	Erection Of Two Storey Front Extension	Granted	06.02.89

89/01667/P	Continue Existing Use As Natural Healing Clinic Etc	Granted	28.09.89
89/01690/	Erection of extension and conservatory	Granted	11.10.89
90/00749/PFHS	Erection Of Bedroom Extension To Use As Residential Part Of Natural Therapy Clinic	Withdrawn	20.11.91
92/00047/	Erection of single storey front extension to dwelling	Granted	20.02.92
94/00049/FUL	Erection of first floor extension to side of existing building	Granted	18.02.94
94/00105/FUL	Erection of hydrotherapy centre, relocation of existing barn and stables. Change of use of outbuilding to treatment room/surgery off of vehicular site access & creation of another in place of and creation of associated car parking spaces	Granted with S106 Agreement	16.01.97
95/01030/FUL	Erection of residential clinic and teaching centre for integrated natural medicines, change of use of existing bungalow and formation of 45 No car spaces and 5 No staff spaces	Refused then dismissed on appeal	17.01.96
97/00847/COU	Change of use of building to C2 for use in connection with existing clinic facilities in Green Lodge for a temporary period of three years	Granted	27.08.97
97/00900/FUL	Erection of extensions to include 29 bedrooms, nurse stations and reception area. Change of use of bungalow to creche, dining room and kitchen and erection of conservatory and covered corridors for hydrotherapy unit	Granted with S106 Agreement	17.04.98
89/01667/P	Continue Existing Use As	Granted	28.09.89

	Natural Healing Clinic Etc		
94/00105/FUL	Erection of hydrotherapy centre, relocation of existing barn and stables. Change of use of outbuilding to treatment room/surgery off of vehicular site access & creation of another in place of and creation of associated car parking spaces	Granted with S106 Agreement	16.01.97
95/01030/FUL	Erection of residential clinic and teaching centre for integrated natural medicines, change of use of existing bungalow and formation of 45 No car spaces and 5 No staff spaces	Refused then dismissed on appeal	17.01.96
97/00900/FUL	Erection of extensions to include 29 bedrooms, nurse stations and reception area. Change of use of bungalow to creche, dining room and kitchen and erection of conservatory and covered corridors for hydrotherapy unit	Granted with S106 Agreement	17.04.98