

PLANNING COMMITTEE AGENDA

Tuesday 31st May 2022 at 7.15pm

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

THIS MEETING IS OPEN TO THE PUBLIC

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

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

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

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

Membership:-

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

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

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

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

A WRIGHT
Chief Executive

INFORMATION FOR MEMBERS - DECLARATIONS OF INTERESTS

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

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

Public Question Time – Registration to Speak on a Planning Application/Agenda Item:

The Agenda allows for a period of up to 30 minutes for Public Question Time. Members of the public wishing to speak are requested to register by contacting the Governance and Members Team on 01376 552525 or email governance@braintree.gov.uk by **midday on the second working day** before the day of the Committee meeting. For example, if the Committee Meeting is on a Tuesday, the registration deadline is midday on Friday, (where there is a Bank Holiday Monday you will need to register by midday on the previous Thursday). The Council reserves the right to decline any requests to register to speak if they are received after this time.

Members of the public who have registered to speak during Public Question Time are requested to indicate when registering if they wish to attend the Planning Committee meeting ‘in person’ at Causeway House, Bocking End, Braintree, or to participate remotely. People who choose to join the meeting remotely will be provided with the relevant link and joining instructions for the meeting.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PUBLIC SESSION

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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 3rd May 2022 (copy to follow).
- 4 Public Question Time**
(See paragraph above)
- 5 Planning Applications**
To consider the following planning applications
- 5a App. No. 21 00059 VAR – Morrisons Supermarket, Braintree Road, WITHAM** **6-49**
- 5b App. No. 21 03101 FUL – Land North of Oak Road, HALSTEAD** **50-135**
- 5c App. No. 21 03618 FUL – Gershwin Park, Land North East of Reid Road, WITHAM** **136-190**
- 5d App. No. 21 03699 HH – Brambles, White Ash Green, HALSTEAD** **191-205**
- 6 Members' Forum Proposals – Consultation** **206-215**
- 7 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.

8 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

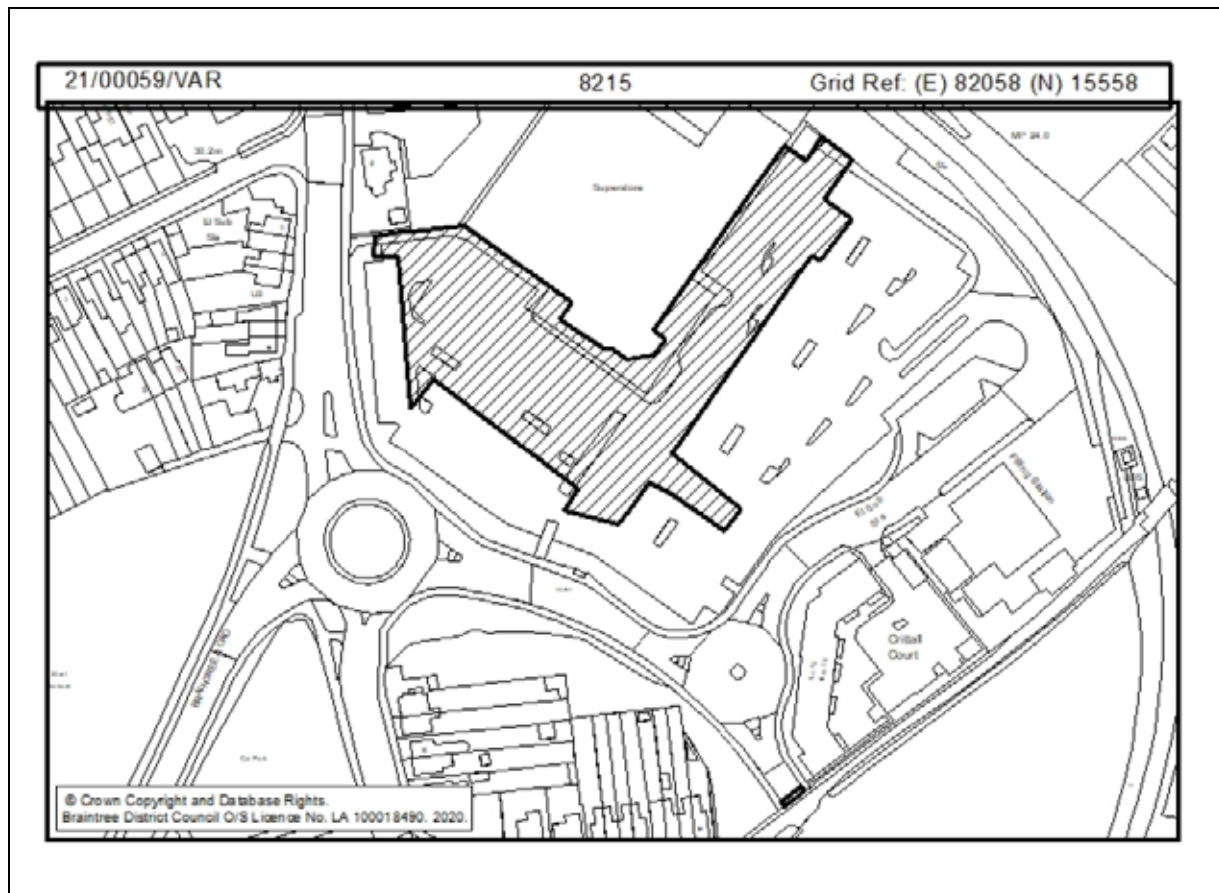
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9 Urgent Business - Private Session

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

Application Site Location:



Purpose of the Report:	The Committee Report sets out the assessment and recommendation of the abovementioned application to the Council's Planning Committee. The report sets out all of the material planning considerations and the relevant national and local planning policies.
Financial Implications:	<p>The application was subject to the statutory application fee paid by the Applicant for the determination of the application.</p> <p>It is recommended that the decision is subject to a deed of variation to the Section 106 Agreement which seeks to mitigate the impacts arising from the development. Any financial implications arising out of a Section 106 Agreement will be set out in more detail within the body of this Committee Report.</p> <p>Financial implications may arise should the decision be subject to a planning appeal or challenged via the High Court.</p>
Legal Implications:	<p>Any legal implications arising out of a Section 106 Agreement will be set out in more detail within the body of this Committee Report.</p> <p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either set out the relevant Conditions & Reasons and any Informatives, or the Reasons for Refusal if applicable.</p> <p>All relevant policies are set out within the report, within Appendix 2.</p>
Other Implications:	The application has been subject to public consultation and consultation with relevant statutory and non-statutory consultees. All responses received in response to this consultation are set out within the body of this Committee Report.
Equality and Diversity Implications	<p>Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:</p> <p>a) Eliminate unlawful discrimination, harassment and</p>

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

1. EXECUTIVE SUMMARY

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

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

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

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

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

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

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

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

6. PROPOSAL

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

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

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

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

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

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

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

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

7. SUMMARY OF CONSULTATION RESPONSES

7.1 BDC Environmental Health

- 7.1.1 No objection confirmed.

7.2 ECC Highways

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

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

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

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

8. PARISH / TOWN COUNCIL

8.1 Witham Town Council

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

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

9. REPRESENTATIONS

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

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

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

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

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

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

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

10. PRINCIPLE OF DEVELOPMENT

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

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

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

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

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

Cut Throat Lane

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

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

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

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

- 10.5.12 In order to create sufficient space for left turning vehicles and provide suitable visibility splays Cut Throat Lane would need to be realigned, which would require land outside the extents of the public highway and not under the Applicant's control. It is noted that one of the objectors to the application maintains that vehicular access should be provided and they argue that this should be possible as there is very little vehicular traffic along this stretch of Cut Throat Lane as the level crossing is locked and prevents vehicles from crossing. The representation also refers to potential restrictions on movements, or the installation of warning signs and road markings to avoid conflict between movements crossing the junction that would be formed.
- 10.5.13 Whilst signs and road markings could be installed it is quite possible that these would be ignored by many users particularly if vehicles entering Cut Throat Lane do so infrequently, as regular users walking or cycling along Cut Throat Lane would not be expecting a vehicle to cross the lane. With restricted intervisibility at the junction collisions between vehicles, pedestrians and cyclists is a distinct possibility. Although not a segregated or dedicated pedestrian / cycle path Cut Throat Lane is an attractive route for pedestrians and cyclists as it is so lightly trafficked. The route provides an attractive and relatively safe sustainable travel corridor between the north east of the town and the Morrisons store, the railway station and potentially the town centre and the District and County Councils have encouraged residents in the north east of the town to use Cut Throat Lane to walk and cycle towards the centre of the town. There is a concern that allowing vehicles to cross Cut Throat Lane to enter the commuter car park would detract from what is currently an attractive walking and cycling corridor, at a time when the Councils are seeking to promote a safer and more legible cycle network. In summary, it was considered and agreed at the site meeting between ECC Highway Officers and the Applicant that an all movement junction permitting access to the unnamed road from Cut Throat Lane could not be safely delivered by the Applicant within land that they control and land which is public highway.
- 10.5.14 ECC Highways Officers have stated that the aspirations for the removal of the wall in the original application were to improve pedestrian and cyclist permeability in this location and it was not their aspiration to include a vehicular access. ECC Highways Officers therefore have no objection to this application subject to a condition requesting detailed design of the new highway infrastructure and an accompanying Road Safety Audit be submitted and approved prior to commencement.

Policy Context

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

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

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

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

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

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

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

11. PLANNING OBLIGATIONS

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

- § Requires the completion of the Highway Works within 18 months of the date of this (Section 106) Agreement;
 - § Prior to completion of the Section 106 Agreement, Morrisons will pay a fee (sum to be specified by ECC) which will cover the costs that ECC incur in applying for and securing Traffic Regulation Orders to prevent vehicular use of the new route between the unnamed road and Cut Throat Lane; and
 - § At completion of the Highway Works dedicate any land within Morrisons ownership that is not already dedicated as public highway is to be dedicated as public highway so that there is no gap between the land dedicated as public highway and Cut Throat Lane.
- 11.4 Details of the Highway Works will be agreed with the Highway Authority and will include the removal of the wall; works to make a through route, constructed to full highway adoptable standards for pedestrians and cyclists together with such works on Morrison's land including but not limited to dealing with levels that are necessary for the future use by motor vehicles from the Crittall Court roundabout over the unnamed road to the highway boundary at Cut Throat Lane; and interim works so that on completion of the through route it shall be restricted to use by pedestrians and cyclists.
12. CONCLUSION
- 12.1 The Planning Practice Guidance states that in deciding an application under Section 73 of the Town and Country Planning Act 1990, the Local Planning Authority must only consider the condition(s) that are the subject of the application – it is not a complete re-consideration of the application. It also states that the original planning permission will continue to exist whatever the outcome of the application under Section 73.
- 12.2 In this case, the application proposes to amend the wording to Condition 11 attached to Application Reference 20/00014/VAR. It is considered that the condition is changed to remove the reference to 'and vehicles' and that doing this does not undermine the original intentions of the application and also allows the Councils to support and promote sustainable transport modes of travel.
- 12.3 Officers consider that the ability to provide a safe vehicular access point in this location within the context of the Applicant's site ownership is currently unachievable due to the conflict at this location between vehicles accessing the commuter car park from two directions, and between pedestrians and cyclist crossing Cut Throat Lane. The removal of the wall would improve permeability and visibility for pedestrians and cyclists (subject to details coming forward by way of reworded Condition 11) in accordance with the aspirations of Policy LPP44 of the Section 2 Plan, but also futureproof a vehicular access point to the commuter car park should development of this site come forward in the future.

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

13. RECOMMENDATION

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

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

APPENDIX 1:

APPROVED PLAN(S) & DOCUMENT(S) / CONDITION(S) & REASON(S) AND INFORMATIVE(S)

Approved Plan(s) & Document(s)

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

Condition(s) & Reason(s)

1.

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

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

2.

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

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

3.

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

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

4.

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

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

5.

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

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

6.

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

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

7.

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

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

8.

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

Reason: In the interest of Highway Safety.

9.

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

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

10.

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

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

11.

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

Reason: In the interests of highway safety.

Positive and Proactive Statement

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

APPENDIX 2:

POLICY CONSIDERATIONS

National Planning Guidance

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

Braintree District Local Development Framework Core Strategy 2011

CS6 Retailing and Town Centre Regeneration
CS7 Promoting Accessibility for All

Braintree District Local Plan Review 2005

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

Braintree District Shared Strategic Section 1 Local Plan (2021)

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

Braintree District Draft Section 2 Local Plan (2017)

LPP1 Development Boundaries

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

Other Material Considerations

Braintree District Cycling Strategy

Statement on Draft Local Plan

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

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

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

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

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

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

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

APPENDIX 3:

SITE HISTORY

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

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

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

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

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



Appeal Decision

Inquiry held on 12, 13 and 14 November 2013

Accompanied site visit made on 14 November 2013

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

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

Decision date: 11 February 2014

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

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

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

Decision

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

Procedural matters

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

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

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

Main Issues

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

Background

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

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

Reasons

Policy

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

Sequential Test

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

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

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

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

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

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

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

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

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

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

Vitality and viability

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

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

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

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

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

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

Investment

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

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

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

Other considerations

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

Conditions

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

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

Conclusions

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

M Middleton

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

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

FOR THE APPELLANT:

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

INTERESTED PERSONS:

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

DOCUMENTS SUBMITTED TO THE INQUIRY

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

PLANS SUBMITTED TO THE INQUIRY

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

PHOTOGRAPHS SUBMITTED TO THE INQUIRY

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

Schedule of conditions

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

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

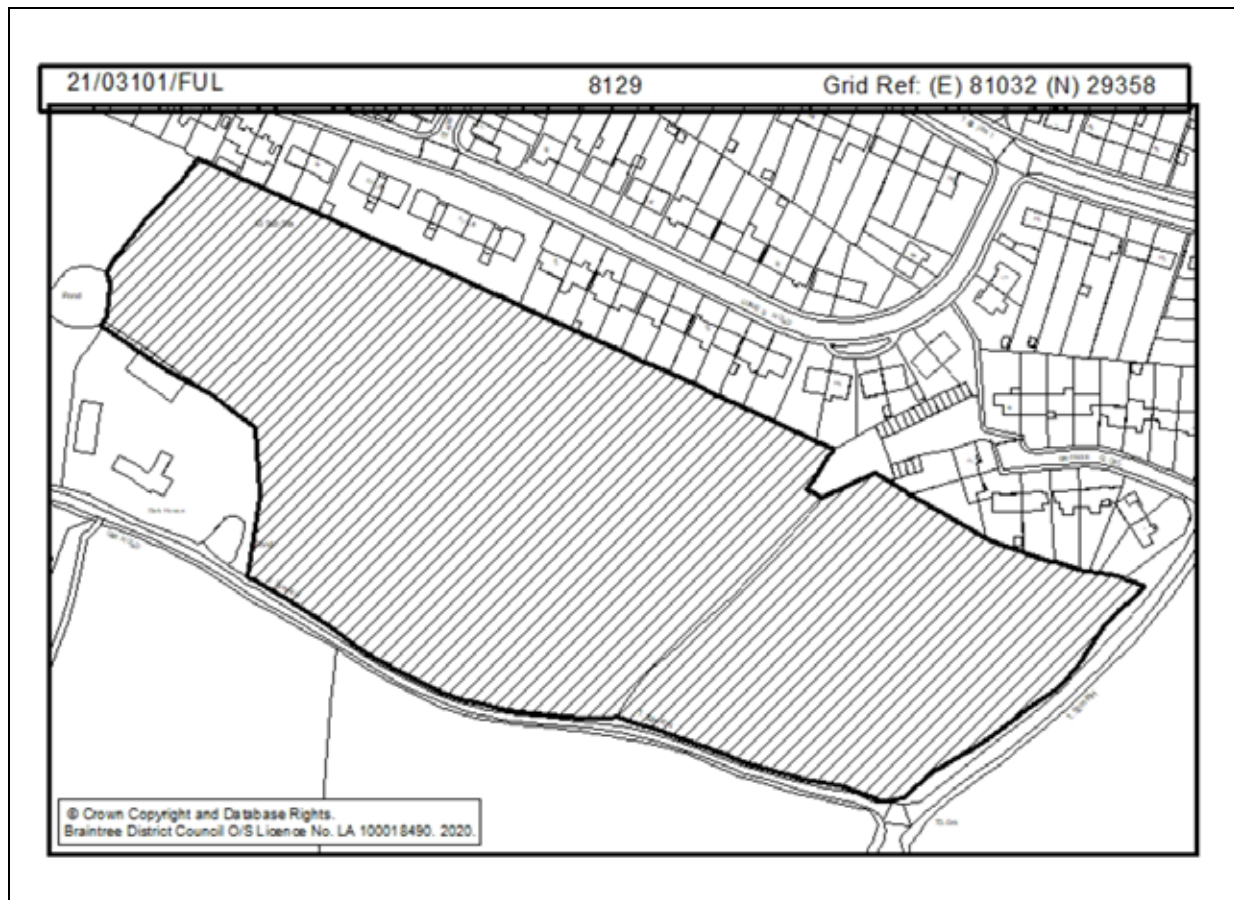
- v) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- vi) wheel washing facilities;
- vii) measures to control the emission of dust and dirt during construction;
- viii) a scheme for recycling/disposing of waste resulting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

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

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

Report to: Planning Committee		
Planning Committee Date: 31st May 2022		
For: Decision		
Key Decision: No		Decision Planner Ref No: N/A
Application No:	21/03101/FUL	
Description:	Erection of 80 dwellings (Class C3) including affordable homes, public open space including local equipped area for play, access from Tidings Hill, sustainable drainage systems, landscaping and all associated infrastructure and development	
Location:	Land North Of Oak Road, Halstead	
Applicant:	Bellway Homes (Essex) Ltd	
Agent:	Mr Olivier Spencer - Andrew Martin, Planning Ltd	
Date Valid:	20th October 2021	
Recommendation:	<p>It is RECOMMENDED that the following decision be made:</p> <p>§ 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.</p>	
Options:	<p>The Planning Committee can:</p> <ul style="list-style-type: none"> a) Agree the Recommendation b) Vary the Recommendation c) Overturn the Recommendation d) Defer consideration of the Application for a specified reason(s) 	
Appendices:	Appendix 1:	Approved Plan(s) & Document(s) Condition(s) & Reason(s) and Informative(s)
	Appendix 2:	Policy Considerations
	Appendix 3:	Site History
	Appendix 4:	Committee Report 19.04.22
Case Officer:	<p>Lisa Page</p> <p>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</p>	

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>As outlined above, it is recommended that the decision is subject to a Section 106 Agreement which seeks to mitigate the impact(s) arising from the proposed development. Any financial implications arising out of a Section 106 Agreement will be set out in more detail within the body of this Committee Report.</p> <p>The Section 106 Agreement will also secure a financial contribution pursuant to the Habitat Regulations as set out within the body of this Committee Report.</p> <p>Financial implications may arise should the decision be subject to a planning appeal or challenged via the High Court.</p>
Legal Implications:	<p>Any legal implications arising out of a Section 106 Agreement will be set out in more detail within the body of this Committee Report.</p> <p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either set out the relevant Conditions & Reasons and any Informatives, or the Reasons for Refusal if applicable.</p> <p>All relevant policies are set out within the report, within Appendix 2.</p>
Other Implications:	The application has been subject to public consultation and consultation with relevant statutory and non-statutory consultees. All responses received in response to this consultation are set out within the body of this Committee Report.

<p>Equality and Diversity Implications</p>	<p>Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:</p> <ul style="list-style-type: none"> a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act; b) Advance equality of opportunity between people who share a protected characteristic and those who do not; c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding. <p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
<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: 21/03101/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 Review (2005) § Braintree District Core Strategy (2011) § Braintree District Shared Strategic Section 1 Local Plan (2021) § Braintree District Publication Draft Section 2 Local Plan (2017) § Neighbourhood Plan (if applicable)

	<p>§ Supplementary Planning Documents (SPD's) (if applicable)</p> <p>The National Planning Policy Framework can be viewed on the GOV.UK website: www.gov.uk/.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: www.braintree.gov.uk.</p>
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1. UPDATE REPORT

- 1.1 This update report relates to the above application which was reported to Members at the Planning Committee meeting held on 19.04.22, wherein there was a resolution to grant planning permission subject to the completion of a Section 106 Legal Agreement.
- 1.2 Following the Committee meeting, it has come to light that a matter was incorrectly reported, in respect of the planning application site history. For completeness, the application is being reported back to Members for a decision.
- 1.3 Within the published Committee Report, specifically at Paragraphs 1.1, 5.5, 10.3.3 and 13.2.3, Officers state that the application site benefited from an extant outline planning permission pursuant to Application Reference 18/01876/OUT. However, this outline planning permission approved at the site (dated 19th December 2019) was subject to the imposition of a condition requiring the submission of reserved matters to be made within a 2 year time limit (rather than the usual 3 year time limit). No reserved matters application was submitted, and consequently the outline permission expired on 19 December 2021.
- 1.4 Bellway submitted their application for Full planning permission on 20th October 2021. At the time, there was an extant permission, however because this planning application was a new 'Full' application, and was not a Reserved Matters application pursuant to the Outline planning permission, the Outline permission ceased to be extant on 20th December 2021.
- 1.5 This update report sets out that there is no extant permission, and outlines the implications for the principle of development, and re-assess the planning balance.

2. Principle of Development

- 2.1 As set out above, the site did not benefit from an extant permission at the time that the decision was taken at the Planning Committee meeting held on 19.04.22. Although the site is located outside of the settlement boundary as identified within the Adopted Local Plan, the site is now proposed to be designated for residential development in the emerging Section 2 Plan.
- 2.2 As set out within Paragraph 48 of the NPPF, from the day of publication, the Council can give weight to the policies of this emerging Section 2 Plan. Accordingly the Council affords significant weight to the Section 2 Plan.
- 2.3 Allocation of the site within the Section 2 Plan for residential purposes, firmly establishes that the site is suitable for residential development and thus that the principle of development is acceptable, irrespective of whether there is an extant planning permission in place.

- 2.4 Officers do not consider that the fact that the extant permission has lapsed changes the planning balance, or the recommendation to grant planning permission for the proposed development. Such a recommendation is consistent with the decision in relation to the previous outline planning application (Application Reference 18/01876/OUT), and the sites allocation for residential development in the Section 2 Plan.

3. PLANNING BALANCE AND CONCLUSION

- 3.1.1 As set out within Paragraph 47 of the NPPF, planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In this case the application site is located outside of a designated village envelope/town development boundary and is therefore located within the countryside, where new development is strictly controlled to uses appropriate within the countryside in order to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside. There is therefore a presumption that the application should be refused unless there are material reasons to grant planning permission.
- 3.1.2 Paragraph 60 of the NPPF sets out the Government's objective of significantly boosting the supply of homes. The main mechanism within the NPPF for achieving this is the requirement that local planning authorities demonstrate a five-year supply of deliverable housing land, assessed against housing need. In this regard, the Council is currently able to demonstrate a Housing Land Supply of 5.1 years against its housing need. As such the Council is presently meeting this objective.
- 3.1.3 Until the adoption of the Section 2 Plan, the sites which are proposed to be allocated but do not yet have planning permission or a resolution to grant planning permission, have not been included within the 5 Year Housing Land Supply calculation.
- 3.1.4 As such, although the Council can currently demonstrate a 5 Year Housing Land Supply, this is finely balanced, and currently only marginally exceeds the 5 year threshold.
- 3.1.5 As the Council can demonstrate the required 5 Year Housing Land Supply, the 'tilted balance' pursuant to Paragraph 11d) of the NPPF is not engaged due to a lack of housing land supply. It is therefore necessary to identify the most important policies for determining the application and to establish whether these are out-of-date. Paragraph 219 of the NPPF states that existing policies should not be considered out-of-date simply because they were adopted prior to the publication of the Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater weight that may be given).
- 3.1.6 In this case the basket of policies which are considered to be the most important for determining the application are Policies SP1 and SP3 of the

Section 1 Plan, Policy RLP2 of the Adopted Local Plan, Policy CS5 of the Core Strategy, and Policy LPP1 of the Section 2 Plan.

- 3.1.7 Policy SP1 of the Section 1 Plan states that when considering development proposals the Local Planning Authority will take a positive approach that reflects the presumption in favour of sustainable development contained within the NPPF, and will seek to approve proposals wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. Policy SP3 of the Section 1 Plan sets out the spatial strategy for North Essex, namely to accommodate development within or adjoining settlements according to their scale, sustainability and existing role both within each individual Districts, and where relevant, across the wider strategic area. Further growth will be planned to ensure existing settlements maintain their distinctive character and role, to avoid coalescence between them and to conserve their setting. As the Section 1 Plan has been found to be sound and recently adopted by the Council, it is considered that both policies are consistent with the NPPF and can be afforded full weight. Neither are out-of-date.
- 3.1.8 Whilst the primary purpose of Policy RLP2 of the Adopted Local Plan is to restrict development to within development boundaries, and thus resist it in the areas designated as countryside, it is considered that the policy remains broadly consistent with the Framework's approach of protecting the countryside from harmful development, and is not hindering the Council in delivering housing growth within the District. The policy is not out-of-date, and can be given moderate weight. Policy LPP1 of the Section 2 Plan states development will be permitted within development boundaries where it satisfies amenity, design, environmental and highway criteria and where it can take place without material adverse detriment to the existing character and historic interest of the settlement. The policy is considered to be consistent with the NPPF and not out-of-date, and given the advanced stage of the Section 2 Plan, this policy is afforded significant weight. The aims of Policy CS5 of the Core Strategy are much wider as the policy seeks to amongst other things, protect and enhance the landscape character and amenity of the countryside. As it is effectively seeking to preserve the intrinsic character and beauty of the countryside – an objective contained within the NPPF – it is considered that this policy is not out-of-date and can be given significant weight.
- 3.1.9 When considering the basket of the most important policies for the determination of this application as a whole, it is considered that the policies are not out-of-date and are broadly consistent with the Framework.
- 3.1.10 Given that the Council can demonstrate a 5 Year Housing land Supply, and the basket of policies are not otherwise out-of-date, the 'flat' (or untilted) planning balance must still be undertaken which weighs the adverse impacts of the proposed development, including the conflict with the Development Plan, against the public benefits of the proposal.

- 3.1.11 In undertaking this flat planning balance, such an assessment must take account of the economic, social and environmental impact of the proposed development. As set out in Paragraph 8 of the NPPF, achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and needed to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):
- an economic objective (to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure);
 - a social objective (to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering 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).

3.2 Summary of Adverse Impacts

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

Conflict with the Development Plan

- 3.2.2 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Paragraph 15 of the NPPF emphasises that the planning system should be “genuinely plan led”.
- 3.2.3 The proposed development would conflict with Policy RLP2 of the Adopted Local Plan and Policy CS5 of the Core Strategy with regard to the Council's spatial strategy as it proposes development outside of defined development boundaries and within the countryside.
- 3.2.4 However, and as discussed above, although the site was not identified in the Publication Draft Section 2 Plan, the site was added to the emerging Section 2 Plan at the Proposed Modifications stage, (reflecting the fact that Outline planning permission had previously been granted for residential development). The Council affords significant weight to the Section 2 Plan, and as such this outweighs any conflict with the Development Plan as the principle of development is accepted.

Harm to Trees and Hedgerows

- 3.2.5 As detailed within the report, a total of 16 trees (or groups) will need to be removed. 2no. are classed as Category U, 7no. Category C and 7no. Category B. It is at the site entrance where the impact of these trees will be impacted most. Here 9 trees (field maple and English oaks) will need to be removed to accommodate the site's access road. 4 of these are Category C trees, and 5 of them are Category B trees. In addition, the proposed layout will also require the part removal of 2 groups of trees, 3 hedges and 2 shrubs (All Category C). The loss trees and hedging across the site is regrettable as they do positively add to its character, in particular those to the area of the proposed access positively contribute to the character and appearance of the road, however, as there is canopy cover on both sides of the road and views into the area concerned are localised, the loss of amenity within the broader setting is reduced. Removal and partial removal of the trees, tree groups and hedging is fundamental to accommodate the site's layout and utilities infrastructure, and, as discussed within the report, these losses would be mitigated through an extensive tree planting scheme. However, moderate weight is attributed to the loss of these trees.

3.3 Summary of Public Benefits

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

Compliance with the Section 2 Plan

- 3.3.2 Although the site was not identified in the Publication Draft Section 2 Plan, the site was added to the emerging Section 2 Plan at the Proposed Modifications stage, (reflecting the fact that Outline planning permission had previously been granted for residential development). As detailed above, the Council affords significant weight to the Section 2 Plan, and as such the principle of development is accepted.

Delivery of Market and Affordable Housing

- 3.3.3 The development will deliver 80no.new dwellings. 28 of these will be secured as affordable housing, the tenure mix for which is supported. Although the Councils housing need is not unmet, the development provides opportunity for a significant number of new homes to be delivered which will assist the council in addressing a variety of housing need. Moderate weight is therefore assigned to this.

Location and Access to Services and Facilities

- 3.3.4 Officers remain of the view that in respect of access to facilities and services (including public transport), the site is considered to be in a sustainable location, notwithstanding its peripheral siting on the edge of the town. The proposed pedestrian links to the existing urban areas will further

enable access to such services and facilities. Significant weight is assigned to this.

Economic and Social Benefits

- 3.3.5 The proposal would deliver economic benefits during the construction period and economic and social benefits following occupation of the development, in supporting local facilities. Given the scale of development this is assigned moderate weight.

3.4 Summary of Neutral Benefits

Section 106 Obligations

- 3.4.1 The proposals will secure a number of obligations through a Section 106 legal agreement. Obligations include the aforementioned outdoor sports facilities, allotments, community building and contribution to NHS, library service and education and mitigate against RAMS.
- 3.4.2 The Section 106 benefits are afforded neutral weight, as the obligations are mitigating the impacts of the development in accordance with planning policy.

3.5 Planning Balance

- 3.5.1 When considering the flat planning balance and having regard to the adverse impacts and benefits outlined above, and having regard to the requirements of the NPPF as a whole, Officers have concluded that the benefits of the proposal outweigh the adverse impacts. Consequently it is recommended that planning permission is granted for the proposed development.
- 3.5.2 Notwithstanding the above, even if the 'tilted balance' was engaged, it is considered that the adverse impacts would not 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 granted for the proposed development.

4. RECOMMENDATION

- 4.1 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:

§ Affordable Housing – 35% of units on-site (28 units in total) to be Affordable Housing, with a mix of 20 affordable rent and 8 shared ownership as set out within the Accommodation Schedule - Revision D;

§ Allotments – Financial contribution calculated in accordance with the Open Spaces SPD updated financial contributions for 2022-2023.

Contribution (£2,736.70) to be spent on new or improved allotment facilities within 2km of Townsford Mill, as identified in the District Councils Open Space Action Plan;

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

Private Roads; and that the Council shall not be subject to any claim for damage to the Private Roads caused as a result of reasonable use by refuse collection vehicles;

- § Residential Travel Plan Monitoring Fee – Annual monitoring fee of £1533p.a (index linked) to be paid to Essex County Council for the monitoring of a Residential Travel Plan (which has been approved by the Council and implemented by the applicant);
- § Western Link – Obligation to allow the developer of the adjoining land to construct a 3 metre wide foot/cycleway route through the Western Link Land to connect to publicly accessible and useable foot/cycle routes or Estate Roads within the Site (only in the event that planning permission is granted for the development of the adjoining land);
- § Monitoring Fees – For the District & County Councils.

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

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

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

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

APPENDIX 1:

APPROVED PLAN(S) & DOCUMENT(S) / CONDITION(S) & REASON(S) AND INFORMATIVE(S)

Approved Plan(s) & Document(s)

Plan Description	Plan Ref	Plan Version
Location Plan	8960-01	N/A
Block Plan	8960-02	Rev B
Site Plan	8960-03	Rev D
Site Plan	8960-04	Rev B
Street elevation	8960-10	Rev B
Street elevation	8960-11	Rev B
Garden Areas Plan	8960-20	Rev B
Tenure Plan	8960-21	Rev C
Parking Strategy	8960-22	Rev B
Boundary Treatment	8960-23	Rev B
Boundary Treatment	8960-24	N/A
Storey Height	8960-25	Rev B
Materials Details	8960-26	Rev D
Design Analysis Plan	8960-27	Rev B
Design Analysis Plan	8960-28	Rev B
Corner Turning Unit Plan	8960-29	Rev B
Movement and Permeability Plan	8960-30	Rev B
House Types	8960-31	Rev B
Parking Strategy	8960-32	Rev B
Refuse Information	8960-33	Rev C
Proposed Elevations and Floor Plans	8960-BA-01	Rev B
Proposed Elevations and Floor Plans	8960-BU-01	Rev B
Proposed Elevations and Floor Plans	8960-BU-02	Rev B
Proposed Elevations and Floor Plans	8960-CA-01	Rev A
Proposed Elevations and Floor Plans	8960-CA-02	Rev A
Proposed Elevations and Floor Plans	8960-CA-03	Rev A
Proposed Elevations and Floor Plans	8960-CA-04	Rev A
Proposed Elevations and Floor Plans	8960-CA-05	Rev A
Proposed Elevations and Floor Plans	8960-CH-01	Rev B
Proposed Elevations and Floor Plans	8960-CH-02	Rev B
Proposed Elevations and Floor Plans	8960-CH-03	Rev A
Proposed Elevations and Floor Plans	8960-CH-04	Rev A
Proposed Elevations and Floor Plans	8960-CH-05	Rev A
Proposed Elevations and Floor Plans	8960-CHS-03	Rev B
Proposed Elevations and Floor Plans	8960-CO-01	Rev A
Proposed Elevations and Floor Plans	8960-CO-02	Rev A
Proposed Elevations and Floor Plans	8960-CT-01	Rev B
Proposed Elevations and Floor Plans	8960-FR-02	Rev A
Proposed Elevations and Floor Plans	8960-FR-03	Rev A
Proposed Elevations and Floor Plans	8960-MAI-01	Rev C
Proposed Elevations and Floor Plans	8960-MAI-02	Rev A

Proposed Elevations and Floor Plans	8960-MAI2-01	Rev B
Proposed Elevations and Floor Plans	8960-MAI2-02	Rev A
Proposed Elevations and Floor Plans	8960-MAI2-03	Rev A
Proposed Elevations and Floor Plans	8960-SC-01	Rev B
Proposed Elevations and Floor Plans	8960-SC-02	Rev A
Proposed Elevations and Floor Plans	8960-SI-01	Rev A
Proposed Elevations and Floor Plans	8960-SI-02	Rev A
Proposed Elevations and Floor Plans	8960-SR-01	Rev A
Proposed Elevations and Floor Plans	8960-SR-02	Rev A
Proposed Elevations and Floor Plans	8960-SR-03	Rev A
Proposed Elevations and Floor Plans	8960-TA-01	Rev B
Proposed Elevations and Floor Plans	8960-TH-01	Rev A
Proposed Elevations and Floor Plans	8960-TH-02	Rev B
Proposed Elevations and Floor Plans	8960-TH-03	Rev A
Proposed Elevations and Floor Plans	8960-TH-04	Rev A
Proposed Elevations and Floor Plans	8960-TI-01	Rev B
Garage Details	8960-DG	N/A
Garage Details	8960-SG	N/A
Garage Details	8960-DSG	Rev A
Landscape Masterplan	PR211-01	Rev P
Play Area Plan	2201.32256	N/A
Tree Plan	PR211-03	N/A
Public Open Space Details	PR211-04	Rev D
Drainage Details	20-095-100	Rev D
Drainage Details	20-095-101	Rev B
Levels	20-095-102	Rev B
Access Details	20-095-103	Rev C
Access Details	20-095-104	Rev B
Access Details	20-095-106	Rev D
Access Details	20-095-107	Rev D

Condition(s) & Reason(s)

1.

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

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

2.

The development hereby permitted shall only be implemented in accordance with the approved plans/documents listed above, with the exception of the informal mown paths as detailed within the landscape plan - this detail is not approved.

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

3.

No above ground development shall commence until a schedule of the types and colour of the materials and samples of the materials to be used in the external finishes of the building hereby permitted, have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details and permanently retained as such.

Reason: In the interests of the appearance of the development.

4.

All service intakes to dwellings (apart from gas), including soil and waste plumbing, shall be run internally and not visible on the exterior.

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

5.

Prior to installation of any meter cupboards on the external front and side (if a corner plot) elevations of the dwelling(s) hereby approved, details of the location, design, materials and colour shall be submitted to and approved in writing by the Local Planning Authority. Development shall only be implemented in accordance with the approved details and shall be permanently retained as such.

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

6.

No development above ground level shall take place unless and until additional drawings that show details of proposed new eaves, verges and ridges to be used by section and elevation at scales between 1:20 and 1:1 as appropriate have been submitted to and approved in writing by the local planning authority. Development shall be implemented in accordance with the approved details and shall be permanently retained as such.

Reason: To ensure that the detail has the traditional appearance required for the traditional architecture that has been used in the design of the dwellings.

7.

No above ground development shall commence until details of all gates / fences / walls or other means of enclosure have been submitted to and approved in writing by the Local Planning Authority. The details shall include position, design, height and materials of the enclosures. The enclosures as approved shall be provided prior to the occupation / first use of the relevant plot and shall be permanently retained as such.

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

8.

The cycle parking facilities as shown on the approved plan shall be provided prior to the first occupation of the dwelling that it serves and shall be retained at all times. The development shall only be implemented in accordance with the approved details.

Reason: To ensure appropriate bicycle parking is provided in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

9.

The electric vehicle charging points as detailed on the hereby approved plans shall be installed prior to occupation and thereafter retained.

Reason: In the interest of securing sustainable development and contributing to reduce carbon emissions.

10.

No above ground development shall commence until a strategy to provide fastest available broadband access has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to occupation and thereafter retained.

Reason: To ensure that all new dwellings/commercial units are provided with appropriate internet connectivity that will improve commercial opportunities and facilitate working from home and improve residents' connections to essential online services and social networks.

11.

Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting that Order) no enlargement of the dwellinghouse, as permitted by Class A of Part 1 of Schedule 2 of that Order shall be carried out to Plots 33, 34, 66, 77 and 78 without first obtaining planning permission from the Local Planning Authority.

Reason: In order that the Local Planning Authority may exercise control over any proposed future extensions in the interests of residential and/or visual amenity.

12.

Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting that Order) no addition or alteration to the roof of a dwellinghouse, as permitted by Class B of Part 1 of Schedule 2 of that Order shall be carried out to Plots 30, 45, 56, 59, 63, 64, 69, 70 and 79 without first obtaining planning permission from the Local Planning Authority.

Reason: In order that the Local Planning Authority may exercise control over any proposed future roof extensions in the interests of residential and/or visual amenity.

13.

The garage hereby permitted to Plots 39, 40, 49, 61, 62, 64 and 65, shall be used for the parking of motor vehicles, bicycles, and powered two wheelers associated with the dwelling.

Reason: To ensure adequate parking and garage space is provided within the site in accordance with the standards adopted by the Local Planning Authority.

14.

No vehicular movements relating to the construction of the development to, from, or within the site shall take place outside the following times:- Monday to Friday 0800 hours - 1800 hours Saturday 0800 hours - 1300 hours Sundays, Public and Bank Holidays - no vehicular movements.

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

15.

No site clearance, demolition or construction work shall take place on the site, including starting of machinery and delivery of materials, outside the following times:- Monday to Friday 0800 hours - 1800 hours Saturday 0800 hours - 1300 hours Sundays, Public and Bank Holidays - no work.

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

16.

All of the dust mitigation measures contained within Section 5.5 of the SRL Air Quality Screening Report (Ref: 80213-SRL-RP-YQ-01-P1) shall be implemented during the earthworks and construction phases of the proposed development.

Reason: To protect the amenity of neighbouring residential properties

17.

The visitor parking spaces as shown on the approved plans, shall be retained for such use.

Reason: To ensure adequate visitor parking space is provided within the site in accordance with the standards adopted by the Local Planning Authority.

18.

All mitigation measures and/or works shall be carried out in accordance with the details contained in the Update Ecological Impact Assessment (SES, October 2021) and the Construction and Ecological Management Plan (SES Ltd, October 2021), as already submitted with the planning application and agreed in principle with the local planning authority prior to determination. This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW,) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

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

19.

A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior occupation of the development.

The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organization responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Reason: To allow the LPA to discharge its duties under the UK Habitats Regulations 2017, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species)

20.

A Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the local planning authority.

The content of the Biodiversity Enhancement Strategy shall include the following:

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

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

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

21.

No development shall commence, including any works of demolition, until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include the following details:

- The provision of parking for operatives and contractors within the site;
- Safe access in / out of the site;
- Measures to manage the routing of construction traffic;
- The storage of plant and materials used in constructing the development;
- The storage of top soil;
- The erection and maintenance of security hoarding including any decorative displays and facilities for public viewing;
- Wheel washing and underbody washing facilities;
- Measures to control the emission of dust, dirt and mud during construction;
- A scheme to control noise and vibration during the construction phase, including details of any piling operations;
- A scheme for recycling/disposing of waste resulting from demolition and construction works;
- details of how the approved Plan will be implemented and adhered to, including contact details for individuals responsible for ensuring compliance;
- Contact details for Site Manager and details of publication of such details to local residents.

The approved Construction Management Plan shall be adhered to throughout the construction period for the development.

Reason: In the interests of neighbouring amenity.

22.

No piling shall be undertaken on the site in connection with the construction of the development until a system of piling and resultant noise and vibration levels has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be adhered to throughout the construction process.

Reason: In the interest of neighbouring residential amenity.

23.

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 planning application drawing 20-095-103 Rev C. Access shall include but not be limited to a clear to ground visibility splay with dimensions of 2.4 metres by 55 metres to the north and 2.4 metres by 64m metres to the south as measured with a maximum 1m offset from the carriageway edge in both directions and widening to 4.1 metres of the carriageway along Tidings Hill.
- b. The provision of a 2m footway from the northern side of the site access road

(extending approximately as far as opposite plot number 80) to provide a link north to the junction of Tidings Hill and Grange Close as shown in principle of submitted drawing 8960/04 Rev B. Appropriate dropped kerbs/tactile paving to be provided at the junction of Tidings Hill and Grange Close.

- c. Upgrading the pair of bus stops that best serve the development in accordance with details that shall have had prior written approval of the Local Planning Authority.

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

24.

The development shall not be occupied until the developer provides a Residential Travel Information Pack (to include six one-day vouchers for use with the relevant local public transport operator) for each dwelling, promoting the use of sustainable transport, details of which shall be submitted to and approved in writing by the Local Planning Authority.

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

25.

Notwithstanding the details submitted, a Residential Travel Plan for the development shall be submitted to and approved in writing by the Local Planning Authority. Prior to the first occupation of the development, the approved Travel Plan shall be implemented and the use shall thereafter only be operated in accordance with the approved Travel Plan.

Reason: In the interest of highway safety and the efficient operation of the highway network and in order the development promotes public transport, walking and cycling and limits the reliance on the private car.

26.

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

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

the Local Planning Authority.

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

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

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

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

27.

The development shall only be implemented in accordance with the approved Arboricultural Report and associated Tree Protection Plan, undertaken by SES Arboricultural Impact Assessment, dated October 2021.

Reason: To ensure existing trees, shrubs and hedges that are identified for retention are protected as they are considered essential to enhance the character of the development and for their ecological value.

28.

Any road which is required to carry a refuse vehicle shall be constructed to take a load of 26 tonnes.

Reason: To ensure that the access within the development is adequate to allow for the refuse collections to take place and to avoid damage to the road surface.

29.

No development shall commence on Plots 75 and 76 until written confirmation from an Approved Inspector or Local Authority Building Control Service has been submitted to and approved in writing by the Local Planning Authority, to certify that Plots 75 and 76 have been designed to comply with Building Regulations 2015 Part M(4) Category 3(b).

Reason: To ensure that all the identified housing plots comply with the required standards at the design stage.

30.

No development shall commence on Plots 5, 7, 8, 9, 10, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 31, 32, 33, 35, 37 and 77 until written confirmation from an approved Inspector or Local Authority Building Control Service has been submitted to and approved in writing by the Local Planning Authority, to certify that Plots 5, 7, 8, 9, 10, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 31, 32, 33, 35, 37 and 77 as indicated on the approved layout plan, have been designed to comply with Building Regulations 2015 Part M4 Category 2.

Reason: To ensure that all the identified housing plots comply with the required standards at the design stage.

31.

Prior to occupation of each of the following Plots 75 and 76 as indicated on the layout drawing hereby approved - written confirmation from an Approved Inspector or Local Authority Building Control Service, to certify that each respective plot (as indicated above) have been constructed in accordance with Building Regulations 2015 Part M4 Category 3(b), shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that all relevant affordable housing plots comply with the required standards when they are constructed.

32.

Prior to occupation of each of the following Plots: 5, 7, 8, 9, 10, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 31, 32, 33, 35, 37 and 77; as indicated on the layout drawing hereby approved - written confirmation from an Approved Inspector or Local Authority Building Control Service, to certify that each plots 5, 7, 8, 9, 10, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 31, 32, 33, 35, 37 and 77 have been constructed in accordance with Building Regulations 2015 Part M4 Category 2, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that all the identified housing plots comply with the required standards when constructed.

33.

No above ground development shall commence until a Lighting Scheme designed to promote personal safety, protect amenity and the night-time landscape and biodiversity has been submitted to and approved in writing by the Local Planning Authority. The Lighting Scheme shall include the following details:

- Details of phasing, location and design of all lighting to be installed within the site during periods of construction and occupation;
- Details of ownership of lighting once the development is occupied and, where relevant, details of its associated maintenance to ensure the lighting is provided in perpetuity thereof in the interests of personal safety;
- Assessment of the impacts of the lighting scheme upon biodiversity which identifies those features on or immediately adjoining the site that are particularly sensitive for bats including those areas where lighting could cause disturbance along important routes used for foraging;
- Provision of appropriate lighting contour plans, isolux drawings and technical specifications to demonstrate which areas of the development are lit and to limit any relative impacts upon the territories of bats.

The approved lighting scheme shall be implemented prior to first occupation of the development, or if phased: each relevant phase, and shall thereafter be retained and maintained as such in accordance with the approved details. Under no circumstances

shall any other external lighting be installed on the site.

Reason: To ensure optimum levels of personal safety and prevention of crime are provided whilst also balancing constraints such as ownership, impacts upon landscape, biodiversity and amenity in recognition of the local and national policy objectives and having regard for best practice advice, such as Secured By Design (2019) and the LPA's legal obligations under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the Natural Environment & Rural Communities Act 2006 (Priority Habitats & Species).

34.

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

- Limiting discharge rates to 6l/s for all storm events up to and including the 1 in 100 year plus 40% allowance for climate change storm event.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- An updated drainage strategy incorporating all of the above bullet points including matters already approved and highlighting any changes to the previously approved strategy.

The scheme shall subsequently be implemented prior to occupation.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site; to ensure the effective operation of SuDS features over the lifetime of the development; to provide mitigation of any environmental harm which may be caused to the local water environment. Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

35.

No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the local

planning authority. The scheme shall subsequently be implemented as approved.

Reason: The National Planning Policy Framework paragraph 167 and paragraph 174 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution. Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of top-soils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development. Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

36.

Prior to occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk. Failure to provide the above required information prior to occupation may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

37.

The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

Reason: To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

Informative(s)

1.

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

2.

In respect of the construction management condition, the developer is advised that they shall use reasonable endeavours to encourage site operatives and contractors to park on site, to avoid disruption to local residents and any obstruction within the highway.

3.

In respect of the approved plans condition, you are advised that Officers are not supportive of the proposed informal mown footpaths within the open space. The omission of these will form part of the open space strategy to be secured on the S106 Legal Agreement.

4.

In respect of the 'boundary treatment' condition, whilst Officers are content with that detailed on plan number 8960-23 Rev B and 8960-24, these plans do not detail the means of enclosure to demarcate the private and public areas within the shared streets.

Positive and Proactive Statement

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

APPENDIX 2:

POLICY CONSIDERATIONS

National Planning Guidance

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

Braintree District Local Development Framework Core Strategy 2011

CS2	Affordable Housing
CS5	The Countryside
CS7	Promoting Accessibility for All
CS8	Natural Environment and Biodiversity
CS10	Provision for Open Space, Sport and Recreation

Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP7	Housing and Mixed Use Sites
RLP8	House Types
RLP9	Design And Layout of Housing and Mixed Use Areas
RLP10	Residential Density
RLP22	Accessible Housing and Lifetime Housing
RLP49	Pedestrian Networks
RLP50	Cycleways
RLP51	Cycle Parking
RLP52	Public Transport
RLP53	Generators of Travel Demand
RLP54	Transport Assessments2
RLP55	Travel Plans
RLP56	Vehicle Parking
RLP63	Air Quality
RLP64	Contaminated Land
RLP65	External Lighting
RLP69	Sustainable Drainage
RLP70	Water Efficiency
RLP71	Water Supply, Sewerage and Land Drainage
RLP72	Water Quality
RLP74	Provision of Space for Recycling
RLP80	Landscape Features and Habitats
RLP81	Trees, Woodlands, Grasslands and Hedgerows
RLP84	Protected Species
RLP90	Layout and Design of Development
RLP91	Site Appraisal
RLP92	Accessibility
RLP93	Public Realm

- RLP95 Preservation and Enhancement of Conservation Areas
- RLP100 Alterations and Extensions and Changes of Use to Listed Buildings, and their settings
- RLP105 Archaeological Evaluation
- RLP106 Archaeological Excavation and Monitoring

Braintree District Shared Strategic Section 1 Local Plan (2021)

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

Braintree District Draft Section 2 Local Plan (2017)

- LPP1 Development Boundaries
- LPP17 Housing Provision and Delivery
- LPP33 Affordable Housing
- LPP37 Housing Type and Density
- LPP44 Sustainable Transport
- LPP45 Parking Provision
- LPP49 Broadband
- LPP50 Built and Historic Environment
- LPP53 Provision for Open Space, Sport and Recreation
- LPP55 Layout and Design of Development
- LPP56 Conservation Areas
- LPP60 Heritage Assets and their settings
- LPP63 Archaeological Evaluation, Excavation and Recording
- LPP67 Natural Environment and Green Infrastructure
- LPP68 Protected Species, Priority Spaces and Priority Habitat
- LPP70 Protection, Enhancement, Management and Monitoring of Biodiversity
- LPP71 Landscape Character and Features
- LPP73 Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
- LPP75 Energy Efficiency
- LPP77 Renewable Energy Within New Developments
- LPP79 Surface Water Management Plan
- LPP80 Sustainable Urban Drainage Systems
- LPP81 External Lighting

Other Material Considerations

- Essex Design Guide Urban Place Supplement (2005)
- Parking Standards – Design and Good Practice (September 2009)
- External Lighting Supplementary Document

Statement on Draft Local Plan

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

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

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

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

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

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

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

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

APPENDIX 3:

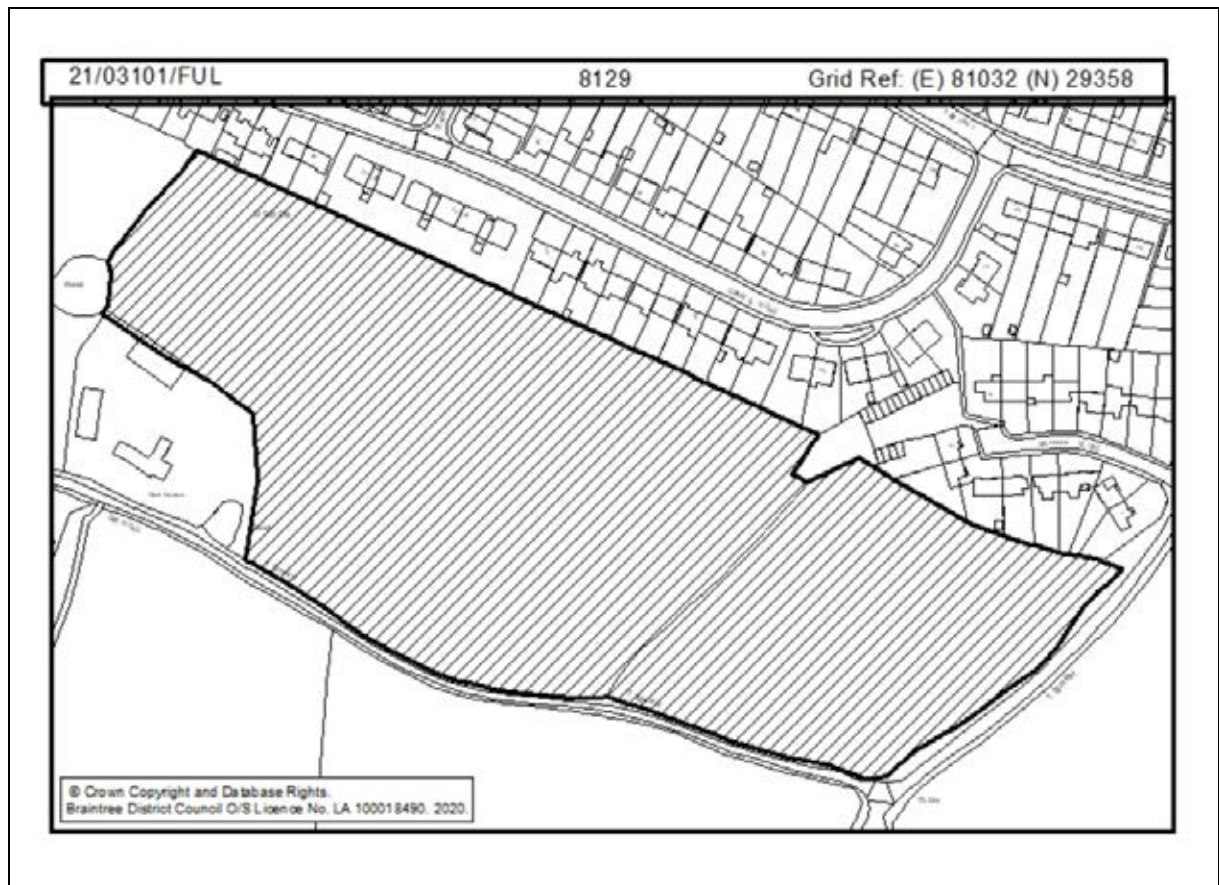
SITE HISTORY

Application No:	Description:	Decision:	Date:
18/01876/OUT	Outline planning application (all matters reserved) for up to 70 residential dwellings, public open space and associated development	Granted with S106 Agreement	19.12.19
21/02536/DAC	Application for approval of details as reserved by condition 3 of approved application 18/01876/OUT	Part Grant, Part Refused	01.09.21
21/02664/DAC	Application for approval of details as reserved by conditions 22 & 23 of approved application 18/01876/OUT	Granted	13.01.22
21/03255/DAC	Application for approval of details as reserved by condition 21 of approved application 18/01876/OUT	Granted	03.12.21
21/03455/DAC	Application for approval of details as reserved by conditions 3 of approved application 18/01876/OUT	Granted	14.04.22

Agenda Item: 5c

Report to: Planning Committee		
Planning Committee Date: 19th April 2022		
For: Decision		
Key Decision: No		Decision Planner Ref No: N/A
Application No:	21/03101/FUL	
Description:	Erection of 80 dwellings (Class C3) including affordable homes, public open space including local equipped area for play, access from Tidings Hill, sustainable drainage systems, landscaping and all associated infrastructure and development	
Location:	Land North Of Oak Road Halstead	
Applicant:	Bellway Homes (Essex) Ltd	
Agent:	Mr Olivier Spencer, Andrew Martin Planning	
Date Valid:	20th October 2021	
Recommendation:	It is RECOMMENDED that the following decision be made: § Application GRANTED subject to the completion of a Section 106 Agreement to cover the Heads of Terms outlined within the Recommendation section of this Committee Report, and subject to the Condition(s) & Reason(s) and Informative(s) outlined within Appendix 1 of this Committee Report.	
Options:	The Planning Committee can: a) Agree the Recommendation b) Vary the Recommendation c) Overturn the Recommendation d) Defer consideration of the Application for a specified reason(s)	
Appendices:	Appendix 1:	Approved Plan(s) & Document(s) Condition(s) & Reason(s) and Informative(s)
	Appendix 2:	Policy Considerations
	Appendix 3:	Site History
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>As outlined above, it is recommended that the decision is subject to a Section 106 Agreement which seeks to mitigate the impact(s) arising from the proposed development. Any financial implications arising out of a Section 106 Agreement will be set out in more detail within the body of this Committee Report.</p> <p>The S106 will also secure a financial contribution pursuant to the Habitat Regulations as set out within the body of this Committee Report.</p> <p>Financial implications may arise should the decision be subject to a planning appeal or challenged via the High Court.</p>
Legal Implications:	<p>Any legal implications arising out of a Section 106 Agreement will be set out in more detail within the body of this Committee Report.</p> <p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either set out the relevant Conditions & Reasons and any Informatives, or the Reasons for Refusal if applicable.</p> <p>All relevant policies are set out within the report, within Appendix 2.</p>
Other Implications:	The application has been subject to public consultation and consultation with relevant statutory and non-statutory consultees. All responses received in response to this consultation are set out within the body of this Committee Report.

<p>Equality and Diversity Implications</p>	<p>Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:</p> <ul style="list-style-type: none"> a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act; b) Advance equality of opportunity between people who share a protected characteristic and those who do not; c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding. <p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
<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: 21/03101/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 Review (2005) § Braintree District Core Strategy (2011) § Braintree District Shared Strategic Section 1 Local Plan (2021) § Braintree District Publication Draft Section 2 Local Plan (2017) § Supplementary Planning Documents

	<p>(SPD's) Affordable Housing Supplementary Planning Document (2006); Essex Design Guide for Mixed Use and Residential Areas (2005); Essex Design Guide Urban Place Supplement (2005); External Artificial Lighting SPD (2009); Open Space SPD (2009); Parking Standards – Design and Good Practice (2009)</p> <p>§ Other Guidance</p> <p>Landscape Character Assessment (2006)</p> <p>Braintree District Settlement Fringes – Evaluation of Landscape Analysis of Halstead (June 2015)</p> <p>Open Spaces Action Plan (2021)</p> <p>The National Planning Policy Framework can be viewed on the GOV.UK website: www.gov.uk/.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: www.braintree.gov.uk.</p>
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1. EXECUTIVE SUMMARY

- 1.1 Although the application site is located outside the Halstead town development boundary, as designated in the Adopted Local Plan, and thus lies within a countryside location, there is an extant outline planning permission at the site for up to 70 dwellings (Application Reference 18/01876/OUT) which was granted on 19th December 2019. As such the principle of development is established and is therefore acceptable.
- 1.2 In respect of access to services and facilities, the site is considered to be in a relatively sustainable location. The site is located approximately 1.3km from Halstead town centre located along Bridge Street and the High Street, and is within walking distance of a range of services and amenities, and close to existing bus stops.
- 1.3 The layout, scale and detailed design of the development would result in a high quality scheme that would be sympathetic to the character and appearance of the locality. High quality open space would be provided across the site, which would incorporate an area of equipped play. SuDs systems are also being provided. However, as part of the layout, the development does not propose tree lined streets to both sides of the road within the two shared surface roads off to the south of the main road. This is a matter which weighs against the proposal.
- 1.4 In respect of market housing, the development provides for 10no. 2 bed units (amounting to 19.2%), 34no. 3 bed units (amounting to 65.4%) and 8no. 4 bed units (amounting to 15.4%). Although this does not reflect the needs identified within the 2016 SHMA which detailed that some 42.8% of new owner-occupied dwellings should be three bedroom properties, with 34.2% containing two bedrooms, 17.2% having four or more bedrooms and 5.7% having one bedroom, the Section 2 Plan is well advanced the policies within it still cannot be given full weight. The provision of 10 x 2-bed dwellings meets the expectation established by the Outline planning permission that 20% of the market housing would consist of smaller (1 or 2-bed) dwellings. Officers do not consider that the mix of market housing would warrant refusal of the application but the failure to provide a mix which reflects need identified in the SHMA does weigh against the proposal.
- 1.5 In respect of affordable housing, it is proposed that 28 of the total dwellings will be affordable to meet with housing needs. This equates to 35% of the total number of units (and would comprise of one, two, three and four bedroom properties). This exceeds the 30% threshold set out in Policy CS2 of the Core Strategy. The Councils Housing Enabling Officer is supportive of the tenure mix and comments that it provides opportunity for a significant number of new affordable homes to be delivered which will assist the council in addressing a variety of housing need.
- 1.6 To facilitate the site access, tree removal will be required. 9 trees would need to be removed to accommodate the site's access road and are

necessary for development to take place. These trees combine a mix of Field Maples (4no) and English Oaks (5no) and of these trees, 4 of them are Category C trees, and 5 of them are Category B trees. Since the outline planning permission was granted the hedge on the eastern side of Tidings Hill has been significantly reduced by the owner of that land. This has already started to change the character of the street, removing the canopy cover that previously existed on that side of the road. The loss of the trees to form the entrance is regrettable as they do still positively add to the character of the road, and their loss is a matter which weighs against the proposal in the planning balance.

- 1.7 The application proposes the removal of further trees within the application site. The majority of the trees are classified as Category C trees, with some Category B trees and Category U trees which are dead or dying. Whilst the removal of these further trees is regrettable, their removal is fundamental to accommodate the site's layout and utilities infrastructure, and, as discussed below, these losses would be mitigated through an extensive tree planting scheme.
- 1.8 The proposed replacement tree planting, includes the planting of 24no. trees around the perimeter of the site to close up gaps in the existing mature treed boundary hedgerows. These new trees, in addition to the new trees to be planted along the northern boundary of the entrance area of public open space, represent a significant replacement for the poor quality trees and unavoidable loss of trees to facilitate the proposed development.
- 1.9 In regard to highway matters, the Highway Authority have been consulted on the application and are satisfied that the additional traffic flows generated by the development can be accommodated safely within the highway network. Specifically in regard to the access, this is to be provided from a single priority access junction point off Tidings Hill. At the site entrance visibility splays of 2.4 x 55 metres to the north and 2.4 x 64 metres to the south are proposed and can be provided within highway land and would provide for acceptable visibility and safety. The scheme also includes the widening of Tidings Hill to 4.1 metres in width. Allocated parking for all dwellings, in addition to visitor parking, would be in accordance with the Adopted Parking Standards. Every plot has also been fitted with a passive charging point ready for wall mounted or freestanding connection points.
- 1.10 The development would provide high quality amenity for future occupiers and would have no unacceptable impact to the amenity of neighbouring properties. Matters in regard to ecology, contamination, flood risk and drainage are all acceptable.
- 1.11 When considering the flat planning balance and having regard to the adverse impacts and benefits outlined above, and having regard to the requirements of the NPPF as a whole, Officers have concluded that the benefits of the proposal outweigh the adverse impacts. Consequently it is recommended that planning permission is granted 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 A of the Council's Scheme of Delegation as the application is categorised as a Major planning application.

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

- 5.1 The application site is some 4.2 hectares in area located on the southern side of Halstead. The site consists of two fields (improved grassland) separated by a mature hedgerow.
- 5.2 It backs onto existing housing to the north which fronts Conies Road and Grange Close. To the west is a detached dwelling known as Oak House, Oak Road and an area of scrubland associated with Conies Farm on which there is an undetermined application to build up to 39 dwellings (subject to a separate application, Application Reference 21/00493/OUT). The site fronts two roads, the southern end of Tidings Hill where the land levels off to the south east and Oak Road to the south west which leads to the A131 Mount Hill. The lane (Letches Lane) which runs in a southerly direction from the Tidings Hill/Oak Road junction to Plaistow Green is identified as a protected lane within the Adopted Local Plan.
- 5.3 Much of the site's external boundaries are delineated by hedgerows and trees, rendering it as quite visually self-contained from public vantage points, especially as the land in question is relatively flat (although there is a gentle south, to south easterly fall).
- 5.4 The application site is located outside the Halstead town development boundary, as designated in the Adopted Local Plan. (The application has been advertised as a departure from the Development Plan). The smaller, eastern field is identified in the Adopted Local Plan for Formal Recreation.
- 5.5 However, as detailed within the history in Appendix 3, there is an extant outline planning permission at the site for up to 70 dwellings (Application Reference 18/01876/OUT) which was granted on 19th December 2019. That planning application was submitted in outline form with all matters reserved for future consideration.

- 5.6 Bellway Homes have since acquired the site and seek to bring forward a new planning application for 80 dwellings. Bellway have engaged in extensive detailed pre-application discussions with Officers in this regard.

6. PROPOSAL

- 6.1 The application seek full permission for the erection of 80 dwellings accessed via a new priority junction onto Tidings Hill, which is proposed to be widened to 4.1 metres.
- 6.2 The development would also contain public open space (1.3 hectares), and to the north eastern corner a local equipped area for play (LEAP) is proposed.
- 6.3 A sustainable drainage system would support the development consisting of two drainage basins. One detention basin would be located to the eastern end of the site near the site access. The detention basin treats and attenuates flows before discharging into a piped network that flows towards the proposed wetland located near the southern end of the site. The wetland provides further treatment and attenuation prior to discharging to the proposed surface water pump station (located adjacent to Plot 77-78). The pump station flows through a rising main to an existing Anglian Water surface water manhole.
- 6.4 With the exception of 4 bungalows, all the dwellings will be a maximum height of 2 storeys in height.
- 6.5 In regards to housing mix, the development will provide 52 market dwellings and 28 affordable house (35%) with the following mix:

Market Housing

- 10 x 2 bed
- 34 x 3 bed
- 8 x 4 bed

Affordable Housing

- 4 x 1 bed
- 17 x 2 bed
- 5 x 3 bed
- 2 x 4 bed houses

7. SUMMARY OF CONSULTATION RESPONSES

7.1 Anglian Water

- 7.1.1 Comment that the foul drainage from this development is in the catchment of Halstead Water Recycling Centre that will have available capacity for these flows.

- 7.1.2 In regard to used water network comment that the sewerage system has available capacity for these flows. If the developer wishes to connect to the sewerage network they will need to serve notice.
- 7.1.3 In respect to surface water disposal comment that the preferred method would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Confirm that the documents in the supporting FRA are acceptable.
- 7.2 Essex Police
- 7.2.1 Highlight that Adopted Plan policy RPL90 states that designs and layouts shall promote a safe and secure environment, crime reduction and prevention and shall encourage the related objective of enhancing personal safety. Comment that there is insufficient detail within the application in relation to the proposed lighting, boundary treatments and physical security measures, to be able to comment. Welcome the opportunity to assist the developer achieving a Secured by Design award.
- 7.3 Natural England
- 7.3.1 Comment that the site lies within the 'Zone of Influence' (Zol) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The development is likely to have a significant effect on the sensitive interest features of these coastal European designated sites. A Habitats Regulations Assessment (HRA) shall be undertaken to secure any necessary mitigation.
- 7.4 NHS (Healthcare)
- 7.4.1 Comment that the proposed development is likely to have an impact on the services of 1 main surgery operating within the vicinity of the application site (Elizabeth Courtauld Surgery). The GP practice does not have capacity for the additional growth resulting from this development and cumulative development growth in the area. The proposed development will likely 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. NHS England would therefore require the payment of a financial contribution of £30,400 to mitigate the impacts of the development. The contribution would be used to improve patient capacity at the Elizabeth Courtauld Surgery which could include the provision of additional floorspace.
- 7.5 BDC Ecology
- 7.5.1 No objection subject to securing: a proportionate financial contribution towards visitor management measures for the Blackwater Estuary SPA/Ramsar Site and Essex Estuaries SAC; and ecological mitigation and enhancement measures.

7.6 BDC Environmental Health

- 7.6.1 No objection. Recommend the imposition of a number of condition in respect to hours of working for site clearance, demolition or construction; no burning of refuse, waste materials or vegetation; dust mitigation measures to be implemented during the earthworks and construction phases of the proposed development; no piling.

7.7 BDC Housing

- 7.7.1 Comment that the affordable housing element satisfies the requirements of Policy CS2. The affordable unit and tenure mix shown is considered appropriate to meet evidence of housing need. Support the application and comment that it provides opportunity for a significant number of new affordable homes to be delivered which will assist the council in addressing a variety of housing need.

7.8 BDC Waste Services

- 7.8.1 No comments.

7.9 ECC Archaeology

- 7.9.1 Comment that the application has been submitted with a written scheme of investigation for an archaeological evaluation. This evaluation has been completed and has not identified any significant surviving archaeological remains. As such there will be no further requirement for archaeological investigation for the above application. However, as the results of the evaluation have not been submitted as a report, this will be required as a condition on this application to ensure the information is presented and disseminated in accordance with the Written Scheme of Investigation.

7.10 EEC Highway Authority

- 7.10.1 Comment that the proposal is acceptable subject to the imposition of a legal agreement / conditions to secure; provision of site access visibility splays; the provision of a 2m footway from the northern side of the site access road with appropriate dropped kerbs/tactile paving to be provided at the junction of Tidings Hill and Grange Close; a residential travel plan with accompanying monitoring fee of £1533p.a (index linked); residential travel information packs for each dwelling; and the upgrading of the pair of bus stops that best serve the development.

7.11 ECC Infrastructure Planning

- 7.11.1 No objection subject to securing financial contributions to mitigate the impact of the development, with payments required for Early Years & Childcare facilities; Primary School Education and Library Service.

7.12 ECC Local Lead Flood Authority (LLFA) - SuDS

7.12.1 Do not object to the granting of planning permission subject to the imposition of conditions.

8. PARISH / TOWN COUNCIL

8.1 Halstead Town Council

8.1.1 Object and raise the following comments:

- Tidings Hill and Oak Road are not suitable for construction traffic, or for the increased traffic as a result of the development, and signage would need to be installed permanently on Tidings Hill;
- Oak Road is a single track road and is unsuitable for through traffic (an application was made 5 years ago for this to be classified as a Quiet Lane);
- Goes against the walking and cycling strategy in narrow roads/lanes surrounding the site;
- Does not provide good connections to the main road, (both Oak Road and Tidings Hill being too narrow);
- Flooding is a major concern;
- The number of houses has increased from 70 to 80, although the infrastructure needed is not in place;
- The GP practice cannot accommodate the influx of new patients;
- The bus stop at White Horse Avenue needs to be electronic;
- The internal layout provides for inadequate parking;
- No regard for the environmental impact on agricultural land, trees, green space and habitats;
- Is an over intensification of the site;
- Concerned that the play equipment to be provided does not include accessible equipment;
- Plots 1 and 25 are too close to Conies Road properties.

8.2 Greenstead Green and Halstead Rural Parish Council

8.2.1 Object and raise the following comments:

- Surrounding roads (Oak Road, Letches Lane and Tidings Hill) are not suitable for the amount of traffic that will be generated and concerned could become a 'rat run' – seek a traffic scheme;
- Seek landscaping to the border with the parish of Greenstead Green and Halstead Rural;
- Support requests for S106 healthcare contributions to be paid on commencement of the development.

9. REPRESENTATIONS

9.1 The application was advertised by way of site notice, newspaper notification and neighbours letters.

9.2 11 letters of representation have been received from neighbouring properties. 1 letter neither objects nor supports the application, and 10 object to the application. Their comments can be summarised as follows:

- Will result in loss of countryside that locals currently and historically have always enjoyed for access / recreation;
- The main road into Halstead (Mount Hill) is already beyond capacity especially during peak. Development will exacerbate matters. Oak Road is a main entry/exit point on to this main road and has already seen a huge increase in junction usage due to the David Wilson/Bloor Homes site traffic;
- The speed sign at the point that Oak Road becomes a single track road is 60mph and there are no road markings or warning signs. Suggest a 20mph limit should be imposed;
- Awaiting 'Quiet Road' status. Safety of the road needs to be addressed;
- Oak Road needs speed bumps and passing places installed;
- Harm to safety of pedestrians;
- Location of visitor parking poor. Will result in parking on pavement restricting access for emergency vehicles;
- Site prone to flooding and has poor drainage. Concerns in regards to surface water;
- Site is a 'waterlogged wasteland' with a natural pond. Contains protected newts. Site also contains bats and owls;
- Any drainage work undertaken would affect the surrounding water table that would harm ponds and wildlife (and other possible flora);
- Drainage of site could also affect adjacent buildings due to subsidence;
- Noise and vibration disturbance from the build harmful to neighbours / concern that piling is required;
- Will result in air pollution;
- Harm to neighbouring amenity from overlooking, noise and light;
- Unclear what the new boundary with properties in Conies Road are;
- Social housing all behind current boundary homes where 99% of the houses are now privately is unfair;
- Over development of a small plot of land;
- Concern that the proposed footpath is not achievable due to a ditch;
- No more houses needed in this side of the town;
- Street lighting will result in change to the character of the local environment and loss of wildlife and species diversity;
- Local GP service, school and doctors already at capacity.

10. PRINCIPLE OF DEVELOPMENT

10.1 National Planning Policy Framework (NPPF)

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

10.2 5 Year Housing Land Supply

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

10.3 The Development Plan

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

Strategy (2011), and the Braintree District Shared Strategic Section 1 Local Plan (2021).

10.3.2 The application site is located outside the Halstead town development boundary, as designated in the Adopted Local Plan, and thus lies within a countryside location. The proposal is therefore contrary to Policy RLP2 of the Adopted Plan and CS5 within the Core Strategy, which seek to confine development to the areas within Town Development Boundaries and Village Envelopes. The smaller, eastern field which fronts Tidings Hill is identified in the Adopted Local Plan for Formal Recreation.

10.3.3 However, as detailed within the history in Appendix 3, there is an extant outline planning permission at the site for up to 70 dwellings (Application Reference 18/01876/OUT) which was granted on 19th December 2019. The planning application was approved in outline form with all matters reserved. The permission remains extant. As such the principle of development is established and is therefore acceptable.

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 Halstead is identified as a main town in the settlement hierarchy in the Core Strategy. It is stated in Paragraph 4.9 that, 'although Halstead has many of the day to day services and facilities and access to local jobs that residents need, its growth potential is severely limited by sensitive landscape, lack of public transport and relative isolation in the north of the District. The main constraints to Greenfield growth in Halstead are its relatively isolated location and its high quality landscape setting. Also the current levels of services are not as high as in Braintree and Witham'.

11.1.3 However, as one of the 3 main towns in the District, Halstead is considered a sustainable location for an appropriate scale of housing growth. Whilst the town may not have the range of services or public transport options that may be found in Braintree and Witham, it nonetheless offers a good range of day to day services and facilities; and includes several large employment areas which offer residents the opportunity to meet their needs within the town.

11.1.4 The site is located approximately 1.3km from Halstead town centre located along Bridge Street and the High Street, and is within walking distance of a range of services and amenities. These include; Pharmacy (approximately

1300m); The Three Pigeons Public House (approximately 1300m); Halstead Royal British Legion (approximately 1400m); Library (approximately 1600m); Co-operative food store (approximately 1600m); Halstead Town Council Offices (approximately 1300m). Halstead High Street itself is approximately 1400m to 1700m away. In terms of schools the Richard De Clare Community School is approximately 1200m walking distance from the site access and the Ramsey Academy Secondary School approximately 1900m walking distance (within 2km). At sub-2km these distances are generally considered to be an appropriate distance that occupiers of a site could be reasonably expected to walk to access a particular service and amenity.

11.1.5 Furthermore, in terms of sustainable transport, the site is located just over 250m from a bus-stop on Conies Road and 500m from a bus-stop on White Horse Avenue. These stops are served by a number of bus services, which provide regular hourly services to a variety of destinations including Colchester, Great Yeldham, Earls Colne and Braintree and Sudbury.

11.1.6 As was concluded within the outline planning application, Officers remain of the view that in respect of access to services and facilities, the site is considered to be in a relatively sustainable location, notwithstanding its peripheral siting on the edge of the town.

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

11.2.1 In regards to the layout, the development would be served by a single access point from Tidings Hill. This access road then extends into the site in a curved alignment flanked by trees on both sides. Within the first parcel of the site is a cluster of 10no. dwellings, accessed immediately off the road, or via the shared surface and private drives. The density here is much lower than the remainder of the site and is of a looser form, with dwellings facing out onto the roads and open space. The dwellings are inset from all boundaries and would ensure that the impact of built form is reduced from Tidings Hill and Oak Road, whilst still providing an attractive and interesting appearance as you enter the site.

11.2.2 Within this first parcel of land, is one of the sites attenuation basins together with the pumping station - located adjacent to Plots 77-78 - which is used solely for pumping surface water from the SUDs wetland basin to the point of connection to the public surface water sewer network on Tidings Hill (discussed in more detail later in this report). Whilst the pumping station will not be pumping foul water, with the attendant concerns about odour, the Applicant has ensured that there is a suitable distance separating it from the new homes. This will ensure that there is sufficient distance to ensure that any noise generated should not adversely affect residents in their properties. Also in this parcel, and located to the sites north eastern corner is the proposed equipped play space – a Local Equipped Area of Play (LEAP). The siting of this play space enables the opportunity for it to be readily accessible by existing residents of Grange Close, Tidings Hill and

Conies Road as well as future residents of the development. Following comments made by the Town Council, the Applicant has amended the specification of the play equipment proposed within the play area. The new homes have been arranged such that natural surveillance of the proposed play area is provided by new homes near the park, as well by people walking and driving pass the site. Also within this area is the pedestrian footpath that connects the development site with Halstead, via a footpath linking in with existing at the north-eastern corner of the site.

- 11.2.3 The road then enters the other larger parcel of land, and straightens in its alignment to provide an east–west street. Here the dwellings generally front onto the road to create a more assertive and different character area. To the northern side of the road, dwellings have been designed to incorporate large rear gardens to the properties along the northern boundary, ensuring there is a minimum back to back distance of 35metres between the rear elevation of the existing flats and the rear elevation of the proposed new houses, in order to preserve the existing residential amenity.
- 11.2.4 This east-west road is also tree lined to both sides and provides an avenue character, terminating at the end with the mature English Oak (14 metres in height). The tree is sited within the proposed open space near the western site boundary and provides the space with a focal point. Dwellings front onto this open space via the shared surface and private driveway which provides natural surveillance to the area.
- 11.2.5 Off the main road, to the southern side are 3 off shoots, with 1 private drive and 2 shared surface areas. Here, dwellings front onto the road and then as they reach the edge of the site are turned to face the open space and provide a layout that has a softer and appropriate more ‘urban edge’ character.
- 11.2.6 The dwellings fronting the central east-west road and the dwellings fronting the shared surface roads, are a range of traditional house types, presented in a combination of different brick finishes with some small areas of boarding. To the greener edges to the development on the western, eastern and southern boundaries, the typology of house type design changes with the placement of detached dwellings. This loosens the density and character along these edges and allows the landscaping character to also change and become softer in character. The street typologies also change in these areas to the use of private drives and shared surfaces to soften the scheme to the outer edges from the more urban inner nature of the development.
- 11.2.7 In terms of the scale of development all the proposed dwelling are two storey, expect for 4no. bungalows which are proposed to reduce the impact on existing dwellings in Conies Road in two specific locations where this is necessary to maintain a suitable relationship and protect existing residents amenity. All of the proposed single and double garages are proposed as single storey. Materials across the site consist of Atherstone Red Brick, Crest Autumn Gold Brick, Cedral Weatherboard in Grey, whilst roof tiles are

a mix of Marley Ashmore Old English Dark Red Tile and SVK Montana Textured Tile (a slate effect tile) which are considered to be appropriate to the locality and would contribute to the high quality finish of the dwellings. A condition has been imposed requiring samples of materials to be submitted, as although those indicated are acceptable, the developer will need to confirm they can source the materials for their build programme and they cannot do this until they have planning permission.

- 11.2.8 In regards to the provision and layout of public open space, the total provision of 1.3 hectares is provided within a number of areas. At the western end of the site a small informal area is proposed. As noted above, as the principal street approaches this space, the road realigns slightly to create a vista towards the existing mature Oak tree which would form a focal point at the end of the road and central feature to the open space. This area will be largely laid out with amenity grass with wildflower grassland edges, whilst the existing trees and areas of outgrown hedgerow are to be retained and managed.
- 11.2.9 A linear green is located in the centre of the site, and here the focus is to provide a positive setting for the existing mature trees that divide the site into two. Careful management and planting of the field boundary will be required to create a safe and attractive space for residents to enjoy. A SuDS basin creates an opportunity to create a positive landscape feature at the southern edge of this green and seating will allow views to be enjoyed across this space. Informal mown paths are shown through this space but Officers do have some concerns that a more formal surfaced path should be provided to allow the public access year round access through this space. This aspect is specifically stated as not been part of the approved landscape plans. It is a matter that can be picked up within the open space strategy on the Section 106 Legal Agreement.
- 11.2.10 The entrance green to the north east of the site, features the LEAP and also includes seating. There is an existing backdrop of existing mature trees within the central green that will be visible when entering the site, though in addition, new tree and hedgerow planting along the northern boundary of this space will provide ecological connectivity as well as a screen between the proposed open space and the back gardens of existing houses to the north.
- 11.2.11 In regards to the acceptability of the layout and design on the amenity of future occupiers, it is noted that all the dwellings will meet with the Nationally Described Space Standards (NDSS). Equally all the properties have external amenity spaces in accordance with the minimum standards set out within the Essex Design Guide. The development will provide high quality amenity for future occupiers.
- 11.2.12 Further in regard to future occupier's amenity, is consideration of noise and air quality. The application has been submitted with a Noise Impact assessment. The Councils Environment Heath Team have reviewed this and are content that there are no significant environmental noise sources

impinging on this site and that no noise mitigation works are necessary to provide satisfactory noise levels inside habitable rooms and external amenity spaces. In regards to air quality the application is submitted with an Air Quality Screening Report which demonstrates that the development site is situated in a location with good ambient air quality.

- 11.2.13 The presence of street trees has already been noted within this report, and species mix is discussed later with the landscape section. The NPPF notes that trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Paragraph 131 states that 'planning policies and decisions should ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible'. Footnote 50 of Paragraph 131 states that tree lined streets should be provided 'unless, in specific cases, there are clear, justifiable and compelling reasons why this would be inappropriate.'
- 11.2.14 The developer has worked with Officers in seeking to achieve this, and the number of street trees proposed has been significantly increased from that indicated within the original outline permission and earlier pre-application discussions wherein there was no policy requirement for these.
- 11.2.15 On immediately entering the site, the proposals include street trees to both side of the main access road set within a 4m wide verge. As the road reaches the main dwellings the siting of street trees to both sides of the road continues (to the northern side within the open space land and to the south within a 2 metre wide grass verge).
- 11.2.16 Additionally, as the road extends through to the second parcel of land, the presence of street trees to both sides of the road is also maintained. These are to be planted within a 2m grass verge and here 1 metre high evergreen hedgerows will define the back of the verge.
- 11.2.17 The shared surface street adjacent to Plots 34 to 40 will feature private front gardens that are 4metres in depth. A two-metre-wide strip of evergreen groundcover planting will lie between the private gardens and the edge of the shared drives. This planting would be within the public realm (a means of enclosure to provide a permanent boundary that clearly defines what is private and what is public space will be erected – details to be secured via condition), and would provide space for the planting of new street trees.
- 11.2.18 There is a different approach for the shared surface road in front of plots 60, 61 and 69. Here it is proposed to plant trees in hard surfaces within specially designed tree pits adjacent to parallel visitor bays with hard paving around the tree grille to help identify these trees as being within the public realm. These new trees will be planted a minimum of 5 metres distance from the adjacent homes. All trees types have been selected to

ensure that they are suitable for the spaces in which they are planted and to avoid creating situations where trees need to be removed because they are adversely affecting residential properties.

- 11.2.19 The above tree planting strategy however, does not provide street trees to both sides of the road for the two shared surface roads off to the south of the main road. The developer has commented that the development has been laid out to recognise the amenity/value of the existing landscape assets and to respect the setting of them, noting that the existing mature treed hedgerows will provide a tree lined outlook from properties and from the adjacent public realm. Whilst the presence of existing established landscaping to the boundaries is noted, Officers do not accept that this is justifiable reasons why full compliance of tree lined streets cannot be achieved. In stating this view however, it is acknowledged that there are no street trees proposed for the shared surface streets (Plots 1-4 and 63-66). However, in these instances, there are trees flanking the entrance to the street, with a tree at the end of the road, and furthermore they front onto the established tree belt that dissects the two parcels of land. Given this, and due to the length of street (4no. dwellings), it is considered that the layout is accepted. Overall, however, the failure to achieve street trees to both sides of the internal shared surface streets (Plots 41-46 and 49–56) is a matter which weighs against the proposal.

- 11.2.20 In regard to housing mix the development provides:

Market Housing

- 10 x 2 bed houses
- 34 x 3 bed
- 8 x 4 bed houses

Affordable Housing

- 4 x 1 bed flats
- 17 x 2 bed (1 x 2 bed bungalow, 6 x 2 bed flats and 10 x 2 bed houses)
- 5 x 3 bed (1 x 3 bed bungalow and 4 x 3 bed houses)
- 2 x 4 bed houses

(Note that within the market housing, 4 plots (No. 52, 53, 67 and 68) are shown to have 2 bedrooms at first floor with a further study. In this case Officers consider that it is reasonable to consider these dwellings to be 2-bed dwellings, as opposed to 3 bed dwellings, as the size of the study is significantly below the minimum size of a bedroom in the Nationally Described Space Standards (the room measures 4.24sq.m against a NDSS minimum requirement of 7.5sq.m) and is below the minimum width for a bedroom – 2 metres against a minimum of 2.15m)).

- 11.2.21 Planning policies are clear that the District Council should seek to promote mixed and inclusive communities. Policy RLP8 of the Adopted Local Plan states that the Council will seek the provision of a range of house types and sizes from one development site to another and within individual sites, in order to meet the local needs of the different household types. Policy

LPP37 of the Section 2 Plan indicates that the Council will expect the housing mix to be in line with the identified local need 'set out in the 2015 Strategic Housing Market Assessment (SHMA) update (or its successor), unless material considerations indicate otherwise'.

- 11.2.22 The accompanying scheme shows a mix of market dwelling types including bungalows, semi-detached and detached units. Whilst there are no 1 bed units, there are 10no. 2 bed units (amounting to 19.2%), 34no. 3 bed units (amounting to 65.4%) and 8no. 4 bed units (amounting to 15.4%).
- 11.2.23 The 2016 SHMA showed that some 42.8% of new owner-occupied dwellings should be three bedroom properties, with 34.2% containing two bedrooms, 17.2% having four or more bedrooms and 5.7% having one bedroom. The mix of market housing is not reflective of the need identified in the SHMA, however whilst the Section 2 Plan is well advanced the policies within it still cannot be given full weight. The provision of 10 x 2-bed dwellings meets the expectation established by the Outline planning permission that 20% of the market housing would consist of smaller (1 or 2-bed) dwellings. Officers do not consider that the mix of market housing would warrant refusal of the application but the failure to provide a mix which reflects need identified in the SHMA does weigh against the proposal.
- 11.2.24 In respect of affordable housing, it is proposed that 28 of the total dwellings would be affordable to meet with housing needs. This equates to 35% of the total number of units (and will comprise of one, two, three and four bedroom properties). 20 units would be for affordable rent and 8 as shared ownership. Two of the Affordable Housing units proposed are bungalows which will be designed and constructed to be suitable for use by residents who are wheelchair users. The Councils Housing Enabling Officer is supportive of the tenure mix and comments that it provides opportunity for a significant number of new affordable homes to be delivered which would assist the council in addressing a variety of housing need.
- 11.2.25 The provision of affordable housing exceeds the 30% threshold set out in Policy CS2 of the Core Strategy and in Policy LPP33 of the Section 2 Plan. It is acknowledged that within the outline permission on the site, the Section 106 agreement secured the provision of 40% affordable housing (equivalent to 28 affordable homes). This quantum has been matched in the current planning application, with 28 of the 80 dwellings (a total of 35%) dedicated to affordable tenures. Whilst it is a lower percentage of Affordable Housing is achieved within this full application, to that secured within the outline permission, it is still exceeds policy requirements and results in the same total number of affordable homes being provided. In this regard, the provision of affordable housing is acceptable.

11.3 Heritage

- 11.3.1 The site lies outside of a Conservation Area and there are no near listed buildings.

- 11.3.2 The application has been submitted with a written scheme of investigation for an archaeological evaluation. This evaluation has been completed and has not identified any significant surviving archaeological remains. As such there will be no further requirement for archaeological investigation for the above application. However, as the results of the evaluation have not been submitted as a report, this will be required as a condition on this application to ensure the information is presented and disseminated in accordance with the Written Scheme of Investigation.

11.4 Landscaping and Trees

- 11.4.1 Matters in relation to the impact of the development on wider landscape character and its sensitivity to change was considered in full on the outline application. Whilst this application is not a reserved matters application, and does propose an increase in the number of dwellings from that approved on the outline application (up to 70 dwellings within the outline application and 80 dwellings within this full application), the principles of that earlier consideration still apply. The application has been submitted with an Addendum to the Landscape & Visual Impact Assessment.
- 11.4.2 The site consists of two fields (improved grassland) separated by a mature hedgerow/field boundary. Much of the site's external boundaries are delineated by hedgerows and trees, rendering it as quite visually self-contained from public vantage points, especially as the land in question is relatively flat, being located on a natural ridge.
- 11.4.3 Policy CS8 of the Core Strategy states 'development must have regard to the character of the landscape and its sensitivity to change and where development is permitted it will need to enhance the locally distinctive character of the landscape in accordance within the Landscape Character Assessment'.
- 11.4.4 The 2006 Landscape Character Assessment and the Council's Landscape Capacity Analysis (Braintree District Settlement Fringes) June 2015 (LCAn) make explicit reference to this site, pursuant to Policy CS8 of the Core Strategy. The LCAn is finely grained to the point where it deals with specific land parcels, in this case Land Parcel 5d Oak Road and has been identified as having Medium-High capacity to absorb development. In assessing this parcel of land the LCAn states in paragraphs 4.11 and 4.12:
"The Parcel occupies a relatively flat, elevated band of land along the southwestern edge of Halstead...The southern boundary is also contained by strong bands of mature vegetation. The eastern boundary is formed by Tidings Hill with a tall tree belt alongside it...There are no public rights of way running through the Parcel and boundary vegetation provides good enclosure to views from the public roads along the southern and eastern boundaries...Residential properties on Oak Road and Conies Road have some open views across the Parcel and form a slightly harsh and abrupt edge to the settlement. The Parcel is generally well contained in views from the wider landscape on approach to Halstead".

- 11.4.5 In Paragraph 4.13 the LCA then states: “The analysis highlights that the existing containment to the Parcel provides good scope to mitigate any proposed development. The hedgerow structure should be retained and strengthened, and the strong planting belt to the southern boundary preserved to provide a contained edge to Halstead and screen views back towards the town from the landscape around the Bourne Brook valley. Opportunities to provide a landscape framework that softens the existing abrupt residential edge on the northern boundary of the Parcel are also identified. There is potential to provide additional open space as part of any new built development, which should reflect the scale and character of the existing settlement”.
- 11.4.6 Consequently, and as was concluded on the outline application, from a landscape character point of view there would be no unacceptable objection to the development of the site for residential development.
- 11.4.7 To further support the application, an arboricultural survey was carried out by Southern Ecological Solutions (SES) in October 2021, which assesses the impact the development may have on trees, and the effect retained trees may have on the development.
- 11.4.8 As was discussed on the outline permission, tree removal will be required to facilitate the site access. The application details that 9 trees will need to be removed to accommodate the site’s access road and are necessary for development to take place. These trees combine a mix of Field Maples (4no) and English Oaks (5no) and of these trees, 4 of them are Category C trees, and 5 of them are Category B trees. Since the outline planning permission was granted the hedge on the eastern side of Tidings Hill has been significantly reduced by the owner of that land. This has already started to change the character of the street, removing the canopy cover that previously existed on that side of the road. The loss of the trees to form the entrance is regrettable as they do still positively add to the character of the road, and their loss is a matter which weighs against the proposal in the planning balance.
- 11.4.9 In addition to the removals on the Tidings Hill frontage there are other trees and tree groups which are proposed to be removed. These consist of 2 Category U trees (a Goat Willow whose crown is 40% dead and a dead English Oak), 2 Category C trees (a Common Hawthorn near the western boundary and an English Oak to form the access between the two fields), 2 Category C groups (a leylandi group in the south-eastern corner of the larger field and group of Goat Willow at the rear of properties on Conies Road on the north-western site boundary), and 1 Category B tree (an English Elm in the south-eastern corner of the larger field). The proposed layout will also require the part removal of two Category C tree groups (approx. 1/6th of a group Common Hawthorn/Quick/May) on the western side of the central field boundary and approx. half of a group of Field Maple on the eastern side of the central tree belt); along with groups of hawthorn (Category C) at the rear of properties on Grange Close, in and along the

western side of the central field boundary; and removal of shrub/scrub extending into the field from the hedges along Oak Road and Tidings Hill.. Whilst the majority of the removals within the site would be of Category U trees (which are unsuitable for retention) and Category C trees (are of low quality/value, or young trees with a stem diameter below 150 mm), the Arboricultural survey does identify the removal of 1no. Category B tree and the partial removal of part of a Category B hedge and shrub/scrub group). These are all identified as being of a moderate quality/value with a life expectancy of over 20 years. Whilst the removal of these trees within the site is regrettable, their removal is fundamental to accommodate the site's layout and utilities infrastructure, and, as discussed below, these losses would be mitigated through an extensive tree planting scheme.

- 11.4.10 The proposed replacement tree planting, includes the planting of 24no. trees around the perimeter of the site to close up gaps in the existing mature treed boundary hedgerows. These new trees, in addition to the new trees to be planted along the northern boundary of the entrance area of public open space, represent a significant replacement for the poor quality trees and unavoidable loss of trees to facilitate the proposed development.
- 11.4.11 Furthermore, as outlined previously in this report, in addition to the planting to the sites boundaries, street trees are also proposed. *Carpinus Betulus* 'Frans Fontaine' trees are planted on both sides of the entrance road and the main east – west street, whilst tree planting within the shared surface streets will include *Plant Betula pendula* 'Obelisk' (a light canopied streetwise variety of native Silver Birch), and *Acer campestre* 'Elegant' (a streetwise variety of the native Field Maple), with *Sorbus aucupari* 'Sheerwater Seedling' (an urban street tree) specifically for Plots 77 to 79. These will further soften the development, enhance the character and appearance of the site and assist in providing biodiversity net gain.
- 11.4.12 Members will also note that there is a tall leylandi hedge growing along the boundary of Oak House, at the western end of the site. This hedge which in places stands approximately 15m high is growing with the grounds of Oak House. During pre-application discussions Officers raised concerns about the presence of the hedge and its relationship to the proposed housing. The Applicant has addressed this concern in two ways. It is proposed that there will be some facing back of the leylandi which is over hanging the boundary into the site. The rear gardens of the properties that back on the leylandi have also been pulled off the boundary to create an easement and service strip for a high voltage electricity cable which will be trenched underground.

11.5 Ecology

- 11.5.1 The application was submitted with an updated Ecological Impact Assessment (October 2021); Habitat Regulations Assessment Report (October 2021); Landscape Master Plan Drawing; Lighting Layout Drawing; Lighting Schedule Drawing; and Outdoor Lighting Report. These relate to

the likely impacts of the development on designated sites, protected and Priority Species & Habitats.

- 11.5.2 On this basis, Officers are satisfied that there is sufficient ecological information available for determination. The supporting information provides certainty of the likely impacts on protected and priority species/habitats and with appropriate mitigation measures secured, the development can be made acceptable.
- 11.5.3 Namely, the mitigation measures identified in the update Ecological Impact Assessment (October 2021) should be secured and implemented in full. This is necessary to conserve protected and priority Species. The measures contained within Construction and Ecological Management Plan (October 2021), are also acceptable and should also be secured and implemented in full.
- 11.5.4 In regard to the submitted lighting information, this details that proposed locations of the external lighting will prevent the boundary features from being lit. At the main access point, lighting will slightly affect trees adjacent to the entrance, but with a 1 lux level or less (i.e. the same lighting level as twilight), the lighting proposals are considered unlikely to impact foraging and commuting bats. However, and as detailed within the updated Ecological Impact Assessment (October 2021), the luminaire at this location should ideally be warm white light (3000k or below) to further reduce impact to foraging and commuting bats.
- 11.5.5 The submitted Landscape Masterplan details that the proposal is to retain and enhance the boundary vegetation where possible, with the planting of replacement trees, native hedge planting, creation of new species rich grassland and a wildlife friendly attenuation basin. This approach is supported. The comments from the ecologist recommending that consideration could be given to create further species rich grassland to the western boundary which is currently shown as amenity grass is noted, however this would not be achievable as it is designed open space and grassland would not be an appropriate approach for the usability of this space.
- 11.5.6 It is recommended that the landscaping management for the development should be secured via a Landscape and Ecological Management Plan which should also detail the ongoing management of the reptile receptor area. This can be secured via condition. The Councils Ecologist has also recommended a condition to ensure that bespoke biodiversity enhancements can be secured to deliver net gains for biodiversity within the design. This should follow the recommendations contained within the updated Ecological Impact Assessment (October 2021). In addition, to the recommendations of that Assessment, it is also recommended that the proposed biodiversity enhancements could include integrated swift bricks on new dwellings.

11.6 Impact upon Neighbouring Residential Amenity

- 11.6.1 The NPPF at Paragraph 130 states that planning decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. This is supported by Policy RLP90 of the Adopted Local Plan which states that there shall be no undue or unacceptable impact on the amenity of any nearby residential properties.
- 11.6.2 The layout of the development meets or exceeds the standards as set out in the Essex Design Guide. In particular, the back to back distances between the proposed dwellings to the northern boundary and those existing neighbours within Conies Road is in excess of 30 metres. To the elevations of Oak House, the distances are extended to at least 45 metres from the rear of the proposed dwellings. Adherence to these standards would thus ensure that the living conditions of existing residents would be protected from overlooking, whilst seeking to design out crime through natural surveillance is facilitated.
- 11.6.3 No objection is raised by Environmental Services to the proposal, but in view of the proximity to existing dwellings it is recommended that short term dust emissions can be reduced to acceptable levels by following the best practice dust mitigation measures contained in the submitted Air Quality Screening Report produced by SRI (Ref: 80213-SRLRP-YQ-01-P1).
- 11.6.4 The impact upon neighbours during the construction process is also a material consideration. In this respect, the application has been submitted with a Geotechnical Assessment within the RSK Site Investigation Report in regard to soil condition. This concludes that soil conditions on the site are generally suitable for spread foundations and it is not anticipated that piling will be necessary. A condition is imposed to restrict the use of piling. A construction management plan is also imposed which will control a number of matters including the storage of plant and materials used in constructing the development; the storage of top soil; wheel washing; details of how the approved Plan will be implemented and adhered to, including contact details for individuals responsible for ensuring compliance; and contact details for Site Manager and details of publication of such details to local residents.

11.7 Highway Considerations

- 11.7.1 Part 9 of the NPPF indicates that all development that could generate significant amounts of vehicle movements should be supported by a Transport Assessment to ensure, amongst other things, that suitable access to the site can be achieved and that opportunities for sustainable transport modes are explored to reduce the need for major transport infrastructure. Development should however only be prevented where the residual cumulative impacts are likely to be severe. Policies RLP54 and RLP55 of the Adopted Local Plan require that a Transport Assessment (TA) is submitted with all proposals for major new development.

- 11.7.2 As with any new development, it is inevitable that additional road traffic would be generated, however the key is to provide other options, such that future residents are given the opportunity to travel by more sustainable means. These other options, such as walking, cycling and public transport have been covered within the first section of this site assessment.
- 11.7.3 It is acknowledged that in addition to the Town Council, a significant number of letters of representation have raised objections to the proposal on highway safety grounds. The Highway Authority have been consulted on the application and are satisfied that the additional traffic flows generated by the development can be accommodated safely within the highway network.
- 11.7.4 It is recognised that Letches Lane which runs in a southerly direction from the Tidings Hill/Oak Road junction to Plaistow Green is identified as a protected lane in the Adopted Local Plan proposals map. The majority of traffic entering and leaving the site would be from and to the north, therefore on balance it is considered that the physical appearance of this lane would not be adversely affected by an increase in traffic associated with the future occupation of the site, pursuant to Policy RLP87 of the Adopted Local Plan.
- 11.7.5 In regard to access matters, there is currently no formalised vehicular access to the site. Although Outline planning permission has previously been granted, access was a Reserved Matter. The Applicant who submitted the Outline planning application demonstrated that the site could be accessed and Tidings Hill widened passing the site to 5.5m width, based on information supplied within their application. The actual access arrangements would have needed to be approved as part of the approval of Reserved Matters had a developer sought to implement the Outline planning permission.
- 11.7.6 The new landowner (Bellway Homes) has submitted a Full planning application which includes details for the proposed vehicular access to the site. This is to be provided from a single priority access junction point off Tidings Hill. (As was indicated on the outline application). No vehicular access is to be provided from Oak Road. The proposed access arrangement comprise 5.5 metre access road and 6 metre kerb radii. The proposals include widening of Tidings Hill to 4.1 metres in width. At 4.1m in width the widening of Tidings Hill is less than the Highway Authority recommended when the Outline planning application was assessed. At detailed design stage it has been found that there is less highway land available than had been assessed at Outline stage. The landowner on the opposite side of Tidings Hill has carried out improvements to the ditch that runs alongside Tidings Hill. This wider ditch and the need to offset the construction of the carriageway from the ditch (to ensure that it can be safely constructed) reducing the extent of highway land available on which the carriageway can be widened. Whilst the extent of the widening is

reduced the Highway Authority are satisfied that the carriageway will be suitable and safe for use.

- 11.7.7 At the site entrance visibility splays of 2.4 x 55 metres to the north and 2.4 x 64 metres to the south are proposed. These can be provided within the application site and highway land and will provide for acceptable visibility and safety.
- 11.7.8 The access into the site comprises a 5.5 metre carriageway and will be reinforced with tree planting to create an avenue styled entrance. Where the road approaches the first residential plots (Plots 71 & 72) it becomes flanked on its southern side by 2-metre wide footways for pedestrians. A separate pedestrian access is also proposed off Tidings Hill to the north of the access road which runs adjacent to the LEAP and amenity grassland before it joins the alignment of the access road roughly opposite Plot 71. This enables pedestrians and cyclists safe and convenient access from the site into Halstead without having a footway running along Tidings Hill and necessitating the removal of further trees. This footpath is supported by the Highway Authority who seek its construction via condition, together with an appropriate dropped kerbs/tactile paving to be provided at the junction of Tidings Hill and Grange Close.
- 11.7.9 The refuse vehicle strategy includes swept path analysis which demonstrate that refuse vehicles can enter and exit the site access in forward gear, with adequate manoeuvring within the internal road network utilising the turning heads provided. In accordance with Manual for Streets, the site layout ensures that future occupiers would not be required to carry waste more than 30 metres to the storage points and that refuse vehicles can reach within 25 metres of the storage point.
- 11.7.10 In terms of emergency fire appliance vehicles, all of the proposed dwellings are within 45 metres of the proposed carriageway and thus are within the length of the hose from the fire appliance.
- 11.7.11 In respect of parking, all plots will have the use of the appropriate number of car parking spaces. A minimum of one parking space has been proposed for all 1 bedroom dwellings, two parking spaces for all 2 and 3 bedroom dwellings, and three spaces provided for all 4 bedroom dwellings. This meets, or exceeds, the standards as set out within the Essex Parking Standards. The size of parking spaces and size of proposed garages also comply with the standards as set out within the Council's adopted Parking Standards. Every plot will also be fitted with a passive charging point ready for wall mounted or freestanding connection points.
- 11.7.12 The car parking has been designed so that vehicles do not dominate the street-scene or cause inconvenience to pedestrians and cyclists. Where possible parking spaces have been proposed on driveways, to the side of the dwelling with the front of the parking space positioned behind the front elevation line of the dwelling, so that the proposed scheme is pedestrian orientated.

11.7.13 Visitor parking is proposed on the site, in the form of designated visitor parking bays off the main carriageway, or in specific visitor parking laybys spread out across the proposed development. A total of 20 visitor parking spaces have been proposed across the site which meets with the required standards in the Essex Parking Standards.

11.7.14 In addition, bicycle storage is proposed to all plots. It is proposed that dwellings with the use of a garage would store their bike/s there. Dwellings without garages would be provided with a shed, to allow secure storage of bicycles.

11.8 Flood Risk and Drainage

11.8.1 Part 14 of the NPPF sets out the Government's stance on climate change, flooding and coastal change, recognising that planning plays a key role in, amongst other things, providing resilience to the impacts of climate change. Inappropriate development in areas at risk of flooding should be avoided.

11.8.2 Furthermore, Policy CS8 of the Core Strategy states that the Council will minimise exposure of people and property to the risks of flooding by following the national guidance. Paragraph 169 of the NPPF strongly encourages a sustainable drainage system (SuDs) approach to achieve these objectives. SuDs offer significant advantages over conventional piped drainage systems in reducing flood risk by reducing the quantity of surface water run-off from a site and the speed at which it reaches water courses, promoting groundwater recharge, and improving water quality and amenity.

11.8.3 The proposal site lies in Flood Zone 1 with a low risk of groundwater flooding, surface water and sewer flood risk across the site overall. Ground investigations at the site have revealed that the soil types possess little infiltration capacity. The infiltration rates associated with the soils are not considered sufficient for the practical use of infiltration devices such as soakaways or permeable surfaces, hence it is proposed that surface water is attenuated through the use of attenuation basins in the lowest part of the site. A smaller SuDs system is located at the eastern end of the site. This would be constructed to store surface water before being discharged into a piped system that flows towards the proposed wetland attenuation area to the west of the central field boundary. The system would then discharge water at an agreed rate through a pumping station (located adjacent to Plot 77-78) to discharge to the agreed point of connection to the public surface water sewer network on Tidings Hill. It is acknowledged that there are some local concerns with regard to surface water flooding, however, the Applicant has had to demonstrate through their application that surface water run-off from the site can be controlled and then discharged in a manner that does not increase flood risk elsewhere.

11.8.4 Having reviewed the proposals and associated documents which accompanied the planning application, the Lead Local Flood Authority (LLFA) confirm that, subject to the imposition of reasonable conditions, the

proposal would provide appropriate measures to manage surface water through the implementation of SUDS and other engineered hydrological measures.

- 11.8.5 In addition, Anglian Water states that the foul drainage from this development is in the catchment of Halstead Water Recycling Centre that will have available capacity for these flows; the sewerage system at present also has available capacity for these flows. Therefore, from this basis it is considered that the scheme would be acceptable in respect of surface water drainage and sewerage capacity.

11.9 Contamination

- 11.9.1 The application has been submitted with a preliminary risk assessment undertaken by RSK. The Council's Environmental Health Officer has reviewed the application and is satisfied that contaminated land is not a material consideration with respect to this site. No further site investigations are necessary and a scheme of remediation is not needed in this instance.

11.10 Habitat Regulations Assessment (HRA / RAMS)

- 11.10.1 In terms of the wider ecological context, the application site sits within the Zone of Influence of one or more of the following:

- § Blackwater Estuary Special Protection Area and Ramsar site;
- § Essex Estuaries Special Area of Conservation.

- 11.10.2 It is therefore necessary for the Council to complete an Appropriate Assessment under the Habitat Regulations to establish whether mitigation measures can be secured to prevent the development causing a likely significant adverse effect upon the integrity of these sites.
- 11.10.3 An Appropriate Assessment (Habitat Regulation Assessment Record) has been completed in accordance with Natural England's standard guidance. Subject to the proposed mitigation measures set out in the Council's Habitat Regulations Assessment being secured these mitigation measures would rule out the proposed development causing an adverse effect on the integrity of the above European Designated Sites.
- 11.10.4 The proposed mitigation measures would consist of the securing of a financial contribution of £137.30 per dwelling erected towards offsite visitor management measures at the above protected sites.
- 11.10.5 This financial contribution would be secured by way of a Section 106 Legal Agreement.

12. PLANNING OBLIGATIONS

- 12.1.1 To secure the provision of the on-site Affordable Housing previously referred to in this report it is recommended that there is a Section 106

agreement which will establish the planning obligations required in connection with this development.

- 12.1.2 Policy SP6 of the Adopted Section 1 Plan states that all development must be supported by the provision of the 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 education and health and well-being. Officers have identified a range of planning obligations that the District Council would require to mitigate the impacts of the development and a S106 agreement has been drafted which covers these matters.

12.2 Community Facilities

- 12.2.1 Within the outline application, a contribution was sought towards community facilities. The need for this contribution still remains. The spend purpose could either be the provision of new facilities at land adjacent to the car park at Butlers Road Halstead and/or the provision of new community facilities and/or upgrading of existing community facilities and/or alterations to existing community facilities within a 2 kilometre radius of Townsford Mill. Based on schemes of comparable scale, in the District, the contribution sought would be £45,014.

12.3 Education

- 12.3.1 To ensure that the Education Authority can provide sufficient and accessible high quality early years and childcare provision to meet local demand a financial contribution will be required to create an additional places. The Education Authority indicate that the financial contribution would equate to £17,268 per additional place. As a guide ECC Officers indicate the contribution would be approximately £110,343. The precise level of contribution would be calculated at the time of payment and would include indexation.
- 12.3.2 With regards to Primary education ECC Officers state that the development sits within the area served by Holy Trinity CE Primary School, which has a Published Admission Number of 30 pupils per year. As at the last census in October, the school was full in most year groups with a total of 208 children on roll. Forecasts for the Halstead area (Braintree Group 3) suggest a large Reception cohort should be expected in September 2023, which may require a local school to over admit. Longer term, all schools are likely to be close to capacity with two surplus places per year anticipated. This level of unfilled capacity falls significantly short of the 5% recommended to accommodate mid-year admissions and facilitate parental choice. To ensure that there are sufficient primary school places available a financial contribution is sought to create additional primary school places. The Education Authority indicate that the financial contribution would equate to £17,268 per additional school place. As a guide ECC Officers indicate the contribution would be approximately £367,808. The precise level of

contribution would be calculated at the time of payment and would include indexation.

12.4 Library Service

12.4.1 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.

12.4.2 The proposed development will create additional usage of the local library. In accordance with the Essex County Council Developers' Guide to Infrastructure Contribution (Revised 2020), a contribution is therefore considered necessary to improve, enhance and extend the facilities and services provided, at a cost of £77.80 per unit. A contribution of £6,224 (index linked) is sought to fund improvements at the local library.

12.5 Healthcare

12.5.1 In response to their consultation on the application NHS England state that the existing GP practice at Elizabeth Courtauld Surgery does not have capacity to accommodate the additional growth resulting from the proposed development. The development could generate approximately 192 residents and subsequently increase demand upon existing constrained services. A financial contribution of £30,400 that can be used to increase capacity for patients of the surgery is sought. The contribution would be used by the NHS on funding a suitable project and this could include work to create additional useable floor space at the surgery.

12.6 Pedestrian Link

12.6.1 The NPPF in paragraph 112 a) states that applications for development should give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas.

12.6.2 As set out in the highways consideration section above, the Highway Authority has advised that works are required to be carried out to mitigate the highways and transportation impacts of the proposed development. The majority of those aspects that are recommended as mitigation can be secured by way of planning condition. However, in order to facilitate greater permeability of the site and the existing built fabric of the town, a pedestrian only link between the site and the garage parking court at the end of Grange Close is sought to be provided. Such a link will involve third party land – in this case Eastlight Housing and the District Council, and as such an additional pedestrian link in this location will only be possible with the landowners consent. It is recommended that a planning obligation is included which requires the developer to submit a strategy to the Council for approval and then use reasonable endeavours to deliver the link.

12.6.3 In addition, Officers also want to future proof the development in terms of pedestrian and cycle connectivity. Land immediately to the west of the site has been subject to a separate planning application for residential development. Whilst any proposal to develop that site will be assessed on its own merits it is not inconceivable that at some point in the future, perhaps through the next iteration of the Local Plan, that the site may be considered suitable for development. To improve connectivity, mixed communities and further promote walking and cycling it would be advantageous if a pedestrian and cycle link could be provided between the two sites.

12.6.4 It would be unreasonable for Bellway (the Applicant for this application) to either provide a path which would run to the site boundary but lead nowhere, or to require them to provide the path at a later date at their expense. It is therefore recommended that an obligation is included within the agreement that would allow a developer of the adjoining land the right to construct a pedestrian / cycle link to link the two sites. Clearly this link would only be provided in the event that planning permission were granted to develop the land to the west. If that land is never developed the obligation will not be engaged and a link will not be provided.

12.7 Public Open Space

12.7.1 Policy CS10 of the Core Strategy requires that the Council will ensure that there is good provision of high quality and accessible green space to meet a range of recreation, outdoor sport and amenity needs. New development should make appropriate provision for publicly accessible green space or the improvement of accessible green space to meet the future needs of residents.

12.7.2 The Council's Open Space SPD sets out further details on how these standards will be applied. The development would make provision on site for equipped children's play areas and the required amount of informal and casual open space on site is provided in an acceptable layout and form (the site provides 1.3 hectares of public open space). The SPD also specifies that for a development of this size (taking into account the tenure mix as set out in Paragraph 11.2.20 of this report), a financial contribution should be sought towards the provision of off-site outdoor sports facilities and allotment provision calculated on the number and size of the dwellings constructed. As Members will be aware these figures are updated annually to allow for inflation. At the time of writing this report that recalculation is due to take place in the next couple of weeks so the actual payments to be specified within the agreement are not currently known. As a guide Members are advised on the contribution levels for the year 2021-2022 the contributions would be £79,149.27 for Outdoor Sports and £2511.84 for allotments. It will also be necessary for the S106 to include an obligation for the Applicant to form a Management Company responsible for the day to day and longer term management and maintenance of the Public Open Space, including the Play Area.

- 12.7.3 As noted previously, the District Council own the small wooded parcel of land between the application site and the garage court on Grange Close. Due to an anomaly at Land Registry this land is not registered to the Council despite the fact that we have paper title. The Councils Asset Management team are in the process of claiming title and in the event that planning permission is granted and the development proceeds, that the land will be transferred to the management company appointed by Bellway in order that they maintain the land along with the on-site Open Space, once the title is registered at Land Registry. This will allow the land to continue to be used as Public Open Space and will allow it to be managed in more efficient and cost effective way than the Council continuing to maintain the land.
- 12.8 Habitat Regulations Assessment (HRA / RAMS)
- 12.8.1 As detailed above, the site lies within the Zone of Influence of the Blackwater Estuary Special Protection Area and Ramsar site and the Essex Estuaries Special Area of Conservation.
- 12.8.2 An Appropriate Assessment (Habitat Regulation Assessment Record) has been completed in accordance with Natural England's standard guidance, which establishes that mitigation measures, in the form of a financial contribution of £137.30 per dwelling towards offsite visitor management measures, can be secured to prevent the development causing a likely significant adverse effect upon the integrity of these sites.
13. PLANNING BALANCE AND CONCLUSION
- 13.1.1 As set out within Paragraph 47 of the NPPF, planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In this case the application site is located outside of a designated village envelope/town development boundary and is therefore located within the countryside, where new development is strictly controlled to uses appropriate within the countryside in order to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside. There is therefore a presumption that the application should be refused unless there are material reasons to grant planning permission.
- 13.1.2 Paragraph 60 of the NPPF sets out the Government's objective of significantly boosting the supply of homes. The main mechanism within the NPPF for achieving this is the requirement that local planning authorities demonstrate a five-year supply of deliverable housing land, assessed against housing need. In this regard, the Council is currently able to demonstrate a Housing Land Supply of 5.1 years against its housing need. As such the Council is presently meeting this objective.
- 13.1.3 Until the adoption of the Section 2 Plan, the sites which are proposed to be allocated but do not yet have planning permission or a resolution to grant

planning permission, have not been included within the 5 Year Housing Land Supply calculation.

- 13.1.4 As such, although the Council can currently demonstrate a 5 Year Housing Land Supply, this is finely balanced, and currently only marginally exceeds the 5 year threshold.
- 13.1.5 As the Council can demonstrate the required 5 Year Housing Land Supply, the 'tilted balance' pursuant to Paragraph 11d) of the NPPF is not engaged due to a lack of housing land supply. It is therefore necessary to identify the most important policies for determining the application and to establish whether these are out-of-date. Paragraph 219 of the NPPF states that existing policies should not be considered out-of-date simply because they were adopted prior to the publication of the Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater weight that may be given).
- 13.1.6 In this case the basket of policies which are considered to be the most important for determining the application are Policies SP1 and SP3 of the Section 1 Plan, Policy RLP2 of the Adopted Local Plan and Policy CS5 of the Core Strategy.
- 13.1.7 Policy SP1 of the Section 1 Plan states that when considering development proposals the Local Planning Authority will take a positive approach that reflects the presumption in favour of sustainable development contained within the NPPF, and will seek to approve proposals wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. Policy SP3 of the Section 1 Plan sets out the spatial strategy for North Essex, namely to accommodate development within or adjoining settlements according to their scale, sustainability and existing role both within each individual Districts, and where relevant, across the wider strategic area. Further growth will be planned to ensure existing settlements maintain their distinctive character and role, to avoid coalescence between them and to conserve their setting. As the Section 1 Plan has been found to be sound and recently adopted by the Council, it is considered that both policies are consistent with the NPPF and can be afforded full weight. Neither are out-of-date.
- 13.1.8 Whilst the primary purpose of Policy RLP2 of the Adopted Local Plan is to restrict development to within development boundaries, and thus resist it in the areas designated as countryside, it is considered that the policy remains broadly consistent with the Framework's approach of protecting the countryside from harmful development, and is not hindering the Council in delivering housing growth within the District. The policy is not out-of-date, and can be given moderate weight. The aims of Policy CS5 of the Core Strategy are much wider as the policy seeks to amongst other things, protect and enhance the landscape character and amenity of the countryside. As it is effectively seeking to preserve the intrinsic character and beauty of the countryside – an objective contained within the NPPF – it

is considered that this policy is not out-of-date and can be given significant weight.

- 13.1.9 When considering the basket of the most important policies for the determination of this application as a whole, it is considered that the policies are not out-of-date and are broadly consistent with the Framework.
- 13.1.10 Given that the Council can demonstrate a 5 Year Housing land Supply, and the basket of policies are not otherwise out-of-date, the 'flat' (or untilted) planning balance must still be undertaken which weighs the adverse impacts of the proposed development, including the conflict with the Development Plan, against the public benefits of the proposal.
- 13.1.11 In undertaking this flat planning balance, such an assessment must take account of the economic, social and environmental impact of the proposed development. As set out in Paragraph 8 of the NPPF, achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and needed to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):
- an economic objective (to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure);
 - a social objective (to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering 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).

13.2 Summary of Adverse Impacts

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

Conflict with the Development Plan

- 13.2.2 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Paragraph 15 of the NPPF emphasises that the planning system should be "genuinely plan led".

- 13.2.3 The proposed development would conflict with Policy RLP2 of the Adopted Local Plan and Policy CS5 of the Core Strategy with regard to the Council's spatial strategy as it proposes development outside of defined development boundaries and within the countryside. However, as detailed within this report, there is an extant outline planning permission at the site for up to 70 dwellings (Application Reference 18/01876/OUT). The permission remains extant. As such the principle of development is established and is therefore acceptable. The weight to be applied to this conflict is therefore neutral.

Conflict with the Section 2 Plan

- 13.2.4 The site also lies outside of the defined development boundary within the Section 2 Plan. As above though, as there is an extant outline permission at the site for residential development, the principle of development is accepted and the conflict is neutral.

Harm to Trees and Hedgerows

- 13.2.5 As detailed within the report, a total of 16 trees (or groups) will need to be removed. 2no. are classed as Category U, 7no. Category C and 7no. Category B. It is at the site entrance where the impact of these trees will be impacted most. Here 9 trees (field maple and English oaks) will need to be removed to accommodate the site's access road. 4 of these are Category C trees, and 5 of them are Category B trees. In addition, the proposed layout will also require the part removal of 2 groups of trees, 3 hedges and 2 shrubs (All Category C). The loss trees and hedging across the site is regrettable as they do positively add to its character, in particular those to the area of the proposed access positively contribute to the character and appearance of the road, however, as there is canopy cover on both sides of the road and views into the area concerned are localised, the loss of amenity within the broader setting is reduced. Removal and partial removal of the trees, tree groups and hedging is fundamental to accommodate the site's layout and utilities infrastructure, and, as discussed within the report, these losses would be mitigated through an extensive tree planting scheme. However, moderate weight is attributed to the loss of these trees.

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 development will deliver 80no.new dwellings. 28 of these will be secured as affordable housing, the tenure mix for which is supported. Although the Councils housing need is not unmet, the development provides opportunity for a significant number of new homes to be delivered which will assist the council in addressing a variety of housing need. However, the outline permission for 70 units is already counted towards the

Council's Housing Land Supply position. In this regard, given the increased number of dwellings proposed, there would be a net increase. Moderate weight is therefore assigned to this.

Location and Access to Services and Facilities

- 13.3.3 As was concluded within the outline application, Officers remain of the view that in respect of access to facilities and services (including public transport), the site is considered to be in a sustainable location, notwithstanding its peripheral siting on the edge of the town. The proposed pedestrian links to the existing urban areas will further enable access to such services and facilities. Significant weight is assigned to this.

Economic and Social Benefits

- 13.3.4 The proposal would deliver economic benefits during the construction period and economic and social benefits following occupation of the development, in supporting local facilities. Given the scale of development this is assigned moderate weight.

13.4 Summary of Neutral Benefits

Section 106 Obligations

- 13.4.1 The proposals will secure a number of obligations through a Section 106 legal agreement. Obligations include the aforementioned outdoor sports facilities, allotments, community building and contribution to NHS, library service and education and mitigate against RAMS.
- 13.4.2 The Section 106 benefits are afforded neutral weight, as the obligations are mitigating the impacts of the development in accordance with planning policy.

13.5 Planning Balance

- 13.5.1 When considering the flat planning balance and having regard to the adverse impacts and benefits outlined above, and having regard to the requirements of the NPPF as a whole, Officers have concluded that the benefits of the proposal outweigh the adverse impacts. Consequently it is recommended that planning permission is granted for the proposed development.
- 13.5.2 Notwithstanding the above, even if the 'tilted balance' was engaged, it is considered that the adverse impacts would not 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 granted for the proposed development.

14. RECOMMENDATION

14.1 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:

- § **Affordable Housing** – 35% of units on-site (28 units in total) to be Affordable Housing, with a mix of 20 affordable rent and 8 shared ownership as set out within the Accommodation Schedule - revision D;
- § **Allotments** – Financial contribution calculated in accordance with the Open Spaces SPD updated financial contributions for 2022-2023. Contribution to be spent on new or improved allotment facilities within 2km of Townsford Mill, as identified in the District Councils Open Space Action Plan;
- § **Community Facilities** – Financial contribution of £45,014 towards the provision of either the provision of new facilities at land adjacent to the car park at Butlers Road Halstead and/or the provision of new community facilities and/or upgrading of existing community facilities and/or alterations to existing community facilities within a 2 kilometre radius of Townsford Mill;
- § **Ecological Mitigation** – Financial contribution of £137.30 per dwelling for delivery of visitor management at the Blackwater Estuary SPA & Ramsar site;
- § **Education** – Financial contributions for Early Years and Childcare provision and Primary School provision in the locality. Contribution to be calculated in accordance with standard ECC provisions based on the number of qualifying dwellings to be constructed, index linked, but equating to £17,268 per additional Early Years & Childcare place and £17,268 per additional Primary school place;
- § **Healthcare** – Financial contribution towards the provision of additional capacity at The Elizabeth Courtauld Surgery, with a financial contribution of £30,400 to mitigate the impacts of this proposal;
- § **Libraries** – Financial contribution of £6,224 towards improvements to Halstead library (or such other library as serves the town);
- § **Outdoor Sports** – A financial contribution calculated in accordance with the Open Spaces SPD updated contribution levels for 2022-2023 to be spent on new or improved outdoor sports facilities within 2km of Townsford Mill, as identified in the District Councils Open Space Action Plan;
- § **Pedestrian Link** – To submit a strategy to secure a pedestrian only link between the site and the garage parking court at the end of Grange Close. (Such a link will involve third party land – in this case Eastlight Housing and the District Council, and as such an additional pedestrian link in this location will only be possible with the landowners consent);
- § **Public Open Space** - (On-site) All Public Open Space and Amenity Space to be set out to an agreed specification and managed by a Management Company to an agreed specification;
- § **Residential Travel Plan Monitoring Fee** – Annual monitoring fee of £1533p.a (index linked) to be paid to Essex County Council for the

monitoring of a Residential Travel Plan (which has been approved by the Council and implemented by the applicant);

- § **Western Link** – obligation to allow the developer of the adjoining land to construct a 3 metre wide foot/cycleway route through the Western Link Land to connect to publicly accessible and useable foot/cycle routes or Estate Roads within the Site (only in the event that planning permission is granted for the development of the adjoining land);
- § **Monitoring Fees** - for the District & County Councils. (NB - All financial contributions to be index linked).

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

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

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

APPENDIX 1:

APPROVED PLAN(S) & DOCUMENT(S) / CONDITION(S) & REASON(S) AND INFORMATIVE(S)

Approved Plan(s) & Document(s)

Plan Description	Plan Ref	Plan Version
Location Plan	8960-01 Rev	N/A
Block Plan	8960-02 Rev B	N/A
Site Plan	8960-03 Rev D	N/A
Site Plan	8960-04 Rev B	N/A
Street elevation	8960-10 Rev B	N/A
Street elevation	8960-11 Rev B	N/A
Amenity Space Details	8960-20 Rev B	N/A
Tenure Plan	8960-21 Rev C	N/A
Parking Strategy	8960-22 Rev B	N/A
Storey Height	8960-25 Rev B	N/A
Materials Details	8960-26 Rev D	N/A
Design Analysis Plan	8960-27 Rev B	N/A
Design Analysis Plan	8960-28 Rev B	N/A
First Floor Plan	8960-29 Rev B	N/A
Movement and Permeability Plan	8960-30 Rev B	N/A
House Types	8960-31 Rev B	N/A
Parking Strategy	8960-32 Rev B	N/A
Refuse Information	8960-33 Rev C	N/A
Proposed Elevations and Floor Plans	8960-BA-01 Rev B	N/A
Proposed Elevations and Floor Plans	8960-BU-01 Rev B	N/A
Proposed Elevations and Floor Plans	8960-BU-02 Rev B	N/A
Proposed Elevations and Floor Plans	8960-CA-01 Rev A	N/A
Proposed Elevations and Floor Plans	8960-CA-02 Rev A	N/A
Proposed Elevations and Floor Plans	8960-CA-03 Rev A	N/A
Proposed Elevations and Floor Plans	8960-CA-04 Rev A	N/A
Proposed Elevations and Floor Plans	8960-CA-05 Rev A	N/A
Proposed Elevations and Floor Plans	8960-CH-01 Rev B	N/A
Proposed Elevations and Floor Plans	8960-CH-02 Rev B	N/A
Proposed Elevations and Floor Plans	8960-CH-03 Rev A	N/A
Proposed Elevations and Floor Plans	8960-CH-04 Rev A	N/A
Proposed Elevations and Floor Plans	8960-CH-05 Rev A	N/A
Proposed Elevations and Floor Plans	8960-CHS-03 Rev B	N/A
Proposed Elevations and Floor Plans	8960-CO-01 Rev A	N/A
Proposed Elevations and Floor Plans	8960-CO-02 Rev A	N/A
Proposed Elevations and Floor Plans	8960-CT-01 Rev B	N/A
Proposed Elevations and Floor Plans	8960-FR-02 Rev A	N/A
Proposed Elevations and Floor Plans	8960-FR-03 Rev A	N/A
Proposed Elevations and Floor Plans	8960-MAI-01 Rev C	N/A
Proposed Elevations and Floor Plans	8960-MAI-02 Rev A	N/A
Proposed Elevations and Floor Plans	8960-MAI2-01 Rev	N/A

Proposed Elevations and Floor Plans	8960-MAI2-02 Rev	N/A
Proposed Elevations and Floor Plans	8960-MAI2-03 Rev	N/A
Proposed Elevations and Floor Plans	8960-SC-01 Rev B	N/A
Proposed Elevations and Floor Plans	8960-SC-02 Rev A	N/A
Proposed Elevations and Floor Plans	8960-SI-01 Rev A	N/A
Proposed Elevations and Floor Plans	8960-SI-02 Rev A	N/A
Proposed Elevations and Floor Plans	8960-SR-01 Rev A	N/A
Proposed Elevations and Floor Plans	8960-SR-02 Rev A	N/A
Proposed Elevations and Floor Plans	8960-SR-03 Rev A	N/A
Proposed Elevations and Floor Plans	8960-TA-01 Rev B	N/A
Proposed Elevations and Floor Plans	8960-TH-01 Rev A	N/A
Proposed Elevations and Floor Plans	8960-TH-02 Rev B	N/A
Proposed Elevations and Floor Plans	8960-TH-03 Rev A	N/A
Proposed Elevations and Floor Plans	8960-TH-04 Rev A	N/A
Proposed Elevations and Floor Plans	8960-TI-01 Rev B	N/A
Garage Details	8960-DG	N/A
Garage Details	8960-SG	N/A
Garage Details	8960-DSG Rev A	N/A
Landscape Masterplan	PR211-01 Rev P	N/A
Play Area Plan	2201.32256	N/A
Tree Plan	PR211-03	N/A
Public Open Space Details	PR211-04 Rev D	N/A
Drainage Details	20-095-100 Rev D	N/A
Drainage Details	20-095-101 Rev B	N/A
Levels	20-095-102 Rev B	N/A
Access Details	20-095-103 Rev C	N/A
Access Details	20-095-104 Rev B	N/A
Access Details	20-095-106 Rev D	N/A
Access Details	20-095-107 Rev D	N/A

Condition(s) & Reason(s)

1.

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

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

2.

The development hereby permitted shall only be implemented in accordance with the approved plans/documents listed above, with the exception of the informal mown paths as detailed within the landscape plan – this detail is not approved.

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

3.

The applicant will submit to the local planning authority a post excavation assessment. This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

Reason: To ensure the information is presented and disseminated in accordance with the Written Scheme of Investigation and to properly provide for archaeological remains.

4.

No above ground development shall commence until a schedule of the types and colour of the materials and samples of the materials to be used in the external finishes of the building hereby permitted, have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details and permanently retained as such.

Reason: In the interests of the appearance of the development.

5.

All service intakes to dwellings (apart from gas), including soil and waste plumbing, shall be run internally and not visible on the exterior.

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

6.

Prior to installation of any meter cupboards on the external front and side (if a corner plot) elevations of the dwelling(s) hereby approved, details of the location, design, materials and colour shall be submitted to and approved in writing by the Local Planning Authority. Development shall only be implemented in accordance with the approved details and shall be permanently retained as such.

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

7.

No development above ground level shall take place unless and until additional drawings that show details of proposed new eaves, verges and ridges to be used by section and elevation at scales between 1:20 and 1:1 as appropriate have been submitted to and approved in writing by the local planning authority. Development shall be implemented in accordance with the approved details and shall be permanently retained as such.

Reason: To ensure that the detail has the traditional appearance required for the traditional architecture that has been used in the design of the dwellings.

8

No above ground development shall commence until details of all gates / fences / walls or other means of enclosure have been submitted to and approved in writing by the Local Planning Authority. The details shall include position, design, height and materials of the enclosures. The enclosures as approved shall be provided prior to the occupation / first use of the relevant plot and shall be permanently retained as such.

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

9.

The cycle parking facilities as shown on the approved plan shall be provided prior to the first occupation of the dwelling that it serves and shall be retained at all times. The development shall only be implemented in accordance with the approved details.

Reason: To ensure appropriate bicycle parking is provided in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

10.

No above ground development shall commence until an Electric Vehicle Charging Strategy has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to occupation and thereafter retained.

Reason: In the interest of securing sustainable development and contributing to reduce carbon emissions.

11.

No above ground development shall commence until a strategy to provide fastest available broadband access has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to occupation and thereafter retained.

Reason: To ensure that all new dwellings/commercial units are provided with appropriate internet connectivity that will improve commercial opportunities and facilitate working from home and improve residents' connections to essential online services and social networks.

12.

Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting that Order) no enlargement of the dwellinghouse, as permitted by Class A of Part 1 of Schedule 2 of that Order shall be carried out to Plots 33, 34, 66, 77 and 78 without first obtaining planning permission from the Local Planning Authority.

Reason: In order that the Local Planning Authority may exercise control over any

proposed future extensions in the interests of residential and/or visual amenity.

13.

Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting that Order) no addition or alteration to the roof of a dwellinghouse, as permitted by Class B of Part 1 of Schedule 2 of that Order shall be carried out to Plots 30, 45, 56, 59, 63, 64, 69, 70 and 79 without first obtaining planning permission from the Local Planning Authority.

Reason: In order that the Local Planning Authority may exercise control over any proposed future roof extensions in the interests of residential and/or visual amenity.

14.

The garage hereby permitted to Plots 39, 40, 49, 61, 62, 64 and 65, shall be used for the parking of motor vehicles, bicycles, and powered two wheelers associated with the dwelling.

Reason: To ensure adequate parking and garage space is provided within the site in accordance with the standards adopted by the Local Planning Authority.

15.

No vehicular movements relating to the construction of the development to, from, or within the site shall take place outside the following times:- Monday to Friday 0800 hours - 1800 hours Saturday 0800 hours - 1300 hours Sundays, Public and Bank Holidays - no vehicular movements.

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

16.

No site clearance, demolition or construction work shall take place on the site, including starting of machinery and delivery of materials, outside the following times:- Monday to Friday 0800 hours - 1800 hours Saturday 0800 hours - 1300 hours Sundays, Public and Bank Holidays - no work.

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

17.

All of the dust mitigation measures contained within Section 5.5 of the SRL Air Quality Screening Report (Ref: 80213-SRL-RP-YQ-01-P1) shall be implemented during the earthworks and construction phases of the proposed development.

Reason: To protect the amenity of neighbouring residential properties

18.

The visitor parking spaces as shown on the approved plans, shall be retained for such use.

Reason: To ensure adequate visitor parking space is provided within the site in

accordance with the standards adopted by the Local Planning Authority.

19.

The development shall be undertaken in accordance with the surface water drainage strategy as outlined in the Flood Risk Assessment 20-095-002 REV A (October 2021).

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site; to ensure the effective operation of SuDS features over the lifetime of the development; and to provide mitigation of any environmental harm which may be caused to the local water environment.

20.

All mitigation measures and/or works shall be carried out in accordance with the details contained in the Update Ecological Impact Assessment (SES, October 2021) and the Construction and Ecological Management Plan (SES Ltd, October 2021), as already submitted with the planning application and agreed in principle with the local planning authority prior to determination. This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW,) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

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

21.

A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior occupation of the development.

The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organization responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be

implemented in accordance with the approved details.

Reason: To allow the LPA to discharge its duties under the UK Habitats Regulations 2017, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species)

22.

A Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the local planning authority.

The content of the Biodiversity Enhancement Strategy shall include the following:

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

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

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

23.

No development shall commence, including any works of demolition, until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include the following details:

- The provision of parking for operatives and contractors within the site;
- Safe access in / out of the site;
- Measures to manage the routing of construction traffic;
- The storage of plant and materials used in constructing the development;
- The storage of top soil;
- The erection and maintenance of security hoarding including any decorative displays and facilities for public viewing;
- Wheel washing and underbody washing facilities;
- Measures to control the emission of dust, dirt and mud during construction;
- A scheme to control noise and vibration during the construction phase, including details of any piling operations;
- A scheme for recycling/disposing of waste resulting from demolition and construction works;
- Details of how the approved Plan will be implemented and adhered to, including contact details for individuals responsible for ensuring compliance;
- Contact details for Site Manager and details of publication of such details to local residents.

The approved Construction Management Plan shall be adhered to throughout the construction period for the development.

Reason: In the interests of neighbouring amenity.

24.

No piling shall be undertaken on the site in connection with the construction of the development until a system of piling and resultant noise and vibration levels has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be adhered to throughout the construction process.

Reason: In the interest of neighbouring residential amenity.

25.

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 planning application drawing 20-095-103 Rev C. Access shall include but not be limited to a clear to ground visibility splay with dimensions of 2.4 metres by 55 metres to the north and 2.4 metres by 64m metres to the south as measured with a maximum 1m offset from the carriageway edge in both directions.
- b. The provision of a 2m footway from the northern side of the site access road (extending approximately as far as opposite plot number 80) to provide a link north to the junction of Tidings Hill and Grange Close as shown in principle of submitted drawing 8960/04 Rev B. Appropriate dropped kerbs/tactile paving to be provided at the junction of Tidings Hill and Grange Close.

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

26.

The development shall not be occupied until the developer provides a Residential Travel Information Pack (to include six one-day vouchers for use with the relevant local public transport operator) for each dwelling, promoting the use of sustainable transport, details of which shall be submitted to and approved in writing by the Local Planning Authority.

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

27.

Notwithstanding the details submitted, a Residential Travel Plan for the development shall be submitted to and approved in writing by the Local Planning Authority. Prior to the first occupation of the development, the approved Travel Plan shall be implemented and the use shall thereafter only be operated in accordance with the approved Travel Plan.

Reason: In the interest of highway safety and the efficient operation of the highway network and in order the development promotes public transport, walking and cycling and limits the reliance on the private car.

28.

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

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

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

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

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

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

29.

The development shall only be implemented in accordance with the approved Arboricultural Report and associated Tree Protection Plan, undertaken by SES Arboricultural Impact Assessment, dated October 2021.

Reason: To ensure existing trees, shrubs and hedges that are identified for retention are protected as they are considered essential to enhance the character of the development and for their ecological value.

30.

Any road which is required to carry a refuse vehicle shall be constructed to take a load of 26 tonnes.

Reason: To ensure that the access within the development is adequate to allow for the refuse collections to take place and to avoid damage to the road surface.

31.

No development shall commence on Plots 1 and 25 until written confirmation from an Approved Inspector or Local Authority Building Control Service has been submitted to and approved in writing by the Local Planning Authority, to certify that Plots 1 and 25 have been designed to comply with Building Regulations 2015 Part M(4) Category

3(b).

Reason: To ensure that all the identified housing plots comply with the required standards at the design stage.

32.

No development shall commence on Plots 5, 7, 8, 9, 10, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 31, 32, 33, 35, 37, 75, 76 and 78 until written confirmation from an approved Inspector or Local Authority Building Control Service has been submitted to and approved in writing by the Local Planning Authority, to certify that Plots 5, 7, 8, 9, 10, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 31, 32, 33, 35, 37, 75, 76 and 78 as indicated on the approved layout plan, have been designed to comply with Building Regulations 2015 Part M4 Category 2.

Reason: To ensure that all the identified housing plots comply with the required standards at the design stage.

33.

Prior to occupation of each of the following Plots 1 and 25 as indicated on the layout drawing hereby approved - written confirmation from an Approved Inspector or Local Authority Building Control Service, to certify that each respective plot (as indicated above) have been constructed in accordance with Building Regulations 2015 Part M4 Category 3(b), shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that all relevant affordable housing plots comply with the required standards when they are constructed.

34.

Prior to occupation of each of the following Plots: 5, 7, 8, 9, 10, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 31, 32, 33, 35, 37, 75, 76 and 78; as indicated on the layout drawing hereby approved - written confirmation from an Approved Inspector or Local Authority Building Control Service, to certify that each plots 5, 7, 8, 9, 10, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 31, 32, 33, 35, 37, 75, 76 and 78 have been constructed in accordance with Building Regulations 2015 Part M4 Category 2, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that all the identified housing plots comply with the required standards when constructed.

Informative(s)

1.

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

2.

In respect of the construction management condition, the developer is advised that they shall use reasonable endeavours to encourage site operatives and contractors to park on site, to avoid disruption to local residents and any obstruction within the highway.

3.

In respect of the approved plans condition, you are advised that Officers are not supportive of the proposed informal mown footpaths within the open space. The omission of these will form part of the open space strategy to be secured on the S106 Legal Agreement.

4.

In respect of the 'boundary treatment' condition, whilst Officers are content with that detailed on plan number 8960-23 Rev B and 8960-24, these plans do not detail the means of enclosure to demarcate the private and public areas within the shared streets.

Positive and Proactive Statement

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

APPENDIX 2:

POLICY CONSIDERATIONS

National Planning Guidance

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

Braintree District Local Development Framework Core Strategy 2011

CS2	Affordable Housing
CS5	The Countryside
CS7	Promoting Accessibility for All
CS8	Natural Environment and Biodiversity
CS10	Provision for Open Space, Sport and Recreation

Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP7	Housing and Mixed Use Sites
RLP8	House Types
RLP9	Design And Layout of Housing and Mixed Use Areas
RLP10	Residential Density
RLP22	Accessible Housing and Lifetime Housing
RLP49	Pedestrian Networks
RLP50	Cycleways
RLP51	Cycle Parking
RLP52	Public Transport
RLP53	Generators of Travel Demand
RLP54	Transport Assessments2
RLP55	Travel Plans
RLP56	Vehicle Parking
RLP63	Air Quality
RLP64	Contaminated Land
RLP65	External Lighting
RLP69	Sustainable Drainage
RLP70	Water Efficiency
RLP71	Water Supply, Sewerage and Land Drainage
RLP72	Water Quality
RLP74	Provision of Space for Recycling
RLP80	Landscape Features and Habitats
RLP81	Trees, Woodlands, Grasslands and Hedgerows
RLP84	Protected Species
RLP90	Layout and Design of Development
RLP91	Site Appraisal
RLP92	Accessibility
RLP93	Public Realm
RLP95	Preservation and Enhancement of Conservation Areas

RLP100	Alterations and Extensions and Changes of Use to Listed Buildings, and their settings
RLP105	Archaeological Evaluation
RLP106	Archaeological Excavation and Monitoring

Braintree District Shared Strategic Section 1 Local Plan (2021)

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

Braintree District Draft Section 2 Local Plan (2017)

LPP1	Development Boundaries
LPP17	Housing Provision and Delivery
LPP33	Affordable Housing
LPP37	Housing Type and Density
LPP44	Sustainable Transport
LPP45	Parking Provision
LPP49	Broadband
LPP50	Built and Historic Environment
LPP53	Provision for Open Space, Sport and Recreation
LPP55	Layout and Design of Development
LPP56	Conservation Areas
LPP60	Heritage Assets and their settings
LPP63	Archaeological Evaluation, Excavation and Recording
LPP67	Natural Environment and Green Infrastructure
LPP68	Protected Species, Priority Spaces and Priority Habitat
LPP70	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP71	Landscape Character and Features
LPP73	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP75	Energy Efficiency
LPP77	Renewable Energy Within New Developments
LPP79	Surface Water Management Plan
LPP80	Sustainable Urban Drainage Systems
LPP81	External Lighting

Other Material Considerations

Essex Design Guide Urban Place Supplement (2005)
 Parking Standards – Design and Good Practice (September 2009)
 External Lighting Supplementary Document

Statement on Draft Local Plan

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

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

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

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

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

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

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

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

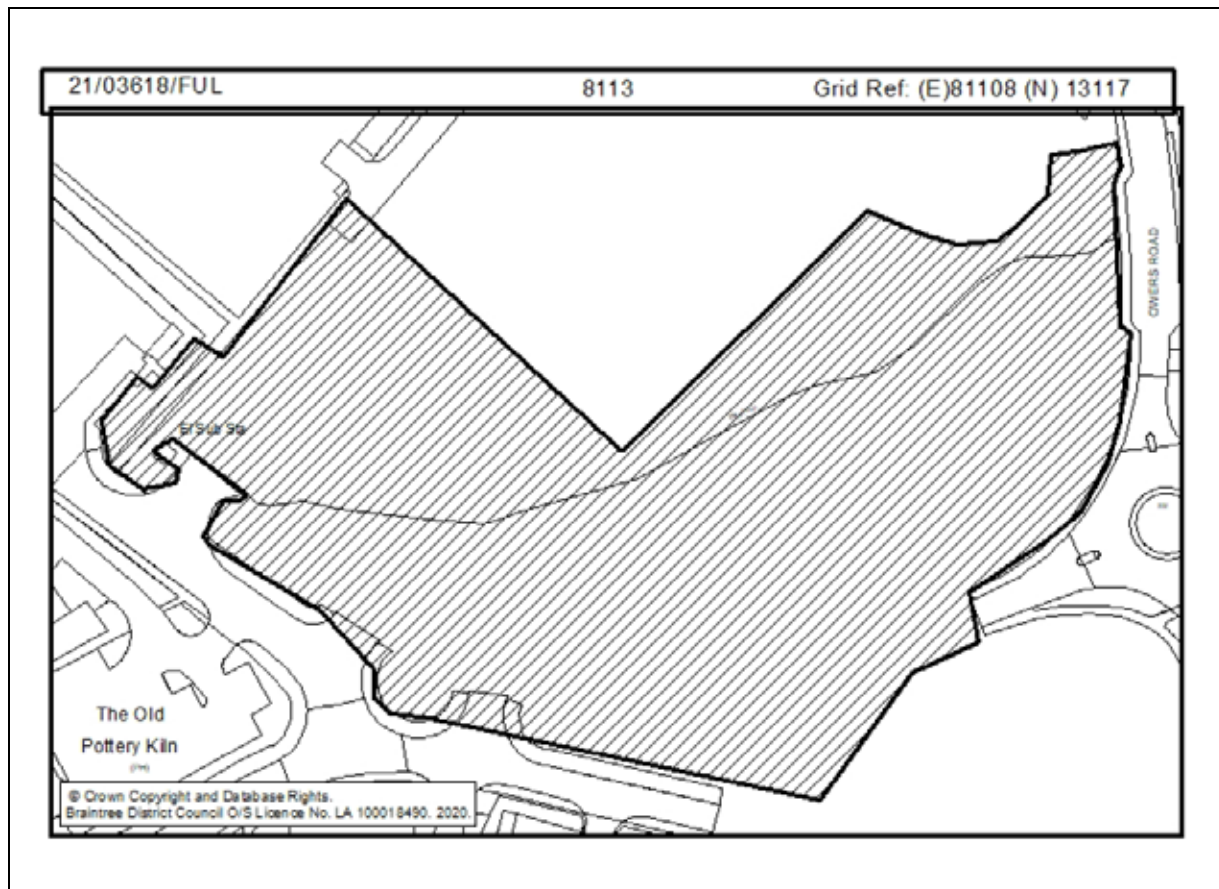
APPENDIX 3:

SITE HISTORY

Application No:	Description:	Decision:	Date:
18/01876/OUT	Outline planning application (all matters reserved) for up to 70 residential dwellings, public open space and associated development	Granted with S106 Agreement	19.12.19
21/02536/DAC	Application for approval of details as reserved by condition 3 of approved application 18/01876/OUT	Part Grant, Part Refused	01.09.21
21/02664/DAC	Application for approval of details as reserved by conditions 22 & 23 of approved application 18/01876/OUT	Granted	13.01.22
21/03255/DAC	Application for approval of details as reserved by condition 21 of approved application 18/01876/OUT	Granted	03.12.21
21/03455/DAC	Application for approval of details as reserved by conditions 3 of approved application 18/01876/OUT	Pending Consideration	

Report to: Planning Committee		
Planning Committee Date: 31st May 2022		
For: Decision		
Key Decision: No		Decision Planner Ref No: N/A
Application No:	21/03618/FUL	
Description:	Development of the site to include erection of single storey building of 262m ² to provide 3no neighbourhood retail units (Class E), a three storey building to provide a 70 bedroom Care Home (Class C2) and 44 residential dwellings (Class C3) comprising of dwellinghouses and a three storey apartment building, alongside access, parking, landscaping and other associated works.	
Location:	Gershwin Park Land North East Of Reid Road Witham	
Applicant:	BGF4 (Witham) LLP, Barchester Healthcare, and Churchmanor Estate	
Agent:	Gillings Planning Ltd	
Date Valid:	21st December 2021	
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>
Background Papers:	<p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> § Application Form § All Plans and Supporting Documentation § All Consultation Responses and Representations <p>The application submission can be viewed online via the Council's Public Access website: www.braintree.gov.uk/pa by entering the Application Number: 21/03618/FUL.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> § National Planning Policy Framework (NPPF) § Braintree District Local Plan Review (2005) § Braintree District Core Strategy (2011) § Braintree District Shared Strategic Section 1 Local Plan (2021) § Braintree District Publication Draft Section 2 Local Plan (2017) § 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 is for a mixed use development on scrub-land previously designated for development in the Adopted Local Plan and is subject to an Outline planning permission and approved Masterplan for Land on the south side of Maltings Lane under Application Reference 12/01071/OUT. This is an extant planning permission to provide a mixed use development comprising a commercial area for employment, neighbourhood centres, community facilities including food retail, non-food retail, a pub/restaurant, Class B1 office, retail warehousing, other uses within Classes A1 to A5, children's day nursery, health centre, sports facilities, residential dwellings, open space, landscaping and ancillary infrastructure at land to the south of Hatfield Road and forms part of the larger Maltings Lane development. The land uses on the approved Masterplan for this application site included residential development, public open space, a neighbourhood food store and non-food retail units.
- 1.2 The surrounding area includes a primary school, residential development, public open space, an Aldi supermarket, a public house/restaurant, a day nursery and an office building. To the north of the site is land designated for community uses which is owned by Braintree District Council.
- 1.3 The application seeks planning permission to erect a single storey building of 262sq.m to provide 3no neighbourhood retail units (Class E), a three storey building to provide a 70 bedroom Care Home (Class C2) and 44 residential dwellings (Class C3) comprising of dwellinghouses and a three storey apartment building, alongside access, parking, landscaping and other associated works.
- 1.4 The site is located within the town boundary of Witham and as such the principle of developing the site for residential and a mixed use development is acceptable in accordance with the Adopted Local Plan and the Section 2 Plan. On the Witham South proposals map 'WIS 9' this adopts the proposals of the Masterplan with allocations for retail, housing, community use and public open space.
- 1.5 The proposed development does not conform to the approved Masterplan. The Applicant has submitted a Full planning application which must be assessed on its own merits. Officers consider that the layout, scale and detailed design of the dwellinghouses, flats and care home development would result in a form of development dominated by hardstanding and car parking, with little separation from road boundaries and insufficient soft landscaping. The elevational designs of the dwellings are considered to be poor and lack articulation and the overall massing is not considered acceptable. The flats and care home introduce three storey developments with an excessive bulk, utilitarian form, and bland elevations which are out of keeping with the character and appearance of the surrounding area.
- 1.6 Officers are of the view the site could not accommodate the quantum of development proposed whilst providing a high standard of design and

amenity for future residents. The proposed development by reason of its siting, layout, poor detailed design and scale would appear overly dominant, out of keeping with and detrimental to the character and appearance of the streetscene.

- 1.7 The Affordable Housing being proposed by the Applicant is also not acceptable and would not provide a mix of unit sizes and types that would best assist the Council in meeting local housing need. In addition, planning contributions on health provision, education, affordable housing, and open space have not been secured by a completed Section 106 Agreement. There are also detrimental impacts on the Blackwater Estuary Special Protection Area/Ramsar site and the Essex Estuaries Special Area of Conservation as no payment has been secured by a signed legal agreement.
- 1.8 When considering the flat planning balance and having regard to the adverse impacts and benefits outlined above, and having regard to the requirements of the NPPF as a whole, Officers have concluded that the benefits of the proposal are clearly and significantly outweighed by the harms, including the harm arising from the conflict with the Development Plan, such that planning permission should be refused in line with the Development Plan.

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 This application seeks planning permission for a mixed use development on scrubland previously designated for development in the Adopted Local Plan.

- 5.2 The application site is also located within the Maltings Lane development which was first granted planning permission in 2000. As set out in the appendices, the Maltings Lane development has a long planning history. The most recent application which is relevant to this application site was the application which approved a revised Masterplan following the grant of Outline planning permission for land on the south side of Maltings Lane under Application Reference 12/01071/OUT. This is an extant planning permission to provide a mixed use development comprising a commercial area for employment, neighbourhood centres, community facilities including food retail, non-food retail, a pub/restaurant, Class B1 office, retail warehousing, other uses within Classes A1 to A5, children's day nursery, health centre, sports facilities, residential dwellings, public open space, landscaping and ancillary infrastructure at land to the south of Hatfield Road.

- 5.3 Part of the area covered by the 2012 Outline planning permission and approved Masterplan has already been developed. Some of the developed areas have accorded with the approved land use parameter plan, including the residential development at Duncombe Close and Haygreen Road; the grass sports pitches and the MUGA; the Persimmon Homes regional office on Drury Road; Aldi Supermarket; Old Pottery Kiln Public House; Seymour House Nursery. Not all development within the Masterplan area has followed the approved land use parameter plan. The Motus Mercedes Benz Commercial vehicle dealership on Griggs Way has been built on an area designated for non-food retail on the approved Masterplan. In respect of this application site the approved Masterplan included residential development, public open space, a neighbourhood food store and non-food retail units.

5.4 The site is currently scrub-land and slopes from west to east. The surrounding area includes a primary school, residential development, public open space, an Aldi supermarket, a public house, a day nursery and an office building. To the north of the site is land designated for community uses, owned by Braintree District Council.

5.5 The site is within walking distance to a number of bus stops serving Witham Town Centre and Colchester. Witham train station is located approximately 2.7km from the site within Witham Town Centre. The A12 lies directly to the south of the site.

6. PROPOSAL

6.1 This application seeks planning permission to erect a single storey building of 262sq.m to provide 3 neighbourhood retail units (Class E), a three storey building to provide a 70 bedroom Care Home (Class C2) and 44 residential dwellings (Class C3) comprising of dwellinghouses and a three storey apartment building, alongside access, parking, landscaping and other associated works.

6.2 The proposed dwelling mix would include 44 residential dwellings, of which 31 are to be provided for Market Sale with a mix of 4x 2 bed houses, 21 x 3 bed houses and 6 x 2 bed flats.

6.3 Affordable housing is proposed to 13 affordable homes of which 9 flats/maisonettes for social/affordable or intermediate rent and 4 flats/maisonettes for affordable home ownership.

6.4 In relation to parking provision, 139 parking spaces and 87 cycle spaces are proposed to be provided across the site.

7. SUMMARY OF CONSULTATION RESPONSES

7.1 Anglian Water

7.1.1 Raise no objection. There are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development boundary that may affect the layout of the site. Anglian Water recommend an informative be attached in relation to any assets that would be affected.

7.1.2 The foul drainage from this development is in the catchment of Witham recycling centre that will have available capacities for these flows. 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 planning permission be granted.

7.2 Environment Agency

7.2.1 No objections.

7.3 Essex Police

- 7.3.1 The developer has been in consultation in relation to the residential dwellings and will support them in their goal of achieving a secured by Design Homes Award.

7.4 National Highways

- 7.4.1 No objections.

7.5 Natural England

- 7.5.1 Confirms that the site falls within the 'Zone of Influence' of one or more of the European Designated sites scoped into the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS).

7.6 NHS

- 7.6.1 Confirm that the development is likely to have an impact on the services of the Surgeries which operate within the vicinity of the application site. The GP practices which operate do not have capacity for additional growth resulting from this development and cumulative development in the area. It 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. A sum of £36,200 is required to be secured through a planning obligation in order to increase capacity for the benefit of patients of Witham Area.

7.7 BDC Ecology

- 7.7.1 Raise no objections subject to conditions securing a financial contribution towards visitor management measures at the Black Water Estuary Special Protection Area (SPA) and Ramsar site and the Essex Estuaries Special Area of Conservation (SAC) in line with the Essex Coast Recreational Disturbance Avoidance Mitigation Strategy; and ecological mitigation and enhancement measures.
- 7.7.2 The ecological mitigation measures identified in the Ecological Impact Assessment (The Landscape Partnership Limited December 2021) should be secured and implemented in full and controlled by condition if the application is granted planning permission.
- 7.7.3 The external lighting strategy carried out by Harris Consulting Limited, September 2021 demonstrates that lighting will be minimised for foraging an community bats as lighting will be directed downwards however, the developer is recommended to incorporate lighting with correlated colour temperatures of less than 3000k where possible. This is due to lighting which emits ultraviolet component or that have a blue spectral content have

a high attraction effect on insect and may lead in a reduction in prey availability for some light sensitive bat species.

- 7.7.4 A condition for a biodiversity and enhancement strategy is recommended if planning permission is granted.

7.8 BDC Housing

- 7.8.1 A 70/30 tenure mix of rented units over shared ownership which equates to 9 and 4 units respectively. The submitted information details that 9 rented units are proposed as flats within one block providing communal access to all flats. It is not recommended mixing tenure of units within a stair core due to management and interest of housing providers. It is recommended the affordable element of the flat block to be self-contained in the part with a communal entrance to 7 flats.

- 7.8.2 There is a high level need for 3 bedroom houses for rent in Witham, the proposed dwelling mix and the proposed development should include a more balanced mix to meet a wider range of need as shown in the table below:

Type	No	Affordable Rent	Shared Ownership
2 bed 3 person flat (required to be 4 person)	3	3	0
2 bed 4 person flat	4	4	0
2 bed 4 person house	4	0	4
3 bed 5 person house	2	2	0
	13	9	4

- 7.8.3 It is noted that 3 of the 7 flats are 3 person units. Our requirement for all 2 bedroom accommodation is consistent in that this type of home must be able to house 4 persons as 3 person units restricts the type of family these homes could be offered to. Additionally, housing providers do not support 3 person units because turnover is greater than 4 person units typically because of households having an additional children and requiring a transfer to a unit with more bed spaces.

- 7.8.4 Other expectations are that affordable units be compatible with Nationally Described Space Standards and units accessed at ground level be compliant with Building Regulations Part M(2).

7.9 BDC Landscape Services

- 7.9.1 The original green infrastructure established almost 20 years ago along Gershwin Boulevard provided for space for street trees; this planting has now established within a wide verge and makes a noticeable contribution to the amenity along this primary route. The proposed development lies adjacent to this road and an acknowledgement of the value of green infrastructure to the quality and character of the development should be

demonstrated more clearly and hopefully reflected within the proposed layout.

- 7.9.2 The proposals provide a density of development that make it impossible to provide tree lined streets as per the revised NPPF; the small areas of public realm are not sufficient in scale to support areas where there will be a flourishing tree canopy which will help to provide character and sustainable amenity.
- 7.9.3 The landscape masterplan (B21072) includes proposals for a number of feature trees but it is not clear how these will become prominent features (e.g. stock size, canopy at maturity) in the space available and within the presence of adjacent planting.
- 7.9.4 A large element of the tree planting is shown within private spaces and on the north-west boundary the location for new trees seems to clash with the existing planting of the adjacent development. These trees will also be outside the public realm and there is no certainty that they will survive outside the duration of the planning condition. A significant amount of the planting within the public realm also relies on individual trees set between car parking bays; the long term viability of trees in these locations is questionable and very few make good amenity trees in the medium term. The requirements of the NPPF notwithstanding – there should be an expectation that the landscaping should make a contribution to place making and a sense of identity within the development.

7.10 BDC Waste Services

- 7.10.1 Note that the bin collection point to the nearest parking spaces for plot 16, is double the distance for moving 4 wheeled bins, normally only a distance of 15m is permitted this distance is 30m and is recommended to be moved where a collection vehicle can safely stop. The waste operatives can walk up to 20m from where the collection vehicle can stop to collect 2 wheeled bins and bags. The parking areas will either need to be changed to adopted highway or, built to a standard equivalent to adopted highway and maintained as such, and Braintree District Council will require written indemnity stating the Council will not be liable for any damages caused to the driveways, as a result of the vehicle driving over them to carry out collections.
- 7.10.2 It is also not clear in relation to whether there is adequate width for BDC operatives to wheel bins from block 26-44. Four wheeled bins have a width of 100cm, therefore the pathway from the waste storage area to the roadside, will need to be at least 130cm, to ensure that our operatives do not risk damaging property, or injuring themselves in the process.

7.11 ECC Archaeology

- 7.11.1 The site lies within an area which has been subject to archaeological field walking, targeted evaluation and excavation in response to a previous

planning application. The excavations revealed a significant multiperiod landscape and settlement from prehistoric to medieval. Specifically, an excavation to the south of the proposed site revealed Bronze Age postholes and a cremation as well as worked flints. Recent excavations to the north of Hatfield Road have uncovered further evidence for a multi-period landscape including Bronze Age cemeteries. There is high potential for further evidence for the prehistoric and later settlement of this area within the development area.

7.11.2 A Heritage Statement has been submitted which acknowledges the potential for unknown heritage assets to be present within the development area and, in accordance with Paragraph 194 (NPPF, 2021) a field evaluation will be required to determine the nature and significance of the heritage assets which may be impacted upon by the proposed development.

7.11.3 A condition relating to a programme of archaeological evaluation and excavation is recommended if the application is granted planning permission.

7.12 ECC Education

7.12.1 On the basis of 44 dwellings, a development of this size can be expected to generate the need for 3 Early Years and Childcare (EY&C) places, 10 primary school places and 7 secondary school places. The following developer contributions are requested:

- £51,804 index linked to Q1 2020 is sought to mitigate its impact on local EY&C provision;
- £172,680 index linked to Q1 2020, is sought to mitigate its impact on local primary provision;
- £166,425 index linked to Q1 2020, is sought to mitigate its impact on local secondary provision;
- A developer contribution of £3,423.20 index linked to Q1 2020 is sought to mitigate its impact on the libraries services on offer.

7.13 ECC Highways

7.13.1 No objections subject to conditions for a construction management plan, travel information packs and travel plan.

7.14 ECC SUDS

7.14.1 No objections raised to the proposed development subject to a number of conditions recommended if the application is granted planning permission:

A detailed surface water drainage scheme for the site including:

- Site discharge rates from the site should be limited to the 1in1yr greenfield run-off rate, or if this is not possible, matched to existing greenfield rates for the 1in1yr, 1in30yr and 1in100yr + 40%CC events.

- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event. In case the half drain down time is more than 24 hours then demonstrate that features are able to accommodate a 1 in 10 year storm events within 24 hours of a 1 in 30 year event plus climate change.
- The submitted Drainage Strategy should also include above ground suds attenuation features such as rainwater harvesting, green roofs, detention basin attenuation pond, raingardens, bio retention.
- Provide detailed engineering drawings of each component of the drainage scheme.
- Demonstrate the appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- Provide an updated written report summarising the final strategy and highlighting any minor changes to the approved strategy.
- A scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution.
- A maintenance plan detailing the maintenance arrangements including who is responsible for different elements.
- Yearly logs of maintenance should be carried out in accordance with any approved Maintenance Plan.

8. PARISH / TOWN COUNCIL

8.1 Witham Town Council

- 8.1.1 No objections subject to triple glazing, solar panels and air source heat pumps being installed. In addition, the affordable housing element is clearly identified.

9. REPRESENTATIONS

- 9.1 One representation has been received objecting to the development on the following grounds:
- The current infrastructure in Witham are already over stretched with regards to the traffic from the A12, availability of schools and places within the schools and lack of public transport along Gershwin Boulevard.
 - Increase in traffic.
 - Increase in pollution.
 - With the proximity of the school there are too many car users already on the roads and this development would add to this especially during construction and the new residential dwellings.

10. PRINCIPLE OF DEVELOPMENT

10.1 National Planning Policy Framework (NPPF) 2021

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

10.2 5 Year Housing Land Supply

- 10.2.1 The Council publishes a 5 year housing land trajectory as of 31st March each year. The most recent position therefore is that of 31st March 2021.

Within the published trajectory, the forecast supply amounted to a 5.34 year supply of housing based on a 5% buffer.

- 10.2.2 At its Full Council meeting on 22nd February 2021, Braintree District Council approved the adoption of the Shared Strategic Section 1 Local Plan. On its adoption, the Council must meet the housing requirement set out in that Plan. This is a minimum of 14,320 homes between 2013-2033 or an annual average of 716 new homes per year. This replaces the previous consideration of housing need based on the Standard Methodology.
- 10.2.3 The latest Housing Delivery Test (HDT) results were published in January 2022. The new results (which include an allowance for the impact of the current pandemic) confirm that Braintree District achieved 125% supply 28 against target and the usual 5% buffer is maintained. This applies from the day of publication of the results.
- 10.2.4 The Council's Housing Land Supply position has recently been contested as part of an appeal at Land off Brain Valley Avenue, Black Notley (Appeal Reference: APP/Z1510/W/21/3281232). Within the appeal decision dated 20th January 2022, the Inspector concluded at Paragraph 54 that the housing supply 2021-2026 would be in excess of the 5,352 requirement; and that therefore the Council can demonstrate an up-to-date housing land supply and the titled balance pursuant to Paragraph 11d) of the NPPF is not engaged.
- 10.2.5 Accordingly, given all the evidence before it, including the housing requirement from the Shared Strategic Section 1 Local Plan and the use of a 5% buffer, and having regard to the above appeal decision, the Council considers that the current 5 Year Housing Land Supply for the District is 5.1 years.
- 10.2.6 In addition, the current supply position does not include sites which are proposed to be allocated within the Section 2 Local Plan but do not yet have planning permission or a resolution to grant planning permission.
- 10.2.7 These allocations without permission are being tested at the Section 2 Plan Examination. Once the Section 2 Plan is adopted, these sites will become adopted allocations and greater weight can be given to them. It will also improve the prospects of these being included within the deliverable supply, where there is clear evidence that there is a realistic prospect that housing will be delivered on the site within five years.

10.3. The Development Plan

- 10.3.1 Currently the Council's statutory Development Plan consists of the Braintree District Local Plan Review (2005), the Braintree District Core Strategy (2011) and the Braintree District Shared Strategic Section 1 Local Plan (2021).

- 10.3.2 Collectively the Development Plan supports the principle of development being directed to appropriate locations within the defined Town and Village Development boundaries. Policy RLP3 of the Adopted Local Plan and Policy LPP1 of the Section 2 Plan however state that development within Town Boundaries will only be permitted where it satisfies amenity, design, environmental and highway criteria and where it can take place without material detriment to the existing character of the settlement. In order for any proposal to be considered acceptable it must therefore provide an acceptable level of amenity for future occupiers and existing adjacent neighbours, be of a high standard of design, make acceptable parking and access arrangements and not have an unacceptably detrimental impact in terms of neighbours, landscape and protected trees.
- 10.3.3 The site is located within the town boundary of Witham and as such, in accordance with the above policies, the principle of developing the site for a mixed use development is acceptable and in accordance with the Adopted Local Plan and Section 2 Plan. Site reference 'WIS 9' as shown on the plan for Witham South Proposals Map adopts the proposals of the Masterplan with allocations for retail, housing, community use and open space.

Residential and Care Home

- 10.3.4 The strategic housing land availability assessment (SHLAA) site WIS9H(S) is currently assessed as capable of delivering 63 dwellings in the housing trajectory, although this figure will have been based on the Outline planning permission and masterplanning work that was undertaken over 10 years ago. This application represents an increase to 44no. C3 residential dwellings, and the development would contribute to the Council's five year housing land supply. With specific reference to the 70no. C2 care home units, whilst this provides residential accommodation, in relation to its contribution to housing land supply as defined by Government returns on housing flows, the proposal would contribute 39 units to the five year housing land supply. The proposal would therefore contribute the equivalent of 83 dwellings to the Council's Housing Land Supply.
- 10.3.5 Although the Adopted Local Plan does not specify the need of specialist housing or allocate sites for the purpose of providing specialist housing, the Council's Strategic Housing Market Assessment Update 2015 (SHMA) noted that 21% of households in Braintree District were older person only households (all members aged 65+) – higher than the national average. The SHMA also predicted a requirement for a minimum of 1,730 specialist housing units by 2037 (comprising sheltered and extracare housing), assuming occupation patterns remain at current levels. Paragraph S.44 of the Strategic Housing Market Assessment (SHMA), estimates that 7,157 additional specialist housing units will be required: *"We have used the Strategic Housing for Older People tool developed by the Housing Learning and Improvement Network to consider the future requirement for specialist accommodation arising from this group. If it is presumed that occupation patterns remain at current levels then there is a requirement for 7,746 additional specialist units, of which 7,157 should be sheltered housing and*

319 should be extracare housing. The requirement for 7,746 additional specialist units for older people represents 10.4% of the total Objectively Assessed Need for the period to 2037.”

- 10.3.6 Policy LPP35 of the Section 2 Plan acknowledges that meeting the need for specialist housing units set out in the SHMA will be reliant on sites coming forward through windfall development, like at the former Bramstons sports centre in Witham, or on strategic development sites. It states that proposals will be permitted provided that a range of 4 sustainability criteria can be met, with three of the criterion being that the development is close to shops and services, has adequate provision for parking and of private amenity for residents. The fourth criteria (b), requires health services to be available on site or in close proximity – this would depend on the level of care needed.
- 10.3.7 The nearest doctor's surgery is 1.5km away in Witham Town Centre which is not within walking distance but is easy to access to a number of services and routes. Mid-Essex CCG has been consulted on the proposals and requires a financial contribution which is considered in more detail below in accordance with the requirements of Policy LPP35 of the Section 2 Plan. Furthermore, Policy RLP20 of the Adopted Local Plan states residential care homes will be permitted, subject to them being located within residential areas, that the quality of design is acceptable, sufficient open space, boundary treatments provide visual amenity and privacy access to amenities and parking provisions which will be discussed in further detail below. In principle, the proposal to redevelop the site for residential uses and a care home - Use Classes C3 and C2 - is acceptable subject to the detailed design considerations discussed in detail below, and subject to consideration of the previously approved Masterplan and Section 106 obligations which are material considerations for the determination of this application.

Retail

- 10.3.8 Policy CS6 of the Core Strategy supports the retention and provision of local shops and services throughout the District. Policy LPP10 of the Section 2 Plan states that *“to ensure the long-term vitality and viability of the District's Town, District and Local Centres, the Town Centres of Braintree, Halstead and Witham will be the primary location for main town centre uses such as retail, office, leisure and entertainment in the District”*.
- 10.3.9 The proposed retail units would equate to 262sq.m of new floorspace which falls below the requirement for the application to be accompanied by an impact assessment as set out by Policy LPP10 of the Section 2 Plan. This policy requires proposals in excess of 500sq.m to be accompanied by an impact assessment. Policy CS6 of the Core Strategy states the town centres of Braintree, Halstead and Witham will be the primary location for retail, office, leisure and cultural provision in the District. The improvement and regeneration of the town centres will be promoted and regeneration within Witham Town Centre the Newlands Shopping Centre and adjoining land is prioritised, whilst the proposed retail would be outside of the town

centre the proposal would provide neighbourhood retail development not in competition with the town centre regeneration. Policy RLP111 of the Adopted Local Plan states retail development proposals should not individually affect the vitality and viability of any existing town centre, be accessible by a choice of means of transport, not give rise to unacceptable problems of access, road safety or traffic congestion, provide parking in accordance with current Policy RLP56 (of the Adopted Local Plan), promote high standard of design and not prejudice the supply of employment land. The proposal would not be contrary to Policy RLP11 of the Adopted Local Plan due to the limited floorspace proposed not affecting the vitality of Witham town centre. The design and parking provision will be discussed in further detail below.

- 10.3.10 Paragraph 90 of the NPPF states that when assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, Local Planning Authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500sq.m of gross floorspace). As such, in this case the retail units equate to 262sq.m and would therefore not require an assessment.
- 10.3.11 The Council's Retail Study 2015 identified limited capacity for convenience and comparison retail in Witham up until 2033. Summarised floorspace projections for Witham indicates that only 279sqm gross of A1 convenience and 1,099sq.m gross of A1 comparison (Table 5.1) could be accommodated by 2033. Broken down into five-year periods, just 186sq.m of additional comparison floorspace exists in the period up to 2023, and 0 convenience. Conversely, some capacity is available in the A1 - A5 food and beverage sectors. In the 2017 Retail Study Update, new retail surveys were undertaken which showed that capacity for A1-A5 retail in the town of Witham had fallen further (the trend is downward) and the remaining capacity of 2,174sq.m GIA to 2033 could be absorbed by Town Centre redevelopment/refurbishment at Newland Centre meaning limited capacity for additional retail in Witham.
- 10.3.12 This update accounts for the loss of retail at the former Quadrant store and the addition of a new Lidl at Bramston's. At Paragraph 6.43, the retail study recommends: Maltings Lane, Witham is the location of a new residential area, where the new Aldi store has recently opened. The proposals map shows scope for additional retail floorspace adjacent to the Aldi. As noted above, there is a limited requirement for additional retail floorspace in and around Witham, however a new local centre at Maltings Lane would serve the new and existing residents in the surrounding south west Witham area. This recommends that regardless of capacity, the addition of a local centre limited to serving the Maltings Lane and the new residential growth areas would be acceptable in principle. The Planning Committee has recently passed a resolution to grant planning permission for the development of up to 400 dwellings at Wood End Farm. This will further increase demand for convenience shopping in this part of the town.

- 10.3.13 It is also relevant to consider the retail provision that was planned as part of the Maltings Lane Masterplan. One of the aims of the Masterplan was to create a sustainable extension to the town. The provision of accessible shops and services formed part of that aspirations. Whilst the majority of the residential development on the Maltings Lane development has been built out some of the planned shops and services have taken longer to be provided.
- 10.3.14 In the 2013 Masterplan the area that is the subject of this application is identified for residential development, alongside landscaped areas of open space and 'Units 21 and 27' which were to provide a 450sq.m of non-food retail units and a Neighbourhood Food Store of 280sq.m respectively.
- 10.3.15 Unit 27 which is shown as an A1 retail store, intended to operate as neighbourhood food store (max. 280sq.m. net sales area). The Section 106 Agreement required that either the Unit 27 food store, or the Unit 15 food store, was open prior to occupation of 150 dwellings. The opening of the Aldi store (Unit 15) fulfilled this obligation and there is no requirement for the Unit 27 food store to open as well. The Applicant has stated that the landowner has marketed the site and has been unable to attract another food retailer. Officers accept that the presence of the Aldi store and other convenience food retailers in the surrounding area means that it is unlikely that a further neighbourhood food store would be unlikely and Officers raise no objection to alternative uses of the land where Unit 27 was planned.
- 10.3.16 Unit 21 on the approved Masterplan is intended to be a single building providing a parade of the three retail shops, with each unit not exceeding 140sq.m. The 2013 Maltings Lane Section 106 states that the units cannot be amalgamated into a larger unit and that the units only contain businesses operating within Use Classes A1 to A5. Only one unit can have an A5 Use. The Section 106 requires that no more 150 dwellings within the area covered by the 2013 Masterplan can be occupied until the Neighbourhood Shops have been completed and available for use. As the Taylor Wimpey development adjacent to the Hatfield Road delivered 135 dwellings, under the terms of the current Section 106 Agreement, no more than 15 dwellings could be occupied within the remaining area without the shops being constructed and available for use.
- 10.3.17 Although the Aldi Store has provided access to a food store for the residents living on the Maltings Lane development local residents have repeatedly called for the delivery of the Neighbourhood Shops to provide a wider range of retail and services within walking distance of their properties. The Council still consider the delivery of the Neighbourhood Shops to be a priority and during pre-application discussions on the site, Officers have consistently advised that any new proposals to develop the land would need to not only include the provision of the Neighbourhood Shops but that the delivery of the shops should be no later than the Section 106 Agreement currently requires and if it is possible sooner.

- 10.3.18 In light of the above, the proposed retail units will provide neighbourhood shops to the proposed development, whilst the planning statement supporting the application states that the future occupiers have not been identified and driven by market given the sizes of the units proposed, it is considered the units are suitable and likely to be attractive commercially.

11. SITE ASSESSMENT

11.1 Location and Access to Services and Facilities

- 11.1.1 The strategy set out in the Section 2 Plan within Policy SP3 is to concentrate growth in the most sustainable locations - that is, 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 nearby shops, services and employment opportunities. This means for the new Local Plan inter alia: "That the broad spatial strategy for the District should concentrate development in Braintree, Witham and the A12 corridor, and Halstead". Policy CS7 of the Core Strategy states that future development will be provided in accessible locations to reduce the need to travel.

- 11.1.2 In this case, the application site is located within one of the District's main towns and is therefore located in a sustainable location with good access to services and facilities as well as good public transport opportunities. The location of the site weighs in favour of the proposed development.

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

- 11.2.1 Paragraph 126 the NPPF highlights that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable developments, creates better places in which to live and work and helps make development acceptable to communities.
- 11.2.2 Paragraph 130 states that planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting.
- 11.2.3 Policies RLP3, RLP10 and RLP90 of the Adopted Local Plan seek to protect the existing character of the settlement and the street scene. Policy RLP9 of the Adopted Local Plan states that new development shall create a visually satisfactory environment and be in character with the site and its surroundings. Policy RLP10 specifically states that the density and massing of residential development will be related to the characteristics of the site, the layout and density of surrounding development, the extent to which car parking and open space standards can be achieved within a satisfactory layout and the need to provide landscaping for the development. Policy RLP90 states that the scale, density, height and elevational design of developments should reflect or enhance local distinctiveness.

- 11.2.4 Policy SP7 of the Section 1 Plan sets out place shaping principles, including responding positively to local character and context to preserve and enhance of existing places and their environs.
- 11.2.5 Policy LPP55 of the Section 2 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.

Retail

- 11.2.6 The proposed single-storey retail units would be dominated by hardstanding and car parking to their frontages. Indeed further car parking is shown at the rear of the shop units so that they are an island surrounded by car parking and servicing. Pedestrians and cyclists are poorly catered for and would need to navigate through a car park. The elevations are considered to be of poor design with little interest to the facades. Furthermore not all elevations would benefit from active frontages. This is of particular concern given their siting adjacent to a footpath which could benefit from increased natural surveillance. The path is a well-used link between the existing residential areas of Maltings Lane and the local centre. The layout shows a service yard to the side of the retail units. This will presumably be enclosed and be where refuse is stored and collected and the development fails to respond to the presence of the path. The retail units in terms of scale appear odd and poorly proportioned when compared to the adjacent form of the three-storey care home and the mass of the existing Aldi store. Officers consider that the location of the neighbourhood shops is appropriate as it is close to the Aldi store which provide a footfall, making the units more commercially attractive, and opportunities for link journeys, but the design and layout of the units is not acceptable.

Flats

- 11.2.7 The overall detailed design of this section of the development is considered to be of poor quality resulting in a utilitarian building form which would be out of keeping with the surrounding area. The proposed scale of the flats also fails to relate to the prevailing character and appearance of the surrounding area. They would appear excessively large and dominating with little set back from the street frontage.
- 11.2.8 The 'U' shaped building form of development has resulted in the entrance lobby having poor legibility, with no prominence within the streetscene and a failure to create a focal point. The windows in relation to their positioning and proportions fail to break up the overall massing of the three-storey building. The balconies are poorly integrated into the building form and whilst they attempt to break up the overall massing, they rather appear as an afterthought to the concept of the design.
- 11.2.9 The flats are only provided with small amenity spaces and little private realm (an assessment of the quantum of amenity space provided for

residents is set out below). The central amenity area is enveloped by three sides of three-storey built form. There appears to be no defensible space to the ground floor residents given the proximity of the car parking spaces and the small open spaces. The overall layout is dominated by the hardstanding and car parking arrangement which is poorly located for convenience and security. Visually this would be extremely dominant in the public realm.

- 11.2.10 Officers are of the view the site could not accommodate the quantum of development proposed within the apartment block whilst meeting all the design standards and requirements. This would constitute an over development of the site which would be harmful to the visual amenities of the area and residential quality.

Houses

- 11.2.11 The proposed housing layout would again be dominated by hardstanding and car parking with limited soft landscaping and the planting of trees advocated by Paragraph 131 of the NPPF. Insecure, vulnerable parking are shown in the open space creating visually poor end stops to streets and vistas, and parking is divorced from some of the housing it should serve. The National Design Guide seeks for parking solutions that do not dominate the public realm, but in this proposal the opposite prevails. The overall layout has resulted in a number of dwellings set with little separation from road boundaries or the roundabout which dominates the amenity of the dwellings and fails to create an appropriate high quality sense of place.
- 11.2.12 The elevational design of the dwellings is poor and lacks articulation. The dormers fail to align with fenestration to the lower floors and appear small and awkward in comparison to the steep roof slopes proposed. Dwelling type 'C' includes a gable end feature bolted on to the front elevation of other house types, creating an awkward form of terrace/semi-detached units and which would result in a gable end feature higher than the adjoining properties. This creates an incongruous form of development within the streetscene which is not acceptable and which is a direct result of an overly compact form of development which provides limited space between dwellings. It is considered the overall poor detailed design, bulk and massing of the dwellings would represent poor design.

Care Home

- 11.2.13 Policy RLP20 of the Adopted Local Plan states that a residential care home quality of design should be in keeping with surrounding properties and landscape in terms of scale, form, layout and materials.
- 11.2.14 The proposed care home has been designed in a 'U' shaped form with three storeys similar to the proposed design of the apartment block to the east. The overall siting of the development lacks separation from the street frontage and the front elevation overlooks the blank facades of the retail units to the west. The proposal fails to present a suitable active elevation to the main road/roundabout, which fails to provide legibility and visual

interest. The forward siting of the development is considered to be out of character with the surrounding area, where development is set back behind landscaped frontages and its impact is exacerbated by the scale of the development with limited step back appearing unduly imposing.

- 11.2.15 The overall appearance of the care home appears utilitarian with bland elevations and little articulation. The main entrance fronting the retail units lacks focus and impact on the street frontage, which is not satisfactory given the large scale development. The proportions of the windows fail to relate satisfactorily to the scale of the building resulting in a number of incongruously small windows, which lack presence. The lack of separation from the apartment block is of concern. It would only be separated by railings resulting in inter and overlooking between the blocks. The amenity space to the rear of the site will be flanked by the three elevations of the care home resulting in a lack of openness. Overall the proposal appears bland, lacks interest and architectural finesse and would comprehensively result in a poor quality design which would have a harmful visual impact in the streetscene.
- 11.2.16 In light of the above, Officers are of the view the site could not accommodate the quantum of development proposed whilst meeting all the design requirements. The proposed development by reason of its siting, layout, poor detailed design and scale would appear overly dominant, out of keeping with and detrimental to the character and appearance of the streetscene. This is unacceptable and contrary to policy.
- 11.3 Proposed residential amenity
- 11.3.1 The Nationally Described Space Standards, which are incorporated into Policy LPP37 of the Section 2 Plan, set out the requirements for internal space in new dwellings.
- 11.3.2 The national standards are set out as follows:
- 1 bedroom, 1 person 39sq.m, one storey dwelling
 - 1 bedroom, 2 persons 50sq.m, one storey dwelling
 - 2 bedroom, 3 persons 61sq.m, one storey dwelling
 - 2 bedroom, 4 persons 70sq.m, one storey dwelling
 - 2 bedroom, 3 persons 70sq.m, two storey dwelling
 - 2 bedroom, 4 persons 79sq.m, two storey dwelling
 - 3 bedroom, 5 persons 99sq.m, three storey dwelling
- 11.3.3 The proposed house and flat types A, B, C, D, E and F would meet the internal space standards, thus complying with policy. All habitable rooms will benefit from sufficient daylight and outlook.
- 11.3.4 In relation to outlook, overlooking and daylight from flats and care home taking into account the limited separation distance it is considered there would be inter and overlooking for future occupiers which is not acceptable. In addition, a number of the houses proposed would have limited

separation distance to the rear boundaries ranging from 10m to 13m only for plots 21, 22, 14, 15 and 16, which is below the Essex Design Guide Standards.

Refuse storage

- 11.3.5 The has proposed layout is not considered acceptable for refuse storage, the BDC Waste Officer has stated bin collection to plot 16 is double the distance for moving 4 wheeled bins and parking areas will need to be changed to adopted highway or built to a standard equivalent to adopted highway and maintained as such. In relation to block 26-44 it appears there is insufficient width for wheeled bins to have operatives bringing them back and forth. The layout would therefore need to be amended to enable this element of the proposed development to be policy compliant.

Amenity Space

- 11.3.6 The Essex Design Guide (EDG) recommends minimum garden sizes of 25sq.m for one bedroom units, 50sq.m for two bedroom properties and 100sq.m for three or more bedroom dwellings.
- 11.3.7 The proposed amenity space for the residential dwellings all comply with the above standards apart from Plot 15 which would have 88sq.m which is below the 100sq.m requirement for a 3 bedroom property. However on balance, taking into account the property is facing public open space, this is not considered to amount to an unacceptable quality of accommodation.
- 11.3.8 The proposed private communal amenity space proposed for the care home equates to 865sq.m, approximately 12sq.m per person, which on balance taking into account terrace areas to the ground floor and balconies at upper levels is acceptable provision.
- 11.3.9 In relation to the amenity space to the flats, the amenity space provision is sited to the front of the building surrounded by the three flank elevations of the building adjacent to the car park equating to an area of 222sq.m. It is not considered the strip of land to the rear of the site could be used as communal amenity space given its limited distance from the rear boundary. The flats include balconies to the upper floor and terraces to the ground floor with areas ranging from 12.4sq.m to 16sq.m, in accordance with the Essex Design Guide 25sq.m per unit is required, which on balance the proposal meets. Although there are concerns with respect siting of a number of terraces and balconies given their limited separation distance from the rear of the site and future commercial development that will come forward, the quality of amenity space and layout represents overdevelopment of the site.
- 11.3.10 By virtue of the design and layout the residential amenity of future occupiers would be unacceptable for future occupiers.

11.4 Highway Considerations

- 11.4.1 In promoting Sustainable Development Paragraph 105 of the NPPF indicates that the planning system should actively manage patterns of growth in support of the Government's objective of improving transport networks and reducing reliance on the private car. Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Access Roads

- 11.4.2 The local highway network includes Gerswhin Boulevard a two-way single carriageway road providing connections with Maltings Lane to the east and to the B1398 Hatfield Road to the west, which in turn connects to the A12 to the south and Witham town centre to the north.
- 11.4.3 A new site access junction would be formed for the care home to provide a 6m carriageway and 2m x 2m pedestrian footways. The existing bellmouth junction associated with the extant consent located approximately 13m to the east of the proposed care home access is proposed to be stopped up.
- 11.4.4 The retail units would be located approximately 25m to the east of the existing Aldi site and would take the amended version of the westernmost existing bellmouth access located directly opposite the Old Pottery Kiln Public House. The delivery turning head provided would ensure all retail and servicing vehicles are accommodated within the curtilage of the retail units.
- 11.4.5 Residential units would access the development from the existing roundabout junction along Owers Road with a new access road located opposite the Chipping Hill Primary School.
- 11.4.6 National Highways and ECC Highways have reviewed the proposed access road and associated impact on the highway network and raised no objections.

Parking provision

- 11.4.7 Policy RLP56 of the Adopted Local Plan and LPP45 of the Section 2 Plan recommend that all new development is provided with sufficient parking in accordance with the adopted Essex County Council Vehicle Parking Standards. In this case, 2 vehicle parking spaces is required for 2-bed+ properties and one visitor parking space for every four dwellings, 11 parking visitor parking spaces are proposed. The proposed development fully complies with that requirement given sufficient parking can be accommodated to the front or car parks for the properties.

- 11.4.8 The three retail units would include 87sq.m floorspace per unit - a total of 262sq.m - and in accordance with the Essex Vehicle Parking Standards retail food store units require 1 space per 14sq.m of floorspace as a maximum standard. A total of 16 parking spaces are provided and whilst there is a shortfall of two parking spaces in accordance with the standards requiring a maximum of 18 spaces, taking into account the location of the site with access to public transport and the fact that the shops form part of a local centre where it is hoped that many residents will walk or cycle. Officers have no objection to the level of car parking provided for the neighbourhood shops. The retail units would also provide cycle provision in the form of 5 Sheffield stands providing 10 cycle spaces which complies with standards and therefore no objection is raised.
- 11.4.9 In accordance with the Essex Vehicle Parking Standards, 1 space per full time staff and 1 space per visitor space per 3 beds is required for the proposed care home. Based upon the submitted information there will be 23 members of staff employed and a requirement for 46 parking spaces. The proposal will include 26 parking spaces being a shortfall of 20 parking spaces.
- 11.4.10 The Transport Statement section 6.6 demonstrates that due to the typical shift patterns 1 member of staff per 3 bedrooms is required during day time shifts and 1 member of staff per 5 bedrooms during the night time. Typical shift patterns involve staff changeovers at 8am, 2pm and 8pm outside of the evening peak hour. On balance, the transport statement demonstrates that parking spaces would see the maximum parking accumulation to occur between 13:00 and 14:00 when 17 spaces of 26 would be occupied equating to 67% of parking occupancy. However, the remainder of the time and due to the shift pattern of staffing levels based upon TRICS information for care homes in edge of town or suburban areas demonstrates the occupancy would range from 17% at its minimum and 67% at maximum with an average 0.37 spaces per resident and applying this ratio to the proposed care home it would equate to 26 parking spaces.
- 11.4.11 On balance, taking into account the location of the site within an urban area, TRICS assessment on the parking provision, no objections are raised to the shortfall of parking for the proposed care home. Furthermore, a condition could be imposed if the application is deemed acceptable to ensure alternative modes of transport are encouraged with people attending and members of staff of the care home.

Trip generation

- 11.4.12 A Transport Assessment has reviewed the impact on the likely vehicle movements to and from the site as well as the overall highway capacity in the area. The Applicant has compared the consented scheme 12/01071/OUT which included 450sq.m non-food retail, 280sq.m food store and 67 residential units.

- 11.4.13 The proposed development is forecast to generate a total of 34 two-way trips during the weekday AM peak (12 arrivals and 21 departures) and 46 two way trips during the weekday PM (27 arrivals and 19 departures). The trip generation assessment in comparison to the extant planning permission reference 12/01071/OUT would lead to a net reduction of 24 two way vehicle trips during the weekday AM peak hour, and 59 fewer two-way vehicle trips during the weekday PM peak hour when compared with the consented scheme.
- 11.4.14 Overall, the report concludes that the local road network has the capacity to accommodate the new development. ECC Highways reviewed the Transport Assessment and raised no objections. The proposed development would not have an unacceptable impact upon the highway network or a detrimental impact upon highway safety.

11.5 Impact upon Neighbouring Residential Amenity

- 11.5.1 Paragraph 130 of the NPPF states that planning policies and decisions should ensure that developments create places with a high standard of amenity for existing and future users. Policy RLP90 of the Adopted Local Plan also states that development should not have an unacceptable impact upon neighbouring amenity. This sentiment is reiterated in Policy LPP55 of the Section 2 Plan.

Overlooking, loss of light or sense of enclosure

- 11.5.2 The nearest residential properties are approximately 52m away from the proposed development with the immediate environs including a primary school to the east, undeveloped land marked for commercial development, office buildings and Gershwin Nursery to the immediate south and The Old Pottery Kiln and Aldi to the southwest with land to the northwest designated as community land owned by Braintree District Council, it is not considered the development would result in material harm to the amenity of existing occupiers by reason of loss of light, outlook or sense of enclosure nor would it harm privacy.

Air Quality

- 11.5.3 The application is accompanied by an Air Quality Assessment carried out by Hawkins Environmental dated 7th December 2021 which demonstrates that the impact of the development from new vehicle emissions is negligible. With respect to the impacts of construction on air quality, dust and other pollutant emissions a number of mitigation measures are recommended if the application is deemed acceptable. Section 8.4 of the submitted Air Quality Assessment details full mitigation measures to adopt during the construction phase with specific reference to the dust control section to protect the residential amenities of nearby occupiers, which can be controlled by condition if the application is deemed acceptable through a construction management plan. The Councils Environmental Health Officer

has raised no objections subject to the implementation of the above mitigation measures.

Fume, extraction and ventilation equipment to the commercial premises and care home.

- 11.5.4 The Air Quality Assessment confirms a number of measures to minimise potential odours, whilst no objections have been raised by Councils Environmental Health Officer it is recommended to ensure a condition in relation to ductwork has been submitted to and agreed with the local planning authority if the application is deemed acceptable.

Noise and increased activity at the site

- 11.5.5 The Applicants have submitted a Noise Assessment carried out by Hawkins Environmental dated 7th December 2021 which establishes the noise from surrounding roads and the wider environment, and that the site is considered a medium risk. The report demonstrates that the external and internal noise levels of the residential properties will be compliant with BS 8233 internal noise levels for the existing environmental noise at the site. A number of mitigation measures are recommended within the report to protect the amenities of future occupiers through suitable glazing and ventilation.
- 11.5.6 With respect to the commercial premises, associated plant equipment will be limited to 10dB(A) below the background noise level and controlled by condition if the application is acceptable.
- 11.5.7 The Council Environmental Health Officer has raised no objection in relation to noise, subject to the relevant mitigation measures to be implemented prior to the occupation of the development. In order to safeguard the amenity of surrounding residents a number of conditions will be imposed to ensure noise levels from the development are kept to an acceptable level including for any plant or ventilation equipment to be installed.

Construction Activity

- 11.5.8 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 for existing residents; construction noise control measures and details of any piling to be carried out on site.
- 11.5.9 On balance, it is considered that the impacts of the proposed development on amenities of surrounding neighbours is acceptable in all relevant regards.

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 Paragraph 159 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. The NPPF and Planning Practice Guidance (PPG) classifies development types according to their vulnerability to flood risk and gives guidance on which developments are appropriate in each flood zone.
- 11.6.3 Policy CS8 of the Core Strategy states that the Council will minimise exposure of people and property to the risks of flooding by following the national guidance. In particular the sequential test will be applied to avoid new development being located in the areas of flood risk; and SUDS will be used wherever possible to reduce flood risk, promote groundwater recharge, enhance biodiversity and provide amenity/benefit, unless, following an adequate assessment, soil conditions and/or engineering feasibility dictate otherwise. Policy LPP78 of the Section 2 Plan reflects the spirit of this.
- 11.6.4 In this case, the application is supported by a Flood Risk Assessment and Drainage Report carried out by David Smith Associates dated 7th December 2021. The site in this case in its entirety falls within Flood Zone 1. Overall, from a flood risk perspective, the Environment Agency have raised no objections and therefore the proposal is considered acceptable in flood risk terms.
- 11.6.5 Government Policy as set out in Paragraph 169 of the NPPF strongly encourages a sustainable drainage system (SuDs) approach to achieve these objectives. SuDs offer significant advantages over conventional piped drainage systems in reducing flood risk by reducing the quantity of surface water run-off from a site and the speed at which it reaches water courses, promoting groundwater recharge, and improving water quality and amenity.
- 11.6.6 In terms of surface water drainage, the drainage report carried out by David Smith Associates dated 7th December 2021 has been submitted for consideration. Two drainage systems and outfalls are proposed with the first services to the care home and retail areas to connect to Anglian Water surface water public sewer on Haygreen Road. The second services the residential area of the site and is proposed to connect to the surface water private sewer on Owers Road. The discharge rates will be within the restrictions indicated by both Anglian Water and the proposed level and drainage strategy included in the previous application (Application Reference 12/01071/OUT).

11.6.7 In respect of surface water drainage, during the course of the planning application Essex County Council's SuDs team have now confirmed they have no objection to the application subject to suitable conditions which can be imposed to ensure detailed SUDS specifications including discharge rates, a drainage strategy, effective monitoring to ensure full attenuation methods are adopted for SUDS features if the application is deemed acceptable.

11.6.8 Overall, from a flood risk and drainage perspective, it is considered the development can comply with the above policies, and therefore is considered to be acceptable in this regard.

11.7 Ecology

11.7.1 Policy RLP84 of the Adopted Local Plan states that planning permission will not be granted for development which would have an adverse impact on badgers, or species protected under various UK and European legislation, or on the objectives and proposals in National or County Biodiversity Action Plans as amended. Where development is proposed that may have an impact on these species, the District Council will require the Applicant to carry out a full ecological assessment. Where appropriate, the Planning Authority will impose conditions and/or planning obligations to: a) Facilitate the survival of individual members of the species; b) Reduce disturbance to a minimum; and c) Provide supplementary habitats. This is echoed by Policy LPP68 of the Section 2 Plan.

11.7.2 The application was supported by an ecology report, biodiversity survey carried out by the Landscape Partnership dated December 2021 and this determined that the proposal will not have an adverse impact on ecology. ECC Ecological Consultant has raised no objections subject to securing the financial contributions in line with the Essex Coast Recreational Avoidance and Mitigation Strategy by way of a Section 106 Agreement or S111 payment; as well as conditions to secure the ecological mitigation and biodiversity enhancement measures detailed within the Ecological Impact Assessment carried out by Landscape Partnership Limited December 2021 together with net gains for biodiversity secured by condition via a Biodiversity Enhancement Strategy.

11.8 Landscaping and Trees

11.8.1 Policy RLP81 of the Adopted Local plan states that the Planning Authority will encourage landowners to retain, maintain and plant, in appropriate locations locally native trees, woodlands, grasslands and hedgerows.

11.8.2 The application is accompanied by a tree plan and tree schedule submitted by Tracey Clarke Tree Consultancy to ensure that associated mitigation measures are employed for the protection of existing trees. This details the various categories of trees on the site and submitted landscaping plan provides tree planting. The submitted drawings and supporting statement

confirms there are 10 trees on site with 6 trees to be retained and 4 removed with 3 of those trees being category C trees and 1 a Category U tree. The Applicant has confirmed 121 additional trees within the proposals. However BDC Landscape Services have objected to the proposals. The development fails to provide tree lined streets as per the NPPF; and the small areas of public realm are not sufficient in scale to support areas where there will be a flourishing tree canopy which will help to provide character and sustainable amenity.

- 11.8.3 The landscape masterplan (Drawing No.B21072) includes proposals for a number of feature trees. However, it is not clear how they can be successfully accommodated within the site. Furthermore, the majority of the tree planting is shown within private spaces or on boundaries that clash with the existing planting of the adjacent development. The NPPF highlights that Local Planning Authorities must ensure that arrangements are made for the long term retention and management of street trees. Officers consider that there is no guarantee that trees planted within private gardens will be retained and appropriately managed. The failure to do this means the tree planting proposed is deficient both in terms of numbers but also ownership / management. The requirements of the NPPF demonstrate that there should be an expectation that the landscaping should make a contribution to place making and a sense of identity within the development which this development fails to provide.

11.9 Heritage and Archaeology

- 11.9.1 Essex County Council Place Services (Archaeology) have been consulted and have considered the site lies within an area which has been subject to archaeological fieldwalking, targeted evaluation and excavation in response to the previous planning application (Application Reference 12/01071/OUT).
- 11.9.2 The excavations revealed a significant multiperiod landscape and settlement from prehistoric to medieval. Specifically, an excavation to the south of the proposed site revealed Bronze Age postholes and a cremation as well as worked flints. Recent excavations to the north of Hatfield Road have uncovered further evidence for a multi-period landscape including Bronze Age cemeteries. There is high potential for further evidence for the prehistoric and later settlement of this area within the development area. A Heritage Statement has been submitted which acknowledges the potential for unknown heritage assets to be present within the development area and, in accordance with paragraph 194 of the NPPF a field evaluation will be required to determine the nature and significance of the heritage assets which may be impacted upon by the proposed development. This could be controlled by condition in accordance with the National Planning Policy Framework for a Programme of Archaeological Evaluation and Excavation.
- 11.9.3 Planning conditions relating to the securing of the above are therefore required to ensure that the impact of the development upon any

archaeological non-designated heritage assets could be mitigated by way of archaeological excavation and recording, should approval be given.

11.10 External lighting

11.10.1 Policy RLP65 of the Adopted Local Plan indicates that external lighting should be designed as an integral element of the development and provides guidance on the design of the lighting.

11.10.2 In this respect, this application is accompanied by an External Lighting Impact Assessment, which concludes a compliant lighting scheme can be designed and installed with a low impact on wildlife. The Council's Ecological Consultant has raised no objections to the overall approach, however a condition if the application should be approved can be imposed to ensure the lighting includes correlated colour temperatures of less than 3000k where possible together with associated mitigation measures within the external lighting report to ensure the proposal would not result in material harm to the surrounding area, nearby residents nor impact upon local wildlife.

11.11 Contamination

11.11.1 A Geo-Integrity report carried out by Groundsure has been submitted for consideration. The Council's Environmental Health Officer has raised no objections and does not consider the site to be contaminated. However any unexpected contamination arising from the development will be mitigated against.

11.12 Habitat Regulations Assessment (HRA / RAMS)

11.12.1 The application site is situated within the Zone of Influence (ZOI) for the Blackwater Estuary Special Protection Area (SPA)/Ramsar site and the Essex Estuaries Special Area of Conservation (SAC).

11.12.2 Natural England have published revised interim guidance on 16th August 2018 in connection with the emerging strategic approach relating to the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) to ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitat Regulations.

11.12.3 In accordance with the revised interim guidance, an appropriate assessment will need to be completed for this application by the Planning Authority, as it falls within the threshold for residential development and is located within the updated Zones of Influence.

11.12.4 The new residential for a net gain of one or more new dwellings excluding the care home located within the Zone of Influence must mitigate its impact on the areas of Protected Essex coastline. The proposed scheme will be

required to make a financial contribution of £137.71 per dwelling towards the mitigation strategy.

- 11.12.5 Instead of an up-front payment, the Applicant has indicated that this financial contribution will be secured by a Section 106 Agreement. However, the contributions have not been secured and a Section 106 agreement has not been signed by the relevant parties.

12. Planning Obligations

Affordable Housing

- 12.1 In locations such as this within town development boundaries Policy CS2 of the Core Strategy states that 30% of the proposed dwellings would be required to be provided as affordable housing. In this case this equates to 13 homes. The Applicant has indicated that the tenure mix of the Affordable Housing would be 60% Affordable Rent: 40% Shared Ownership, equating to 9 affordable rent and 4 shared ownership homes. The Council's Housing Enabling Officer has stated that the Council's usual requirement is for the tenure mix of Affordable Housing provision to be 70:30, reflecting very high levels of demand for affordable rental properties. This tenure mix has been consistently secured from developers and there is no reason why this should not be the case with this development. The tenure mix offered by the Applicant is not acceptable.
- 12.2 The Council's Housing Enabling Officer has also raised concerns that the proposed mix would include 9 rented units as flats and that the block has two stair cores, one providing communal access to 7 flats and the other to 12 flats. Whilst the Applicant states that a Registered Provider has been involved in the developing the scheme, the Council's experience is that this type of access arrangements does not work with a mix of tenures. Aside from issues over how the communal areas are managed the Council are aware that mortgage lenders are often not supportive of these arrangements. The restricted availability of mortgages can result in developers needing to change the tenures at a later date as prospective purchasers cannot complete purchases. The Council want developments to be designed in a manner that will not cause future management issues, or potentially require changes to the tenure of units.
- 12.3 The Council's Housing Enabling Officer has also provided the mix and tenure of the Affordable Housing that is considered to be appropriate and reflects local housing need. Having reviewed data from the Housing List the Housing Enabling Officer has highlighted that the mix of housing is not reflective of local housing need. Specifically he has highlighted that there is a high local need for 3-bed properties but the Applicant is only offering 1 & 2 bed flats. The Council need not only to increase the number of Affordable Homes available within the district but also make sure that the Affordable Housing stock contains an appropriate mix of housing to meet all housing needs. If every developer provided all their Affordable Housing as flats the Council would find it increasingly hard to house people who need properties

with three or more bedrooms. There is also a concern that the 2-bed flats are also not the type required. The flats are designed for maximum 3 person occupancy but as set out in their consultation response, the Council require 2 bedroom accommodation to be able to house 4 persons. The Council's experience of social housing letting is that 3 person units restrict the type of family that these homes can be offered to and these types of properties also have a higher turnover than 4 person units typically because of households having an additional children and requiring a transfer to a unit with more bed spaces. For all these reasons the Affordable Housing being offered by the Applicant is not acceptable in terms of the mix of housing; the mix of tenure and the design of the housing. Whilst it may be possible to let / sell the Affordable Housing being offered, it would not help the Council meet identified local housing need and could even lead to problems with the tenure mix being maintained.

- 12.4 Similar to other contributions, the affordable housing element has not been secured and a Section 106 Agreement has not been signed by the relevant parties.

Other obligations

- 12.5 The development gives rise to a number of other financial contributions, namely:

- Open Space and Amenity
- HRA
- NHS
- Education

Open Space

- 12.6 The adopted Open Space SPD states that outdoor equipped playspaces should be provided for housing schemes with 10 to 50 dwellings. The Applicant is not proposing any equipped play provision within the development. The planning statement accompanying this application states 1068sq.m of public open space is proposed to the north of the residential development and a further 716sq.m public landscaped footpath linking the residential area within the proposals with the Care Home, and Retail units. Whilst Officers consider that appropriate pedestrian and cycle routes should be provided within the development the path provided is relatively narrow and there is very limited space for any meaningful landscaping. Along much of its length the path is simply passing the landscaping to the care home, or incidental planting to the car parking area.
- 12.7 Open space is defined in the Town and Country Planning Act 1990 as land laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground. The Council's Open Space SPD states that open space should be taken to mean all open space of public value, including not just land, but also areas of water such as rivers, canals, lakes and reservoirs which offer important opportunities for sport and

recreation and can also act as a visual amenity. Officers do not consider that this space can be considered Open Space, or should be counted as part of the Open Space assessment of the scheme.

- 12.8 Based on the mix of housing and average occupancy rates, Officers estimate that the housing development could have a population of 81 people. This yields a policy requirement for open space within the development of 1800sq.m. Therefore the proposed level of on-site provision of 1068sq.m would be significantly below the minimum policy expectation for a development of this size. This is a further indication of over-development of the site.
- 12.9 When considering the level of Open Space being provided within the development site the approved Maltings Lane Masterplan should also be considered. The Masterplan indicated the provision of landscaped areas either side of Area E / Units 26A-26E. The Masterplan was the latest iteration of the plans to develop the whole Maltings Lane development and reflected how the needs of the 213 dwellings that were envisaged for this part of the development, but also the development as a whole. This is a further indication that the level of Public Open Space provision within the site is not adequate and this would be detrimental to the amenity of local residents and represents an overdevelopment of the site.

Healthcare Provision

- 12.10 In order to meet the healthcare needs arising from the proposed development the NHS Mid and South Essex Health and Care Partnership using the capital cost calculation would require a sum of £36,200.

Education

- 12.11 The developers guide requires a contribution for Primary and Early Years Childcare including 3 Early Years and Childcare (EY&C) places, 10 primary school places and 7 secondary school places. The following developer contributions are requested:
- £51,804 index linked to Q1 2020 is sought to mitigate its impact on local EY&C provision;
 - £172,680 index linked to Q1 2020, is sought to mitigate its impact on local primary provision;
 - £166,425 index linked to Q1 2020, is sought to mitigate its impact on local secondary provision; and
 - A developer contribution of £3,423.20 index linked to Q1 2020 is sought to mitigate its impact on the libraries services on offer.
- 12.12 None of the above planning contributions have been secured through a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended). On this basis, without the contributions to mitigate the effects of the development, the proposal would cause adverse pressure and harm upon both social infrastructure and environmental assets.

13. PLANNING BALANCE AND CONCLUSION

- 13.1.1 As set out within Paragraph 47 of the NPPF, planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In this case the application site is located within a designated development boundary where the principle of development is generally considered to be acceptable in accordance with Policy RLP3 of the Adopted Local Plan, and Policy LPP1 of the Section 2 Plan.
- 13.1.2 Paragraph 60 of the NPPF sets out the Government's objective of significantly boosting the supply of homes. The main mechanism within the NPPF for achieving this is the requirement that local planning authorities demonstrate a five-year supply of deliverable housing land, assessed against housing need. In this regard, the Council is currently able to demonstrate a Housing Land Supply of 5.1 years against its housing need. As such the Council is presently meeting this objective.
- 13.1.3 Until the adoption of the Section 2 Plan, the sites which are proposed to be allocated but do not yet have planning permission or a resolution to grant planning permission, have not been included within the 5 Year Housing Land Supply calculation.
- 13.1.4 As such, although the Council can currently demonstrate a 5 Year Housing Land Supply, this is finely balanced, and currently only marginally exceeds the 5 year threshold.
- 13.1.5 As the Council can demonstrate the required 5 Year Housing Land Supply, the 'tilted balance' pursuant to Paragraph 11d) of the NPPF is not engaged due to a lack of housing land supply. It is therefore necessary to identify the most important policies for determining the application and to establish whether these are out-of-date. Paragraph 219 of the NPPF states that existing policies should not be considered out-of-date simply because they were adopted prior to the publication of the Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater weight that may be given).
- 13.1.6 In this case the basket of policies which are considered to be the most important for determining the application are Policies SP1, SP2, SP3, SP6 and SP7 of the Section 1 Plan; and Policies RLP2, RLP3 RLP56, and RLP90 of the Adopted Local Plan.
- 13.1.7 Policy SP1 of the Section 1 Plan states that when considering development proposals the Local Planning Authority will take a positive approach that reflects the presumption in favour of sustainable development contained within the NPPF, and will seek to approve proposals wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. Policy SP2 of the Section 1 Plan

secures the mitigation measures in accordance with the Recreational disturbance Avoidance and Mitigation Strategy. Policy SP3 of the Section 1 Plan sets out the spatial strategy for North Essex, namely to accommodate development within or adjoining settlements according to their scale, sustainability and existing role both within each individual Districts, and where relevant, across the wider strategic area. Further growth will be planned to ensure existing settlements maintain their distinctive character and role, to avoid coalescence between them and to conserve their setting. Policy SP6 of the Section 1 Plan highlights the important of the provision of infrastructure, services and facilities to serve the needs arising from the development. Policy SP7 of the Section 1 Plan relates to place shaping principles and states that all new development must meet high standards of urban design and architectural design.

- 13.1.8 As the Section 1 Plan has been found to be sound and recently adopted by the Council, it is considered that all 5 policies are consistent with the NPPF and can be afforded full weight. None of them are out-of-date.
- 13.1.9 Whilst the primary purpose of Policy RLP2 of the Adopted Local Plan is to restrict development to development boundaries, and thus resist it in the countryside, it is considered that the policy remains broadly consistent with the Framework's approach of protecting the countryside from harmful development, and is not hindering the Council in delivering housing growth within the District. The policy is not out-of-date, and can be given moderate weight.
- 13.1.10 Policy RLP3 of the Adopted Local Plan seeks to permit residential development within village envelopes and town development boundaries, where it satisfies amenity, design, environmental and highway criteria and where it can take place without material detriment to the existing character of the settlement. As with Policy RLP2, it is considered that the policy remains broadly consistent with the Framework as it seeks to secure sustainable development. The policy is not out-of-date, and can be given more than significant weight.
- 13.1.11 Policy RLP56 of the Adopted Local Plan sets out the off-street parking standards for all development. This is in line with the NPPF that parking should be integral to the design of schemes and contribute to making high quality places and are not considered to be out of date and can be given significant weight.
- 13.1.12 Policy RLP90 of the Adopted Local Plan seeks a high standard of layout and design in all development. This echoes with the latest requirement of the NPPF for high quality design and beautiful development that reflect and/or enhance the local character, and therefore is not considered to be out of date and can be given significant weight.
- 13.1.13 When considering the basket of the most important policies for the determination of this application as a whole, it is considered that the policies are not out-of-date and are broadly consistent with the Framework.

Given that the Council can demonstrate a 5 Year Housing land Supply, and the basket of policies are not otherwise out-of-date, the 'flat' (or untitled) planning balance must still be undertaken which weighs the adverse impacts of the proposed development, including the conflict with the Development Plan, against the public benefits of the proposal.

- 13.1.14 In undertaking this flat planning balance, such an assessment must take account of the economic, social and environmental impact of the proposed development. As set out in Paragraph 8 of the NPPF, achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and needed to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):
- an economic objective (to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure);
 - a social objective (to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering 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).

13.2 Summary of Adverse Impacts

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

Conflict with the Section 2 Local Plan

- 13.2.2 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Paragraph 15 of the NPPF emphasises that the planning system should be "genuinely plan led".
- 13.2.3 The site is located within the Witham Town Development Boundary in a location where new residential development is acceptable in principle in accordance with RLP3 of the Adopted Local Plan and LPP1 of the Draft Section 2 Local Plan, subject to other policy requirements.

Harm to the Character and Appearance of the Area

- 13.2.4 The proposal, by reason of the proposed layout and excessive bulk, coupled with insufficient degree of set back from the site frontages and its bland, overly functional design and appearance including poor articulation and architectural quality, would appear as an overly dominant, obtrusive and incongruous development that is out of keeping with and detrimental to the prevailing character and appearance of the streetscene and the surrounding area. Significant weight is afforded to this harm.

Impact on residential amenity

- 13.2.5 The proposed development would deliver an unacceptable standard of residential amenity in respect of limited separation distances to boundaries, and limited separation distances between dwellings, the flats, and the care home. The proposed layout would also be dominated by hardstanding. Significant weight is afforded to this harm.

Lack of Planning Obligations

- 13.2.6 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, libraries, open space, affordable housing, as well as to secure the provision and long term maintenance and management of the Public Open Space provided on-site. 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.

Ecology and HRA/RAMS

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

Delivery of Affordable Housing

- 13.2.8 The proposal would fail to provide the type of affordable housing required to meet the identified housing need within the District. The harm is afforded significant weight.

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 31 market dwellings and 13 affordable dwellings to be provided together with a 70 bed specialist housing care home. In view of the scale of development proposed and the unacceptable mix/layout of affordable units, the contribution to meet local housing needs would only be afforded moderate weight.

Economic and Social Benefits

- 13.3.3 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. In view of the scale of development proposed, this is afforded moderate weight.

Sustainable Location

- 13.3.4 The application site is located within one of the District's main towns and is adjacent to a local centre and is therefore located in a sustainable location with good access to services and facilities as well as good public transport opportunities. This factor is afforded significant weight.

Provision of Neighbourhood Shops

- 13.3.5 The proposed development would mean that the parade of neighbourhood shops would be delivered. The neighbourhood shops are one of the last community facilities that were to be provided as part of the Maltings Lane development. This is afforded significant weight.

13.4 Summary of Neutral Factors

- 13.4.1 There is no identified harm in terms of heritage assets and their settings, ecological impacts and highways matters are considered neutral in the planning balance.

13.5 Planning Balance

- 13.5.1 When considering the flat planning balance and having regard to the adverse impacts and benefits outlined above, and having regard to the requirements of the NPPF as a whole, Officers have concluded that the benefits of the proposal are clearly and significantly outweighed by the harms, including the harm arising from the conflict with the Development Plan, such that planning permission should be refused in line with the Development Plan.
- 13.5.2 Notwithstanding the above, even 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
Lighting Plan	1734-E-100	P1
Proposed Ground Floor Plan	2779-HIA-01-00-DR-A-0200	Care Home
Proposed 1st Floor Plan	2779-HIA-01-01-DR-A-0201	Care Home
Proposed 2nd Floor Plan	2779-HIA-01-02-DR-A-0202	Care Home
Proposed Roof Plan	2779-HIA-01-03-DR-A-0203	Care Home
Proposed Elevations	2779-HIA-01-XX-DR-A-0301	Care Home
Proposed Elevations	2779-HIA-01-XX-DR-A-0302	Care Home
Proposed Elevations	2779-HIA-01-XX-DR-A-0303	Care Home
Proposed Elevations	2779-HIA-01-XX-DR-A-0304	Care Home
Proposed Site Plan	2779-HIA-ZZ-XX-DR-A-0101	Care Home
Proposed Floor Plan	A20-030-010-B	Apartments
Proposed Floor Plan	A20-030-011-B	Apartments
Proposed Elevations	A20-030-012-B	Apartments
House Types	A20-030-020-B	N/A
House Types	A20-030-021- A	N/A
House Types	A20-030-022-B	N/A
House Types	A20-030-023- A	N/A
House Types	A20-030-030-A	N/A
House Types	A20-030-031-A	N/A
House Types	A20-030-040-A	N/A
House Types	A20-030-041-A	N/A
House Types	A20-030-060-A	N/A
House Types	A20-030-061-A	N/A
House Types	A20-030-070-A	N/A
House Types	A20-030-071-A	N/A
Proposed Site Plan	A20-030-PL002-C	N/A
Parking Strategy	A20-030-PL005-A	N/A
Boundary Treatment	A20-030-PL006-A	N/A
Materials Details	A20-030-PL007-A	N/A
Refuse Information	A20-030-PL008-B	N/A
Other	A20-030-PL009-A	N/A
Management plan	A20-030-PL010-A	N/A
Proposed Floor Plan	A20-030-PL100D	Retail
Proposed Elevations	A20-030-PL101-F	Retail
Proposed Elevations	A20-030-PL102-B	Retail
Location Plan	A20-030-SLP001P2	N/A
Landscape Masterplan	B21072.105B	N/A
Tree Plan	TCTC-18140-PL-03	N/A

Reason(s) for Refusal

Reason 1

The proposed development, by virtue of the detailed design and layout, would represent poor design and be out of keeping and detrimental to the character and appearance of the streetscene and the surrounding area.

The proposed single-storey retail units would be dominated by hardstanding, car parking and servicing. The proposed elevational treatment is considered to represent poor design with little visual interest to the facades which fails to provide adequate active frontages. The scale of the retail units appears out of keeping and poorly proportioned when compared to the adjacent three storey care home and the mass of the existing Aldi store, to the detriment of the streetscene.

The proposed flat block would be utilitarian in appearance, and would be poorly fenestrated, failing to break up the mass and bulk form of the building. The siting of the block results in a lack of legibility and fails to adequately address the street. Insufficient communal open space and a lack of defensible space at ground floor would be provided for future occupiers, to the detriment of residential amenity.

The proposed housing layout would be dominated by hardstanding and car parking, some of which is insecure and inappropriately accommodated within the proposed site layout, with some divorced from the housing it is proposed to serve. The proposed layout fails to provide tree lined streets as advocated by Paragraph 131 of the NPPF. The elevational design of the proposed dwellings is considered to be poor and lacks articulation. The overall poor detailed design, bulk and massing of the dwellings would represent poor design.

The proposed development is therefore considered to be contrary to the National Planning Policy Framework, Policies RLP3, RLP9, RLP20, RLP81 and RLP90 of the Adopted Local Plan Review, Policies LPP50 and LPP55 of the Publication Draft Section 2 Local Plan, and the Essex Design Guide.

Reason 2

The proposed development, by reason of the mix and layout of the proposed affordable housing, would fail to meet the identified housing need within the Braintree District. The proposal would therefore be contrary to the National Planning Policy Framework, Policy CS2 of the Adopted Core Strategy, Policy LPP33 of the Publication Draft Section 2 Local Plan, and the Strategic Housing Market Assessment Update 2015.

Reason 3

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 Policy SP2 of the Adopted Shared Strategic Section 1 Local Plan.

Reason 4

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

- On site Affordable Housing;
- On site provision as well as a financial contribution towards equipped play;
- A financial contribution towards outdoor sport and allotments;
- Ongoing maintenance for on-site public open space;
- A financial contribution to Essex County Council to mitigate its impact on Early years and childcare, Primary and Secondary places, Secondary School Transport and library enhancements; and
- A financial contribution for the NHS to ensure that the impacts of increased demand for services can be accounted for.

These requirements should be secured through a S106 Agreement and a S106 Agreement has not been prepared or completed. In the absence of securing such planning obligations the proposal is contrary to Policy RLP138 of the Adopted Braintree District Local Plan Review (2005), Policies CS2 and CS10 of the Adopted Core Strategy, Policy SP6 of the Adopted Shared Strategic Section 1 Local Plan, Policies LPP33, LPP53 and LPP82 of the Publication Draft Section 2 Local Plan, and the Open Space Supplementary Planning Document.

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 Development Framework Core Strategy 2011

CS2 Affordable Housing
CS6 Retailing and Town Centre Regeneration
CS7 Promoting Accessibility for All
CS8 Natural Environment and Biodiversity
CS10 Provision for Open Space, Sport and Recreation

Braintree District Local Plan Review 2005

RLP2 Town Development Boundaries and Village Envelopes
RLP3 Development within Town Development Boundaries and Village Envelopes
RLP7 Housing and Mixed Use Sites
RLP9 Design And Layout of Housing and Mixed Use Areas
RLP20 Residential Institutions in Towns and Villages
RLP22 Accessible Housing and Lifetime Housing
RLP27 Location of Employment Land
RLP28 Employment Land Provision
RLP29 Business Parks Within Business
RLP31 Design and Layout of Business Parks
RLP34 Buffer Areas between Industry and Housing
RLP49 Pedestrian Networks
RLP50 Cycleways
RLP52 Public Transport
RLP53 Generators of Travel Demand
RLP54 Transport Assessments²
RLP56 Vehicle Parking
RLP64 Contaminated Land
RLP65 External Lighting
RLP69 Sustainable Drainage
RLP70 Water Efficiency
RLP71 Water Supply, Sewerage and Land Drainage
RLP74 Provision of Space for Recycling
RLP80 Landscape Features and Habitats
RLP81 Trees, Woodlands, Grasslands and Hedgerows
RLP84 Protected Species
RLP90 Layout and Design of Development
RLP92 Accessibility

- RLP100 Alterations and Extensions and Changes of Use to Listed Buildings, and their settings
- RLP105 Archaeological Evaluation
- RLP106 Archaeological Excavation and Monitoring
- RLP138 Provision of Open Space in New Housing Developments

Braintree District Shared Strategic Section 1 Local Plan (2021)

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

Braintree District Draft Section 2 Local Plan (2017)

- LPP1 Development Boundaries
- LPP10 Retailing and Regeneration
- LPP17 Housing Provision and Delivery
- LPP33 Affordable Housing
- LPP37 Housing Type and Density
- LPP44 Sustainable Transport
- LPP45 Parking Provision
- LPP50 Built and Historic Environment
- LPP53 Provision for Open Space, Sport and Recreation
- LPP55 Layout and Design of Development
- LPP60 Heritage Assets and their settings
- LPP63 Archaeological Evaluation, Excavation and Recording
- LPP67 Natural Environment and Green Infrastructure
- LPP68 Protected Species, Priority Spaces and Priority Habitat
- LPP69 Tree Protection
- LPP70 Protection, Enhancement, Management and Monitoring of Biodiversity
- LPP71 Landscape Character and Features
- LPP73 Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
- LPP74 Climate Change
- LPP75 Energy Efficiency
- LPP78 Flooding Risk and Surface Water Drainage
- LPP79 Surface Water Management Plan
- LPP80 Sustainable Urban Drainage Systems
- LPP81 External Lighting
- LPP82 Infrastructure Delivery and Impact Mitigation

Other Material Considerations

- Affordable Housing Supplementary Planning Document (2006)
- Essex Coast RAMS Supplementary Planning Document (2020)
- Essex Design Guide for Mixed Use and Residential Areas (2005)
- Open Space Supplementary Planning Document (2009)

Parking Standards - Design and Good Practice (2009)
Urban Place Supplement Guidance (2007)
Strategic Housing Market Assessment Update (2015)
External Lighting Supplementary Document (2009)
Open Spaces Action Plan (2021)

Statement on Draft Local Plan

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

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

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

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

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

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

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

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

APPENDIX 3:

SITE HISTORY

Application No:	Description:	Decision:	Date:
00/01764/OUT	Proposed Master Layout Plan: Erection of approximately 800 dwellings, business park, primary school, neighbourhood centre and community facilities	Granted	28.06.01
01/02134/REM	Construction of new estate spine road linking roundabout B (accesses via Maltings Lane) to roundabout D off Hatfield Road	Granted	20.08.02
03/00884/FUL	Variation of condition no. 6 of outline planning permission 91/01563/POWS to remove time limits for submission and implementation of all reserved matters	Granted	23.06.03
03/02176/FUL	Submission of detailed design statement relating to Phase 2A in accordance with Condition 3 of outline planning permission 91/1563/POWS for Phase 1A	Granted	12.03.04
91/01563/OUT	Erection Of Approx. 800 Dwellings, Business Park, Primary School, Neighbourhood Centre, Community Facilities	Granted with S106 Agreement	08.08.00
91/01564/POWS	Erection Of Approx. 800 Dwellings, Business Park, Primary School, Neighbourhood Centre, Community Facilities		29.02.96
05/00597/FUL	Variation of condition 20 of outline planning permission (91/01563/POWS) to increase the number of	Withdrawn	10.09.13

	units on the site		
06/01143/OUT	Erection of approx. 268 Dwellings, B1 business park, primary school, neighbourhood centre, community facilities, open space, landscaping and ancillary infrastructure	Granted with S106 Agreement	28.11.08
09/00265/REM	Main Highway infrastructure to be implemented as part of planning approval 06/01143/OUT including pedestrian footways and crossings, cycleways and bus stops	Granted	29.04.09
12/00005/SCR	Town & Country Planning Act 1990 (as amended), Town & Country Planning (Environmental Impact Assessment) Regulations 2011 - Screening Opinion Request - Mixed use development comprising a commercial area for employment, neighbourhood centres, community facilities including food retail, non-food retail, a pub/restaurant, children's day nursery, Class B1 office, retail warehousing, other uses within Classes A1 to A5, community centre, place of worship, health centre, sports facilities, residential dwellings, open space, landscaping and ancillary infrastructure at land to the south of Hatfield Road forming part of the Maltings Lane development		16.08.12
09/00102/DAC	Application for approval of details reserved by condition of approval 06/01143/OUT	Part Grant, Part Refused	25.06.09

14/00100/REM	Application for reserved matters: Erection of 135 no. dwellings, associated access, infrastructure, parking and landscaping, provision of playing fields and associated changing facilities	Granted	02.06.14
14/00216/DAC	Application for approval of details reserved by condition nos. 2, 6, 7, 11 and 12 of approved application 14/00100/REM	Granted	14.09.15
15/00097/DAC	Application for approval of details reserved by condition nos. 14, 15, 18 and 20 of approved application 12/01071/OUT	Granted	14.09.15
15/00064/NMA	Application for a non-material amendment following grant of planning permission - Erection of 135 no. dwellings, associated access, infrastructure, parking and landscaping, provision of playing fields and associated changing facilities - To remove the timber beams from the side elevations of the steel balcony to apartment blocks 1 (plots 13 to 30 inc) and Block 2 (plots 75 to 86 inc)	Granted	29.02.16
16/01209/FUL	Construction of shop units comprising a store of 719sq.m. GIA (for A1 use and/or pet care, treatment and grooming facilities) and a block of three unit shop (for A1-A5 use) with a total GIA of 431sq.m.	Pending Decision	
17/00918/NMA	Application for a non-material amendment following grant of planning permission 12/01071/OUT (Revised masterplan for a mixed use development	Granted	13.06.19

	comprising a commercial area for employment, neighbourhood centres, community facilities including food retail, non-food retail, a pub/restaurant, Class B1 office, retail warehousing, other uses within Classes A1 to A5, children's day nursery, health centre, sports facilities, residential dwellings, open space, landscaping and ancillary infrastructure at land to the south of Hatfield Road forming part of the Maltings Lane development) - Insertion of 10 no. roof lights		
22/01134/NMA	Non-Material Amendment to permission 14/00100/REM granted 02.06.2014 for: Application for reserved matters: Erection of 135 no. dwellings, associated access, infrastructure, parking and landscaping, provision of playing fields and associated changing facilities. Amendment would allow:-Alteration to Location of Bin Store for Plot 87.	Pending Consideration	
16/00657/REM	Application seeking approval of Reserved Matters pursuant to outline planning permission ref: 12/01071/OUT, for a two storey, Class B1 office building	Granted	25.07.16
17/00030/NMA	Application for a non-material amendment following grant of planning permission 16/00657/REM (Application seeking approval of Reserved Matters pursuant to outline	Granted	17.01.17

	planning permission ref: 12/01071/OUT, for a two storey, Class B1 office building) - amendment to the fenestration pattern, introducing larger windows.		
17/00905/DAC	Application for approval of details reserved by condition nos. 8, 12 and 13 of approved application 16/00657/REM	Granted	11.08.17
01/00973/FUL	Submission of detailed design statement relating to phase one in accordance with Condition 5 of outline planning permission 91/1563/POWS	No Objections Raised	11.09.01
01/02128/FUL	Submission of detailed design statement relating to phase one in accordance with Condition 3 of outline planning permission 91/1563/POWS - Spine Road Design Statement (Excluding Northern Loop)	Granted	21.08.02
14/00008/REF	Approval of Reserved Matters application for the erection of an Aldi Retail Store at the northern corner of Gershwin Boulevard and Hatfield Road	Appeal Dismissed	20.05.14
15/00024/REF	Display of 1 x Non-illuminated, 1 x externally illuminated, and 4 x internally illuminated signage	Appeal Withdrawn	30.11.15
14/00004/SCR	Town & Country Planning Act 1990 (as amended), Town & Country Planning (Environmental Impact Assessment) Regulations 2011 - Screening Opinion Request - Approval of Reserved Matters application for the erection	Screening/ Scoping Opinion Adopted	14.04.14

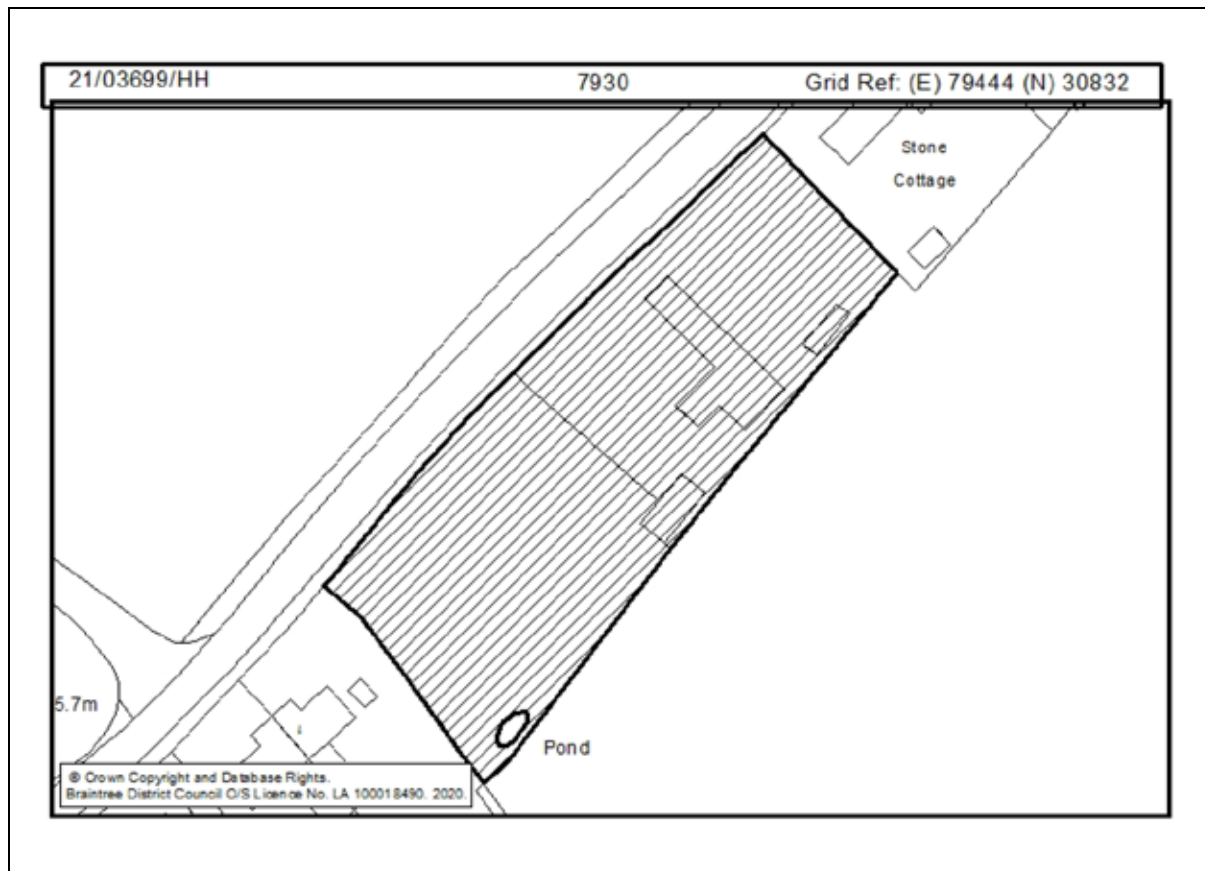
	of an Aldi Retail Store at the northern corner of Gershwin Boulevard and Hatfield Road		
14/00918/REM	Approval of reserved matters for a foodstore at junction of Hatfield Road and Gershwin Boulevard	Granted	18.11.14
15/00039/DAC	Application for approval of details reserved by condition no. 6 of approved application 14/00918/REM	Granted	25.02.15
15/00519/ADV	Display of 1 x Non-illuminated, 1 x externally illuminated, and 4 x internally illuminated signage	Refused	31.07.15
15/00037/NMA	Application for a non-material amendment following grant of planning permission 14/00918/REM (Approval of reserved matters for a foodstore at junction of Hatfield Road and Gershwin Boulevard) - Minor adjustments to refine practical details please see covering letter	Granted	23.06.15
15/01136/ADV	Display of 1 x Non-illuminated, 1 x externally illuminated, and 3 x internally illuminated signage	Granted	12.11.15
15/01245/ADV	Display of 4 no. graphic vinyls on glazing	Granted	04.12.15
13/00448/FUL	Erection of single storey building with associated site works and landscaping for Use Class D1(b) Children's Day Nursery	Granted	26.06.13
14/00068/DAC	Application for discharge of condition Nos 3, 4, 5, 7, 8, 12, 13 and 14 of approved application 13/00448/FUL - relating to approved application Erection of single storey	Part Grant, Part Refused	02.05.14

	building with associated site works and landscaping for Use Class D1(b) Children's Day Nursery		
14/00267/DAC	Application for approval of details reserved by condition no. 6 of approved application 13/00448/FUL	Granted	08.01.15
14/00077/NMA	Application for a non-material amendment following grant of planning permission - 13/00448/FUL (Erection of single storey building with associated site works and landscaping for Use Class D1(b) Children's Day Nursery) - Changes to internal configuration to provide additional room, revised window arrangements and changes to roof	Granted	08.01.15
12/01245/FUL	Erection of public house/restaurant, access, parking and associated works and managers accommodation.	Granted	28.01.13
12/01686/FUL	Provision of infrastructure to serve the first phase of the commercial development including foul and surface water drainage, street lighting, substation and temporary ditch and bund arrangements to secure site access	Granted	07.02.13
13/00046/DAC	Application to discharge condition Nos 6, 8, 11 and 13 of approved application 12/01245/FUL - Erection of public house/restaurant, access, parking, and associated works and managers accommodation.	Granted	16.04.13

13/00365/FUL	Application for removal of condition no. 7 of planning approval 12/01245/FUL relating to car parking spaces	Granted	06.06.13
13/00074/DAC	Application to discharge conditions 2, 3, 5 and 9 of approved application 12/01245/FUL - Erection of public house/restaurant, access, parking, and associated works and managers accommodation.	Granted	04.07.13
13/00014/NMA	Application for a non-material amendment following grant of planning permission no. 12/01245/FUL - Increase kitchen with c1.1m extension	Granted	16.04.13
13/00880/ADV	Display of externally illuminated and non-illuminated signage.	Granted	11.10.13
13/00198/DAC	Application for approval of details reserved by condition no. 14 of approved application 12/01245/FUL	Granted	25.11.13
13/00056/NMA	Application for a non-material amendment following grant of planning permission no. 12/01245/FUL - Revised hard landscape scheme to enhance external seating area.	Granted	03.12.13
14/01328/ADV	Display of 1 internally illuminated wall sign and 1 internally illuminated double sided sign.	Part Grant, Part Refused	02.12.14

Report to: Planning Committee		
Planning Committee Date: 31st May 2022		
For: Decision		
Key Decision: No		Decision Planner Ref No: N/A
Application No:	21/03699/HH	
Description:	Construction of detached two storey cart lodge together with ground floor side extension to existing dwelling.	
Location:	Brambles White Ash Green Halstead	
Applicant:	Mr & Mrs Gage, Brambles, White Ash Green, Halstead, CO9 1PD	
Agent:	Mr Nigel Valentine, Nigel Valentine Associates Ltd	
Date Valid:	21st December 2021	
Recommendation:	It is RECOMMENDED that the following decision be made: § Application GRANTED subject to the Condition(s) & Reason(s) and Informative(s) outlined within Appendix 1 of this Committee Report.	
Options:	The Planning Committee can: a) Agree the Recommendation b) Vary the Recommendation c) Overturn the Recommendation d) Defer consideration of the Application for a specified reason(s)	
Appendices:	Appendix 1:	Approved Plan(s) & Document(s) Condition(s) & Reason(s) and Informative(s)
	Appendix 2:	Policy Considerations
	Appendix 3:	Site History
Case Officer:	Jack Street For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2515, or by e-mail: jack.street@braintree.gov.uk	

Application Site Location:



Purpose of the Report:	The Committee Report sets out the assessment and recommendation of the abovementioned application to the Council's Planning Committee. The report sets out all of the material planning considerations and the relevant national and local planning policies.
Financial Implications:	<p>The application was subject to the statutory application fee paid by the applicant for the determination of the application.</p> <p>There are no direct financial implications arising out of the decision, notwithstanding any costs that the Council may be required to pay from any legal proceedings. Financial implications may arise should the decision be subject to a planning appeal or challenged via the High Court.</p>
Legal Implications:	<p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either set out the relevant Conditions & Reasons and any Informatives, or the Reasons for Refusal if applicable.</p> <p>All relevant policies are set out within the report, within Appendix 2.</p>
Other Implications:	The application has been subject to public consultation and consultation with relevant statutory and non-statutory consultees. All responses received in response to this consultation are set out within the body of this Committee Report.
Equality and Diversity Implications	<p>Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:</p> <ul style="list-style-type: none"> a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act; b) Advance equality of opportunity between people who share a protected characteristic and those who do not; c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

	<p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p> <p>The Equality Impact Assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.</p>
Background Papers:	<p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> § Application Form § All Plans and Supporting Documentation § All Consultation Responses and Representations <p>The application submission can be viewed online via the Council's Public Access website: www.braintree.gov.uk/pa by entering the Application Number: 21/03699/HH.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> § National Planning Policy Framework (NPPF) § Braintree District Local Plan Review (2005) § Braintree District Core Strategy (2011) § Braintree District Shared Strategic Section 1 Local Plan (2021) § Braintree District Publication Draft Section 2 Local Plan (2017) § 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 regards Brambles, a detached residential dwellinghouse within White Ash Green, and proposes a detached cart lodge structure and a single storey extension to the main dwellinghouse. It is noted that the application has been subject to revision, and a previous link extension between the aforementioned structures has been removed.
- 1.2 The application site is located beyond the parameters of any formal development boundaries or village envelopes as defined in the Adopted Local Plan. The proposal is therefore subject to countryside policies and is considered an appropriate form of development.
- 1.3 The design and appearance of the structure is considered subordinate to, and compatible with, the character of the residential plot, the main dwellinghouse, and the wider countryside location. Though noted that certain design features evoke a more domesticated appearance to the structure, these alone are not considered as reasonable grounds to warrant refusal given that the scheme otherwise complies with local and adopted design policies.
- 1.4 The cart lodge structure allows a sufficient provision for parking. However, parking would be possible elsewhere on the plot irrespective of the cart lodge wherein parking provision on site is not reliant or otherwise impacted by the proposed structure.
- 1.5 No neighbouring impacts have been identified owing to the detached nature of the plot and the distance between the proposed development and neighbouring boundaries.
- 1.6 Taking these factors into account, the application is recommended for approval.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE
- 2.1 This application is being reported to Planning Committee in accordance with Part A of the Council's Scheme of Delegation as the Applicant is related to a Member of Braintree District Council.
3. POLICY CONSIDERATIONS
 - § See Appendix 2
4. SITE HISTORY
 - § See Appendix 3
5. DESCRIPTION OF THE SITE AND SITE CONTEXT
 - 5.1 The application site regards a residential plot consisting of a dwellinghouse known as *Brambles*, together with a landscaped front curtilage area providing a means for access and parking and a rear garden area to the west of the dwelling. *Brambles* sits centrally between these two areas.
 - 5.2 *Brambles* is formed of a core two-storey building to which a single-storey structure spans from its north-western wall. The materials present are traditional in appearance; facing brickwork with timber boarding with concrete/clay pantile roof tiles. The timber boarding is painted dark to evoke the characteristics of the traditional 'Essex barn'.
 - 5.3 Taking into account the wider area, the site sits within White Ash Green, a small countryside hamlet situated between Gosfield and Halstead. Houses within this settlement demonstrate a mixture of appearances and characteristics, although are generally in harmony with the wider countryside landscape. This landscape includes the Great Spansey Wood to the south of the site, a designated Ancient Woodland, Local Wildlife Site and Tree Protection Order (TPO) Woodland: 7/2010 - W1. There is a distance of 300 metres (m) between the site and the fringes of the woodland, separated by a field, wherein the site is not considered within a proximity so as to impact the woodland area.
 - 5.4 The application property is not listed, nor does the site form part of a Conservation Area.
6. PROPOSAL
 - 6.1 The application subject for determination is a revised scheme. The original submission sought to erect a cart lodge structure to the east of the main dwelling that would have been attached via a link extension. Following concerns raised by Officers with respects to the design and footprint of the structure, revisions have been submitted which inform the description below.

- 6.2 The application proposes a detached cart lodge structure to the east of the main dwellinghouse and a single storey extension to the main house that would effectively function as a porch. To the rear of the cart lodge, facing onto the adjoining fields to the south, an external staircase and balcony would be positioned providing access to space formed within the roof of the structure.

7. SUMMARY OF CONSULTATION RESPONSES

- 7.1 The site is under no statutory or local plan designation and thus has not triggered the requirement for any consultations.

8. PARISH / TOWN COUNCIL

8.1 Halstead Rural & Greenstead Green Parish Council

- 8.1.1 Halstead Rural & Greenstead Green Parish Council were consulted on the original and revised application. With respects to the original application, the Parish Council raised no objection.

9. REPRESENTATIONS

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

10. PRINCIPLE OF DEVELOPMENT

- 10.1 The application site is located beyond the parameters of any formal development boundaries or village envelopes as defined in the Adopted Local Plan. The proposal is therefore subject to countryside policies in accordance with Policy RLP2 of the Adopted Local Plan and Policy LPP1 of the Section 2 Plan.
- 10.2 Policy CS5 of the Core Strategy requires development outside of formal development boundaries to be strictly controlled to uses appropriate to the countryside. The provision of an outbuilding to be used in connection with an existing dwelling can be considered a use appropriate to the countryside in accordance with Policy CS5.
- 10.3 Policies RLP18 and RLP90 of the Adopted Local Plan, and Policies LPP38 and LPP55 of the Section 2 Plan outline acceptable design and appearance criteria for developments proposed, with particular note given in this instance to criteria explicit to development within the countryside.
- 10.4 The application proposes the provision of a cartlodge, a structure which can count toward levels of parking provision required on site by Policy RLP56 of the Adopted Local Plan and Policy LPP45 of the Section 2 Plan. Each of these policies formally recognise and adopted the Essex County Council

(ECC) Essex Parking Standards ('the Parking Standards') guidelines, which are outlined in the report below.

- 10.5 The application is considered acceptable in principle, subject to the policy criteria outlined above and expanded upon within the report.

11. SITE ASSESSMENT

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

- 11.1.1 Paragraph 126 of the NPPF (2021) states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Paragraph 134 makes reference to the requirement for good design, and how a failure to achieve good design can warrant refusal of a planning application, specifically where poor design fails to take the opportunities available for improving the character and quality of an area.

- 11.1.2 Policy SP7 of the Section 1 Plan states that new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs.

- 11.1.3 In assessment of the proposed built form, Officers note the criteria outlined in Policy RLP18 of the Adopted Local Plan and Policy LPP38 of the Section 2 Plan. Although Policy RLP18 is generally reserved for residential extensions in the countryside, though its general principles are retained by Policy LPP38 which explicitly extends the criteria to also apply to outbuildings. Collectively, the criteria contained in these policies which are relevant in this case state:

- the design, siting, bulk, form and materials of an extension and/or outbuilding should be compatible with the original dwelling and character of the area;
- extensions and outbuildings will be required to be subordinate to the original dwelling in terms of bulk, height and position;
- new outbuildings should be well related to the existing development on the site and within the curtilage of the dwelling;
- There should be no adverse material impact on the identity of the street scene and/or the appearance of the countryside.

It is noted that the Local Planning Authority is now affording significant weight to the Section 2 Plan, whereby the policies outlined above are accordingly afforded such weight.

- 11.1.4 In addition, Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Section 2 Local Plan require aim to ensure development affecting the public realm shall be of a high standard of design and materials.
- 11.1.5 The first aspect of the scheme due for consideration regards the detached three-bay cart lodge building. It is noted that a current outbuilding occupies this area and establishes built form in this section of the plot.
- 11.1.6 The structure would be composed of two floors; one at ground level providing a cart lodge and store area, and another formed within the roof space. Of the three bays provided, two would be open to allow unrestricted vehicular access whilst another would be enclosed to form a secure storage area. The structure would be a conventional scale and appearance, demonstrating the expected appearance of a cart lodge within a rural setting with a rectangular footprint and pitched roof. It is noted, however, that certain domestic additions inform the design.
- 11.1.7 From the front elevation, two roof lights would indicate the presence of an additional storey formed within the roof space. The provision of additional floor space within the roof is not objectionable on this occasion, as the building has not required an extensive ridge height to accommodate any vast head room. Instead, the roof is proportionate to the eaves wherein the two-floor design does not create an overly dominant addition to the residential plot. The structure would appear, by virtue of its height, bulk and position with relation to the main dwelling, a subordinate addition. In addition, the physical and functional relationship with the dwelling would be legible.
- 11.1.8 To the rear of the cart lodge, an external staircase and balcony would be inserted. The balcony would provide a means of access to the first floor of the structure via a large flat-roof dormer window, adjacent to a standalone dormer window positioned within the roof plane. Although of a highly domesticated appearance, this arrangement is not in a conspicuous location and does not adversely impact the character of the building to which it is attached, nor the character of the main dwelling. Though Officers have previously raised concern to the balcony during discussion, it is noted that this was with respects to the original scheme that included a linked extension to the main dwelling. The balcony contributed to a cluttered appearance, although the revisions submitted to detach the structure have mitigated these concerns. On balance, the balcony and dormer windows are not considered to be to the detriment of the residential plot, and can be considered compatible additions not warranting refusal in their own right.
- 11.1.9 With respects to materials, the structure would feature a brick plinth and painted timber feather-edge cladding to its eaves and natural slate to the roof. The roof of the dormer windows would be lead-sheet cladding. The materials are considered harmonious with the wider countryside landscape and acceptable in this respect.

11.1.10 With respect to the second aspect of the scheme, the single storey extension to the main house, this would appear and function as a porch at the entrance to the dwelling. The structure would appear of a limited depth (2.50m) from the main house and characterised by a strong gabled roof. The structure would feature timber-framed vertical panes of glass to provide light into the structure, although these do not compromise the appearance of the porch. The structure would be subordinate to the dwelling and, by virtue of its height, bulk and materials, a compatible addition to the residential plot and wider landscape.

11.1.11 As such, both components are considered acceptable on balance. No significant departure or conflict with local design policies have been identified that would necessitate a refusal of planning permission, wherein the application is acceptable.

11.2 Highway Considerations

11.2.1 Policy RLP56 of the Adopted Local Plan and Policy LPP45 of the Section 2 Plan states that development will be required to provide off-street vehicle parking in accordance with ECC Vehicle Parking Standards, which state that “prior to any extension or change of use, the developer must demonstrate that adequate parking will be provided”. This includes a requirement for properties of two or more bedrooms to provide two off-street parking spaces.

11.2.2 The host dwelling can provide acceptable parking provision on-site with or without the proposed cart lodge taken into account. As such, acceptable parking provision does not rely on the structure wherein parking requirements are considered acceptable.

11.2.3 For completeness, the bay sizes indicated within the cart lodge section of the structure demonstrate a width of approximately 2.75m either side of a central oak post support and a depth of approximately 5.5m. The total internal footprint measures approximately 5.50m (L) x 5.90m (W).

11.2.4 The Parking Standards outline a preferred bay size of 5.5m x 2.9m, and a minimum bay size (in exception circumstances) of 5.0m x 2.5m. The indicated bays are only slightly lower than the overall preferred bay size, but exceed the minimum size wherein the arrangement can be considered acceptable. Notwithstanding, as outlined in Paragraph 11.2.2, sufficient parking would be provided on the remainder of the plot.

11.3 Impact upon Neighbouring Residential Amenity

11.3.1 Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Section 2 Plan state that development shall not cause undue or unacceptable impacts on the amenities of nearby residential properties. Unacceptable impacts are considered as any factors that can carry the potential to degrade the enjoyment of neighbouring properties in terms of overlooking,

overshadowing, loss of light or loss of privacy. The NPPF also seeks a high quality amenity for existing and future occupiers of neighbouring dwellings.

- 11.3.2 The proposals, by merits of the siting, size, bulk and design of the development, are therefore not anticipated to have any unruly impact on neighbouring residential amenities in terms of overlooking or overshadowing, nor is it thought that the scheme would cause any issues such as loss of light or privacy given the detached nature of the plot. As such, the proposal is considered compliant with regards to the policy considerations referenced above.

12. CONCLUSION

- 12.1 Overall, there are no conflicts or departures from the Development Plan or adopted policy guidance that would necessitate a reason to refuse the application. The design and appearance is considered acceptable on balance and in harmony with the character of the residential plot and wider landscape, whilst highways considerations are satisfied and neighbouring impacts negligible. As such, the application is recommended for approval.

13. RECOMMENDATION

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

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

APPENDIX 1:

APPROVED PLAN(S) & DOCUMENT(S) / CONDITION(S) & REASON(S) AND INFORMATIVE(S)

Approved Plan(s) & Document(s)

Plan Description	Plan Ref	Plan Version
Location Plan	N/A	N/A
Proposed Block Plan	2208.01A	N/A
Proposed Elevations	2208.02A	N/A
Proposed Floor Plan	2208.03A	N/A
Existing Elevations	2208.04B	N/A

Condition(s) & Reason(s)

1.

The development hereby permitted shall be begun on or before the expiration of three years beginning with the date of this permission.

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

2.

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

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

3.

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

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

Informative(s)

Positive and Proactive Statement

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

APPENDIX 2:

POLICY CONSIDERATIONS

National Planning Guidance

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

Braintree District Local Development Framework Core Strategy 2011

CS5 The Countryside
CS8 Natural Environment and Biodiversity

Braintree District Local Plan Review 2005

RLP2 Town Development Boundaries and Village Envelopes
RLP18 Extensions to Existing Dwellings in the Countryside²
RLP56 Vehicle Parking
RLP90 Layout and Design of Development

Braintree District Shared Strategic Section 1 Local Plan (2021)

SP1 Presumption in Favour of Sustainable Development
SP7 Place Shaping Principles

Braintree District Draft Section 2 Local Plan (2017)

LPP1 Development Boundaries
LPP38 Residential Alterations, Extensions and Outbuildings
LPP45 Parking Provision
LPP50 Built and Historic Environment
LPP55 Layout and Design of Development

Other Material Considerations

Essex Design Guide
Essex Parking Standards

Statement on Draft Local Plan

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

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

The Council's Development Plan therefore consists of the Braintree District Local Plan Review (2005) ("the Adopted Local Plan"), the policies of the Core

Strategy (2011) (“the Core Strategy”) which are not superseded, the Shared Strategic Section 1 Local Plan (2021) (“the Section 1 Plan”), and any Adopted Neighbourhood Plan.

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

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

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

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

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

APPENDIX 3:

SITE HISTORY

Application No:	Description:	Decision:	Date:
82/00979/	Erection Of Two Private Dwelling Houses And Garage		
86/01478/	Incorporation Of Site Into Curtilage Of Stonecottage And Storage On Part Of Site Of Personal Items Of Plant And Equipment		
92/00533/FUL	Erection of two storey dwelling linked to existing workshop and removal of mobile home	Granted with S106 Agreement	17.06.92
06/02439/COU	Removal of Section 106 agreement allowing the nursery premises to be used as domestic garden	Granted	29.01.07

Report Title: Proposals for Planning Committee Members Forum	
Report to: Planning Committee	
Date: 31st May 2022	For: Decision
Key Decision: No	Decision Planner Ref No: 2021/48
Report Presented by: Christopher Paggi, Planning Development Manager	
Enquiries to: Christopher Paggi	

1. Purpose of the Report

- 1.1 Full Council approved a new Scheme of Delegation for Development Management decision-making on 7th December 2020. Part of the proposals included the introduction of a new 'Members Forum' where applicants and agents would have the ability during the pre-application, pre-submission, and application stage of the planning process, to present their proposals to Members of the Planning Committee. This report brings forward the Terms of Reference of the Member Forum for consideration.

2. Recommendations

- 2.1 To consider the proposals for a Planning Members Forum and make any suggestions for how the proposals could be improved to ensure they are fit for purpose.

3. Summary of Issues

- 3.1 Members are currently responsible for making decisions on applications, including major planning applications of a large or strategic scale, based on a report and recommendation from Officers published in advance of the Planning Committee meeting, and an Officer presentation on the night. In doing so they must also take into account any material considerations raised within representations and consultation responses received during the process.
- 3.2 Some of the applications determined by Members have been subject to lengthy discussion and negotiation between Officers and the applicants. For a large scale or strategic major application, this process could easily take over a year from the initial pre-application discussion to the application being referred to Planning Committee. However, Members, who will have the final say on the determination of the application, are not involved in any part of that process and do not have the ability to influence the proposals, except of course, for making a final decision on the application.

- 3.3 This lack of engagement currently generates significant risk for both Officers, applicants and agents who are investing significant time and resources in working up proposals. Member involvement in the process earlier will mean that issues can be identified, including any significant principle concerns, so that the applicant can address these or make a decision as to whether to progress any further work on the proposal. The risk and more importantly the consequence of a Member overturn or deferral is significant, both in terms of delay but also in terms of the Officer resource and the abortive cost of this, and the potential additional costs to the Council arising from a subsequent appeal.
- 3.4 The Council remains under significant pressure in terms of housing land supply, and it is increasingly important that strategic sites which are supported are able to be advanced through the planning process to facilitate housing delivery in the District. This will ensure that the District grows in the right way and unsustainable development can be resisted. Developers are keen to understand the particular issues and concerns that Members have about proposed developments so that they can explore ways to address those concerns through their planning application. Developers who have been able to engage with Members on their proposals in advance of determination in other authorities have said they found this to be a useful way of understanding local issues and sentiment and helps produce better quality applications and developments. However, the current process does not include a formal mechanism to facilitate Member engagement as part of the pre-application and planning process.
- 3.5 At the Full Council meeting held on 7th December 2020, Members approved the principle of a 'Members Forum' to enable engagement with Members of the Council's Planning Committee. The terms of reference, governance arrangements, and frequency of meetings were to be subject to further consultation with the Monitoring Officer, Planning Committee, Developing Democracy Group, and the Corporate Governance Group, prior to a further report being referred to Full Council for approval.
- 3.6 Following approval of the new Scheme of Delegation, Officers have fulfilled the obligation to report 'legacy' planning applications under the agreed transitional arrangements to the Council's Planning Committee for determination, namely those applications which had been received on, or prior to, 31st December 2020 which had not been formally determined, but which would have been reported to the Planning Committee for determination in accordance with the criteria of the old Scheme of Delegation, i.e. where the Town or Parish Council view was contrary to the Officer recommendation.
- 3.7 Officers consider that the new Scheme of Delegation is working well and has reduced the overall number of applications going to Planning Committee and has ensured that the Planning Committee concentrate on those applications which have the greatest impact on the District. This reduction in volume of agenda items now means that proposals for a Members Forum can now be

brought forward. The detailed proposals for the Members Forum, are set out below.

Proposal

- 3.8 It is proposed to introduce a Members Forum as part of the planning application process, to facilitate Member engagement in that process, prior to the determination of the application by the Planning Committee.
- 3.9 The objectives of the Member Forum are:
- § To enhance Member engagement in the planning application process, in relation to those applications that will be reported to the Council's Planning Committee for determination;
 - § To enable applicants and agents, and Officers to gain a better understanding of particular issues of concern, and how proposals could be improved further;
 - § To enable Members to gain a greater understanding of how proposals evolve through the planning application process;
 - § To increase and enhance the level of engagement with Town and Parish Council's at the pre-application stage of the process;
 - § To enable Members to hold applicants to account for undertaking meaningful engagement with local residents, in accordance with the Council's Statement of Community Involvement (SCI), prior to the submission of an application.
- 3.10 The Members Forum would review applications at the pre-application stage, and/or pre-submission, and/or post-submission stage of the planning process. Major planning application proposals are subject to considerable discussion, negotiation and consultation both at the pre-application stage and at the formal planning application stage. In some cases the detailed proposals at the determination stage, bear little resemblance to those originally presented for discussion at the first pre-application meeting.
- 3.11 At the present time these early discussions are only with Officers and statutory consultees, with Members making the decision on the suitability of the proposal at Planning Committee, when changes are not generally able to be incorporated. Currently Members only involvement in the planning process is at the final stage and when the Council's Planning Committee is making its determination. While ultimately Members role is the most significant in the process, it is considered that the process would benefit from earlier engagement with Members. This would enable Members to gain an understanding of what the proposal has set out to achieve and enable Officers and applicants to gain a better understanding of particular issues of concern and how proposals could be improved before they are formally considered by the Planning Committee.
- 3.12 Consultation with planning agents, developers and Town and Parish Councils on the proposals for a Planning Members Forum was undertaken prior to the decision at Council in December 2020. Many developers told us within that

consultation and in subsequent conversations that they are keen to understand the issues and concerns that Members have about proposed developments so that they can explore ways to address those concerns through their planning application. Developers who have been able to engage with Members on their proposals in advance of determination in other authorities have said they found this to be a useful way of understanding local issues and sentiment and helps produce better quality applications and developments. Developers are keen to engage, and this is often illustrated by the information packs, fact sheets and brochures which are sometimes produced in advance of Planning Committee meetings. The introduction of a Members Forum would allow meaningful engagement to take place in a structured and transparent way. However, it is important to note that the Member Forum does not change the status or importance of the Planning Committee where the application will still need to be determined on its own merits at the time.

- 3.13 The Council currently offers a full pre-application service and for major application proposals there is the option for applicants to enter into a Planning Performance Agreement (PPA) to facilitate a programme of detailed discussions with Planning Officers and consultees. Increasingly PPAs are being used in recognition of the complexity and scale of development proposals being received by the Council. They have been used to great effect over the last few years to enable detailed negotiation and discussions to take place with Officers, particularly in relation to masterplanning and supporting the development of design codes for several key strategic development sites within the emerging Local Plan. Most notably this includes Straits Mill and Towerlands in Braintree, and Wood End Farm in Witham. These measures have been critical in achieving a step change in the quality of design and layout within new development proposals. It is therefore proposed that Members Forum meetings would be incorporated within the process for all PPA's and within some stand-alone pre-applications. This ensures that developers are unable to cherry pick whether they engage with Officers or Members, they will have to engage with both. The cost of the Members Forum is designed to be cost neutral to the authority, being paid by the applicant as part of the pre-application or PPA fee.
- 3.14 The applicant team would present their proposals to the Members Forum and the Members would then have the ability to ask questions and clarifications on the detailed proposals. The Members Forum would not hold any decision-making authority, and therefore would not be able to make a decision on any matter before them. The Member Forum would not be able to express a view on the acceptability of proposals.
- 3.15 In addition to Members of the Council's Planning Committee, it is proposed that invitations would be issued to District Ward Members and up to two representatives from the relevant Town or Parish Council to attend the Members Forum meetings. This ensures that all elected representatives of the local community for District matters are represented and have an opportunity to participate in the planning process. If a proposal is on the boundary or

straddling the boundary between Parishes/Wards then representatives of both Wards and Parishes may be invited.

- 3.16 Members of the public, resident group or societies have a different but no less important role in the planning process. Officers would continue to encourage developers to engage with Town and Parish Councils and local residents outside of the Members Forum process, as set out within the Council's Statement of Community Involvement (SCI). While some Developers undertake consultation with the local community, the quality of this consultation varies considerably both in terms of scope and quality. One of the objectives and aspirations of the introduction of the Members Forum is to introduce a mechanism early on within the planning process, to enable Members and local representatives to hold Developers to account and to critique the way in which they have sought to engage and with the local community and how they have responded to feedback received.

Transparency

- 3.17 Transparency is a key component of these proposals. As set out above, the Members Forum would not be a decision-making body. As such, the Members Forum would not constitute a new Committee of the Council. However, it will have a set of clear terms of reference, which would be published on the Council's website. A draft terms of reference is included at Appendix A. As it would not be a decision-making body, there is no requirement to hold meetings in person. This provides the flexibility to hold meetings both virtually and in person.
- 3.18 The meetings will be recorded which will allow Officers to refer to them at a later date if required. The dates of the meetings will also be available on the Council's Website, in the Planning section. Where a matter has been before a Member Forum, this will be noted within the Planning Committee reports published at the time the matter is brought forward for determination.

Application Thresholds for Referral

- 3.19 Applications suitable for referral to the Members Forum would primarily comprise those defined within Part A of the Scheme of Delegation, most notably applications for major development proposals (10 or more proposed houses or commercial development, including changes of use, comprising additional floorspace of 1,000sq.m). Nationally Significant Infrastructure Projects (NSIPs) and Council-led proposals may also be referred to the Members Forum. There may also be occasions where application proposals which do not meet the above thresholds, but warrant referral to the Members Forum, which are deemed to be 'significant'. In respect of these applications, the Planning Development Manager in consultation with the Chair and Vice Chair of the Planning Committee will make the decision as to which applications are considered at the Members Forum.

Format of the Meetings

3.20 In advance of the meeting:

- § Officers would prepare a briefing note for all Members and the Town/Parish Council that are due to attend the Members Forum, to summarise the proposal, planning policy background, and the key material planning issues arising from the proposal. The briefing note would be written in a neutral manner, setting out factual information, and would not set out the Officer view on the proposals;
- § The applicant would prepare a pack of information which would be circulated in advance of the meeting to all Members and the Town/Parish Council that are due to attend the Members Forum.

3.21 At the meeting:

- § Smaller developments would be scheduled for approximately 45 minutes, with larger items likely to take up to 1 hour 30 minutes;
- § The applicant or their representatives would present their proposals to the Members Forum. Applicants would have approximately 15/30 minutes to give their presentation;
- § The membership of the Forum would have up to 30/60minutes to ask questions and seek clarification on the proposals.

Membership

3.22 The membership of the Members Forum would comprise:

- § All Members of the Planning Committee (13); and
- § All Substitute Members of the Planning Committee (5)

3.23 Additional Invitations for Specific Meetings:

- § Braintree District Ward Member(s) (of the ward in which the development takes place and of the neighbouring ward if relevant);
- § Up to two representatives from the relevant Town or Parish Council(s) (if applicable).

Training

3.24 While all Members of the Council's Planning Committee have received detailed training, all Members will need to undergo additional training in order to ensure that they are fully aware of the parameters within which this engagement can be undertaken. This will avoid any challenge to the Council's decision-making process. This would need to be undertaken and completed prior to the attendance at a Members Forum meeting. Guidance would also be issued to representatives of the Town and Parish Council before attendance at a Members Forum meeting.

Frequency of Meetings

- 3.25 Currently the Council schedule 26 Planning Committee meetings each year (one every two weeks). Additional meetings are also scheduled for larger/controversial items (as a single item agenda Committee) or when a large number of applications need to be determined.
- 3.26 In order to accommodate meetings of the Members Forum, and given the changes to the Scheme of Delegation, as part of these proposals it is proposed to reduce the frequency of Planning Committee meetings to every three weeks. Members Forum meetings are also proposed to take place every three weeks, during the evening, as per Planning Committee meetings. 17 scheduled meetings of Planning Committee would therefore take place each year, along with up to 17 meetings of the Members Forum. However, the number of Members Forum meetings would depend on the number of sites being considered and may meet less often.
- 3.27 The meetings of the Members Forum would allow for between 1 and 3 proposals to be presented (depending on the scale of the scheme).

4. Options

- 4.1 The preferred option for the Planning Members Forum is set out within this report. This provides the right balance of transparency and engagement, without providing an unnecessary administrative burden to either applicants or the Local Planning Authority.
- 4.2 Members could make changes to the format or composition of the Planning Members Forum. The pros and cons of changes would need to be carefully considered.
- 4.3 The third option is to do nothing and retain the current position, i.e. developers engage with Town/Parish Councils and residents in the usual way and Members of Planning Committee do not engage with the proposals until the Planning Committee at which it is decided. It is not considered that this will deliver the excellence in planning and enhanced member involvement in the planning system that is required.

5. Next Steps

- 5.1 The proposals for the Planning Committee Members Forum are being considered by the following Member groups/committees:

Developing Democracy Group – 27th May
Governance and Audit Scrutiny Committee – 30th May
Planning Committee – 31st May

- 5.2 The proposals, as revised by member feedback, will be subject to a consultation period with Town and Parish Councils in June. An e-mail will be sent directly to all clerks with information on the proposals and members of

the planning team will be available to answer any questions that they might have.

- 5.3 All comments received within that consultation will be included within the final report for Full Council to consider in July.

6. Financial Implications

- 6.1 The Members Forum is intended to be cost neutral to the Council, with the costs associated with the Forum being paid directly by the applicant. Alongside these proposals, a review of the Council's Planning Pre-Applications fees and charges is being undertaken, and it is proposed to imbed the cost of a 'Members Forum' within the relevant categories for pre-application engagement, or within Planning Performance Agreements (PPAs). This is to ensure that applicants' are not able to cherry-pick whether they engage with Officers or Members. As part of these wider proposals if an applicant wishes to receive pre-application advice from the Local Planning Authority, they would need to engage with both Officers and Members through the Members Forum.
- 6.2 Officers are in the process of reviewing the fees and charges for pre-applications. As part of this, it is proposed that the cost of the Members Forum would be included within the revised set of fees and charges. In accordance with the decision of the Full Council meeting held on 21st February 2022, the revised pre-application fees will be subject to approval by the Cabinet Member for Planning and Infrastructure (see paragraph number 7 of the Minutes on Page 87).

7. Legal Implications

- 7.1 The Member Forum will not be a decision-making body of the Council. It will not be able to take any decisions or give an option that could tie the hands of the Council or its Committees. All decision making relating to the planning process will continue to be taken in accordance with the Scheme of Delegation and the Planning Committees Terms of Reference.
- 7.2 A new guidance note will be issued to Members to enable them to understand the parameters of their involvement within the Member Forum. This will cover topics such as pre-determination and bias within the planning process.
- 7.3 The Member Forum is not a committee of the Council and there whilst Members will be able to claim their expenses in attending the meetings, it is not a meeting for which the Members Allowance Scheme applies.

8. Other Implications

- 8.1 There are no other implications arising out of the proposals set out in this report.

9. Equality and Diversity Implications

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

10. Appendices

- 10.1 Appendix A - Draft Terms of Reference for the Planning Members Forum

11. Background Papers

- 11.1 Full Council agenda and minutes 7th December 2020.
- 11.2 Full Council agenda and minutes 21st February 2022.

APPENDIX 1:
DRAFT Terms of Reference of the Planning Committee Members Forum

Purpose of the Members Forum

To enhance Member engagement in the planning application process, in relation to those applications (primarily major planning applications) that will be reported to the Council's Planning Committee for determination.

Composition of the Members Forum

The membership of the Members Forum would comprise all Members and Substitute Members of the Planning Committee.

In addition, invitations to specific meetings would be issued to BDC Ward Member(s), and up to two representatives from the relevant Town or Parish Council (if applicable).

The Chairman and Vice Chairman of the Planning Committee would take the same responsibilities in the Members Forum.

Functions of the Members Forum

The Members Forum shall perform the following functions:

- § To act as a consultative forum, reviewing application proposals at the pre-application stage, and/or pre-submission, and/or post-submission stage of the planning process;
- § To ask questions and seek clarifications on development proposals.

For the avoidance of doubt, the Members Forum is not a formal decision making body, nor a formally constituted Committee of the Council.

Applications considered by the Members Forum

The Members Forum is a voluntary process and applicants cannot be compelled to attend and present at the forum.

Applications which fall within Part A of the Councils approved scheme of Delegation (primarily major planning applications) are to be considered by the Members Forum.

The Planning Development Manager in consultation with the Chair of the Members Forum can invite other applicants to attend which do not fall under Part A, where these are considered to be significant. This could include circumstances where Braintree is not the determining planning authority, for example National Significant Infrastructure Proposals or for Out of District Consultations and applications being considered by Essex County Council.