

# PLANNING COMMITTEE AGENDA

**Tuesday, 7th May 2024 at 7.15pm**

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

**THIS MEETING IS OPEN TO THE PUBLIC**

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<http://www.braintree.gov.uk/youtube>

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

Councillor J Abbott  
Councillor J Beavis  
Councillor K Bowers  
Councillor L Bowers-Flint  
Councillor T Diamond  
Councillor M Fincken  
Councillor D Holland (Vice-Chairman)

Councillor A Hooks  
Councillor A Munday  
Councillor I Parker (Chairman)  
Councillor F Ricci  
Councillor P Schwier  
Councillor G Spray

**Substitutes:** Councillor M Green, Councillor J Hayes, Councillor P Heath, Councillor L Jefferis, Councillor J Pell, Councillor G Prime, Councillor S Rajeev, Councillor M Staines, Councillor W Taylor, Councillor M Thorogood, Councillor P Thorogood, Councillor J Wrench, Councillor B Wright.

**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](mailto:governance@braintree.gov.uk) by 3pm on the day of the meeting.

Any Member who is unable to attend a meeting is able to appoint a Substitute. Written notice must be given to the Governance and Members Team no later than 24 hours before the start of the meeting.

D GASCOYNE  
Chief Executive

## **INFORMATION FOR MEMBERS - DECLARATIONS OF MEMBERS' INTERESTS**

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

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

### **Public Question Time - Registration and Speaking**

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

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

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

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

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

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

Confirmed registered speakers will be invited to speak immediately prior to the relevant application/item. All registered speakers will have three minutes each to ask their question or to make a statement. The order in which registered speakers will be invited to speak is: members of the public, Parish Councillors/County Councillors/District Councillors/Applicant/Agent.

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

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

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

**Health and Safety**

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

**Substitute Members**

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

**Documents**

Agendas, Reports and Minutes may be accessed via [www.braintree.gov.uk](http://www.braintree.gov.uk)

**Data Processing**

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

**Mobile Phones**

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

**Webcast and Audio Recording**

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

**Comments and Suggestions**

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

**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 16th April 2024 (copy to follow).

**4 Public Question Time**

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

**5 Planning Applications**

To consider the following planning applications.

|           |  |                  |
|-----------|--|------------------|
| <b>5a</b> | <b>App. No. 22 03366 OUT - Halstead Hall, Braintree Road, GREENSTEAD GREEN</b>   | <b>6 - 45</b>    |
| <b>5b</b> | <b>App. No. 22 03402 REM - Land rear of Gilda Terrace, Rayne Road, BRAINTREE</b> | <b>46 - 88</b>   |
| <b>5c</b> | <b>App. No. 24 00284 FUL - Appledale, 1 Eastways, WITHAM</b>                     | <b>89 - 105</b>  |
| <b>5d</b> | <b>App. No. 24 00423 HH - 32 Dorewards Avenue, BRAINTREE</b>                     | <b>106 - 119</b> |

**6 Urgent Business - Public Session**

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

**7 Exclusion of the Public and Press**

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

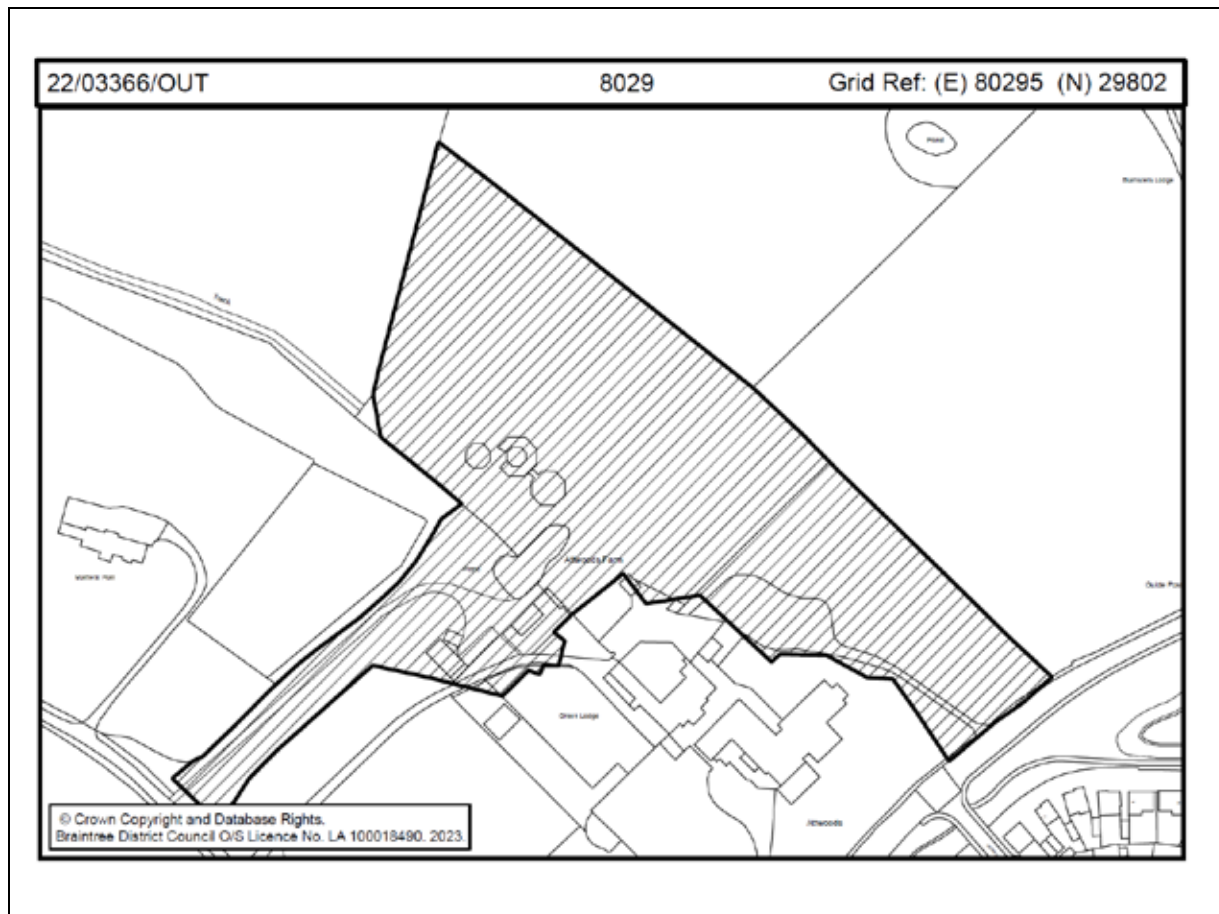
*At the time of compiling this agenda there were none.*

**8 Urgent Business - Private Session**

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

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| <b>Report to:</b> Planning Committee         |   |  |
| <b>Planning Committee Date:</b> 7th May 2024 |   |  |
| <b>For:</b> Decision                         |   |  |
| <b>Key Decision:</b> No                      |   | <b>Decision Planner Ref No:</b> N/A                      |
| <b>Application No:</b>                       | 22/03366/OUT  |  |
| <b>Description:</b>                          | Outline application for the erection of 34 dwellings (including 24 market units and 10 social affordable units) with permission sought for access and drainage.   |  |
| <b>Location:</b>                             | Halstead Hall, Braintree Road, Greenstead Green   |  |
| <b>Applicant:</b>                            | Mr R Catchpole, c/o agent, Kings Acre, Coggeshall, CO6 1NY  |  |
| <b>Agent:</b>                                | Mr Melville Dunbar, Dunbar Property Services, Mill House, Kings Acre, Coggeshall, CO6 1NY   |  |
| <b>Date Valid:</b>                           | 20th December 2022  |  |
| <b>Recommendation:</b>                       | It is RECOMMENDED that the following decision be made:<br><br>§ That had the local planning authority been in a position to determine the application, that it would have been REFUSED for the reasons outlined within Appendix 1 of this Committee Report. |  |
| <b>Options:</b>                              | The Planning Committee can:<br><br>a) <b>Agree</b> the Recommendation<br>b) <b>Vary</b> the Recommendation<br>c) <b>Overturn</b> the Recommendation<br>d) <b>Defer</b> consideration of the Application for a specified reason(s)                           |  |
| <b>Appendices:</b>                           | <b>Appendix 1:</b>  | Reason(s) for Refusal<br>Submitted Plan(s) / Document(s) |
|  | <b>Appendix 2:</b>  | Policy Considerations                                    |
|  | <b>Appendix 3:</b>  | Site History   |
| <b>Case Officer:</b>                         | Melanie Corbishley<br>For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2527, or by e-mail: <a href="mailto:melanie.corbishley@braintree.gov.uk">melanie.corbishley@braintree.gov.uk</a>             |  |

**Application Site Location:**



|   |  |
|---|--|
| <b>Purpose of the Report:</b>               | 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.  |
| <b>Financial Implications:</b>              | <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>  |
| <b>Legal Implications:</b>                  | <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 &amp; 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>  |
| <b>Other Implications:</b>                  | 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.   |
| <b>Equality and Diversity Implications:</b> | <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"> <li>a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act;</li> <li>b) Advance equality of opportunity between people who share a protected characteristic and those who do not;</li> <li>c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting</li> </ul> |



|                           |  |
|---------------------------|--|
|                           | <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>  |
| <b>Background Papers:</b> | <p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> <li>§ Application Form</li> <li>§ All Plans and Supporting Documentation</li> <li>§ All Consultation Responses and Representations</li> </ul> <p>The application submission can be viewed online via the Council's Public Access website:<br/> <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a> by entering the Application Number: 22/03366/OUT.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> <li>§ National Planning Policy Framework (NPPF)</li> <li>§ Braintree District Local Plan 2013 - 2033</li> <li>§ Neighbourhood Plan (if applicable)</li> <li>§ Supplementary Planning Documents (SPD's) (if applicable)</li> </ul> <p>The National Planning Policy Framework can be viewed on the GOV.UK website: <a href="http://www.gov.uk/">www.gov.uk/</a>.</p> <p>The other abovementioned policy documents can be viewed on the Council's website:<br/> <a href="http://www.braintree.gov.uk">www.braintree.gov.uk</a>.</p> |

## 1. EXECUTIVE SUMMARY

- 1.1 The application site is 3.42 hectares in size and lies in the countryside outside of the development boundary of Halstead. It is irregular in shape and wraps around land that contains a care home known as Halstead Hall. Part of the application site runs to the north of a site recently granted planning permission for 20 residential units and which connects to Russell's Road (21/02449/FUL).
- 1.2 It should be noted that the Applicant has lodged an appeal for non-determination, although no hearing date had been set by the Planning Inspectorate at the time of writing this report. Therefore, the Local Planning Authority can no longer determine this application, but outline its position for the appeal, by setting out its putative reasons for refusal in this case.
- 1.3 The application site is currently served by a vehicular access from the A131. This serves as a secondary access for the care home. The portion of the site closest to the care home is characterised by lawn and large, mature trees. Beyond this are two parcels of land that are bound by hedges and trees and have the appearance of rough meadow land. The remaining narrow part of the site that runs to the north east of Russell's Road is characterised by dense tree planting. To the north of the application site is a public right of way, 88\_15 which connects Windmill Road and Russell's Road.
- 1.4 The application is seeking outline planning permission for the erection of 34 residential dwellings on the site. All matters are reserved apart from access and layout. Access is shown to be directly from the A131.
- 1.5 The proposed development is located outside of any settlement boundary. In such locations, only proposals that are compatible with and appropriate to the countryside are generally permitted. The proposal is not one of those forms of development and therefore represents an encroachment into the countryside and an unacceptable form of urbanisation to the detriment of the character and appearance of the area, accentuated by the loss of, and damage to, trees on the site.
- 1.6 The Applicant has not demonstrated that they could satisfactorily accommodate 34 dwellings on the application site. The NPPF requires a good standard of amenity for all existing and future occupants of land and buildings. Policy LPP52 of the Adopted Local Plan seeks to ensure that there is no unacceptable impact on the amenity of nearby properties including, privacy, overshadowing, loss of light and overbearing impact. The proposed layout would result in an unacceptable level of amenity for future occupiers both in terms outlook, garden layout and noise from the A131. Additional harm is caused by the lack of specialist ecological information.
- 1.7 When considering the planning balance and having regard to the adverse impacts and benefits outlined above, Officers have concluded that the

adverse impacts of granting permission would outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

- 1.8 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 have been recommended that planning permission be refused for the proposed development, had the local planning authority been in a position to have determined the planning application.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

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

2.2 It should be noted that the Applicant has lodged an appeal for non-determination. Therefore, the Local Planning Authority (LPA) can no longer determine this application, but outline its position for the appeal hearing, by setting out its putative reasons for refusal in this case.

2.3 It should further be noted that the LPA have accepted the submission of revised plans and documentation during the lifetime of the application, including revised plans for the proposed layout of the development. The LPA was in the process of finalising a recommendation to the Council's Planning Committee when the appeal was lodged with the Planning Inspectorate.

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

5.1 The application site is 3.42 hectares in size and is located in the countryside outside of the Town Boundary of Halstead. The application site is irregular in shape and wraps around a site that contains a care home known as Halstead Hall. Part of the application site runs to the north of a site recently granted permission for 20 residential units and connects to Russell's Road.

5.2 The application site is currently served by a vehicular access from the A131. This serves as a secondary access for the care home, Halstead Hall.

5.3 The portion of the site closest to the care home is characterised by lawn and large mature trees. Beyond this are two parcels of land that are bound by hedges and trees and have the appearance of rough meadow land. The remaining narrow part of the site that runs to the north east to Russell's Road is characterised by dense tree planting.

5.4 To the north of the application site is a public right of way, 88\_15 which connects Windmill Road and Russell's Road.

5.5 Within the application site there are some construction works that relate to development permitted in the 1990s. More details in relation to this is set out later in this report.

## 6. PROPOSAL

6.1 The application seeks outline planning permission to erect 34 dwellings on the site, 10 of which are proposed to be affordable units.

6.2 All matters are reserved except for access and layout. The access for the development is shown on the A131 (drawing 48842-PP-007 within the Transport Statement) and the proposed layout is shown on drawing 1544-PH2-001.

6.3 The application is accompanied by the following plans and documentation:

- Application Form
- Site Local Plan
- Topographical Survey
- Layout Plan
- Site Plan
- Arboricultural Impact Assessment
- Landscape Appraisal
- Sustainable Drainage Assessment
- Flood Risk Assessment
- Preliminary Ecological Assessment
- Animal Surveys
- Economic Statement
- Transport Assessment
- Travel Plan
- Biodiversity Impact Survey

6.4 The Applicant has indicated that the revenue from new housing would be used to fund the works to create a dementia care unit on the neighbouring site, however it should be noted that this could not be secured through any planning permission.

## 7. SUMMARY OF CONSULTATION RESPONSES

### 7.1 Anglian Water

7.1.1 Assets- 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. An informative regarding nearby assets is requested.

7.1.2 Wastewater Treatment- The foul drainage from this development is in the catchment of Halstead Water Recycling Centre which currently does not have capacity to treat the flows the development site. Anglian Water are

obligated to accept the foul flows from the development with the benefit of planning consent and would therefore take the necessary steps to ensure that there is sufficient treatment capacity should the Planning Authority grant planning permission.

7.1.3 Used Water Network- The sewerage system at present has available capacity for these flows. If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991. We will then advise them of the most suitable point of connection. A number of informatives are requested with regards used water.

7.1.4 Surface Water Disposal- The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer. Anglian Water has reviewed the submitted documents and can confirm that these are acceptable. Anglian Water require these documents to be listed as approved plans/documents if permission is granted.

## 7.2 Essex Fire and Rescue

7.2.1 Additional fire hydrants will be required due to the excessive distance from the site is from an existing hydrant.

7.2.2 Access for fire service purposes is considered satisfactory subject to access routes and hard standings should be capable of sustaining a minimum carrying capacity of 18 tonnes and overhanging trees be trimmed to maintain access requirements.

7.2.3 Advice is provided regarding Building Regulations, that additional water supplies for firefighting may be necessary for the proposed development, and the use of sprinkler systems.

## 7.3 Essex Police

7.3.1 Braintree District Local Plan 2022 states:  
LPP52 (h) Designs and layouts shall promote a safe and secure environment, crime reduction and prevention, and shall encourage the related objective of enhancing personal safety with the maximum amount of natural surveillance of roads, paths and all other open areas and all open spaces incorporated into schemes. LPP52 (j) The design and level of any lighting proposals will need to be in context with the local area, comply with national policy and avoid or minimise glare, spill and light pollution on local amenity, intrinsically dark landscapes and nature conservation. LPP52 (m) The development proposed should not have a detrimental impact on the safety of highways or any other public right of way, and its users.

- 7.3.2 Whilst there are no apparent concerns with the layout to comment further, they would require the finer detail such as the proposed lighting, boundary treatments and physical security measures.
- 7.3.3 Essex Police would welcome the opportunity to consult on this development to assist the developer demonstrate their compliance with this policy by achieving a Secured by Design Homes award. An SBD award is only achieved by compliance with the requirements of the relevant Design Guide ensuring that risk commensurate security is built into each property and the development as a whole.
- 7.4 Natural England
- 7.4.1 Designated Sites (European) – No objection subject to securing appropriate mitigation for recreational pressure impacts on habitats sites (European sites).
- 7.5 NHS
- 7.5.1 Financial contribution of £16,800 sought to increase capacity for the benefit of patients of the primary care network operating in the area.
- 7.6 BDC Ecology
- 7.6.1 Holding objection due to insufficient ecological information.
- 7.7 BDC Environmental Health
- 7.7.1 No objection raised to the principle of developing the site nor to the proposed access.
- 7.7.2 Matters regarding contaminated land and traffic noise exposure would need to be considered as part of any subsequent reserved matters application.
- 7.8 BDC Housing Research and Development
- 7.8.1 In accordance with policy LP31, the proposal for up to 34 residential dwellings requires 30% (equating to 10 dwellings) being provided as affordable housing. It is acknowledged that details concerning the mix of affordable dwellings will be subject of a reserved matters application. However, as a fairly detailed indicative layout drawing showing an indicative affordable mix has been provided, BDC Housing confirm they would in principle be comfortable in accepting this mix as it is considered appropriate to match evidence of housing need.
- 7.8.2 Other affordable housing requirements that should be considered are as follows:
- Affordable dwellings should be deliverable without reliance on public subsidy;

- Affordable dwellings that are accessed at ground floor level should be compliant with Building Regulations Part M(2); and
- Affordable dwellings should meet NDSS.

## 7.9 BDC Landscape Services

7.9.1 Objection on tree grounds - more details set out below.

## 7.10 BDC Waste Services

7.10.1 The access road to these proposed dwellings, needs to be adopted highway or built to a standard equivalent to adopted highway, and maintained as such. If not adopted Braintree District Council (BDC) will need a written indemnity stating BDC will not be liable for damage caused to the access driveway as a result of carrying out waste or recycling collections.

7.10.2 Also there is no mention as to where the bin store is located for block of flats plots 8-13. The bin store will need to be within 15 metres from where the waste collection vehicle can safely stop. The path leading to the bin store must be level, have drop kerbs, be free of shingle. Also the bin store must be large enough to cater for enough bin capacity for 45 litres per person per week for refuse, and another 45 litres per week for recycling. The store also needs to be large enough to cater for these bins, and have 15cm around the circumference of each bin, to allow the operatives enough space to manoeuvre the bins. The bin store doors must also be wide enough so that the operatives can move the bins in and out of the store, without risk of damaging the store doors, or the operatives trapping their hands.

## 7.11 ECC Archaeology

7.11.1 The Essex Historic Environment Record (HER) shows that the proposed development lies within an area of historic and archaeological potential. The proposed development lies adjacent to Halstead Hall, formerly known as Attwoods and close to Blamsters farmhouse, a 15th century listed building. Attwoods is depicted on the Tithe map of c.1840 and was enlarged by the 1st edition OS map, c.1870. The building was a large country house set into its own grounds which had both formal and informal landscaping. The tithe map refers to the land around the house as the 'pleasuregrounds'. The site contains the remains of other buildings and structures which may be part of the historic landscaped grounds and also includes a possible WWII pill box which has not previously been recognised on the HER. Further elements of the landscaped grounds may survive within the proposed development site which do not seem to be included in the final scheme and so are likely proposed for demolition or removal.

7.11.2 In addition, recent excavation at Mount Hill has revealed evidence for prehistoric activity suggestive of nearby settlement in the Bronze Age and remains relating to a possible Medieval farmstead. To the south a medieval



tile kiln was revealed located close to the road and further prehistoric and medieval evidence recorded. Roman findspots lie to the north of the area close to the route of a postulated Roman Road. Any groundworks within the area of the development has the potential to disturb or destroy surviving archaeological remains.

7.11.3 The site contains elements associated with a historic country house which is considered a non-designated heritage asset, which will be impacted upon by the proposed development. On the existing evidence any surviving features associated with the former Attwoods should be considered in accordance with para 194 and 198 of the NPPF and further information is required to determine their significance prior to removal. This would require a historic buildings record and walkover survey prior to development which could be secured by condition. It is also recommended that the historic buildings advisor is consulted on this application as it lies within the grounds of a non-designated heritage asset and adjacent to the listed building of Blamsters Farmhouse.

7.11.4 A number of suitably worded conditions are requested regarding building recording, a walkover survey and archaeological evaluation.

7.12 ECC Education

7.12.1 A development of this size can be expected to generate the need for up to 2.2 early years & childcare (EY&C), 7.5 Primary school, and 5 secondary school places.

7.12.2 Financial contribution of £38,853 sought for early years and childcare.

7.12.3 Financial contribution of £129,510 sought for primary education.

7.12.4 Financial contribution of £2,645.20 sought for library expansion.

7.13 ECC Highways

7.13.1 No objection subject to conditions requiring the submission of a construction management, an amendment to the width of the pedestrian refuge island to 2m, the provision of the site access, the provision of a pedestrian link and the provision of residential travel information packs.

7.14 ECC Independent Living/Extra care

7.14.1 No comments received.

7.15 ECC Suds

7.15.1 No objection. A number of conditions are requested.

8. PARISH / TOWN COUNCIL

8.1 Greenstead Green and Halstead Rural Council

- 8.1.1 The Parish Council raise no objection to this application on the proviso that there is a condition and S106 agreement put in place that the revenue from the sale of the market housing is put towards the dementia unit.

8.2 Halstead Town Council

8.2.1 Objection on the following grounds:

- The local primary schools are full;
- There is not enough childcare available for younger children;
- There is not enough library capacity;
- This is another example of the erosion of the boundary of the town, where the new development will be reliant on the infrastructure of Halstead, although the site is not in Halstead;
- There are extensive archaeological remains which are likely to be lost;
- The A131 is a strategic lorry route with no footpath; and
- There will be a loss of wildlife habitats, and of trees.

9. REPRESENTATIONS

- 9.1 No representations received.

10. PRINCIPLE OF DEVELOPMENT

10.1 National Planning Policy Framework (NPPF)

- 10.1.1 As set out in Paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 of the NPPF explains that achieving sustainable development means that the planning system has three overarching objectives: economic; social; and environmental; which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives).
- 10.1.2 Paragraph 9 of the NPPF outlines that planning decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area. In addition, Paragraph 38 of the NPPF prescribes that local planning authorities should approach decisions on proposed development in a positive and creative way and that decision makers at every level should seek to approve applications for sustainable development where possible.
- 10.1.3 Paragraph 12 of the NPPF sets out that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making. In addition,

Paragraph 47 of the NPPF states that planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

- 10.1.4 The NPPF underlines the Government's objective of significantly boosting the supply of homes. In this regard, Paragraph 60 of the NPPF highlights the importance of ensuring that there is a sufficient amount and variety of land that can come forward where it is needed, that specific housing requirements are met, and that land with permission is developed without unnecessary delay. Paragraph 76 of the NPPF requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth (plus the relevant buffer) of housing for decision making purposes where the relevant application was made prior to the publication of the December 2023 version of the NPPF.
- 10.1.5 In this regard, and in considering the overall planning balance as to whether the proposed development subject to this application constitutes sustainable development, an important material consideration in this case is whether the Council can robustly demonstrate a 5 Year Housing Land Supply. This will affect whether Paragraph 11 of the NPPF is engaged and consequently the weight that can be attributed to the Development Plan (see below).
- 10.2 5 Year Housing Land Supply
- 10.2.1 Paragraph 76 of the NPPF sets out that local planning authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years worth of housing for decision making purposes if: their adopted plan is less than five years old; and that adopted plan identified at least a five year supply of specific, deliverable sites at the time that its examination concluded. The Council's Local Plan is up to date and complies with the NPPF.
- 10.2.2 However, Footnote 79 of the NPPF sets out that this provision only applies to planning applications which were submitted on or after the date of publication of the revised NPPF (December 19th 2023). As this application was received prior to that date, the Council must consider it in relation to the 5 year housing land supply.
- 10.2.3 The Braintree District Local Plan has an approved minimum housing target of 716 new homes per year in the District between 2013 and 2033. To this annual supply the Council must add the cumulative shortfall since the start of the Plan period. This figure is recalculated each year. 873 new homes per year are therefore required to be delivered within this 5 year period (2023-2028). Taking the above into account, the Council's latest 5 Year Housing Land Supply position for 2023-2028 shows that the Council has a 5.8 years supply.

- 10.2.4 The Council considers this a robust position and as the Council is able to demonstrate an up to date 5 year housing land supply, the presumption (at Paragraph 11d of the Framework) is not engaged. Consequently, and given that they were only recently adopted, the policies within the Development Plan are considered to have full weight in decision making. Planning applications must therefore be determined in accordance with the Development Plan, unless material planning considerations indicate otherwise.

### 10.3 The Development Plan

- 10.3.1 The Council's statutory Development Plan consists of the Braintree District Local Plan 2013 – 2033.

- 10.3.2 The application site is located outside of any identified town, village or commercial development boundary and lies within the countryside for planning purposes. The general principle of development is therefore not supported by Policy LPP1 of the Adopted Local Plan.

- 10.3.3 The application site has no specific designations in the current adopted Development Plan.

## 11. SITE ASSESSMENT

### 11.1 Location and Access to Services and Facilities

- 11.1.1 Halstead is classified as a 'Town' in the Adopted Local Plan. The overarching spatial strategy implies that, in principle, 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.

- 11.1.2 The approach is consistent with the objectives of Paragraph 109 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*".

- 11.1.3 Policy SP3 of the Adopted Local Plan establishes that development will be accommodated within or adjoining settlements according to their scale, sustainability and existing role. It seeks to ensure that future growth is planned to ensure a settlements distinctive character and role is maintained, whilst avoiding coalescence and conservation of their setting. Policy LPP1 of the Adopted Local Plan is clear that "*development outside development boundaries will be confined to uses appropriate to the countryside*". Policy SP1 of the Adopted Local Plan requires the Local Planning Authority to take a positive approach to proposals that reflect the

presumption in favour of sustainable development contained within the National Planning Policy Framework (NPPF).

11.1.4 Sustainability is not simply a function of a development's location, but this can contribute towards the appropriateness of the principle of development and assessment of its likely adverse impacts. In this case the site is well connected to the existing settlement and a good range of opportunities for sustainable transport are available. For example, the nearest bus stop is located on the opposite side of the road adjacent Blamsters Crescent, providing regular services to Colchester and Braintree. The closest shop and post office lie 0.5 miles within the existing housing estate to the southeast.

11.1.5 In order to access facilities in the town centre of Halstead, approximately 1km from the site, a paved and lit route is available along the A131. The nearest schools; Holy Trinity Primary School and The Ramsey Academy are located 1km and 2km walk respectively from the site. Officers are mindful that Members have resolved to approve housing at more distant locations in the locality in the past and that the Planning Inspectorate has historically taken the view that development proposals in the area are in a sustainable location. The location of the site consequently weighs in favour of the proposal.

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

11.2.1 Paragraph 131 the NPPF highlights that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable developments, creates better places in which to live and work and helps make development acceptable to communities.

11.2.2 Paragraph 135 states that planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting.

11.2.3 Paragraph 139 states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.

11.2.4 Policy SP7 of the Adopted Local Plan requires that new development responds positively to local character and context to preserve and enhance the quality of existing places and their environs.

11.2.5 Policy LPP52 of the Adopted Local Plan establishes that the Council will seek a high standard of layout and design in all developments and that there shall be no unacceptable impact upon the amenity of nearby properties. Policy LPP43 of the Adopted Local Plan requires parking to be

in accordance with the Essex County Council Vehicle Parking Standards adopted SPD.

- 11.2.6 This is an outline planning application where scale, appearance and landscaping are reserved matters and thus are not considered as part of the present submission. The layout of the proposed 34 dwellings has however been submitted for consideration at this stage.
- 11.2.7 Officers consider that the proposal would represent poor place making. The quality of some of the amenity spaces would be inadequate, Plots 2 to 7 would have northern aspect gardens and a very tall Cyprus hedge for a boundary. Plot 7 would also have too much of its garden lost to a retained lime tree and Plot 4 would have a very poor garden layout with the main aspect of the house being an inadequate distance from the very tall cypress hedge, resulting in a lack of outlook and sunshine.
- 11.2.8 Officers also have concerns over the poor scaling of dwellings on the layout plan. As layout is a matter to be considered within the outline application the size of dwellings and the housing mix is at best unreliable. For example, Plots 6 and 7 are shown to be 2 storey, 3 bedroom houses. Each house would have an internal space of around 130 square metres and is considered to be very generous floor space for a three bedroom house. In fact this is in excess of the floorspace of a 5 bedroom house in the NDSS. Plots 33 and 34 are indicated as 2 bedrooms but would have floor space above that required for a 4 bedroom house. Officers consider that this layout is unachievable and misleading and it is highly unlikely that any house builder would be unable to implement the layout in a successful or viable manner.
- 11.2.9 The Council negotiated a much smaller scheme on the site to the northeast (Application Reference 21/01493/OUT) because it was felt necessary to preserve a more defined boundary to the development that followed the settlement pattern in a more sympathetic way. This proposal, on the other hand, ignores the built form of the neighbouring application site and the landscape constraints. Instead, this proposal would introduce isolated pockets of housing that relate poorly to the surroundings and to each other.
- 11.2.10 Officers consider that the introduction of another large parking court for the care home makes a mockery of the previous applications on the site which have already intensified car parking for staff and visitors in an overly dominant layout which cannot be considered good design. This proposal intensifies the visual negativity of car parking around the care home.
- 11.2.11 To add to the harm outlined above, there are a significant number of Category A and B trees proposed to be removed from the site to accommodate development. The replacement landscaping strategy is weak and would not provide tree-lined streets. The red line of the layout plan and the red line boundary in the arboriculture plan are not the same. This is very misleading, but also, after some consideration, indicates the loss of

significant trees. Officers consider that this irreplicable damage to the landscape character is wholly unjustified.

- 11.2.12 Where development is accommodated to the west of the care home, within the trees there would be an unsatisfactory intensity of three storey apartments. This isolated block of flats would be alien in the existing sylvan context. The ambition expressed in this outline application is far too urban in form, layout, and quantum. The parody architecture indicated in the street scene would not be supported, if only because the same designs have been used by the same architects in many central, urban streets in Braintree.
- 11.2.13 The proposed phase in the northern most corner of the site would represent an all too regular urban block that could be a development from anywhere. The proposal lacks good townscape, would have a street built to an unadoptable standard and is considered unrelated to the character of the site in virtually every design principle.
- 11.2.14 The proposed affordable flats are considered to be an inappropriate mass in the woodland setting of the existing site. This block urbanises a small clearing with an unfortunately prominent bin store and a poor arrangement of car parking, that is too close to the building to be considered good design and is representative of overdevelopment and inappropriate density, in the wrong location.
- 11.2.15 Officers conclude that these proposals typify a development which is considered to be inappropriate, given the tree loss and lack of sympathy to the sylvan nature of the site. Whilst much could be done at the reserved matters stage to provide more sympathy to the context, the density and layout required in the outline application represent an ambition of so much unnecessary and harmful accommodation in this unique site and is simply poor design. Given the context, this proposal represents the antithesis of what the NPPF and National Design Code want LPAs to achieve and is contrary to Policies SP7 and LPP52 of the Adopted Local Plan.
- 11.2.16 The Applicant makes reference to a planning permission from a number of years ago for the conversion and extension of Green Lodge to create a natural therapy residential clinic (Application Reference 97/00900/FUL). The Applicant indicates that work commenced on this permission but has never been completed. No evidence has been supplied with regards the commencement of these works and a certificate of lawfulness has never been sought to formally establish that a commencement has been made. Therefore, Officers are of the opinion that the permission from 1997 is not extant and has no bearing on the development currently being considered.

### 11.3 Landscape Character

- 11.3.1 Policy LPP67 of the Adopted Local Plan requires that new development should be informed by, and be sympathetic to, the character of the landscape as identified in the District Council's Landscape Character

Assessments. It states that development which would not successfully integrate into the landscape will not be permitted.

- 11.3.2 Paragraph 135 of the NPPF requires decisions to ensure that developments are sympathetic to landscape setting, whilst Paragraph 180 explains the planning system should recognise the intrinsic character and beauty of the countryside.
- 11.3.3 The application is supported by a Landscape Appraisal prepared by Andrew Hastings Landscape Consultants Ltd. The appraisal concludes with the following:

*6.1 Within section 2 the landscape appraisal establishes that there is a strong environmental fit between the arrangement of the site and the local setting with that of the character of the surrounding landscape as defined within the Braintree, Brentwood, Chelmsford, Maldon and Uttlesford Landscape Character Assessment. The character of settlement pattern, topography and vegetation coverage within the wider landscape is typical of the location. However, the study did identify that the special arrangement of those elements has changed. This follows the recent extension of the Halstead settlement edge to the north and east of the site. The area adjacent to the site frontage, north-eastern boundary and the A131 now displays a more intensive and suburban/urban fringe character while part of the north-western section of the site has been identified as "Brown Field".*

*6.2 The base line study undertaken within section 3 showed that the position of the development site and its special arrangement adjacent to the edge of a plateau will ground falling away to the north and south, coupled with a strong vegetation structure, provides particular qualities of local landform and relationship of significant landscape elements and built form. As a consequence of these factors, the number of significant views onto and over the development area that require consideration are limited to the immediate east and north of the site. The important cross valley views are gained from the north and north-west of the River Colne valley side and adjacent plateau. These are not significantly influenced by the development.*

*6.3 Within section 4 the core element of the new proposals, built form along with associated access, has been assessed against the existing baseline and shown to exhibit a degree of influence on landscape character and impact. However, given the very special conditions explained above, there is generally no or very little influence on landscape character associated with the wider landscape. The significant effects are generally contained within an area situated in close proximity to the site on its eastern side against the A131 and against the north-western site boundary where development is exposed to the falling and rising ground of the River Colne valley and the edge of the Halstead settlement. Also of note is the potential effect of development on the historic setting of the original Attwoods house (now the care home/dementia unit) and its curtilage. Analysis within sections 2, 3 and 4 as well as the potential for mitigation identified within*



*section 5, has shown that most aspects will be fully addressed and represent no significant change, either initially or over time. However, there will be some areas of residual impact resulting from the current site layout relative to the north- western boundary edge. This will require strong mitigation to manage these effects at an appropriate level. This mitigation is identified in section 5.*

*6.4 Cumulative impact resulting from greater usage of the site and effects on the surrounding landscape once the scheme is built was considered. These include additional light spillage and additional curtilage and garden paraphernalia. In this respect it has been shown in sections 3-5 that retention of and the extension/strengthening of the existing boundary vegetation and a suitable programme of secondary mitigation will successfully control these aspects and ensure all elements are retained at an appropriate level.*

*6.5 The Assessment of impacts and effects coupled with mitigation proposals and the assessment of current and proposed landscape condition indicates that the development will impact on some existing on-site habitats. Furthermore, some important species have been identified. Ecological translocation of these, as well as significant improvements to the landscape structure, will result in improving the ecological and landscape value of the site. There will be reinforcement of existing features as well as increases in important locally occurring and characteristic soft landscape elements and habitats. This will aid in improving green links and connectivity between the site and the existing surrounding landscape structure.*

*6.6 Section 2 also identified planning policies that the local authority will apply to the development proposals. Those that are applicable to landscape impact were assessed and considered. The study showed that appropriate design and arrangement of the scheme as identified within sections 2-5 would for the most part, ensure the proposals address the aims and aspirations of these policies.*

- 11.3.4 During the life of the application Officers engaged the services of an Independent Landscape Expert to assess the Landscape Appraisal. Their conclusions form part of the following paragraphs:

*9.1 Much of this development would be embedded within a pre-developed framework, and/or within vegetated enclosure, such that development of these components would cause limited harms to the character and appearance of the area. The exception is the north-west parcel. This is exposed to the north-east aspect and this part of the proposed development should be given particular consideration. Development of this area would result in some landscape and visual harms to weigh in the planning balance. In summary, these might be described as moderate levels of effect to different aspects of the local landscape, and moderate levels of effect to two adjacent visual receptors.*

*9.2 In addition to these word scale levels of effect, it will be important for a decision maker to consider the implications of developing the north-west portion of the application site in terms of the effect this may have on the pattern of the settlement occupying a valley position and maintaining the character of the south-west edge of Halstead as a settlement edge framed within a valley setting. These effects could be mitigated in the long term (15 years) with successful establishment of a deep band of trees along the outer edge. However, it would seem preferable for this portion of the development to be omitted, and for this part of the land to be provided as open space, alongside the open space due to come forward as part of the adjacent development.*

- 11.3.5 As set out above, reference is made to the adjoining site (Application Reference 20/01493/OUT), where during the life of the application, the proposals were significantly altered by reducing the number of units from up to 130 to up to 55 and a Parameter Plan was conditioned, ensuring that the northern portion of the site be retained as open land as public open space. Outline permission was granted in April 2023.
- 11.3.6 Officers consider that the proposals, particularly the exposed northern portion of the site would result in some landscape and visual harms and that these are described as moderate levels of effect to different aspects of the local landscape, and moderate levels of effect to two adjacent visual receptors. The proposals would conflict with Policy LPP67 of the Adopted Local Plan and the NPPF in that they would give rise to general harm to the character and appearance of the area, including the surrounding open countryside.

#### 11.4 Ecology and Biodiversity

- 11.4.1 Policy LPP66 of the Adopted Local Plan states that, if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or as a last resort, compensated for, then planning permission should be refused.
- 11.4.2 Policy LPP64 of the Adopted Local Plan requires that where there is a reasonable likelihood of protected or priority species being present on or immediately adjacent to the development site, the developer undertakes an ecological survey to demonstrate that an adequate mitigation plan is in place to ensure no harm or loss to such species.
- 11.4.3 Paragraph 180(d) of the NPPF requires that proposals minimise their impacts on, and providing net gains for, biodiversity. Paragraph 186 requires that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or as a last resort compensated for, then planning permission should be refused.
- 11.4.4 The Council's Ecologist has reviewed the information submitted (Preliminary Ecological Assessment (ACJ Ecology, May 2022), Biodiversity Impact Assessment (ACJ Ecology, June 2022), Reptile Assessment (ACJ

Ecology, July 2022), Bat surveys (Samsara Ecology Ltd, September 2022), Badger Activity Survey Report (Ecology Link Ltd, September 2022), Technical Note – Ecology (Samsara Ecology Ltd, September 2022), and the Site Layout Drawing 1544-PH2-001 REV E) and has raised a holding objection due to insufficient ecological information.

### **Great Crested Newts**

- 11.4.5 The Council's Ecologist highlights that the Preliminary Ecological Assessment (ACJ Ecology, May 2022), has detailed that 'The site contains suitable habitat features for amphibians. Therefore, this species needs further consideration or surveys' and further surveys are recommended. As there is suitable terrestrial habitat on or adjacent to the application site which may be impacted by the proposals, further consideration for Great Crested Newt is required. It is recommended that a Habitat Suitability Index assessment for Great Crested Newts (GCN) should be conducted for all accessible ponds within 500 metres to determine the likelihood of the site supporting the species. Further surveys should then be conducted following Government Guidance if the ponds are considered likely to support the species, unless reasonable judgement can be made why further surveys are not required. This should preferably include reference to the Natural England Rapid Risk Assessment Calculator, to justify the likelihood of an offence occurring for this European Protected Species. Any eDNA surveys are to be undertaken at the appropriate time of year, and additional surveys may then be required in order to determine impacts and any necessary mitigation which may include the requirement to obtain a European Protected Species Mitigation (EPSM) Licence from Natural England, to allow the development to lawfully proceed. Therefore, any GCN surveys conducted should be completed prior to determination of this planning application to ensure that LPA has certainty of impacts for this Protected Species.

### **Reptiles**

- 11.4.6 The Reptile Assessment (ACJ Ecology, July 2022) has identified that reptiles are present within the application site and that as suitable habitat is not present to support the species on-site, the provision of an off-site receptor site is required. However, the off-site receptor site information should be outlined prior to determination to allow the LPA to have certainty that the mitigation will be deliverable and to avoid the killing and injury of these protected species during the construction and operation phases of the development. Therefore, the Council's Ecologist recommends that further information is provided to indicate where the outlined Reptile onsite receptor site will be delivered for this scheme, as well as further justification whether the off-site site will be sufficient to support the existing reptile population, following government standing advice when carrying out reptile translocation schemes.
- 11.4.7 "If translocating reptiles, the proposal needs a receptor site:
- Close to the development site, and within the same LPA if possible.

- That is at least the same size as the habitat that will be lost, and larger if the lost habitat is of high quality.
  - That will serve the same function as the habitat to be lost, for example it has hibernation features.
  - With similar habitat to the area that will be lost, including water bodies.
  - That does not currently support the same species, but can be improved to make it suitable.
  - That will be safe from future development and managed in the long term”.
- 11.4.8 In addition, further reptile surveys may be required to determine the suitability of the off-site receptor site, unless further reasonable justification can be provided by the Applicant’s ecologist on why this is not necessary. This further information is considered necessary to allow the LPA to have certainty of likely impacts upon these protected species and whether a viable reptile population will be able to be maintained after reptile translocation has been undertaken.

### **Bats**

- 11.4.9 The Technical Note – Ecology (Samsara Ecology Ltd, September 2022) has detailed the results of a Preliminary Roost Assessment that has been undertaken on trees to be affected by the development proposals. It specifies that 9 trees have been assessed as having ‘Low’ bat roosting potential and 3 trees have ‘Moderate’ bat roosting potential. However, the Technical Note details that further inspection of the trees are required with aerial climbing surveys recommended to be undertaken between May and September. Further it is detailed that 3 of these trees are unsafe to climb and therefore further emergence/re-entry surveys will be required to be undertaken between May and September to provide certainty of likely impacts on bats and identify appropriate mitigation including if there is a requirement to obtain a European Protected Species Licence.
- 11.4.10 As a result, this information is required prior to determination because the Local Planning Authority must consider the guidance under paragraph 99 of the ODPM Circular 06/2005. This advises that the presence or otherwise of Protected species, and the extent to which they might be affected by the proposed development, must be established before planning permission is granted. Therefore, if there is a reasonable likelihood of Protected species being present and affected by the development, the surveys should be completed and any necessary measures to protect the species should be in place before the permission is granted.
- 11.4.11 Furthermore, the Local Planning Authority, as a competent authority, should have regard to the requirements of The Conservation of Habitats and Species Regulations 2017 (as amended) when reaching planning decisions and must not leave this until the licence application stage. (Based on the judgement in the Hack Green Group (Appellant) v Cheshire East Council [2006] - APP/R0660/W/15/3131662). Therefore, if a European Protected Species Mitigation Licence for bats is required for this

application, appropriate mitigation measures to support the provision of the licence must also be outlined prior to determination to allow certainty to the LPA that a licence will likely be granted.

- 11.4.12 Therefore, this further information is required to provide the LPA with certainty of impacts on Protected and Priority species and enable it to demonstrate compliance with its statutory duties, including its biodiversity duty under s40 NERC Act 2006. In the absence of the additional information the proposal is contrary LPP64 of the Adopted Local Plan.

## 11.5 Arboricultural Impacts

- 11.5.1 Policy LPP65 of the Adopted Local Plan acknowledges that the quality of trees is a material consideration and that, where trees are to be retained, suitable distances should be provided to ensure their continued wellbeing.

- 11.5.2 Paragraph 136 of the NPPF states that trees make an important contribution to the character and quality of urban environments and that existing trees are retained wherever possible. Paragraph 180(b) of the NPPF requires decisions to recognise the wider benefits of trees and woodland.

- 11.5.3 The application has been supported by an Arboricultural Impact Assessment (AIA) prepared by EnviroArb-Solutions Ltd. The report concludes with the following:

*The site is located within a rural landscape setting. There are some trees of modest to high amenity value on site, most of which are 'B' and 'C' category trees. The dominant individual tree species on this site is English Oak, primarily within perimeter tree belts around the boundaries and groups of trees within the grounds. Most of the trees on site are not managed, with many trees dead / dying and most in need of some basic crown pruning maintenance works due to their lack of recent management. The site currently contains mainly parkland trees, open field, and disused buildings and outbuildings, some of which have been subject to vandalism and arson. The Phase II site comprises a large open field to the north and an historic orchard area within the larger grounds of the adjoining nursing home. The trees on the site surround each boundary in groups, containing occasional mature trees of modest to high amenity value, with younger pioneer trees located within the site. A mature and unmanaged tree avenue feature is located along the northwestern boundary of the site. The northern boundary primarily consists of woodland and remnant hedgerow planting most of which is of modest quality and landscape value.*

*The northern field and orchard proposed Phase II development site is screened by perimeter trees and has an established northern access from Mount Hill, avoiding a new access to the A131. The development proposal retains the historic tree lined avenue, which once served as the entrance to the manor. Those trees shown to be removed are mostly dead / dying trees that are old and tired or those recently established groups of Sycamore and*

*selfset seedlings. The proposed layout will allow for the planting of many new trees and the management of tree groups to allow improved screening to and from the site. The retained tree belts within and adjacent to the site will remain in the control of Stow Healthcare the nursing home, thereby reducing the consequences of any perceived 'Pressure to Prune'. The importance of the landscape setting will therefore be maintained, with any future tree works only prescribed by the care home based upon ongoing maintenance inspections rather than by the owners of the individual units.*

*A scheme of landscaping and enrichment of the boundary features, both internally and along the main road boundaries, is proposed to enhance the landscape setting and preserve the current treescape. Ground protection measures within retained tree RPAs, including the use of 3D 'Reduced-Dig' cellular sub-base systems for the construction of the proposed access roads and the new pedestrian access paths and the installation of tree protective fencing and temporary ground protection, will adequately protect the RPAs, when accompanied by detailed methods and supervision by the consultant arboriculturist from EnviroarbSolutions Ltd. Sufficient development room will be available after protection measures are instigated as described within this report. Excavations within retained tree RPAs for construction operations such as service trenches, foundations excavations and removal of existing hard surfacing will be avoided where possible. Overall, it is concluded that, subject to appropriate controls, the development proposal can be implemented without undue impact on the best retained trees or the immediate and distant landscape setting. These controls will be detailed within an Arboricultural Method Statement, in accordance with any suggested planning condition, to be submitted and agreed in writing by the Local Planning Authority prior to the commencement of the development.*

11.5.4 BDC Landscape Services have assessed the AIA and reached the following conclusions:

*The supporting report does not reflect the latest proposed layout. The report highlights that 33 individual trees and 10 groups of trees are to be removed, with partial removal of a further 3 groups. Although the majority of these are Category C or U, 3 removals are high quality. It is stated that tree loss "can be adequately mitigated as part of the overall landscaping and new tree planting of the site" and that "The proposed layout will allow for the planting of many new trees". However, no specific landscape scheme is provided. The indicative layout does include limited new planting, but this is largely to rear gardens or within areas of hardstanding, and there is no detail on expected size/ability to offer commensurate or greater value to the lost trees.*

*There is RPA encroachment affecting a further 46 retained trees, 7 of which are category A, and 16 category B. With regard to RPA encroachment in general, BDC Landscape Services would reference BS5837:2012 Clause 5.3.1: "The default position should be that structures are located outside the RPAs of trees to be retained. However, where there is an overriding*

*justification for construction within the RPA, technical solutions might be available that prevent damage to the tree(s)... If operations within the RPA are proposed, the project arboriculturist should:*

*a) demonstrate that the tree(s) can remain viable and that the area lost to encroachment can be compensated for elsewhere, contiguous with its RPA;*

*b) propose a series of mitigation measures to improve the soil environment that is used by the tree for growth."*

*The level of encroachment is not quantified, but in several instances appears significant - approaching or exceeding 20% of RPA, and in the case of T231 appears to be well over 50% and does not take into account encroachment proposed on the adjacent care home site.*

*BDC Landscape Services would again refer to the BS in this instance:*

*"7.4.2.3 New permanent hard surfacing should not exceed 20% of any existing unsurfaced ground within the RPA."*

*There is also limited information on utilities or levels – notwithstanding this is an outline application the access and layout is seeking approval, so BDC Landscape Services would expect the full impacts of the proposed layout on trees to have been considered.*

*Veteran trees not referenced within report, save one mention of potential works to "veteranise" a tree. Several potential veteran trees are present, being of significant size/diameter for their species, and having veteran characteristics such as crown retrenchment, and cavities/significant decay, including T234, 231, 229, 217 (all of which have RPA encroachment). Given the importance placed on these trees within key policy documents and the NPPF it is a concern that this has not been further addressed within the supporting evidence. BDC Landscape Services would highlight the planning guidance advice that a buffer zone of 15x the tree diameter (or 5m beyond the canopy, whichever is greater) would apply in such an instance, and that a greater level of impact assessment is required for such trees. BDC Landscape Services would also point out that BS5837 recommends "that no construction, including the installation of new hard surfacing, occurs within the RPA." This is a significant failing of the report. Survey data and plans include many trees well outside of redline boundary, this is unnecessary data which adds confusion.*

*The layout as proposed has significant impacts to trees, a large number of removals are required and there is a lack of information to demonstrate that tree loss can be effectively compensated with new planting. Further, impacts to existing trees involve RPA encroachment to a significant number of trees, the levels of encroachment are contrary to best practice, and there is potential for substantial harm. Given the parkland setting of the site, and the characteristics of the trees within the survey data, it is highly likely that a number of the impacted trees are veteran. Additionally, BDC Landscape Services would raise concern that confusion that may arise from the supporting arboricultural documents not applying explicitly to trees within the application boundary. Overall, the proposal appears to be overdevelopment of the site, the layout is unsympathetic to trees, and is*

*likely to result in significant arboricultural harm. The detail on proposed mitigation does not allow confidence that this level of harm can be reduced to acceptable levels.*

- 11.5.5 Officers therefore conclude that the proposals fail to comply with Policy LPP65 of the Adopted Local Plan, as suitable distances have not been retained to ensure the continued wellbeing of the trees to remain. It is considered that the proposals would result in an unacceptable level of loss or harm to existing trees within the site, which add significantly to the character of this part of District.

#### 11.6 Impact upon Neighbouring Residential Amenity

- 11.6.1 Policy LPP52 of the Adopted Local Plan highlights considerations of privacy, overshadowing, loss of light and overbearing impact as being key in the assessment of impacts upon nearby properties.
- 11.6.2 Paragraph 135 of the NPPF seeks to ensure good standards of amenity for existing and future users whilst Paragraph 191 seeks to ensure that new development is appropriate for its location taking into account the likely effects on living conditions including noise and light pollution.
- 11.6.3 A proposed layout plan indicates that dwellings would be located at least 20m from the existing care on the neighbouring site, known as Halstead Hall and at least 29m from the closest dwelling in a proposed development of 20 dwellings granted permission under Application Reference 21/02449/FUL.
- 11.6.4 As such, Officers have no concerns regarding potential residential amenity impacts of the development proposed.

#### 11.7 Highway Considerations

- 11.7.1 Paragraph 115 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.” Paragraph 116 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.*”
- 11.7.2 In this case, the Highway Authority is satisfied that the access and junction arrangements proposed are acceptable. With this in mind, it is not recommended the proposal be refused on highway safety grounds.

#### 11.8 Noise

- 11.8.1 Policy LPP70 of the Adopted Local Plan states that new development should prevent unacceptable risks from emissions and all other forms of



pollution, including noise. Policy SP7 of the Adopted Local Plan requires that the amenity of existing and future residents is protected in regard to noise and vibration arising as a consequence of development.

- 11.8.2 Paragraph 191 of the NPPF recommends that planning decisions mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life (acknowledging advice contained within the Explanatory Note to the Noise Policy Statement for England (Department for Environment, Food & Rural Affairs, 2010)).
- 11.8.3 The site is situated adjacent to a busy main road which is a significant environmental noise source that would have an adverse impact on the occupiers of the proposed dwellings situated closest to this road. Recent noise surveys conducted on neighbouring development sites off Mount Road, have demonstrated traffic noise levels on the A131 such that noise exposure will be a material consideration with respect to this site.
- 11.8.4 The Council's Environmental Health Officer anticipates that the following parts of the site are likely to be adversely impacted by traffic noise exposure:
1. Bedrooms and living rooms facing onto the A131 for Plots 1, 2 and 3
  2. External amenity spaces (gardens) of Plots 2,3,4 & 5.
- 11.8.5 It is likely that the threshold levels contained in BS:8233:2014 (Guidance on sound insulation and noise reduction for buildings) would be exceeded with respect to Plots 1-5. Whilst the noise levels impacting internal living spaces can be controlled through robust acoustic design details of windows and ventilation on facades facing the road, noise impacting on external spaces would be more difficult to control.
- 11.8.6 The comments from the Environmental Health Officer are noted and therefore Officers are of the view that the proposed layout, which is for consideration at this stage, would be unacceptable in terms of the poor noise environment and consequent level of amenity for future occupiers, in direct conflict with Policy LPP70 of the Adopted Local Plan and the NPPF.
- 11.9 Flood Risk and Drainage
- 11.9.1 Policy LPP76 of the Adopted Local Plan requires all new development of ten dwellings or more to incorporate SuDS to provide optimum water runoff rates and volumes taking into account relevant local or national standards and the impact of the Water Framework Directive on flood risk issues, unless it can be clearly demonstrated this is impracticable.
- 11.9.2 The site is located exclusively in Flood Zone 1, therefore at low risk of flooding. The Applicant's Flood Risk Assessment (Revision D) proposes that drainage on the site to be managed by a SuDS network which includes an attenuation pond and would be drained via permeable paving and open

SuDS and would discharge to an existing surface water sewer in Mount Hill with a limited discharge rate of 1.17l/s.

- 11.9.3 The system is capable of being maintained and managed in accordance with a Plan/Statement agreed via conditions in order to ensure the continued longevity of this infrastructure. The Lead Local Flood Authority raises no objections to the proposed drainage approach and therefore the proposal is compliant with the aforementioned policies concerning this issue.

#### 11.10 Archaeology

- 11.10.1 Policy LPP59 of the Adopted Local Plan relates to archaeological evaluation, excavation and recording. It states that where archaeological potential is identified but there is no overriding case for any remains to be preserved in situ, development which would destroy or disturb potential remains will be permitted, subject to conditions ensuring an appropriate programme of archaeological investigation, recording, reporting and archiving, prior to development commencing. There will be a requirement to make the result of these investigations publicly accessible.
- 11.10.2 The Essex Historic Environment Record (HER) shows that the proposed development lies within an area of historic and archaeological potential. The proposed development lies adjacent to Halstead Hall, formerly known as Attwoods and close to Blamsters farmhouse, a 15th century listed building. Attwoods is depicted on the Tithe map of c.1840 and was enlarged by the 1st edition OS map, c.1870. The building was a large country house set into its own grounds which had both formal and informal landscaping. The tithe map refers to the land around the house as the 'pleasuregrounds'. The site contains the remains of other buildings and structures which may be part of the historic landscaped grounds and also includes a possible WWII pill box which has not previously been recognised on the HER. Further elements of the landscaped grounds may survive within the proposed development site which do not seem to be included in the final scheme and so are likely proposed for demolition or removal.
- 11.10.3 In addition, recent excavation at Mount Hill has revealed evidence for prehistoric activity suggestive of nearby settlement in the Bronze Age and remains relating to a possible Medieval farmstead. To the south a medieval tile kiln was revealed located close to the road and further prehistoric and medieval evidence recorded. Roman findspots lie to the north of the area close to the route of a postulated Roman Road. Any groundworks within the area of the development have the potential to disturb or destroy surviving archaeological remains.
- 11.10.4 The site contains elements associated with a historic country house which is considered a non-designated heritage asset, which will be impacted upon by the proposed development. On the existing evidence any surviving features associated with the former Attwoods should be considered in accordance with para 194 and 198 of the NPPF and further information is

required to determine their significance prior to removal. This would require a historic buildings record and walkover survey prior to development which could be secured by condition. It is also recommended that the historic buildings advisor is consulted on this application as it lies within the grounds of a non-designated heritage asset and adjacent to the listed building of Blamsters Farmhouse.

- 11.10.5 A number of suitably worded conditions are requested regarding building recording, a walkover survey and archaeological evaluation.

11.11 Habitat Regulations Assessment (HRA / RAMS)

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

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

- 11.11.2 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.

- 11.11.3 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.

- 11.11.4 The proposed mitigation measures would consist of the securing of a financial contribution of £163.86 per dwelling erected towards offsite visitor management measures at the above protected sites.

- 11.11.5 This financial contribution would be secured by way of a Section 106 Legal Agreement.

12. PLANNING OBLIGATIONS

- 12.1 Policy SP6 of the Adopted Local Plan states that all development must be supported by the infrastructure, services and facilities that are identified as being necessary to serve the development. It also requires developers to facilitate the delivery of a wide range of social infrastructure including sufficient school places, healthcare infrastructure, green open space, places for active play and food growing.

- 12.2 Policy LPP78 directs that permission is only granted where it can be demonstrated there is sufficient appropriate infrastructure capacity to support the development and that such capacity can be delivered by the

proposal. Where a development proposal requires additional infrastructure capacity, to be deemed acceptable, mitigation measures must be agreed with the Council which can include financial contributions towards new or expanded facilities.

- 12.3 Policy LPP63 of the Adopted Local Plan establishes that the Council will expect all development proposals, where appropriate, to contribute towards the delivery of new Green Infrastructure, defined (amongst other things) to include open spaces, parks and allotments. Policy LPP50 of the Adopted Local Plan states that, where a deficit of one type of open space or sports provision has been identified by the Council, planning conditions or obligations may be used to secure this.
- 12.4 Policy SP7 of the Adopted Local Plan states that all new development must meet high standards of urban and architectural design and this includes a range of place shaping principles, including creating well-connected places that prioritise the need of pedestrians, cyclists and public transport services above use of the private car. Policy LPP42 of the Adopted Local Plan establishes that the Council will require that sustainable modes of transport should be facilitated through new developments to promote accessibility and integration into the wider community and existing networks.

### **Affordable Housing**

- 12.5 In accordance with Policy LPP31 of the Adopted Local Plan, affordable housing should be provided on-site. In this location a development of 34 residential dwellings requires 30% of the dwellings to be provided as affordable housing which would equate to 10 homes.

### **Education**

- 12.6 Essex County Council have stated that there is insufficient capacity at existing schools to accommodate the additional number of children who are expected to live on the proposed development. They have requested financial contributions towards creating additional capacity and the County Council have given an indication of the levels of contributions. The contributions are sought for early years and childcare (£38,853) primary education (£129,510) and library improvements (£2,645.20) and a monitoring fee.

### **NHS**

- 12.7 Financial contribution of £16,900 in order to increase capacity for the benefit of patients of the primary care network operating in the area. This may be achieved through any combination of extension, reconfiguration, or relocation of premises and/or clinical staff recruitment or training.

### **Open Space**

- 12.8 Policy LPP50 of the Adopted Local Plan states that all developments will be

expected to provide new open spaces in line with the requirements set out in the Open Spaces SPD. The Councils Open Space SPD sets out details on how standards will be applied. A development of this size would be expected to make provision on-site for informal and amenity open space. A financial contribution would be sought for the provision of new or improved outdoor sport, outdoor equipped play and allotments to help mitigate the additional demand generated by this development for such facilities. There is also a requirement to secure the ongoing management and maintenance of any amenity areas provided within the site.

## **RAMS**

- 12.9 The site lies within the Zone of Influence (ZOI) for the Blackwater Estuary SPA/Ramsar site and Essex Estuaries Special Area of Conservation (SAC). A financial contribution towards offsite visitor management measures for the Blackwater Estuary SPA & Ramsar site and Essex Estuaries Special Area of Conservation (SAC), (£163.86 per dwelling index-linked) for delivery prior to occupation would be required.

## **Refuse Vehicle Access**

- 12.10 An obligation is sought to ensure that non-adopted private roads within the development can be accessed by the Council so that refuse crews can pass and repass over these roads in order that they can collect refuse and recycling.
- 12.11 Subject to the above matters being incorporated into a Section 106 Agreement, the development would be made acceptable in these respects. No such agreement is in place at the present time and therefore the development fails to satisfactorily mitigate the impacts of the development on local infrastructure and is contrary to Policies LPP31, LPP50 and LPP78 of the Adopted Local Plan.

## **13. PLANNING BALANCE AND CONCLUSION**

- 13.1.1 As set out in Paragraph 8 of the NPPF, achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and needed to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- § an economic objective (to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure);
- § a social objective (to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible

- services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being); and
- § an environmental objective (to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy).
- 13.1.2 The presumption in favour of sustainable development sits at the heart of the NPPF. The Framework is clear in its instruction at Paragraph 11d, that for decision-taking this means where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date (this includes, for applications involving the provision of housing, situations where: (a) the local planning authority cannot demonstrate a five year supply (or a four year supply, if applicable, as set out in Paragraph 226) of deliverable housing sites (with a buffer, if applicable, as set out in Paragraph 77) and does not benefit from the provisions of Paragraph 76; or (b) where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirement over the previous three years), granting permission unless:
- i. The application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
  - ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 13.1.3 As indicated above, the Council's latest 5 Year Housing Land Supply position for 2023-2028 shows that the Council has a 5.8 years supply. The Council considers this a robust position and as the Council is able to demonstrate an up to date 5 year housing land supply, and because the most important policies for determining the application are not out of date, the presumption (at Paragraph 11d of the Framework) is not engaged. Consequently, the policies within the Development Plan are considered to have full weight in decision making. Planning applications must therefore be determined in accordance with the Development Plan, unless material planning considerations indicate otherwise.
- 13.2 Development Boundary Designation within the Development Plan
- 13.2.1 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".
- 13.2.2 The proposed development would be contrary to Policy LPP1 of the Adopted Local Plan as it proposes development not appropriate within the

countryside outside of defined development boundaries. Full weight is afforded to this conflict.

### 13.3 Summary of Adverse Impacts

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

#### **Harm to the Character and Appearance of the Area**

- 13.3.2 It is considered that the proposed development would cause harm to the character and appearance of the area, as a matter of principle and through the unacceptable loss of trees and insufficient space for the trees to be retained. This would be harmful to the wider character of the area contrary to Policies LPP1, LPP65 and LPP67 of the Adopted Local Plan. The latter policy is consistent with the NPPF and can be afforded full weight; and overall, the harm that would be caused to this main issue is considered to carry significant weight in the planning balance.

#### **Living Conditions**

- 13.3.3 It is considered that it has not been demonstrated that the site is able to accommodate the number of dwellings proposed, in a form and layout that would be appropriate for this edge of town location. The proposals would result in overdevelopment that would result in poor amenity for future residents, contrary to Policies SP7, LPP1, LPP52 and LPP70 of the Adopted Local Plan. The latter two policies are consistent with the NPPF and can be afforded full weight; and overall, the harm that would be caused to this main issue is also considered to carry significant weight against the scheme.

#### **Harm to Protected Species**

- 13.3.4 The proposal fails to provide sufficient information regarding ecological features within the site, contrary to Policy LPP64 of the Braintree District Local Plan 2013-2033 and the National Planning Policy Framework.

### 13.4 Summary of Public Benefits

- 13.4.1 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**

- 13.4.2 The development proposes 34 dwellings of which 30% would be affordable housing. Due to the scale of the development only limited weight is attributed to this benefit.

## **Location and Access to Services and Facilities**

- 13.4.3 The provision of this housing would deliver associated economic and social benefits, some of these would only exist during the construction phases, whereas others would be sustained, such as the increased patronage of existing services and facilities in the Town. Due to the scale of the development, only limited weight is attributed to this benefit.

## **Economic and Social Benefits**

- 13.4.4 The development would accrue social benefits with the provision of dwellings and economic benefits with during the construction and thereafter with the spending powers of future occupiers. However, given the scale of development only limited weight is assigned to this.

## **13.5 Conclusion and Planning Balance**

- 13.5.1 Taking into account the above, while the proposal complies with some Development Plan policies which weigh in favour of the proposal, it is considered that the proposal conflicts with the Development Plan as a whole. In addition to being contrary to Policy LPP1, Officers also consider that the proposals would be contrary to Policies SP7, LPP1, LPP52, LPP64, LPP65, LPP67 and LPP70.
- 13.5.2 As set out within Paragraph 47 of the NPPF, planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In this case, an important material consideration is whether the Council can demonstrate a 5 Year Housing Land Supply and consequently, whether Paragraph 11d) of the NPPF is engaged.
- 13.5.3 As indicated above, the Council is currently able to demonstrate a 5 Year Housing Land Supply and therefore Paragraph 11d) of the NPPF is not engaged.
- 13.5.4 When considering the planning balance and having regard to the adverse impacts and benefits outlined above, Officers have concluded that the adverse impacts of granting permission would outweigh the benefits, when assessed against the policies in this Framework taken as a whole. Consequently, Officers consider that there are no material considerations that indicate that a decision should be made other than in accordance with the Development Plan. It is therefore recommended that planning permission is refused for the proposed development.
- 13.5.5 Notwithstanding the above, if the 'tilted balance' was engaged, it is considered that the adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Against this context, it would be recommended that planning permission be refused for the proposed development.



14. RECOMMENDATION

- 14.1 It is RECOMMENDED that the following decision be made:  
Had the local planning authority been in a position to determine the application that planning permission would have been REFUSED for the reasons outlined within APPENDIX 1.

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

## APPENDIX 1:

### REASON(S) FOR REFUSAL / SUBMITTED PLAN(S) / DOCUMENT(S)

#### Submitted Plan(s) / Document(s)

| <b>Plan Description</b> | <b>Plan Ref</b>       | <b>Plan Version</b> |
|-------------------------|-----------------------|---------------------|
| Location Plan           | 1544-LOC01            | N/A                 |
| Topographical Survey    | 21412SE-01            | N/A                 |
| Site Plan               | 1544-PH2-001 rev F    | N/A                 |
| Proposed Site Plan      | 1544-PH2-002 rev<br>D | N/A                 |
| Street elevation        | 1544-PH2-005 rev A    | N/A                 |

#### Reason(s) for Refusal

##### Reason 1

The proposed development is located outside of any defined settlement boundary. In such locations, only proposals that are compatible with and appropriate to the rural areas will be permitted. The proposal is not one of those forms of development and therefore would represent an encroachment into the countryside and an unacceptable form of urbanisation, accentuated by the loss of, and harm to, a number of trees on the site, to the detriment of the character and appearance of the area. On this basis, the proposal is contrary to the National Planning Policy Framework, Policies SP1, SP3, SP7, LPP1, LPP42 and LPP52 of the Adopted Braintree District Local Plan (2013- 2033).

##### Reason 2

The applicant has not demonstrated that they could satisfactorily accommodate 34 dwellings on the application site. The proposed layout would result in an unacceptable level of amenity for future occupiers, both in terms outlook, garden layout and noise from the A131. The proposed development would therefore give rise to inadequate living conditions and would conflict with Policy LPP52 of the Adopted Braintree District Local plan (2013-2033) and the NPPF.

##### Reason 3

The proposal fails to provide sufficient information regarding ecological features within the site, contrary to Policies LPP23 and LPP64 of the Braintree District Local Plan 2013-2033 and the National Planning Policy Framework.

##### Reason 4

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

- On-site Affordable Housing;
- A financial contribution towards outdoor sport, equipped play and allotments;
- Provision of on-site informal and amenity open space, plus ongoing maintenance;
- A financial contribution to mitigate the impacts of increased demand upon health

services;

- A financial contribution towards early years and childcare, primary education and library improvements;
- The indemnification of damage caused by Public refuse vehicles;
- A financial contribution to mitigate recreational impacts upon European wildlife sites; and
- Monitoring fees for each planning obligation.

These requirements would need to be secured through planning obligations pursuant to S106 of the Town and Country Planning Act 1990. At the time of issuing this decision no legal agreement or unilateral undertaking had been completed. In the absence of securing such planning obligations, the proposal is contrary to Policies SP6, LPP31, LPP50 and LPP78 of the adopted Braintree District Local Plan (2013-2033), the Open Space Supplementary Planning Document (2009) and Essex County Council Developers' Guide to Infrastructure Contributions (2020).

#### Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying the areas of conflict with adopted Policy and National Planning Guidance and setting these out clearly in the reason(s) for refusal. However, as is clear from the reason(s) for refusal, the issues are so fundamental to the proposal that it would not be possible to negotiate a satisfactory way forward in this particular case.

## APPENDIX 2:

### POLICY CONSIDERATIONS

#### National Planning Guidance

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

#### Braintree District Local Plan 2013 - 2033

|       |  |
|-------|--|
| SP1   | Presumption in Favour of Sustainable Development                   |
| SP2   | Recreational disturbance Avoidance and Mitigation Strategy (RAMS)  |
| SP3   | Spatial Strategy for North Essex                                   |
| SP4   | Meeting Housing Needs  |
| SP6   | Infrastructure & Connectivity                                      |
| SP7   | Place Shaping Principles   |
| LPP1  | Development Boundaries   |
| LPP16 | Housing Provision and Delivery                                     |
| LPP31 | Affordable Housing   |
| LPP35 | Housing Mix, Density and Accessibility                             |
| LPP42 | Sustainable Transport  |
| LPP43 | Parking Provision  |
| LPP47 | Built and Historic Environment                                     |
| LPP50 | Provision of Open Space, Sport and Recreation                      |
| LPP52 | Layout and Design of Development                                   |
| LPP59 | Archaeological Evaluation, Excavation and Recording                |
| LPP63 | Natural Environment and Green Infrastructure                       |
| LPP64 | Protected Sites  |
| LPP65 | Tree Protection  |
| LPP66 | Protection, Enhancement, Management and Monitoring of Biodiversity |
| LPP67 | Landscape Character and Features                                   |
| LPP74 | Flooding Risk and Surface Water Drainage                           |
| LPP75 | Surface Water Management Plan                                      |
| LPP76 | Sustainable Urban Drainage Systems                                 |
| LPP78 | Infrastructure Delivery and Impact Mitigation                      |

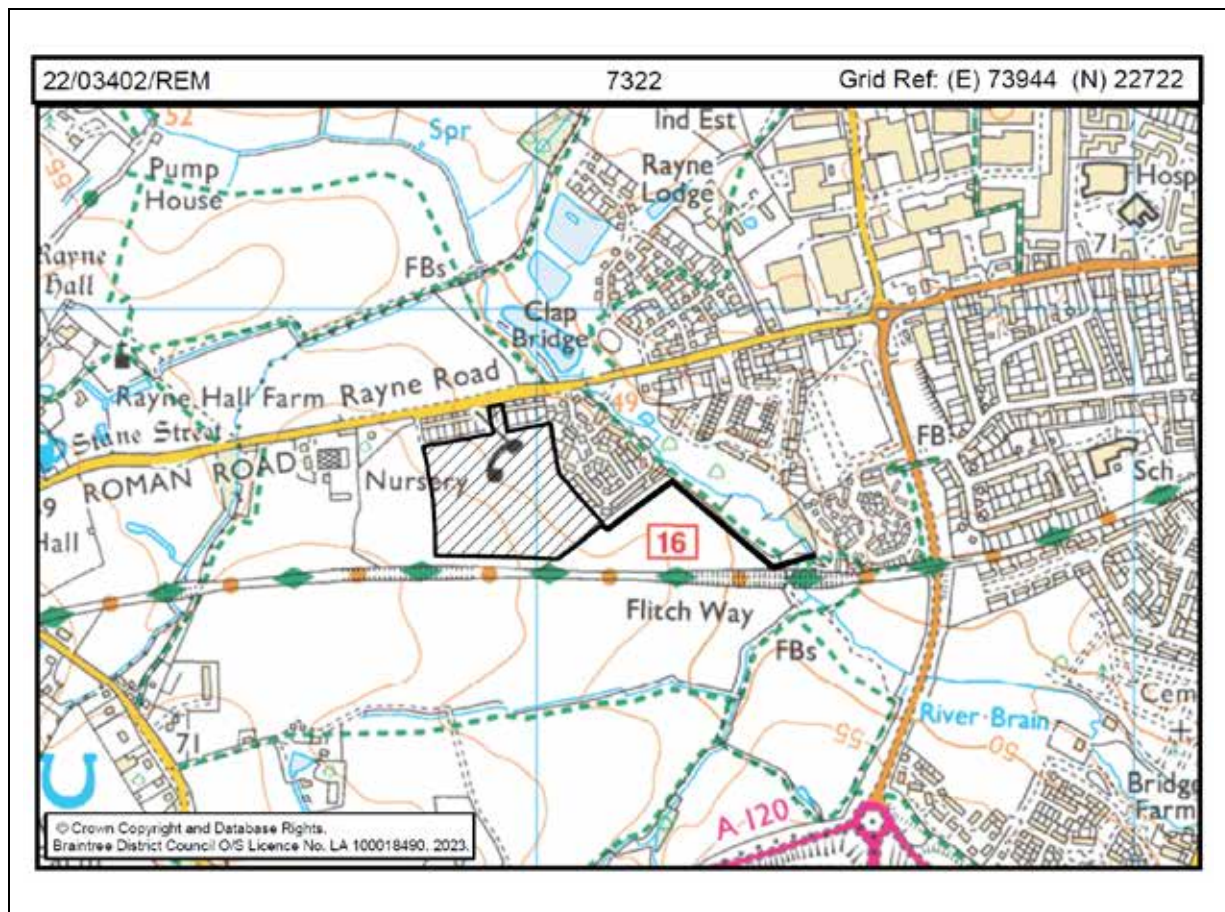
### APPENDIX 3:

#### SITE HISTORY

| <b>Application No:</b> | <b>Description:</b>  | <b>Decision:</b>            | <b>Date:</b> |
|------------------------|--|-----------------------------|--------------|
| 19/00075/NONDET        | Demolish outbuildings, extend and refurbish existing redundant building to form 25 bed dementia unit and erect bin and cycle stores, erect 30 bungalows and layout associated car parking, drainage and landscaping. | Appeal Dismissed            | 18.08.20     |
| 21/02449/FUL           | Demolish outbuildings, extend and refurbish existing redundant building to form 25 bed dementia unit and erect bin and cycle stores, erect 20 bungalows and layout associated car parking, drainage and landscaping  | Granted with S106 Agreement | 09.06.22     |
| 22/02211/FUL           | Extension and refurbishment of existing redundant building to form 37-bed dementia unit with associated car parking and landscaping.   | Refused                     | 02.02.24     |
| 23/02893/FUL           | Erection of 23 residential dwellings (including 6 affordable)  | Refused                     | 08.03.24     |

|  |   |   |
|--|---|---|
| <b>Report to:</b> Planning Committee         |   |   |
| <b>Planning Committee Date:</b> 7th May 2024 |   |   |
| <b>For:</b> Decision                         |   |   |
| <b>Key Decision:</b> No                      |   | <b>Decision Planner Ref No:</b> N/A   |
| Application No:                              | 22/03402/REM  |   |
| Description:                                 | Application for the approval of reserved matters (in respect of layout, scale, appearance and landscaping) for the erection of 120 dwellings, including works to ground levels, pursuant to outline planning permission 18/01065/OUT granted 27/7/21 for residential development (C3) for up to 120 dwellings with all matters reserved except access and the demolition of nos. 27 and 29 Gilda Terrace. |   |
| Location:                                    | Land Rear of Gilda Terrace Rayne Road Braintree   |   |
| Applicant:                                   | Crest Nicholson (Eastern), Academy Place, 1 - 9 Brook Street, Brentwood, CM14 5NQ   |   |
| Agent:                                       | Mr Michael Smith, JCN Design & Planning, 2 Exchange Court, London Road, Feering, CO5 9FB  |   |
| Date Valid:                                  | 15th December 2022  |   |
| <b>Recommendation:</b>                       | It is RECOMMENDED that the following decision be made:<br><br>§ 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.   |   |
| <b>Options:</b>                              | The Planning Committee can:<br><br>a) <b>Agree</b> the Recommendation<br>b) <b>Vary</b> the Recommendation<br>c) <b>Overturn</b> the Recommendation<br>d) <b>Defer</b> consideration of the Application for a specified reason(s)   |   |
| <b>Appendices:</b>                           | <b>Appendix 1:</b>  | Approved Plan(s) & Document(s)<br>Condition(s) & Reason(s) and Informative(s) |
|  | <b>Appendix 2:</b>  | Policy Considerations   |
|  | <b>Appendix 3:</b>  | Site History  |
| <b>Case Officer:</b>                         | Mathew Wilde<br>For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2512, or by e-mail: <a href="mailto:mathew.wilde@braintree.gov.uk">mathew.wilde@braintree.gov.uk</a>   |   |

## Application Site Location:



|   |   |
|---|---|
| <b>Purpose of the Report:</b>               | 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.   |
| <b>Financial Implications:</b>              | <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>Financial implications may arise should the decision be subject to a planning appeal or challenged via the High Court.</p> |
| <b>Legal Implications:</b>                  | <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 &amp; 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>         |
| <b>Other Implications:</b>                  | 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.  |
| <b>Equality and Diversity Implications:</b> | 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>a) Eliminate unlawful discrimination, harassment and 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>   |
| <b>Background Papers:</b> | <p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> <li>§ Application Form</li> <li>§ All Plans and Supporting Documentation</li> <li>§ All Consultation Responses and Representations</li> </ul> <p>The application submission can be viewed online via the Council's Public Access website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a> by entering the Application Number: 22/03402/REM.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> <li>§ National Planning Policy Framework (NPPF)</li> <li>§ Braintree District Local Plan 2013 - 2033</li> <li>§ Neighbourhood Plan (if applicable)</li> <li>§ Supplementary Planning Documents (SPD's) (if applicable)</li> </ul> <p>The National Planning Policy Framework can be viewed on the GOV.UK website: <a href="http://www.gov.uk/">www.gov.uk/</a>. The other abovementioned policy documents can be viewed on the Council's website: <a href="http://www.braintree.gov.uk">www.braintree.gov.uk</a>.</p> |

## 1. EXECUTIVE SUMMARY

- 1.1 The proposal is for a Reserved Matters application relating to the land rear of Gilda Terrace, positioned to the west of the town of Braintree and to the east of the village of Rayne. The original outline application (Application Reference 18/01065/OUT) was allowed on appeal on 27<sup>th</sup> July 2021 for up-to 120 dwellings, with the demolition of No.27 and 29 Gilda Terrace to facilitate a larger access from Gilda Terrace to serve the development. This Reserved Matters application proposes 84 market dwellings and 36 affordable dwellings (totalling 120 units).
- 1.2 The proposal includes works to ground levels which are necessary owing to the site topography, which includes a substantial slope with the steepest section reaching a gradient of 1 in 10. This level change exceeds maximum road gradients, which means that regrading of the site is required in order to comply with maximum permitted road gradients.
- 1.3 The Applicant explored a number of different options to regrade the site. The scheme put forward for Members consideration proposes to balance the 'cut' (soil removal) and 'fill' (soil infill) at the site so that no soil needs to be exported off-site. However, this option would require ground raising of around 1m on land behind existing dwellings No.71 to No.31 Gilda Terrace, in order to provide the highest point of the site by the Flitch Way on the southern boundary, with a satisfactory road gradient.
- 1.4 In order to compensate for this ground raising, the layout of the site was amended during the application process in order to provide a larger buffer between the proposed dwellings (Plots 4-14) and those affected dwellings on Gilda Terrace No.71 to No.31, including a 5m landscape strip. These changes would reduce any detrimental impacts on the amenity of neighbouring properties to a level considered acceptable in planning terms.
- 1.5 The remaining site has also been designed around the challenging topography; a central spine road and numerous secondary streets which are orientated north – south allow the development to address the nature of the slope (with ground works as above), while east – west level changes are predominantly accommodated in the gardens of the proposed plots with retaining walls and structures. The proposed gardens would still however provide suitable amenity for future occupiers and additional measures such as trellis have been included on those more significant relationships to reduce overlooking at eye level.
- 1.6 The development is able to adhere to garden space standards, parking standards and Nationally Described Space Standards, as well as delivering tree lined streets in varying ways depending on the street hierarchy.
- 1.7 The development also proposes solar panels on each dwelling as well as biodiversity enhancements which would assist in securing over 10% Biodiversity Net Gain at the site.

- 1.8 Overall, Officers consider that the development would achieve good design and layout despite the challenging topography of the site. It is therefore recommended that the Reserved Matters are approved.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

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

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3.

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

- 5.1 The site comprises approximately 4.95ha of land which is located to the west of the town of Braintree and to the east of the village of Rayne. The site is currently undeveloped grassland, although it is understood to have been formerly in agricultural use. Vehicular access to the land is taken through a field gate at the end of an access road that runs south from Rayne Road and passes between the houses on Gilda Terrace.
- 5.2 Immediately to the north of the application site, running east and west of the access road, is an access lane that runs along the rear of the properties on Gilda Terrace. Along the eastern boundary there are the rear gardens of the residential dwellings on Sun Lido Gardens and Springfields. To the south of the application site lies the Flitch Way. The southern boundary of the application site stops short of the Flitch Way, with the plans showing a corridor approximately 20m wide, running parallel to the Flitch Way.
- 5.3 To the west of the application site the field continues, with no existing or natural boundary marking the edge of the proposed development site. The red line extends a crooked finger of land to the south east and this is included within the application site only because the Surface Water Drainage Strategy envisages a pipe being laid across the field which will discharge into the River Brain.
- 5.4 There is a substantial slope across the application site, dropping eleven metres in height over a distance of 290m from the southwest corner (by the Flitch Way) to the northeast corner (near Gilda Terrace). This equates to an average gradient of 3.8% (1 in 26) but does include a much steeper section across the middle that reaches a maximum of 10% (1 in 10). This means that for every 10 metres of forward travel, the level change is 1m in the steepest section.

6. PROPOSAL

6.1 This application seeks Reserved Matters approval for Scale, Layout, Landscaping and Appearance for the erection of 120 dwellings, associated roads and parking, landscaping, drainage infrastructure and public open space. Of the 120 dwellings, 36 dwellings (30%) are proposed to be affordable and 84 dwellings are proposed to be for the open market.

6.2 This Reserved Matters application follows on from Outline planning application (Application Reference 18/01065/OUT) which was allowed on appeal for:

*Outline planning permission for residential development (C3) for up to 120 dwellings with all matters reserved except access and the demolition of nos. 27 and 29 Gilda Terrace.*

6.3 The Outline planning approval included details of site access, which is to be taken through the gap between dwellings on Gilda Terrace, with the demolition of No.27 and No.29 Gilda Terrace to facilitate a larger access route. The outline application also included an approved Parameter Plan, which sought to secure the land use/distribution at the site, as well as restricting storey heights for certain sections.

6.4 The Reserved Matters application, as revised during the lifetime of the application, is in broad accordance with the approved Parameter Plan; containing the residential development to the approved areas, with open space and SuDS basins in the areas to the south and along the western edge, although there are some minor discrepancies which need to be regularised – this is addressed in Section 11.12 of this report. The development predominantly seeks to provide a back-to-back relationship with existing development on Gilda Terrace and Springfields, while the remaining proposed dwellings are in a grid format, providing new back-to-back relationships and enabling frontage onto open space / green areas and internal streets. 2½ storey dwellings are limited to the central spine road only. The development seeks to achieve tree lined streets as well as parking and garden spaces in accordance with the Essex Design Guide / Essex Parking Standards.

6.5 The Outline planning approval also required details of finished floor levels to be submitted with the Reserved Matters application. Owing to the significant level changes at the site, the development would require works to the ground levels in order to provide appropriate road gradients and suitable access points. This regrading comes in the form of ‘cut’ (removal of soil) and ‘fill’ (insertion of additional soil) at different quantities across the site.

6.6 The implications of the levels and required regrading are discussed in detail within the report. By way of summary, a neutral cut and fill is sought, meaning that no spoil is required to be removed off site. However, to achieve neutral cut and fill and still ensure that the site gradients work,

ground raising of an average of 1m would be required on the part of the site which are behind No.71 to No.31 Gilda Terrace. This means that as proposed, Plots 4-14 would be on average 1m higher than the existing ground level. The most significant 'cut' would be for the SuDS attenuation basin on the Southeast corner of the development. In order to compensate for these ground level changes, the Applicant has amended the layout with the intent of reducing the impacts on existing residents on Gilda Terrace as far as possible. These changes are discussed in detail in the report.

- 6.7 The site also includes a culvert which would connect the surface water from the attenuation basin and discharge it into a lower point in the River Brain.

## 7. SUMMARY OF CONSULTATION RESPONSES

### 7.1 Active Travel England

- 7.1.1 No comment.

### 7.2 Essex Fire and Rescue

- 7.2.1 Excessive distance to nearest existing fire hydrant – its considered necessary that additional fire hydrants are installed within the curtilage of the site. Access for fire purposes seems sufficient. Recommended instillation of sprinkler systems

### 7.3 Essex Police

- 7.3.1 Welcome the opportunity to assist the developer to achieve a Secure by Design homes award.

### 7.4 National Highways

- 7.4.1 No objection.

### 7.5 Natural England

- 7.5.1 No comments.

### 7.6 ECC Archaeological Officer

- 7.6.1 No further recommendations as conditions for archaeological evaluation form part of outline application.

### 7.7 ECC Highways

- 7.7.1 Initially provided comments suggesting that some elements of the layout required updating, should adoptable roads be sought.

- 7.7.2 The developer confirmed that only the central spine road was to be adopted. ECC Highways required that the spine road had a size 3 turning

head at the end. This change was subsequently made after the re-consultation period – formal confirmation is now sought from ECC highways that the turning head inserted is now acceptable. An update will be provided to Members in due course.

7.8 ECC Historic Buildings Consultant

- 7.8.1 No objection – suggested that more scattered planting along the edge of the development would be better as a denser planting could be more at odds with the formerly agricultural landscape.

7.9 ECC SuDS

- 7.9.1 Initially objected to the application on a number of technical points. Following an updated Drainage Strategy Report, Essex SuDS withdrew their objection.
- 7.9.2 Following revisions to the scheme, ECC SuDS required further information to be provided to ensure that the drainage strategy was still suitable. At the time of writing, this additional information had been sent to the SuDS Officer and a response is awaited. An update will be provided to Members in due course.

7.10 BDC Ecology

- 7.10.1 No objection overall, with following summarised comments:
- A minimum 10% BNG will be achieved at the site (a net increase of 29.83 % of Habitat units and 162.86% of Hedgerow units)
  - The Biodiversity Compensation and Enhancement Strategy (ACD Environmental Ltd, December 2022 is acceptable
  - Support soft landscaping proposed – both on-site and off-site (buffer planting
  - Lighting – further evidence that this has been informed by an ecologist (*Officer comment - this is to be provided and will form part of a Member update in due course*)

7.11 BDC Environmental Health

- 7.11.1 No objection subject to conditions – CMS and Piling – Although these conditions have previously been included on the outline application (Condition 5) so are not proposed to be included again.

7.12 BDC Housing Research and Development

- 7.12.1 Fully supportive of the proposed affordable unit mix proposed at the site. No objections.

7.13 BDC Waste Services

- 7.13.1 Set out standards which need to be adhered to regarding bin drag distances, bin storage for flats and manoeuvring more generally.

8. PARISH / TOWN COUNCIL

8.1 Rayne Parish Council

- 8.1.1 Initially offered a neutral position on the development but had the following comments:

- Enhanced landscape buffer to Flitch Way and to east.
- Max of two storeys in middle of development due to hill.
- Road layout needs improvement.
- Concerned about future development to east.

- 8.1.2 No further comments were received following the re-consultation period.

9. REPRESENTATIONS

- 9.1 Initially, two general comments and 16 objections were received setting out the following summarised concerns:

- Concerns about quantum of units – 120 too many for the site.
- Concerns about future development on the adjacent parcel due to road configurations leading west.
- Concerns about highway safety from the increased use of the junction and additional traffic more generally.
- Concerns about lack of sustainable transport options for future residents.
- Concerns about insufficient visitor parking.
- Concerns about the existing access to the rear of properties on Gilda terrace – residents have right of access.
- Concerns about the screening to the west to protect Oak Meadow nature reserve from building work.
- Concerns about the buffer between the development and the Flitch Way – too small as proposed.
- Concerns about the effect on the Flitch Way Country Park and footpath – play park and pump station should be moved away.
- Concerns about tree health behind No.73 Springfields.
- Concerns about impact on wildlife on the site and on the Flitch Way.
- Concerns about overlooking from the new development on existing properties – large buffer requested.
- Concerns about loss of light and sunlight from new properties at the top of the hill of the site.
- Concerns about overbearing impact on No.71 Springfield from Plot 99.
- Impacts during construction including noise and air pollution.



- Concerns about increase in demand for local services (GP, schools etc).
- Concerns about surface water drainage.
- Concerns about increased sewage and local capacity for flows.

9.2 Following the submission of revised plans and a subsequent 21 day re-consultation, two further objection comments were received setting out the following summarised concerns:

- Scheme still provides potential access to site at rear which has previously been rejected – an agreement should be secured that no further development would take place in this area.
- A mini roundabout should be incorporated by the site access to ensure safety.
- Stronger buffer required along southern boundary.
- 5m buffer of trees does not alleviate the proximity of properties to Gilda Terrace.
- Archaeology needs to be considered appropriately.

## 10. PRINCIPLE OF DEVELOPMENT

### 10.1 Overview

10.1.1 The principle of the residential development of the site has been established under the outline planning permission (Application Reference 18/01065/OUT) which was granted on 27<sup>th</sup> July 2021. This included the detailed site access.

10.1.2 The report will focus on the reserved matters which are the subject of this application, as per Condition 1 of the outline permission:

- **Scale** - of the buildings, including finished ground floor levels above ordnance datum;
- **Appearance** - of the buildings;
- **Layout** - of the buildings, including footways, open space, car and cycle parking, roads, refuse/recycling bin storage areas and collection points; and
- **Landscaping** - of the site.

10.1.3 The report will also focus on Conditions attached to the outline planning permission which directly relate to the submission of reserved matters, including details of lighting (Condition 12) and biodiversity enhancement (Condition 11).

10.1.4 Overall, for the avoidance of doubt, the report will not unduly focus on matters which have already been agreed by virtue of the grant of outline planning permission, such as the suitability of the site for residential development, accessibility, noise and air quality and the sites access point onto Rayne Road. Moreover, some technical matters, such as contamination and archaeology are covered by conditions attached to the

outline consent and will therefore not be addressed in detail within this report.

## 11. SITE ASSESSMENT

### 11.1 Policy

11.1.1 In terms of overarching policies and policy context, it is considered that the following are relevant to the Reserved Matters application.

11.1.2 Paragraph 131 of the NPPF states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

11.1.3 Paragraph 135 of the NPPF states, amongst other things, that developments should ensure that they: function well and add to the overall quality of the area for its lifetime; are visually attractive as a result of good architecture layout and appropriate and effective landscaping and are sympathetic to local character and history including the surrounding built environment and landscape setting. It also states that they should establish a strong sense of place; optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development; and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

11.1.4 Paragraph 136 of the NPPF states that trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree-lined (unless in specific/compelling cases), 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. It further states that Applicants and Local Planning Authorities should work with highways officers and tree officers to ensure that the right trees are planted in the right places, and solutions are found that are compatible with highways standards and the needs of different users.

11.1.5 Paragraph 137 of the NPPF states inter alia that design quality should be considered throughout the evolution and assessment of individual proposals. Early discussion between applicants, the Local Planning Authority and local community about the design and style of emerging schemes is important for clarifying expectations and reconciling local and commercial interests. Applicants should work closely with those affected by their proposals to evolve designs that take account of the views of the community. Applications that can demonstrate early, proactive and effective

engagement with the community should be looked on more favourably than those that cannot.

11.1.6 Paragraph 139 of the NPPF states that development which is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. However, it sets out that, significant weight should be given to:

- a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes; and/or
- b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings

11.1.7 Paragraph 116 of the NPPF also states that developments should:

- a) Give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;
- b) Address the needs of people with disabilities and reduced mobility in relation to all modes of transport;
- c) Create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;
- d) Allow for the efficient delivery of goods, and access by service and emergency vehicles; and
- e) Be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

11.1.8 Policy LPP48 of the Adopted Local Plan states that the development should: achieve a high standard of accessible and inclusive design; can be used safely, easily and with dignity by all and convenient and welcoming with no disabling barriers, so everyone can use them independently.

11.1.9 Policy LPP52 of the Adopted Local Plan states that the Council will seek a high standard of layout and design in all developments in the District and encourage innovative design where appropriate. Planning permission will be granted where the relevant following criteria are met (summarised): development should reflect local distinctiveness, secure high architectural quality, high quality public spaces, energy efficiency, refuse and waste storage arrangements, provide a safe and secure environment, high quality landscape proposals, minimising lighting, well connected pedestrian and

cycle links, high standard of accommodation / amenity for future occupiers, and meeting outdoor amenity space in the Essex Design Guide.

- 11.1.10 The Council has adopted the Essex Design Guide (2005) as a Supplementary Planning Document. This indicates that dwellings with two bedrooms should be provided with a private rear garden of 50sq.m or more, and three bedroom dwellings should be provided with 100sq.m or more.

## 11.2 Scale & Levels

### **Background**

- 11.2.1 It is first important to focus on scale, as the site has significant topographical challenges. This is due to a substantial slope across the application site from south west (by the Flitch Way) to north east (near Gilda Terrace/Sun Lido Gardens); the topographical survey shows the land drops from the highest spot height of 63.46 metres Above Ordnance Datum (AOD) to 52.47 metres AOD just behind the garage shared between No.83 and No.85 Springfields. As such, the site drops eleven metres in height over a distance of 290m. This equates to an average gradient of 3.8% (1 in 26) but does include a much steeper section across the middle that reaches a maximum of 10% (1 in 10). This means that for every 10 metres of forward travel, the level change is 1m in the steepest section.
- 11.2.2 While the central and western parts of the site are significantly challenged by the topography, the topography on the northeast and eastern edge the site, behind No.1-25 Gilda Terrace and adjacent to Sun Lido Gardens/Springfields residential development, is much lower adjacent to the boundary, more akin to the existing levels on the adjacent development. As such levels and gradients in this particular area are not of issue comparatively to the central and western part of the site.
- 11.2.3 Overall however, the topography (levels) in this case has a big impact on how the site can be developed from a scale, layout, appearance, and landscaping perspective, especially for the central and western parts of the site. Achieving an understanding of the levels, and the required soil regrading, will therefore assist in understanding the proposed layout and landscaping at the site.

### **Consideration of Maximum Road Gradients**

- 11.2.4 In terms of planning policy, there is no detailed guidance on how a sloping site should be developed and similarly it does not set any maximum gradient standards. That said, Paragraph 135 of the NPPF states inter alia that development should function well (part a) and should be safe, inclusive and accessible (part f). Similarly, Policy LPP48 of the Adopted Local Plan states that development should be "Achieving a high standard of accessible and inclusive design, able to be used safely, easily and with dignity by all and Convenient and welcoming with no disabling barriers, so everyone can use them independently." These policy requirements, in part, stem from the

Equality Act 2010, which presents both the Council and the Applicant with a statutory duty to promote the interests of access for people with disabilities. The Equality Act 2010 has three requirements that combine to require that gradients are kept to a minimum. The requirements can be summarised as: ensuring that excessively steep slopes are not considered (first requirement), that the gradients of any slopes are as shallow as reasonably possible (second requirement) and that aids (e.g. level access to properties) are provided to help with traversing the sloping site (third requirement).

- 11.2.5 Outside of planning policy, there is national guidance on the design of roads and streets contained within the Design Manual for Roads and Bridges (DMRB), ECC Adoptable Road Guidance and LTN-120 (for cycling), as well as some consideration given to the space around buildings in the Building Regulations and Essex Design Guide. The Applicant has explored the requirements within these different elements and provided a detailed breakdown within the submitted levels strategy dated March 2024. The detailed findings are not repeated in this report, but a summary is provided below.
- 11.2.6 In summary, DMRB states that longitudinal gradients on an all-purpose single carriageway should be subject to a desirable maximum gradient of 6% (1 in 16.7) but a new carriageway should not exceed the maximum gradient of 8% (1 in 12.5). This means that for every 12.5 metres of road, the level change shouldn't be more than 1m. In this particular case, the steepest part of the site, which is across the central/western part, has a gradient of 1 in 10. Therefore, it is evident that the site is too steep in this section to provide roads at an acceptable gradient. These maximum standards are similar for pedestrians and wheelchair users.
- 11.2.7 It should be noted however that the Design Manual for Roads and Bridges (DMRB) is not strictly applicable to this scheme, as it focuses on motorway and all purpose trunk roads. However, within it are requirements that provide the basis for standards that are applied to residential streets, with CD 109 Highway Link Design (Revision 1, March 2020) covering gradients. As such, Officers consider it reasonable to refer to DMRB in the absence of any other specific guidance on acceptable gradients.
- 11.2.8 Furthermore, Building Regulations Part M4(1) state that reasonable provision should be made for people to (a) gain access to and (b) use the dwellings and its facilities. It states that the requirement will be met when a new dwelling makes reasonable provision for most people, including wheelchair users approaching and entering the dwelling, although no gradients are defined (only for ramps for wheelchair users). In addition, Policy LPP35 of the Adopted Local Plan requires that a minimum of 10% of the new homes for sale on the open market and all affordable housing accessed from the ground floor be designed to meet Part M4(2) of the Building Regulations. The requirement will be met when a new dwelling makes reasonable provision for most people to access the dwelling, including that it will be possible to approach and gain step-free access to

the dwelling and any associated parking space, as well as step-free access to any associated private outdoor space.

- 11.2.9 In summary, owing to the existing site topography there are multiple considerations which have underpinned how the site has been developed, including the maximum gradients of the roads, to meet the tests in the Equality Act and Planning Policy.

### **The Different Options and the Applicant's Approach**

- 11.2.10 The starting point for developing the site is the access point, which in this case is fixed by the outline consent (Application Reference 18/01065/OUT). The existing ground level where the drives meet on the northern boundary of the site is 53.32 metres AOD, meaning that the majority of the site is uphill from the site entrance. As the access point is fixed as approved, the ground level in this location is also fixed.
- 11.2.11 Owing to the challenging site topography and maximum gradients as described above, the Applicant has confirmed that the site cannot be developed simply by using the existing site levels. As such, in order to develop the site, earthworks are required, cutting away the ground to reduce the slope in places, and filling other areas to flatten the ground to balance the site. This 'cut' and 'fill' exercise is necessary to meet the gradients and requirements as set out above.
- 11.2.12 Having looked at potential realistic options, the Applicant concluded that the ground either needs to be raised at the bottom part of the site, behind No.71-31 Gilda Terrace, in order to reach the highest point of the site by the Flitch Way on the southern boundary, with a satisfactory road gradient that is below the 1 in 12.5m gradient set out in DMRB, or that the site is extensively cut on the north and western side, but requiring significant spoil to be removed from the site and taken elsewhere. A cut option would also necessitate a large number of retaining walls/bunds to other spaces and the public realm, including the open space at the top of the site adjacent to the Flitch Way.
- 11.2.13 A further option could have been raising the ground adjacent to the shared boundaries with Sun Lido Gardens and Springfields properties, which would have likely required less ground raising elsewhere. However, this was discounted at an early stage because the ground level adjacent to these boundaries is similar to that of the adjacent residential development, which in this case is a lot closer than the properties on Gilda Terrace. Therefore, to raise the ground in this area to potentially have a smaller raise elsewhere on the development was not taken forward by the Applicant as this would likely have given rise to unacceptable impacts on neighbouring amenity for Sun Lido Gardens and Springfields.
- 11.2.14 Owing to the above, the Applicant initially put forward a fill option, where the ground level at the bottom part of the site, behind No.71-31 Gilda Terrace, would have been raised by approximately 1.5m in order to stay below the

maximum gradients required to allow the developed site to reach the ground level on the southern boundary of the site by the Flitch Way. The proposed layout which accompanied this 'fill' proposal was to have a row of two storey houses backing onto No.71-31 Gilda Terrace, with a pair of three houses perpendicular at the westernmost part of the site, close to the boundary. This layout would have necessitated a retaining wall along the rear and steps in the gardens.

- 11.2.15 The justification for raising this particular section, other than to stay below the maximum road gradients, was that the properties on Gilda Terrace benefit from long gardens by modern standards (around 26m in length including outbuildings). Behind these houses is also an access track and easement area, spanning approx. 8.6m wide, before reaching the development site. The proposed off-set of the two storey houses would have been 10-11m to the boundary with the easement. Taking these distances collectively, the back-to-back distance between the new development and the existing properties on Gilda Terrace would have been approximately 44m. In terms of comparison with standards set out in the Essex Design Guide, back-to-back distances should usually be a minimum of 25m for two storey dwellings, with back-to-back distances of 35m required for three storey flats.
- 11.2.16 Owing to the above, the Applicant argued that the extent of land raising would not unduly affect the amenity of No.71-31 Gilda Terrace. However, despite the large back-to-back distance separation, Officers did not agree with the Applicant's assessment. This is because the ground level of the site is already higher than those properties on No.71-31 Gilda Terrace with its natural topography. As such, it was Officers opinion that raising the ground to this extent, in combination with the layout as then proposed without sufficient mitigation, would have had unacceptable implications for the character of the area and the perception of development, both from existing residents and from the wider locality.
- 11.2.17 Following this, in consultation with Officers and the local community, the Applicant explored a cut option, whereby the existing ground level would be reduced by an average of 1-2m across the western part of the site (where the levels are at their steepest). This cut option would have created a better relationship between the development and No.71-31 Gilda Terrace, as the ground level adjacent to the boundary would have been able to remain at its current height or be lowered. Although, even in this scenario, with the naturally higher topography of the site, the proposed dwellings would still have had a higher finished floor level to that of No.71-31 Gilda Terrace, but to a much lesser extent than the 'fill' option previously considered.
- 11.2.18 The difficulty with this 'cut' option however was that it would require approximately 30,000m<sup>3</sup> of material to be removed at the site. The Applicant concluded that this would lead to approximately 3,750 two-way truck movements if each truck on average could contain 8m<sup>3</sup> of spoil. The cutting of the site, which has confirmed to be the minimum required to make the site work, would not only have significant environmental impacts,

but would also prolong construction works for residents owing to the speed at which the soil could be exported from the site. The Applicant reports that this could be 16 months just to level the site. The cut option would also necessitate the need for retaining walls to the land to the west and to the open space to the south, with the development essentially being sunk into the ground, which would lead to a poorer public realm for future occupiers, lessening the overall quality of development. This 'cut' option therefore had significant sustainability implications, as well as necessary compromises in the public realm. In addition, while not explicitly mentioned by the Applicant, the cost of regrading the site in this way would clearly have been significant, potentially giving rise to uncertainties around matters such as affordable housing provision if a viability assessment was to be submitted at a later stage.

- 11.2.19 Owing to the above, despite the support for this 'cut' option by residents on Gilda Terrace, the Applicant decided that this cut option was not something that they could pursue further. The Applicant then undertook further exploration to see how else the site may be developed without the removal of soil in a balanced way, not requiring any spoil to be transported off-site, while simultaneously providing a better relationship with those properties on Gilda Terrace.
- 11.2.20 Firstly, to achieve a balanced cut and fill and ensure that the maximum gradients and level access requirements are adhered to, the Applicant concluded that the only realistic option was to raise the ground on the part of the site which is behind No.71 to No.31 Gilda Terrace. This included achieving road gradients of around 1 in 20 in the most challenging parts. However, following further investigation and changes to the site layout, which included moving the dwellings 5m further away from the northern boundary, the Applicant was able to limit the amount of soil infilling here (i.e. existing ground level raising) to an average of 1m, while also achieving the necessary road gradients etc. Some of this infilling would still however require the importation of soil onto the site, to ensure that the houses are built with suitable soil quality for stability purposes following the regrading. The Applicant expects this to amount to around 300 lorry movements across the lifetime of the development, although this will be staged as this option allows the Applicant to build out the lower parts of the site first and regrade the rest of the site when required. As such, there would still be some sustainability implications with this option, but this is unavoidable given the sloping nature of the site, and notably requires far less lorry movements than the 'cut' option described in Paragraph 11.2.17 above.
- 11.2.21 At Officers request, the Applicant produced a table containing figures, setting out exactly how much the ground would need to be raised for each plot which would back onto the northern boundary shared with No.71 to No.31 Gilda Terrace. The average ground raising would be around 1m. The Table also includes the final finished floor level height of each relevant proposed plot. The finished floor level shows the final height of the floor of each proposed plot, taking into account the proposed ground raising and a damp proof course (DPC). DPC's are usually a minimum of 0.15m high.



The table is provided with the pack of information submitted by the Applicant however a copy is also set out below for ease of reference:

**Table 1 – Ground Level Increase**

| Plot | Existing Ground Level (m AOD) | Finished Floor Level<br>[ <i>New Ground Level</i><br>+ <i>DPC</i> ] (m AOD) | Increase to existing ground level including DPC (m) |
|------|-------------------------------|---|---|
| 4    | 54.33                         | 55.46   | 1.13  |
| 5    | 54.45                         | 55.78   | 1.33  |
| 6    | 54.71                         | 55.78   | 1.07  |
| 7    | 54.82                         | 55.71   | 0.89  |
| 8    | 55.07                         | 56.16   | 1.09  |
| 9    | 55.32                         | 56.46   | 1.14  |
| 10   | 55.72                         | 56.91   | 1.19  |
| 11   | 56.11                         | 57.23   | 1.12  |
| 12   | 56.73                         | 57.68   | 0.95  |
| 13   | 57.35                         | 58.34   | 0.99  |
| 14   | 58.03                         | 59.10   | 1.07  |

11.2.22 As such, in the example of 4 above, the ground raising would be a maximum of 0.98m, with a Plot damp proof course of 0.15m, taking the overall increase in height to 1.13m to the proposed finished floor level. Similarly, in the worst case scenario which is Plot 5, the ground raising would be a maximum of 1.18m, with a damp proof course of 0.15m, taking the overall increase in height to 1.33m to the proposed finished floor level.

11.2.23 It is understood that the ground raising, as set out above, is the minimum required to achieve the necessary site gradients to be in accordance with the Equality Act and various other policies. As such, the levels presented above, as well as contained within all of the technical drawings, are now put forward by the Applicant for approval.

11.2.24 In terms of assessing the acceptability of these revised levels, as well as the accompanying layout changes, this is assessed in the Layout, Landscaping and Appearance section below.

### 11.3 Layout, Landscaping & Appearance

#### **Overview**

11.3.1 This section will first consider the proposed layout of the development at the rear of No.71-31 Gilda Terrace and the implications on existing neighbour amenity and the character of the area. The section will then explore layout and landscaping more generally across the site, picking up on various matters including the impact that the levels has had on the house's appearance.

## **Layout, Amendments and Implications for No.71-31 Gilda Terrace**

- 11.3.2 From the entrance to the site, the internal spine road passes proposed Plots 1,2 and 3, which are perpendicular to the properties on Gilda Terrace. The internal spine road then branches off to the west, rising steeply to account for the natural topography, all the way to the westernmost boundary of the site. It is along this stretch of road where Plots 4 -14 are located; all of which back onto the existing properties on Gilda Terrace (No.71-31). In terms of direct back-to-back relationships from Plots 4-14, these are limited to No. 41-69 Gilda Terrace.
- 11.3.3 When the application was initially submitted, it proposed a row of nine two storey dwellings (Plots 4-12) that would have had a direct back-to-back relationship with those properties on Gilda Terrace. On the westernmost part of the site along the rear boundary, the initial proposed scheme had three dwellings (Plots 13-15) which were perpendicular to Plots 4-12, meaning they would create a side on relationship to the properties on Gilda Terrace. This previous option is discussed more in Paragraph 11.2.14-11.2.16 above. The parking for these plots previously comprised a combination of tandem and frontage parking.
- 11.3.4 In conjunction with lowering the amount of soil 'fill' required to an average of 1m (as per Paragraphs 11.2.20-11.2.22 above) the Applicant also removed perpendicular Plots 13-15. The Applicant then amended the layout by moving now Plots 4-14, 5m further away from the northern boundary with Gilda Terrace. This means that the back-to-back distances between the proposed development and those existing properties No.71-31 Gilda Terrace, would now be set at an average of 49m. This 5m setback would also enable a 5m landscape buffer strip to be incorporated. This buffer strip would contain trees to assist in screening the rear of the development and would be managed by a management company. The Applicant confirms that mature tree stock would be included, so that the height of the trees would already be at a reasonable level to start to provide some additional privacy. The Applicant also commits to planting the tree buffer belt early in the process. A condition has been recommended to ensure that this is the case.
- 11.3.5 Furthermore, Plots 13 and 14, which are at the highest point along the northern boundary, have been changed from two storey dwellings to bungalows. This means that while they would be located on higher ground, the overall ridge height would be much lower than a two storey equivalent dwelling.
- 11.3.6 Finally, as proposed, the gardens for Plots 4-14 all slope down towards the level of the easement and existing rear access for those properties on Gilda Terrace. This was to reduce the ground raising to the minimum possible and not require a retaining wall, or any steps in the gardens here. However, the sloping gardens meant that it would be possible for a future occupier to look over the fence onto the landscaped area, and indeed towards the rear gardens of the properties on Gilda Terrace. As such, Officers have required

a higher rear boundary treatment here, in order to provide an eye level screen to avoid this issue. The Applicant has now incorporated a 2.4m acoustic fence, which would provide an eye level screen, meaning that a person of average height would not readily be able to look over the fence into the rear gardens of No.71-31 Gilda Terrace. The Applicant is currently in discussions with the Registered Provider, who would take on the majority of Plots 4-14, whether the acoustic fence could be included as part of the management company. At the time of writing, it is understood discussions are ongoing. Officers will provide an update to Members either at, or in advance of Committee on this point.

- 11.3.7 Owing to all of the above, the proposed layout and finer details would now be markedly different to that of the original application submission, about which Officers raised concerns (as per Paragraph 11.2.16). As such, it is Officers opinion that these changes are significant enough to warrant a re-consideration of a 'fill' option near the northern boundary. The assessment of impacts is considered below.
- 11.3.8 At the request of Officers, to assist in the assessment of impacts, the Applicant also prepared a comparison of the finished floor levels (AOD) of the existing properties (No. 41-69) Gilda Terrace comparatively to proposed Plots 4-14. These are the properties which directly back onto those plots, so do not include all existing properties in this row for comparison purposes. This table is within the application submission and is entitled "OFFSET BETWEEN NEW HOMES AND EXISTING PROPERTIES". Officers have taken the key information from this table and provided it below, alongside the key information contained in Table 1 for ease of reference:

Table 2 - Difference Floor to Floor Height

| Existing House Number ( <i>Gilda Terrace</i> ) | Proposed new house Plot number | Back-to-Back Distance between new and existing houses (metres) | Difference Between Floor-to-Floor Height (metres) | Increase to existing ground level on which new house positioned (metres)<br>[From table 1] |
|--|--------------------------------|--|---|--|
| 41   | 4                              | 49   | 1.43  | 1.13   |
| 43   | 5                              | 48.9   | 1.75  | 1.33   |
| 45   | 6                              | 48.9   | 1.75  | 1.07   |
| 49   | 7                              | 48.4   | 1.24  | 0.89   |
| 51   | 8                              | 48.4   | 1.69  | 1.09   |
| 53   | 9                              | 48.3   | 1.76  | 1.14   |
| 55   | 10                             | 48.2   | 2.16  | 1.19   |
| 57   | 11                             | 48.1   | 2.48  | 1.12   |
| 59   | 12                             | 48.0   | 2.60  | 0.95   |
| 63   | 13 (B)                         | 45.7   | 3.24  | 0.99   |
| 69   | 14 (B)                         | 45.8   | 3.99  | 1.07   |

- 11.3.9 Table 2 shows the proposed back-to-back distances as well as the difference in height (approximately) between the finished floor level (AOD) of existing properties on Gilda Terrace and the corresponding proposed dwelling finished floor level (AOD). This table therefore shows a true reflection of the difference in height which is a result in part of the ground raising, but also in part the naturally higher ground topography of the application site. This is evidenced by the ground raising comparatively to the finished floor level difference – e.g. the finished floor level of Plot 14 bungalow would be 3.99m higher than No.69 Gilda Terrace, but the ground raising would only be a maximum of 0.92m (not including 0.15 damp proof course). As such, in this scenario, even without the ground raising, Plot 14 would still be 3.07m higher than No.69. Table 2 also shows that the height difference floor to floor gradually rises (generally speaking), the further westwards from the spine road. This is simply because of the natural ground level, which raises steeply westwards from the site access.
- 11.3.10 Table 2 also assists in highlighting that the site has been incredibly difficult to develop in a suitable way. Planning permission to develop the site was granted on appeal, and the Planning Inspector did not include any mechanisms to prevent development on this northern part of the site. As such, Officers must assess what has been submitted by the Applicant based on its merits, despite the issues that have arisen.
- 11.3.11 Assessing the finished floor level height differences contained in Table 2; the easiest direct comparison is against the height of an additional floor/storey. In this case, each floor/storey is approximately 3m high. So, using No.59 Gilda Terrace to Plot 12 as an example, the difference in finished floor level height at 2.6m is nearly equivalent to that of an additional storey. As such, the appearance of Plot 12 to No.59 Gilda Terrace would be similar to viewing the height of a three storey dwelling, as opposed to a two storey dwelling as is proposed. In terms of standards set out in the Essex Design Guide, back-to-back distances should usually be a minimum of 25m (two storey to two storey), with back-to-back distances of 35m for three storey flats which have living accommodation at the first floor.
- 11.3.12 In the example of No.59 Gilda Terrace to Plot 12, the back-to-back distance would be 48m. This would therefore far exceed the 35m required between proposed 3 storey and existing 2 storey dwellings. This back-to-back separation distance is similar for all proposed plots which back onto those existing properties at No. 41-69 Gilda Terrace. As such, while previous concerns have been raised by the residents about overlooking, Officers do not consider that the new development as currently proposed, despite its increase in height, would give rise to an unacceptable level of overlooking. At ground level this would also be safeguarded to a degree by an eye level enclosure as discussed in Paragraph 11.3.6 above.
- 11.3.13 Plots 13 and 14, on the highest part of the northern boundary, have even larger floor to floor differences in height, however, with the change to bungalows, these plots would appear to No.63 and No.69 Gilda Terrace as

equivalent two storey houses in terms of height. Moreover, with no first floor accommodation, and an eye level enclosure, the occupiers of these bungalows shouldn't readily be able to look over the rear fence into the gardens of Gilda Terrace. A condition can be imposed to remove permitted development rights to these properties so that no first floor accommodation is created without prior consent of the Local Planning Authority.

- 11.3.14 Finally, in terms of interrogating the separation distances more thoroughly, each garden of the proposed dwellings (Plots 4-14) would have a depth of 11m from the rear elevation to the proposed 2.4m acoustic fence. A further 5m is then incorporated for the landscaped buffer, so a total of 16m before the easement area is reached. The easement area, and rear access road for properties on Gilda Terrace measures approx. 8.6m wide. As such, from the rear elevation of the proposed dwellings, on average there would be a separation of 24.6m to the closest fence/outbuilding owned by No.41-69 Gilda Terrace). In the example of Plot 12 to No.59 Gilda Terrace, the garden for No.59 would measure 23.4m in depth from the rear elevation, therefore totalling a back-to-back distance of 48m. This is therefore a considerable separation distance, far beyond any standards contained in the Essex Design Guide.
- 11.3.15 Owing to all of the above, including the proposed 5m landscape buffer and 2.4m high eye level enclosure, Officers consider that the development would not detrimentally affect No.71-31 Gilda Terrace to a degree where permission should be refused. Furthermore, while the ground raising would result in a change in character, the difference comparatively to the initially submitted scheme is much less, on a site which is already sloping due to its natural topography. However, to ensure that the earthworks are appropriately controlled, a detailed Construction Management Plan (which is required to be submitted pursuant to Condition 5 of the outline consent) would ensure that all pollutants such as dust are adequately managed, and the site developed out in a logical way.
- 11.3.16 As such, Officers consider that the proposed development would not have an unacceptable impact on the character of the area or perception of the development from adjacent residential properties. It should be noted that while the 'cut' option as discussed in Paragraphs 11.2.17-11.2.19 above is no longer for consideration, owing to the sustainability and design shortcomings of this option, Officers consider that the fill option is now the best approach to develop the site, taking all matters into account.

### **Layout & Landscaping Across The Site**

- 11.3.17 In terms of more general landscape considerations, at the pre-application stage, key layout principles were discussed, ensuring that a back-to-back relationship was formed as far as possible with existing residential development across the site boundaries, as well as blocks of houses that are able to address internal streets and the open spaces around the site. As such, while there have been some layout refinements which will be

discussed in brief, the core layout has remained similar to that as was initially submitted.

- 11.3.18 The starting point for assessing the layout is the access point from Rayne Road. This has been fixed by the outline consent, along with the alignment of part of the access road, which passes through the properties on Gilda Terrace, following the demolition of No.27 and 29 Gilda Terrace to create a wider access. The Parameter plans highlight the land either side of the approved access road as *“Strategic buffer to site boundary to include parking and access to properties to the rear of Gilda Terrace”*. In this case, the land either side of the access road has been designed to include tree lined green borders either side.
- 11.3.19 However, the Reserved Matters drawings also show a small substation on the side of the access road, adjacent to No.25 Gilda Terrace – this would not be in accordance with the approved Parameter Plan. To address this, the substation has been carved out of the submitted plans showing the layout of the development, meaning it is not sought for approval as part of the reserved matters submission. It is therefore shown on the plans indicatively, to illustrate the fact that the Applicant is seeking to erect a substation in this location. A separate mechanism would be utilised by the Applicant to seek approval for the substation at a later time.
- 11.3.20 The site access also crosses an area which contains an easement that is directly adjacent to the rear accesses of properties on Gilda Terrace. The easement means that tree planting cannot occur in this location, owing to potential damage from tree roots. In order to assist in providing a defensible space, it is proposed that scrubs are planted in the easement area which discourage public access. It is proposed that this would include barberry, juniper, pyracanthus, rose, as well as a native hedge including dogwood, hawthorn, wild privet, blackthorn and rose. This area would be managed by the management company. Overall, it is considered that the planting mix is acceptable here owing to the easement constraint.
- 11.3.21 The remaining layout of the site comprises an internal spine road, which traverses from the northern boundary all the way to near the southern boundary with the Flitch Way. As is evidenced from the sections, the spine road is required to navigate the steep topography at the site, although this is not as steep as the internal roads on the western side of the site. Where there are semi-detached pairs of houses, these are stepped in order to accommodate the change in level, while retaining a step free access wherever possible. The spine road comprises verges with trees lining the streets and a 2m footpath either side. Most parking in this area is at the side of properties in tandem. Visitor parking is scattered around within the verges too. Furthermore, it is along the spine road where the only instances of two and a half storey dwellings are proposed, in conformity to the approved Parameter Plan at the outline stage.
- 11.3.22 On the eastern side of the development (from the spine road), there are two main blocks; a smaller block and a larger block. These blocks are served

by a shared surface road network, which has been designed to be circular providing access onto the main spine road at three different points. On the eastern side, Plots 118-112 back onto the other row of terraces on Gilda Terrace. However, unlike the opposite side of the spine road, the levels in this area are much less of an issue, therefore Plots 118-112 will not be situated materially higher in terms of floor to floor than those properties on Gilda Terrace (No.1-23). The overall separation distance is still however similar, with over 44m back-to-back on average. As such, the impact on these properties would not be unacceptably detrimental.

- 11.3.23 Similarly, the proposed dwellings alongside the shared boundary with Springfields / Sun Lido, would not suffer from levels issues. In terms of the relationships that would be created, Plots 111-103 would all back onto the shared boundary. The properties on Sun Lido, No 85-93 and 83-77 do not back onto the shared boundary in the same way, instead they are at an angle. The Essex Design Guide states that where the backs of houses are at more than 30 degrees to one another this separation may be reduced to 15 metres from the nearest corner.
- 11.3.24 In this case, the gardens for Plots 111-108 would be approximately 13m long, with a further minimum of 7m to the backs of 85-93 (most being much longer). However, the degree of change back-to-back ranges from approximately 55 degrees to 37 degrees. As such, while some of these properties would not have a 25m back-to-back distance, the angles of the properties dictate that this would not unduly compromise the amenity of No.85-93 Sun Lido. Similarly, Plots 107-103 are at a different angle to No.83-77 Sun Lido – this angle is around 35 degrees. However, in this scenario, most of the back-to-backs exceed the 25m separation distance. Furthermore, Plot 99 has a perpendicular relationship with No.71 Sun Lido – as such, the impact on No.71 would not be detrimental. As such, these relationships are also considered to be acceptable.
- 11.3.25 In terms of layout more generally, the parking area for Plots 115 - 110 was difficult to plan owing to the vista at the end of the road from the spine road, and the internal vista in the opposite direction. Officers sought to secure a change from what was previously submitted, which was more of a car park arrangement, to something much softer that better addressed the rear of properties on Gilda Terrace, but also had a less harsh parking solution. The omission was a building at the end of the vista from the spine road, however there is now a tree to be planted there and a small area of landscaping, along with an established shrubs belt which is to be pruned, but ultimately retained.
- 11.3.26 The remaining eastern internal street, similar to the spine road, also climbs up the topography of the site to reach the top, although the gradient is much less steep. This street also now benefits from being tree lined, with a small area of management company land being left in between the parking spaces of the semi-detached pairs, to have a tree planted. The most formalised tree planting is within the spine road which is the focal point of the development. Other secondary roads contain a more natural tree

planting pattern to assist in differentiating them in the hierarchy of streets. The majority of the parking spaces within this section are in tandem at the sides, however there are some which are adjacent to each other at the front of plots, providing a mixture of parking solutions in the street scene.

- 11.3.27 On the western side of the development, the layout is similar to that of the eastern side, the dwellings are in a blocked, back-to-back arrangement creating internal tree lined streets as well as dwellings facing out onto the open space / green areas. Similar to the eastern side of the development, the internal access road on this side climbs up the gradient of the site.
- 11.3.28 The very southern part of the site is the area protected by the outline consent as public open space / suds. This area will be in close proximity to the Flitch Way. It includes a play area as per the S106 requirements attached to the outline consent which would be opposite the spine road. This open space area also includes a pump station (away from the play area), details of which are included for approval. The pump station would be built in brick and be outside of the cordon sanitaire for any new/existing dwelling. A footpath would also be provided through the site to the Flitch Way, which is part of the S106 requirements. A separate planning application has been submitted to link the site to the flitch way through land beyond the red line of this site. Provisions would be made to ensure that no vehicular access could be gained from the site to the Flitch Way.
- 11.3.29 In terms of wider impacts and landscaping, the outline consent was submitted with a condition which stipulated that a landscaped buffer must be incorporated outside of the red line, to the western and southern boundaries. This would assist in screening the development. These details would be secured via the condition, however the landscaping is indicatively shown on the submitted landscape plan.
- 11.3.30 In terms of other key considerations, the scheme has been designed to comply with the Essex garden standards of 100sq.m for three or more bedroom dwellings and 50sq.m for a two or less bedroom dwellings. Furthermore, Officers have worked with the Applicant to ensure that the fence lines are as straight as possible, to ensure that they are able to be constructed as proposed. This is to help ensure that fence lines are not altered during construction for buildability purposes.
- 11.3.31 Another aspect of the gardens is that due to the level changes, steps are sometimes required. These steps range in terms of form, but predominantly consist of log steps, which act as retaining structures. It is understood a ramp would be put in each garden to ensure that it can be accessed by those with limited mobility. Some of the gardens also consist of retaining walls and or gravel boards, to a maximum of 450mm.
- 11.3.32 With the inclusion of the gravel boards and retaining walls, some of the garden fences / walls are higher than might otherwise be expected for some of the gardens. To ensure that the amenity provided to future occupiers is appropriate, the Applicant commissioned an overshadowing



survey to be completed. The study uses Building Research Establishment (BRE) guidance as a means of assessing the sunlight which each garden would receive. The BRE guide recommends that, for an open space or garden to appear adequately lit throughout the year, at least 50% of its area should receive two hours of sunlight on 21 March (as this provides an average across the year). Overshadowing would be less during the summer months when gardens tend to be used more. Conversely, there would be more overshadowing during the winter months when gardens tend to be used less.

- 11.3.33 Applying this test, the study found that of 120 dwellings, 100 dwellings would be able to receive 2 hours of sunlight on 21 March to at least 50% of their areas. The average percentage of those gardens which do not comply with this standard, is 40% sunlight in the gardens for 2 hours. However, it is noted that all properties which do not comply with this standard are north facing, where lower levels of sunlight are to be expected, particularly on a site with such marked topographical differences. Overall, having reviewed the findings of the study in light of the BRE guidance, Officers are satisfied that the gardens of the proposed dwellings would receive satisfactory levels of sunlight, despite some larger enclosures necessitated by retaining walls/gravel boards.
- 11.3.34 Another aspect which the site levels have impacted is the relationship between some of the proposed plots. For example, between Plot 64 and Plot 44 there is a 3m difference in finished floor level across a 25m back-to-back distance. While the Council has a 25m back-to-back requirement as standard, there is no guidance for sites with level challenges such as this. Having given it due consideration, Officers requested that the Applicant insert a 300mm trellis on top of the fence which separates Plots 51-42 (affordable) and Plots 55-65 (market). Overall, Officers are satisfied as far as possible with the proposed garden arrangements, which are unavoidable given that the site is so challenged by its topography.
- 11.3.35 In terms of parking, the parking at the site would comply with the parking standards - 1 space for a 1 bedroom dwelling and 2 spaces for a two or more bedroom dwellings with 0.25 visitor spaces per dwelling. These are distributed around the site.
- 11.3.36 All properties would be within the bin collection distances from adoptable standard roads. One of the private drives for Plots 15-18 requires a small bin storage area as they would be beyond the 20m drag distance. Measures will be included in a legal agreement to ensure that the Council are able to collect refuse from roads to be managed by the management company.
- 11.3.37 In terms of the affordable units, these are separated out into three distinct clusters; those plots which back into Gilda Terrace on the western side (and some opposite), the western internal street which rises towards the open space, and a smaller cluster on the eastern side of the development. Clustering in this way is now common practice and is sought by the

Registered Providers in order to be able to better manage their housing stock.

### **Affordable Mix & Market Mix**

- 11.3.38 In terms of housing mix, the affordable housing units are as set out in table 3 below, comprising 30% of the total unit mix:

Table 3 – Affordable Mix

| <b>Type</b>              | <b>Affordable Rent</b> | <b>Intermediate Tenure</b> |
|--------------------------|------------------------|----------------------------|
| 1 Bed 2 Person Apartment | 4                      | -                          |
| 2 Bed 4 Person house     | 9                      | 8                          |
| 3 Bed 5 Person house     | 7                      | 4                          |
| 3 Bed 5 Person Bungalow  | 2                      | -                          |
| 4 Bed 7 Person House     | 2                      | -                          |
| <b>Total</b>             | <b>24</b>              | <b>12</b>                  |

- 11.3.39 The Affordable Housing Officer reviewed the application and had no objection, commenting that the development would provide appropriate much needed affordable housing.
- 11.3.40 In terms of the market mix, the remaining 70% of units, this is as set out in Table 4 below:

Table 4 – Market Mix

| <b>Type</b>  | <b>Number</b> | <b>Percentage of Total</b> |
|--------------|---------------|----------------------------|
| Two Bed      | 12            | 14%                        |
| Three Bed    | 58            | 69%                        |
| Four Bed     | 8             | 9%                         |
| Five Bed     | 6             | 7%                         |
| <b>Total</b> | <b>84</b>     | <b>---</b>                 |

- 11.3.41 Policy LPP35 of the Adopted Local Plan states that Housing mix should be in line with the identified local need as set out in the 2015 SHMA update (or its successor), unless material considerations indicate otherwise. The current version of the SHMA (Strategic Housing Market Assessment) states that the need for open market housing in the District is 4% one bedroom, 31% two bedroom, 45% three bedroom and 20% four bedroom.

- 11.3.42 The mix of market units provided in this case therefore are different to that of the SHMA, providing a larger concentration of three bedroom units which account for nearly 70% of the development. However, while the policy requires compliance with the SHMA, the outline application did not have a condition which controlled the mix of market housing. The outline application pre-dated the formal adoption of the Local Plan, as such Policy LPP35 was not in effect at the time. As such, in this case, despite the difference in mix comparatively to the SHMA, Officers cannot control the market mix of dwellings at the Reserved Matters stage.
- 11.3.43 In terms of the size of the proposed dwellings, they would accord with the Nationally Described Space Standards, which set out minimum floor area requirements to provide good amenity to future occupiers. As such, combined with the findings about overshadowing as set out in Paragraphs 11.3.32-11.3.33 above, overall it is considered that future occupiers would benefit from an acceptable level of amenity on this development.

### **Appearance**

- 11.3.44 In terms of appearance, the proposed development would be contemporary, comprising a range of different house types with ranging materials and colours. The materials and colours differ on different parts of the site to provide a distinction; the main internal spine road comprises dwellings which are generally half render half red brick, while the edges of the development are a mixture of weatherboarding, full render or full brick. In terms of some of the internal streets, these generally comprise either a red brick or buff brick. Those units which sit on important corners of the development are dual aspect, meaning that they have a frontage in both streets. These dwellings are either weatherboard or full render, to help give legibility to the street. The affordable units on the development have been designed to be tenure blind, blending into the market units of which are of a similar appearance.
- 11.3.45 Most dwellings have a standard pitched roof; this is in part owing to the sloping nature of the site which requires large numbers of semi-detached dwellings to be stepped. A hip would not appear as a good architectural solution on a stepped house. However, Plots 111-103 are to be hipped (as they are not challenged by levels) in order to pick up on some of the character of Gilda Terrace. Overall, the appearance of the dwellings in this case are considered to be appropriate for the context while also creating an identity for the new development.

### **Summary**

- 11.3.46 Overall, owing to all of the above, Officers are satisfied that the proposed development of 120 residential units at this site would be acceptable; meeting key design and amenity requirements, despite the level challenges. As such, from a layout, scale, appearance and landscaping perspective, it is considered that the development is acceptable.

#### 11.4 Sustainability

- 11.4.1 Policy LPP72 of the Adopted Local Plan states inter alia that all new dwellings shall meet the Building Regulations optional requirement for water efficiency of 110 litres/person/day; All planning applications for new residential dwellings shall include renewable and low carbon energy technology to provide at least a 19% improvement in energy performance over the requirements of the Building Regulations (2013).
- 11.4.2 Policy LPP71 of the Adopted Local Plan states inter alia that applicants will be expected to demonstrate that measures to lower carbon emissions, increase renewable energy provision and adapt to the expected impacts of climate change have been incorporated into their schemes, other than for very minor development. Planning permission will only be granted for proposals that demonstrate the principles of climate change mitigation and adaptation into the development.
- 11.4.3 In this case, the application is supported by a Sustainability Statement, which sets out measures that will be put forward by the Applicant, in order to hit the above requirements, set by Policies LPP71 and LPP72 of the Adopted Local Plan.
- 11.4.4 These measures include a combination of approaches. In summary, these include measures to address overheating risk by ensuring cross ventilation is possible as well as double glazed windows; a fabric first approach aimed at improving energy efficiency while reducing Co2 emissions; solar panels on all properties which will produce 0.75kwp to 3.25kwp (kilowatt 'peak' of a system), and finally water efficiency measures to achieve a total water consumption of 105.9 Litres per person per day. These measures would achieve site wide CO2 emission reductions of 33%, over 2013 Building Regulations standards as well as exceeding the policy requirement of a 19% improvement.
- 11.4.5 Overall, it is considered that the development would comply with Policies LPP71 and Policy LPP72 of the Adopted Local Plan, and as such would have good sustainability credentials which weigh in favour of the application.

#### 11.5 Lighting

- 11.5.1 Policy LPP77 of the Adopted Local Plan states that external lighting will be permitted where the following criteria are met:
- a) The lighting is designed as an integral element of the development and shall be capable of adoption by the Highway Authority when it is on the public highway.
  - b) Low energy lighting is used in conjunction with features such as movement sensors, daylight sensors and time controls, and hours of illumination shall be controlled.

- c) The alignment of lamps and provision of shielding minimises spillage, glare and glow, including into the night sky.
- d) The lighting intensity is no greater than necessary to provide adequate illumination.
- e) There is no loss of privacy or amenity to nearby residential properties and no danger to pedestrians and road users.
- f) There is no harm to biodiversity, natural ecosystems, intrinsically dark landscapes and/or heritage assets.

11.5.2 In accordance with Condition 12 of the Outline Planning consent (Application Reference 18/01065/OUT), a lighting scheme has been submitted for approval. The lighting scheme combines a mixture of street lights to be adopted by the Highway Authority on the central spine road, as well as other street lights on the roads not to be adopted, which would fall under the management of a Management Company, should the development be approved.

11.5.3 The Council's Ecologist raised no objection per se with the proposed lighting scheme, but requested further clarification that it had been designed with ecology in mind, as per the condition. The Applicant is currently waiting for written confirmation of this from an ecologist. As such, Officers will update Members either at or before Planning Committee, when confirmation is received.

## 11.6 Ecology - Biodiversity & BNG

11.6.1 Condition 11 of the Outline Planning consent (Application Reference 18/01065/OUT) required a Biodiversity Compensation and Enhancement Strategy for protected and priority species (BCES). A BCES was subsequently submitted with the application, which seeks to secure the inclusion of integrated bat roosting and bird nesting boxes, and insect houses. The BCES also includes hedgehog friendly fencing, although this is only along the eastern boundary properties owing to potential conflict (and ultimately mortality) with road users. The Ecology Officer reviewed the BCES and raised no objection to the measures proposed. Following the submission of revised plans, the BCES is also required to be updated. Owing to the nature of revisions, the changes would have not had a significant impact on the measures contained within the BCES, instead it just requires updating to ensure that it is consistent with the proposed layout. At the time of writing this updated plan is being prepared, and an update will be provided to Members either at or before Planning Committee.

11.6.2 The scheme also provides new habitats by virtue of providing additional habitat and hedgerow units. While not a mandatory requirement for this application (as it was submitted before the legislation came into force), the scheme would still deliver over 10% BNG, including a net increase of 29.83 % of Habitat units and 162.86% of Hedgerow units. These units would be secured by way of condition, ensuring that the development came forward in accordance with the Biodiversity Compensation and Enhancement

Strategy. Moreover, with the addition of the tree buffer zone, the BNG percentages for this site have increased.

#### 11.7 Heritage & Flitch Way Impact

11.7.1 The site is not located within the setting of any listed buildings. The Historic Buildings Consultant (HBC) however commented on the application, suggesting that more scattered planting along the edge of the development would be better as denser planting could be more at odds with the formerly agricultural landscape.

11.7.2 While the comments of the HBC are noted and understood, the outline application was approved by the Inspector on the basis that a landscaped buffer would be located around the development, as indicated illustratively on the plans, in order to assist in screening it in wider landscape views as well as from the Flitch Way. As such, it is not considered that scattered planting would meet the ambitions of the outline application (including Condition 10).

#### 11.8 Highway Considerations

11.8.1 Matters of access are approved by virtue of the outline consent. This means that under this reserved matters application the access cannot be altered. The access would have taken into account the maximum capacity of the development in its design, to ensure that it would be safe from a highway perspective.

11.8.2 What can be considered however is what roads would be adopted or not. The Applicant confirms that it is contractually obliged for the main spine road to be adopted, while the remaining side streets are to be managed by a management company, but built to adoptable standards (other than the private drives where applicable). Fire turning is also required on these private drives; this is evident for Plots 16 & 17, 35 & 34 and 99 & 100. This is to meet building regulation specifications.

11.8.3 ECC Highways reviewed the revised plans and requested that the turning head at the top of the spine road by the Flitch Way (near to the attenuation basin) is upgraded to a Size 3 turning head. Owing to the minor nature of the change, Officers agreed that the relevant layout plans could be updated again to reflect this. For the avoidance of doubt, this change was made following the completion of the re-consultation period with no further re-consultation carried out, other than to ECC Highways to check the plans had been amended correctly. This was because the change is minor and would have no additional adverse impact on existing residents in the locality. At the time of writing, ECC Highways are reviewing the revised plans. An update will be provided to Members at Committee to confirm whether the revised plans are acceptable or not.

11.8.4 The development is also obliged to provide a link to the Flitch Way via the S106 agreement, through the development to Rayne Road. On the open

space part of the site on the southern edge, this would consist of a 3.5m wide footway. The footway, which is understood would also be a cycleway, would need to go beyond the red line of the site to connect to the Flitch Way. In order to do this, a separate application will be required. An application (Application Reference 23/02916/FUL) is currently under consideration by Officers. This will include any measures to prevent vehicular access to the Flitch Way.

## 11.9 SuDS

11.9.1 Condition 7 of the Outline consent required details of SuDS to be submitted for approval. The Applicant in this case chose to submit the SuDS details as part of the Reserved Matters submission, in order to demonstrate that the scheme that has been put forward can achieve suitable drainage.

11.9.2 ECC SuDS have reviewed the revised drainage scheme which accompanied the re-consultation materials, and requested a number of clarifications, which have been re-sent to the SuDS Officer. Further comments are now awaited. Officers will update Members in due course regarding any further SuDS comments which are received following the publication of the Committee Report.

## 11.10 Habitat Regulations Assessment (HRA / RAMS)

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

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

11.10.2 HRA mitigation was secured under the outline consent (Application Reference 18/01065/OUT) and therefore no further mitigation is required in this case.

## 11.11 Other Issues

11.11.1 From the initial round of consultation, there were a number of issues raised by members of the public. Those which are not covered by the report above are discussed below.

11.11.2 Concerns were raised about a lack of sustainable transport options for future residents of the development. While these concerns are noted, the acceptability of the site for development has already been considered and granted permission at appeal by the Planning Inspector. Overall, the site was considered by the Planning Inspector to be in a sustainable location with sustainable transport options available.

11.11.3 Concerns have been raised about the access to the existing rear access track that serves properties on Gilda Terrace. The Applicant confirms that

the rear access track would be retained for those existing properties on Gilda Terrace – the exact programme for the creation of the new access road from Rayne Road is yet to be agreed, but access to the rear of these properties should not be restricted for any undue period of time. It is a matter which would need to be discussed between the Applicant and the residents should Reserved Matters approval be forthcoming.

- 11.11.4 Concerns have been raised about the impacts during construction from the development. While these concerns are noted, construction impacts are unavoidable. The Applicant is required to submit a Construction Management Plan (pursuant to Condition 5 of the outline consent) which would seek to protect neighbouring amenity as far as possible during the construction phase of the development. This would include hours of work, as well as measures such as wheel washing. At the time of writing, the Applicant is working up a first draft of a Construction Management Plan which it aims to circulate to Officers in advance of the Committee meeting. Officers would then circulate this to Members for information. The Construction Management Plan would not be for approval at this stage, only for information, as it would be required to be assessed by ECC Highways and BDC Environmental Health Officers in due course.
- 11.11.5 Concerns have been raised regarding the development of the triangular piece of land to the south east of the site. A planning application has indeed been submitted for that site for residential development, however this was refused and is currently subject to appeal (Application Reference 23/01880/OUT). In any case, each application must be considered on its own merits.
- 11.11.6 Concerns were also raised about the health of a tree behind No.73 Springfields. This was explored by the Applicant team and works carried out to the tree accordingly. No further comment was received following re-consultation on the development.
- 11.12 Compliance with Parameter Plans
- 11.12.1 As highlighted at Paragraph 6.4 of this report, the Reserved Matters application, as revised during the lifetime of the application, is in broad accordance with the approved Parameter Plan; containing the residential development to the approved areas, with open space and SuDS basins in the areas to the south and along the western edge, although there are some minor discrepancies. These comprise: the encroachment of parts of some roads/private drives into the area designated as open space at the southern and western edge of the site; the encroachment of the attenuation basin on the area designated for built development; and introduction of a 5m additional landscaping buffer on the northern boundary behind No.71 to No.39 Gilda Terrace.
- 11.12.2 To regularise the above, it would be necessary for the Applicant to submit a Section 73 application to vary the outline planning permission, specifically the approved Parameter Plans. At the time of writing no Section 73



application has been submitted. Accordingly, should Members resolve to approve the Reserved Matters, Officers recommend that the Reserved Matters is not issued until such time as the Section 73 application has been granted and issued.

- 11.12.3 In addition to the above, the Section 73 application in conjunction with a drop-in Full Planning application, could also address the requirement for a new substation (as highlighted within Paragraph 11.3.19).

## 12. PLANNING OBLIGATIONS

- 12.1 This application is for the reserved matters pertaining to the outline consent (Application Reference 18/01065/OUT). The planning obligations secured under the s106 Agreement attached to this outline planning permission remain in place.
- 12.2 This Reserved Matters Application has also necessitated the need for securing the long-term management of the landscape buffer area required by Condition 10, as this is outside of the red line of the application site. This can be secured through a new legal agreement.
- 12.3 Furthermore, the Council are seeking to secure an indemnity for refuse vehicles on private roads, should any damage occur. This is to protect the Council from claims and is necessary as a large number of roads on this development would not be adopted by Essex County Council. This would also be secured through a new legal agreement.

## 13. CONCLUSION

- 13.1 The principle of the residential development of the site has been established under the existing outline consent (Application Reference 18/01065/OUT). The Applicant seeks approval for reserved matters pursuant to this outline consent consisting of the appearance; landscaping; layout and scale of the development.
- 13.2 Owing to the site topography, the site has been difficult to plan in an appropriate way; balancing the need to respect neighbouring amenity while also meeting the challenge of regrading the site to achieve appropriate road gradients. Following extensive negotiations with Officers, overall it is considered that the development would constitute a well-designed and carefully considered proposal, meeting all relevant standards and policy requirements where appropriate.
- 13.3 At the time of writing, further clarification/confirmation is to be received regarding; Drainage, Highways, Lighting and Biodiversity, CMP and management of the Acoustic Fence and will be circulated to Members either before or on the night of Planning Committee.

14. RECOMMENDATION

14.1 It is therefore RECOMMENDED that:

A) 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:

- § Refuse Permission
- § Buffer Planting Management Plan

B) Subject to the submission and determination of a Section 73 Application to vary the approved Parameter Plans;

The Planning Development Manager or an authorised Officer be authorised to APPROVE Reserved Matters 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)

| <b>Plan Description</b>    | <b>Plan Ref</b>    | <b>Plan Version</b> |
|----------------------------|--------------------|---------------------|
| Location Plan              | CNO82-PL-001 REV00 | N/A                 |
| Management plan            | CN082-PL-15        | C                   |
| Landscaping                | 8057.PP.4.2        | H                   |
| Planning Layout            | CN082-PL-003A      | I                   |
| Planning Layout            | CN082-PL-003B      | I                   |
| Affordable Housing Plan    | CN082-PL-012       | G                   |
| Affordable Housing Plan    | CN082-PL-013       | G                   |
| Boundary Treatment         | CNO82-BT-01        | A                   |
| Boundary Treatment         | CN082-BT-02        | A                   |
| Boundary Treatment         | CN082-BT-03        | A                   |
| Boundary Treatment         | CN082-BT-04        | A                   |
| Boundary Treatment         | CN082-BT-05        | A                   |
| Boundary Treatment         | CN082-BT-06        | 00                  |
| Section                    | CN082-SCS-01       | K                   |
| Section                    | CN082-SCS-02       | D                   |
| Section                    | CN082-SCS-05       | A                   |
| Section                    | CN082-SCS-06       | A                   |
| Street elevation           | CN082-ST-02        | L                   |
| General Plans & Elevations | CN082-HA-HA52B-02  | 00                  |
| General Plans & Elevations | CN082-HT-SEb-02    | A                   |
| Planning Layout            | CN082-PL-002       | O                   |
| Planning Layout            | CN082-PL-003       | J                   |
| Garden Study               | CN082-PL-004       | J                   |
| Materials Details          | CN082-PL-006       | L                   |
| Solar Panel Plans          | CN082-PL-007       | J                   |
| Refuse Information         | CN082-PL-008       | J                   |
| Storey Height              | CN082-PL-009       | J                   |
| Parking Strategy           | CN082-PL-010       | J                   |
| Landscaping                | 8057.ASP3.LSP      | K                   |
| Landscaping                | 8057.PP.4.0        | I                   |
| Landscaping                | 8057.PP.4.1        | H                   |
| Landscaping                | 8057.PP.4.3        | H                   |
| Landscaping                | 8057.PP.4.4        | I                   |
| Specification              | 8057.HSP.6.0       | F                   |
| Levels                     | 220828-C-2000      | P18                 |
| Lighting Plan              | 220828-C-4500      | P3                  |
| General Plans & Elevations | CN082-HT-FOGa-01   | D                   |
| General Plans & Elevations | CN082-HA-3BBa-01   | E                   |
| General Plans & Elevations | CN082-HA-4BHb-01   | D                   |
| General Plans & Elevations | CN082-HA-BAa-01    | B                   |
| General Plans & Elevations | CN082-HT-BUa-01    | C                   |

|                            |                              |   |
|----------------------------|------------------------------|---|
| General Plans & Elevations | CN082-HT-BU <sub>b</sub> -02 | C |
| General Plans & Elevations | CN082-HT-BU <sub>c</sub> -03 | C |
| General Plans & Elevations | CN082-HT-CH <sub>a</sub> -01 | C |
| General Plans & Elevations | CN082-HT-CH <sub>b</sub> -02 | C |
| General Plans & Elevations | CN082-HT-CH <sub>c</sub> -03 | C |
| General Plans & Elevations | CN082-HT-CR <sub>b</sub> -02 | B |
| General Plans & Elevations | CN082-HT-EV <sub>b</sub> -02 | C |
| General Plans & Elevations | CN082-HT-EV <sub>c</sub> -03 | C |
| General Plans & Elevations | CN082-HT-Fl <sub>a</sub> -01 | D |
| General Plans & Elevations | CN082-HA-HA52a-01            | A |
| General Plans & Elevations | CN082-HA-NE <sub>a</sub> -01 | A |
| General Plans & Elevations | CN082-HT-RO <sub>a</sub> -01 | C |
| General Plans & Elevations | CN082-HT-RO <sub>b</sub> -02 | C |
| General Plans & Elevations | CN082-HT-RO <sub>c</sub> -03 | C |
| General Plans & Elevations | CN082-HT-SE <sub>a</sub> -01 | C |
| General Plans & Elevations | CN082-HT-Wl <sub>a</sub> -01 | C |
| General Plans & Elevations | CN082-HT-Wl <sub>b</sub> -02 | C |
| Street elevation           | CN082-ST-01                  | I |
| Street elevation           | CN082-ST-04                  | F |

#### Condition(s) & Reason(s)

##### Condition 1

The development hereby permitted shall only be implemented in accordance with the approved plan(s) / document(s) listed above.

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

##### Condition 2

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 dwellinghouse or its roof for Plots 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14 as shown on approved layout plan CN082-PL-002 Rev O, as permitted by Class A, B or C of Part 1 of Schedule 2 of that Order shall be carried out 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, alterations and roof extensions in the interests of residential and/or visual amenity.

##### Condition 3

The development shall be implemented in accordance with the submitted Biodiversity Compensation and Enhancement Strategy and thereafter retained in accordance with this strategy.

Reason: To ensure that the biodiversity enhancements proposed are delivered and retained.

#### Condition 4

Prior to the first occupation of the development, on site measures to avoid impacts from the development alone to the Blackwater Estuary SPA & Ramsar site and Essex Estuaries SAC shall be submitted to and be approved in writing by the Local Planning Authority. The content of the of the onsite measures will be in line with the approved Habitats Regulations Assessment and shall include the following:

- a) Purpose and conservation objectives for the proposed measures;
- b) Detailed designs of the interpretation board, leaflets, and dog waste bins;
- c) Locations of proposed interpretation boards by appropriate maps and plans; and
- d) details of initial aftercare and long-term maintenance of these features (where relevant).

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

Reason: To avoid Adverse Effects to Site Integrity from the development alone to the Blackwater Estuary SPA & Ramsar site and Essex Estuaries SAC and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended).

#### Condition 5

Notwithstanding the provisions of implementation/management as indicated on approved plans 8057.PP.4.0, the vegetation contained within the "tree planting buffer 5m" area behind plots 4-14, as identified on approved plans 8057.PP.4.0 Rev I and 8057.PP.4.1 Rev H, shall be planted in the first available planting season following the commencement of development. This area shall be subject to a bespoke management plan which includes setting out long term objectives, management responsibilities, funding arrangements and maintenance schedules, details of which shall be submitted to, and approved in writing by, the Local Planning Authority, following the commencement of development.

Reason: To ensure that the tree buffer achieves its aim of providing early screening for the new development for its lifetime.

#### Condition 6

The development shall be implemented in accordance with the fabric first approach and renewable energy measures contained within the Energy and Sustainability Statement (January 2023), as well as the long term retention of the solar panels as shown on approved plan CN082-PL-007 rev. J.

Reason: To secure the sustainability measures proposed by the application in order to meet relevant policy tests.

#### Condition 7

The development shall only be undertaken in accordance with the tree protection measures contained within the Tree Protection Plan reference TPP RevC, which is appended to the Arboricultural Impact Assessment submitted with the Reserved Matters Application dated 27th March 2023. The approved means of protection shall

be installed prior to the commencement of any building, engineering works or other activities on the site and shall remain in place until after the completion of the development.

No materials, goods or articles of any description shall be stacked, stored or placed at any time within the limits of the spread of any of the existing trees, shrubs or hedges.

No works involving alterations in ground levels, or the digging of trenches, or excavations of any kind, (including the laying or installation of drains, pipes, cables or other services) shall be carried out within the extent of the spread of any existing trees, shrubs and hedges. No machinery of any kind shall be used or operated within the extent of the spread of the existing trees, shrubs, hedges.

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

#### 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 Plan 2013 - 2033

|       |  |
|-------|--|
| SP1   | Presumption in Favour of Sustainable Development   |
| SP2   | Recreational Disturbance Avoidance and Mitigation Strategy (RAMS)                              |
| SP3   | Spatial Strategy for North Essex   |
| SP4   | Meeting Housing Needs  |
| SP6   | Infrastructure & Connectivity  |
| SP7   | Place Shaping Principles   |
| LPP10 | Primary Shopping Areas   |
| LPP32 | Affordable Housing in Rural Areas  |
| LPP35 | Housing Mix, Density and Accessibility   |
| LPP42 | Sustainable Transport  |
| LPP43 | Parking Provision  |
| LPP46 | Broadband  |
| LPP47 | Built and Historic Environment   |
| LPP48 | An Inclusive Environment   |
| LPP49 | Health and Wellbeing Impact Assessment   |
| LPP50 | Provision of Open Space, Sport and Recreation  |
| LPP52 | Layout and Design of Development   |
| LPP63 | Natural Environment and Green Infrastructure   |
| LPP65 | Tree Protection  |
| LPP66 | Protection, Enhancement, Management and Monitoring of Biodiversity                             |
| LPP67 | Landscape Character and Features   |
| LPP68 | Green Buffers  |
| LPP70 | Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards |
| LPP74 | Flooding Risk and Surface Water Drainage   |
| LPP75 | Surface Water Management Plan  |
| LPP76 | Sustainable Urban Drainage Systems   |

### APPENDIX 3:

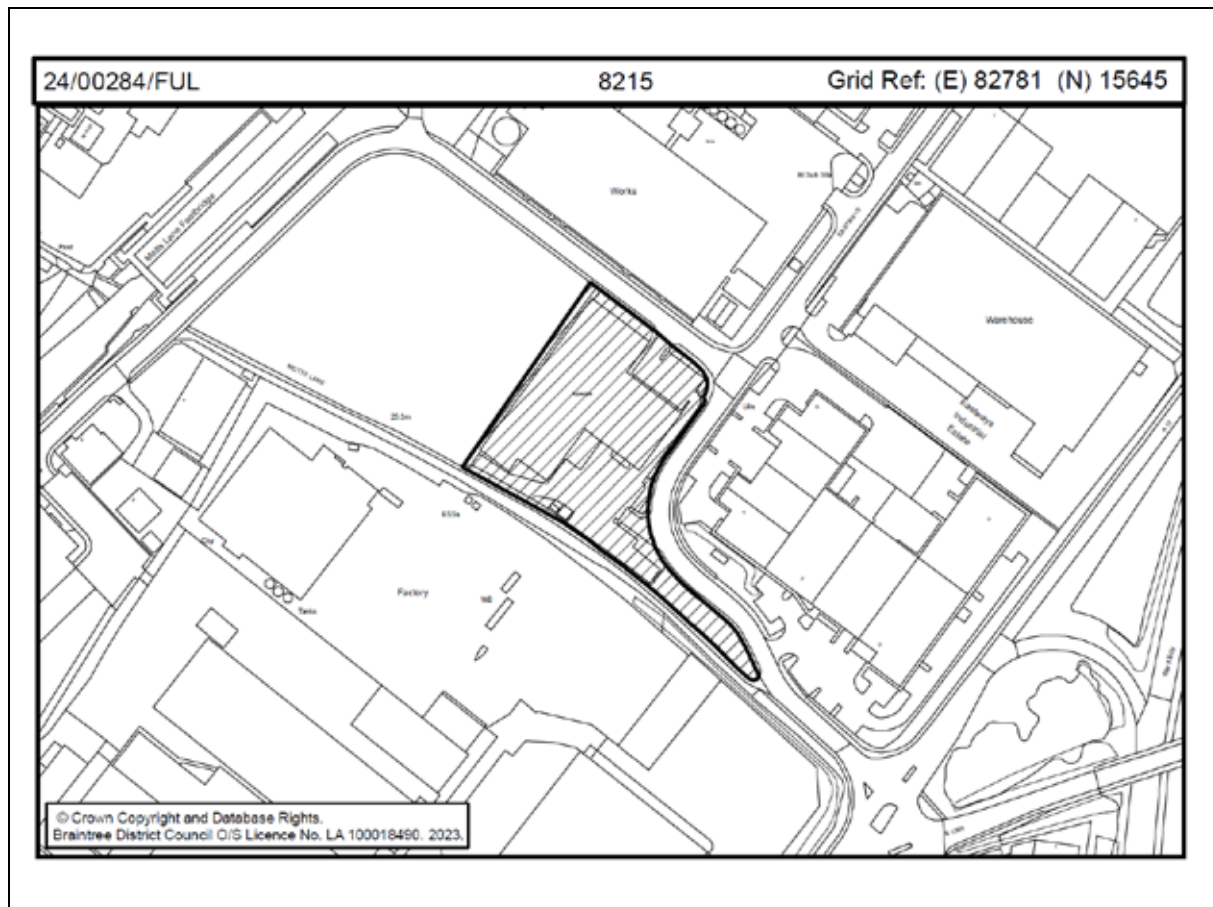
#### SITE HISTORY

| <b>Application No:</b> | <b>Description:</b>  | <b>Decision:</b>      | <b>Date:</b> |
|------------------------|--|-----------------------|--------------|
| 21/00001/REF           | Outline planning permission for residential development (C3) for up to 120 dwellings with all matters reserved except access and the demolition of nos. 27 and 29 Gilda Terrace.   |                       | 27.01.21     |
| 88/02354/P             | Residential Development  | Refused               | 15.08.89     |
| 18/01065/OUT           | Outline planning permission for residential development (C3) for up to 120 dwellings with all matters reserved except access and the demolition of nos. 27 and 29 Gilda Terrace.   | Refused               | 04.09.20     |
| 23/00191/REM           | Application for the approval of reserved matters (in respect of layout, scale, appearance and landscaping) for 119 dwellings pursuant to outline planning permission 18/01065/OUT granted 27/7/21 for residential development (C3) for up to 120 dwellings with all matters reserved except access and the demolition of nos. 27 and 29 Gilda Terrace. | Pending Consideration |              |
| 23/01599/DAC           | Application for approval of details as reserved by condition 10 (Landscaping) of approved application 18/01065/OUT (Allowed at appeal)   | Pending Consideration |              |
| 23/02916/FUL           | Creation of a footpath and cyclepath link between the consented residential development (18/01065/OUT) and Flitch Way.   | Pending Consideration |              |



|  |   |   |
|--|---|---|
| <b>Report to:</b> Planning Committee         |   |   |
| <b>Planning Committee Date:</b> 7th May 2024 |   |   |
| <b>For:</b> Decision                         |   |   |
| <b>Key Decision:</b> No                      |   | <b>Decision Planner Ref No:</b> N/A   |
| <b>Application No:</b>                       | 24/00284/FUL  |   |
| <b>Description:</b>                          | Change of use of commercial unit (Use Class E (g) (iii) and associated Class B8 and Class E (g) to Flexible Use Classes E (g) (iii) and associated Class B8 and Class E (g), B2 and B8  |   |
| <b>Location:</b>                             | Appledale, 1 Eastways, Witham   |   |
| <b>Applicant:</b>                            | SCL Property LLP, SCL House, 21-25 River Road, Barking, Essex, IG11 0DA   |   |
| <b>Agent:</b>                                | Mr Andy Butcher, ASB Planning, 6 Lodge Cottages, Southolt Road, Bedfield, Suffolk, IP13 7HH   |   |
| <b>Date Valid:</b>                           | 6th February 2024   |   |
| <b>Recommendation:</b>                       | It is RECOMMENDED that the following decision be made:<br><br>§ Application GRANTED subject to the Condition(s) & Reason(s) and Informative(s) outlined within Appendix 1 of this Committee Report.                               |   |
| <b>Options:</b>                              | The Planning Committee can:<br><br>a) <b>Agree</b> the Recommendation<br>b) <b>Vary</b> the Recommendation<br>c) <b>Overturn</b> the Recommendation<br>d) <b>Defer</b> consideration of the Application for a specified reason(s) |   |
| <b>Appendices:</b>                           | <b>Appendix 1:</b>  | Approved Plan(s) & Document(s)<br>Condition(s) & Reason(s) and Informative(s) |
|  | <b>Appendix 2:</b>  | Policy Considerations   |
|  | <b>Appendix 3:</b>  | Site History  |
| <b>Case Officer:</b>                         | Britney Lees<br>For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2545, or by e-mail: <a href="mailto:britney.lees@braintree.gov.uk">britney.lees@braintree.gov.uk</a>     |   |

**Application Site Location:**



|   |   |
|---|---|
| <b>Purpose of the Report:</b>               | 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.   |
| <b>Financial Implications:</b>              | <p>The application was subject to the statutory application fee paid by the applicant for the determination of the application.</p> <p>The Applicant has paid a financial contribution pursuant to the Habitat Regulations as set out within the body of this Committee Report. Financial implications may arise should the decision be subject to a planning appeal or challenged via the High Court.</p>  |
| <b>Legal Implications:</b>                  | <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 &amp; 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>   |
| <b>Other Implications:</b>                  | 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.  |
| <b>Equality and Diversity Implications:</b> | <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"> <li>a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act;</li> <li>b) Advance equality of opportunity between people who share a protected characteristic and those who do not;</li> <li>c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.</li> </ul> |

|                           |  |
|---------------------------|--|
|                           | <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>  |
| <b>Background Papers:</b> | <p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> <li>§ Application Form</li> <li>§ All Plans and Supporting Documentation</li> <li>§ All Consultation Responses and Representations</li> </ul> <p>The application submission can be viewed online via the Council's Public Access website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a> by entering the Application Number: 24/00284/FUL.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> <li>§ National Planning Policy Framework (NPPF)</li> <li>§ Braintree District Local Plan 2013-2033</li> <li>§ Neighbourhood Plan (if applicable)</li> <li>§ Supplementary Planning Documents (SPD's) (if applicable)</li> </ul> <p>The National Planning Policy Framework can be viewed on the GOV.UK website: <a href="http://www.gov.uk/">www.gov.uk/</a>.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: <a href="http://www.braintree.gov.uk">www.braintree.gov.uk</a>.</p> |

1. EXECUTIVE SUMMARY

- 1.1 The application site relates to an established commercial business unit, known as Appledale, which is located within the Witham development boundary. The site is within the defined Employment Policy Area of Eastways Industrial Estate, as outlined in Policy LPP3 of the Adopted Local Plan.
- 1.2 The application seeks planning permission for the Change of use of commercial unit (Use Class E (g) (iii) and associated Class B8 and Class E (g) to Flexible Use Classes E (g) (iii) and associated Class B8 and Class E (g) (i) (ii), B2 and B8.
- 1.3 The purpose of the proposed development is to allow for the flexible use of the site, enabling the unit to be re-let without the requirement for further change of use applications, should a B2 (general industry) and/or B8 (storage and distribution) end user be found, instead of a Class E (g) (iii) light industrial user.
- 1.4 The application relates solely to the change of use of the site and there would be no external changes made to the design and appearance of the unit.
- 1.5 Whilst the existing car parking provision falls below the maximum standard for either Class E (g) (iii) or B2 use, a degree of flexibility should be applied when considering the existing use of the site, the flexible nature of the proposed use, and the sustainable location of the site.
- 1.6 Overall, there are no conflicts or departures from the Adopted Local Plan or adopted policy guidance that would necessitate a reason to refuse the application. The application concerns only the change of use of the building and therefore there would be no unacceptable impacts on the design and appearance of the unit. Furthermore, no unacceptable impacts on neighbouring amenity have been identified. Consequently, it is recommended that planning permission is granted for the proposal.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

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

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

- 5.1 The application site relates to an established commercial business unit, known as Appledale, which is located within the Witham development boundary. The site is located within the defined Employment Policy Area of Eastways Industrial Estate, as outlined in Policy LPP3 of the Adopted Local Plan.
- 5.2 The application site can be accessed at two locations off Eastways.
- 5.3 There is vacant land to the rear of the building. This land is subject to a separate planning application for the "*Erection of commercial unit (Use Class B8) together with access, parking, landscaping and associated works*" (Application Reference: 22/03367/FUL). Beyond this is the Greater Anglia railway line and Motts Lane Footbridge (BR 122 121), which facilitates pedestrian access to the residential developments located to the east of the railway line.
- 5.4 The site is surrounded by the wider Eastways Industrial Estate to the north, east and south. The Crittall Road Industrial Estate is located to the west, separated from Eastways Industrial Estate by Motts Lane.
- 5.5 The site is located in a sustainable location within an established and defined Employment Policy Area. Witham Station is within one mile of the application site. The Freebournes Road bus stop, to the south of the site, provides bus services to Chelmsford and Colchester. The site is also in close proximity to Junction 22 of the A12.
- 5.6 The application was subject to an application for a Certificate of Lawfulness for "*Proposed development – Change of use of site from Class B1 (c) (Light Industrial) and Class B8 (Storage and Distribution), to a computer refurbishment and recycling company, falling within Class E (g)(iii) and associated Class B8 and Class E(g)*" (Application Reference: 21/00989/PLD).

- 5.7 The planning statement states that following the grant of the Certificate of Lawfulness, the building was occupied by Apex Evolution Ltd. The company went into liquidation in December 2023 and the building is now vacant.

## 6. PROPOSAL

- 6.1 The application seeks planning permission for the Change of use of commercial unit (Use Class E (g) (iii) and associated Class B8 and Class E (g) to Flexible Use Classes E (g) (iii) and associated Class B8 and Class E (g) (i) & (ii), B2 and B8.
- 6.2 The purpose of the proposed development is to allow for the flexible use of the site, enabling the unit to be re-let without the requirement for further change of use applications, should a B2 (general industry) and/or B8 (storage and distribution) end user be found, instead of a Class E (g) (iii) light industrial user. The application is speculative and therefore no end user has been identified.
- 6.3 The application is only for the change of use of the commercial unit. No external alterations are proposed as part of this planning application.

## 7. SUMMARY OF CONSULTATION RESPONSES

### 7.1 Anglian Water

- 7.1.1 No comments as the proposed development will maintain the existing onsite drainage confirmation and the proposal does not result in an increase to the existing impermeable roof area.

### 7.2 Essex Fire & Rescue Service

- 7.2.1 Access for Fire Service purposes have been considered in accordance with the Essex Act 1987 – Section 12 and appears to be satisfactory, meeting the requirement of Approved Document B, Volume 2, Requirement B5.

### 7.3 Essex Police – Designing out Crime

- 7.3.1 No comment.

### 7.4 BDC Environmental Health

- 7.4.1 No objection, subject to the imposition of conditions relating to noise levels.

### 7.5 ECC Highways

- 7.5.1 No objection, subject to a condition requiring to the submission of a travel plan in accordance with Essex County Council guidance.

7.6 ECC SUDS

7.6.1 No comment.

8. PARISH / TOWN COUNCIL

8.1 Witham Town Council

8.1.1 Recommend approval as they wish to see vibrant industrial estates without empty units.

9. REPRESENTATIONS

9.1 A site notice was displayed outside the application site and immediate neighbours were notified by way of letter. No representations have been received in relation to this application.

10. PRINCIPLE OF DEVELOPMENT

10.1 The application site is located within the Witham development boundary wherein the principle of development is acceptable, as set out in Policy LPP1 of the Adopted Local Plan provided it satisfies amenity, design, environmental, highway criteria and other material considerations.

10.2 The site is also located within the allocated Employment Policy Area of Eastways Industrial Estate, as outlined in Policy LPP3 of the Adopted Local Plan. Policy LPP3 of the Adopted Local Plan states that the following uses will be considered appropriate and will be permitted and retained:

- a) Office use, research and development, and industrial processes (other than industrial processes falling within Class B2) (Use Class E (g)).
- b) General industrial (use class B2) and storage and distribution (use class B8).
- c) Repair of vehicles and vehicle parts.
- d) Waste management facilities as appropriate taking into account neighbouring uses.
- e) Services specifically provided for the benefit of businesses or workers based on the employment area.

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

10.3 The proposed uses of the commercial unit would fall in line with the designated uses of the Employment Policy Area, as outlined in Policy LPP3



of the Adopted Local Plan. The proposed change of use therefore complies with the abovementioned policy and is acceptable in principle.

## 11. SITE ASSESSMENT

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

11.1.1 Paragraph 131 of the National Planning Policy Framework (“NPPF”) sets out that ‘the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve’.

11.1.2 The NPPF further cites that good design is a key aspect of sustainable development.

11.1.3 Paragraph 136 of the NPPF is explicit that planning permission should be refused for development that is not well designed.

11.1.4 Policy LPP52 of the Adopted Local Plan requires designs to reflect or enhance the area's local distinctiveness and to be in harmony with the character and appearance of the surrounding area; including their form, scale and impact on the skyline and the building line.

11.1.5 The application is for change of use only. The external appearance and design of the building would remain unchanged. As such, the proposal would not have an unacceptable impact on the design and appearance of the site.

### 11.2 Impact upon Neighbouring Residential Amenity

11.2.1 Policy LPP52 of the Adopted Local Plan states that development shall not cause undue or unacceptable impacts on the amenities of nearby residential properties.

11.2.2 Paragraph 135 of the NPPF further requires a good standard of amenity for all existing and future occupiers of land or buildings.

11.2.3 The site is located within an established industrial estate, defined as an Employment Policy Area within the Adopted Local Plan.

11.2.4 The closest residential properties are located within Mulberry Gardens and Elderberry Gardens, which are north of the application site. These are separated from the site by the railway line and an area of green space associated with these residential developments.

11.2.5 There would be a separation distance of approximately 201 metres between the site and the closest residential property. This distance is considered to be sufficient to mitigate unacceptable impacts on nearby residential properties in terms of noise.

11.2.6 BDC Environmental Health were consulted and have recommended a condition to limit the noise level on site in the interest of residential amenity.

11.2.7 Taking into account that the site is already used for industrial purposes and that the proposed Use Classes are considered acceptable within a defined Employment Policy Area, it is considered that the proposal would not have an unacceptable impact on the living conditions of any nearby residents.

### 11.3 Highway Considerations

11.3.1 Policy LPP43 of the Adopted Local Plan states that development will be required to provide off-street vehicle parking in accordance with the Council's Adopted Parking Standards.

11.3.2 Policy LPP52 of the Adopted Local Plan states that the use of sustainable modes of transport are promoted in the design and layout of new development. The highway impact shall be assessed, and the resultant traffic generation and its management shall seek to address safety concerns. Developments which will result in a severe impact upon the highway network (taking into account cumulative impacts) will be refused unless they can be effectively mitigated.

11.3.3 Essex Highways were consulted and considered the proposal acceptable from a highways perspective, subject to the submission of a travel plan in accordance with Essex County Council guidance.

11.3.4 The Council's Adopted Parking Standards set out the following standards:

| <b>Use Class in Adopted Parking Standards</b> | <b>New Use Class</b> | <b>Maximum Requirement</b> |
|---|----------------------|----------------------------|
| Class B1                                      | Class E (g)          | 1 space per 30sq.m         |
| Class B2                                      | Class B2             | 1 space per 50sq.m         |
| Class B8                                      | Class B8             | 1 space per 150sq.m        |

11.3.5 The existing unit has a floor area of 2,822sq.m. The Transport Statement indicates that the site currently has 30 parking spaces, plus two parking spaces for disabled persons.

11.3.6 Going by the currently adopted parking standards, the commercial unit would require a maximum of 94 parking spaces for solely (existing) Use Class E (g), a maximum of 56 parking spaces for Use Class B2 and a maximum of 19 parking spaces for Use Class B8.

11.3.7 Whilst the existing car parking would fall below the maximum required for either Class E (g) or B2 use, a degree of flexibility should be applied when considering the existing (fallback) use of the site (with a total of 32no spaces), the flexible nature of the proposed use/s, and the sustainable location of the site. There is a possibility that the flexible change of use of

the site could give rise to lower levels of employment, through Class B8 and B2 uses, therefore less parking would be required than for its existing use.

- 11.3.8 Furthermore, the site is located within walking distance of Witham Train Station and bus stops which provide regular services to Colchester and Chelmsford. It is therefore considered that the current parking provision would be appropriate for the proposed flexible use of the application site. To mitigate this further however, it is considered that ECC Highways recommendation to require the submission of a travel plan is reasonable, however given the extant use at the site, this would only be applicable for a B2 or B8 use.
- 11.3.9 In terms of traffic generation, the Transport Assessment has demonstrated that the flexible use of the site would not result in an increase in traffic at the development and therefore would not have an impact on the local road network and highway safety, in compliance with the above policies.

## 12. CONCLUSION

- 12.1 Overall, there are no conflicts or departures from the Adopted Local Plan or adopted policy guidance that would necessitate a reason to refuse the application. The application concerns only the change of use of the building and therefore there would be no unacceptable impacts on the design and appearance of the unit. Furthermore, no unacceptable impacts on neighbouring amenity have been identified.
- 12.2 Whilst it is acknowledged that car parking would fall below that required for either Class E (g) or B2 use, this is not considered unacceptable given the existing use of the site, the flexible nature of its proposed use, and the sustainable location of the site, which can be further mitigated through the requirement for a Travel Plan for a B2 or B8 use.

## 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)

| <b>Plan Description</b> | <b>Plan Ref</b> | <b>Plan Version</b> |
|-------------------------|-----------------|---------------------|
| Location Plan           | SI-XX-DR-A-1000 | A                   |
| Block Plan              | SI-XX-DR-A-1010 | A                   |

#### Condition(s) & Reason(s)

##### Condition 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).

##### Condition 2

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

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

##### Condition 3

The site shall only be used for Use Classes E (g) (iii) and associated Class B8 and Class E (g) (i) & (ii), B2 and/or B8 and for no other purposes.

Reason: To ensure that no alternative use is made of the premises which would be detrimental to the designated Employment Policy Area, amenities of the locality and neighbouring amenity.

##### Condition 4

Notwithstanding the details submitted, prior to the first use of the site for Use Class B2 or B8 purposes, a Travel Plan for the development shall be submitted to and approved in writing by the Local Planning Authority. Prior to the first occupation, the approved Travel Plan shall be implemented, and the use shall thereafter only be operated in accordance with the approved Travel Plan.

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

### Positive and Proactive Statement

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

## APPENDIX 2:

### POLICY CONSIDERATIONS

#### National Planning Guidance

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

#### Braintree District Local Plan 2013 - 2033

|       |  |
|-------|--|
| SP1   | Presumption in Favour of Sustainable Development   |
| SP5   | Employment   |
| SP7   | Place Shaping Principles   |
| LPP1  | Development Boundaries   |
| LPP3  | Employment Policy Areas  |
| LPP43 | Parking Provision  |
| LPP52 | Layout and Design of Development   |
| LPP70 | Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards |

### APPENDIX 3:

#### SITE HISTORY

| <b>Application No:</b> | <b>Description:</b>  | <b>Decision:</b>            | <b>Date:</b> |
|------------------------|--|-----------------------------|--------------|
| 09/01129/FUL           | Installation of metal window unit to match existing  | Granted                     | 19.10.09     |
| 02/00276/T56           | Proposed mobile phone base station comprising the erection of a 15m monopole and associated equipment cabin and ancillary development  | Permission not Required     | 08.04.02     |
| 07/00596/OUT           | Erection of 2 no. industrial units (B1, B2, B8)  | Granted with S106 Agreement | 19.06.07     |
| 07/02234/FUL           | Erection of 20 no. employment units (B1, B2, B8)   | Granted with S106 Agreement | 29.01.08     |
| 11/00015/FUL           | Application for a new planning permission to replace an extant planning permission (07/02234/FUL), in order to extend the time limit for implementation - Erection of 20 no. employment units (B1, B2, B8)   | Granted with S106 Agreement | 24.03.11     |
| 16/00082/FUL           | Demolition of existing Pickford warehouse and associated office, total footprint area 945m <sup>2</sup> . Erection of a distribution warehouse B8 with associated office B1, total footprint area 7698m <sup>2</sup> . The new building will be 173 x 44.5m wide with a 14m eave height and 160m radius curved roof. The warehouse will have 22 loading docks and 4 level access truck doors. Three storey office will be provided within the footprint above and incorporate ribbon windows and curtain | Granted with S106 Agreement | 27.04.16     |

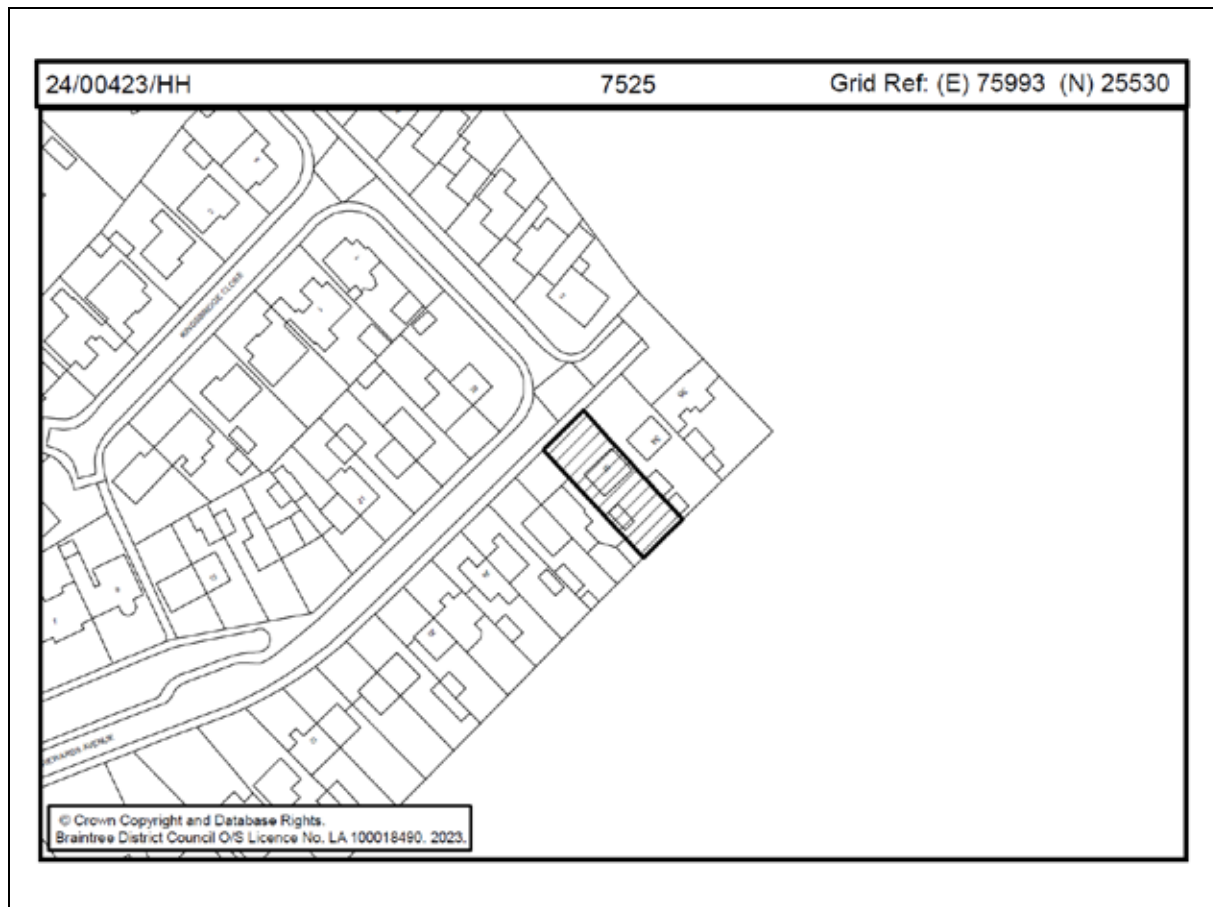
|              |   |                             |          |
|--------------|---|-----------------------------|----------|
|              | walling. External concrete hardstanding and concrete block paved car parking areas.   |                             |          |
| 17/02294/FUL | Upgrading of an existing (retained) unit and construction of New Food Production Facility Unit with internal ancillary offices, new site entrance and vehicle turning area.   | Granted with S106 Agreement | 26.09.18 |
| 18/02265/DAC | Application for approval of details reserved by conditions 4, 11, 13 and 14 of approval 17/02294/FUL - Upgrading of an existing (retained) unit and construction of [a] New Food Production Facility Unit with internal ancillary offices, new site entrance and vehicle turning area.  | Granted                     | 25.04.19 |
| 19/00932/VAR | Application for a variation of Condition 9 of planning permission 17/002294/FUL - 'No above ground development shall be commenced unless and until a scheme of ductwork has been submitted to and approved in writing by the local planning authority. Details shall specify that all extract ductworks shall be fitted with a suitable odour control system commensurate with the use of the premises' To amend the condition deferring the timing of the submission to 'prior to phase 2 internal fit out commencing' | Pending Consideration       |          |
| 19/00961/DAC | Application for approval of details reserved by condition 7 of approved application 17/02294/FUL  | Granted                     | 08.01.20 |



|              |   |         |          |
|--------------|---|---------|----------|
| 19/01116/DAC | Application for approval of details reserved by condition 3 of approved application 17/02294/FUL  | Granted | 20.09.19 |
| 20/00647/DAC | Application for approval of details reserved by condition 5 of approved application 17/02294/FUL  | Granted | 23.06.20 |
| 21/00989/PLD | Application for Certificate of Lawfulness for proposed development - Change of use of site from Class B1(c) (Light Industrial) and Class B8 (Storage and Distribution), to a computer refurbishment and recycling company, falling within class E(g)(iii) and associated Class B8 and Class E(g). | Granted | 19.05.21 |

|  |  |   |
|--|--|---|
| <b>Report to:</b> Planning Committee         |  |   |
| <b>Planning Committee Date:</b> 7th May 2024 |  |   |
| <b>For:</b> Decision                         |  |   |
| <b>Key Decision:</b> No                      |  | <b>Decision Planner Ref No:</b> N/A   |
| <b>Application No:</b>                       | 24/00423/HH  |   |
| <b>Description:</b>                          | Single storey front extension and reduction in size of ground floor front window.  |   |
| <b>Location:</b>                             | 32 Dorewards Avenue Braintree Essex  |   |
| <b>Applicant:</b>                            | Mr And Mrs Scott, 32 Dorewards Avenue, Braintree, Essex, CM7 5LT   |   |
| <b>Agent:</b>                                | Mr I R Matthews, 6 Millers Close, Bocking, Braintree, Essex, CM7 5LN   |   |
| <b>Date Valid:</b>                           | 26th February 2024   |   |
| <b>Recommendation:</b>                       | It is RECOMMENDED that the following decision be made:<br><br>§ Application GRANTED subject to the Condition(s) & Reason(s) and Informative(s) outlined within Appendix 1 of this Committee Report.  |   |
| <b>Options:</b>                              | The Planning Committee can:<br><br>a) <b>Agree</b> the Recommendation<br>b) <b>Vary</b> the Recommendation<br>c) <b>Overturn</b> the Recommendation<br>d) <b>Defer</b> consideration of the Application for a specified reason(s)            |   |
| <b>Appendices:</b>                           | <b>Appendix 1:</b>   | Approved Plan(s) & Document(s)<br>Condition(s) & Reason(s) and Informative(s) |
|  | <b>Appendix 2:</b>   | Policy Considerations   |
|  | <b>Appendix 3:</b>   | Site History  |
| <b>Case Officer:</b>                         | Richelle McDonagh<br>For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2536, or by e-mail: <a href="mailto:richelle.mcdonagh@braintree.gov.uk">richelle.mcdonagh@braintree.gov.uk</a> |   |

**Application Site Location:**



|   |   |
|---|---|
| <b>Purpose of the Report:</b>               | 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.   |
| <b>Financial Implications:</b>              | <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>   |
| <b>Legal Implications:</b>                  | <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 &amp; 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>   |
| <b>Other Implications:</b>                  | 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.  |
| <b>Equality and Diversity Implications:</b> | <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"> <li>a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act;</li> <li>b) Advance equality of opportunity between people who share a protected characteristic and those who do not;</li> <li>c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.</li> </ul> |

|                           |   |
|---------------------------|---|
|                           | <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>   |
| <b>Background Papers:</b> | <p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> <li>§ Application Form</li> <li>§ All Plans and Supporting Documentation</li> <li>§ All Consultation Responses and Representations</li> </ul> <p>The application submission can be viewed online via the Council's Public Access website:<br/> <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a> by entering the Application Number: 24/00423/HH.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> <li>§ National Planning Policy Framework (NPPF)</li> <li>§ Braintree District Local Plan 2013-2033</li> <li>§ Neighbourhood Plan (if applicable)</li> <li>§ Supplementary Planning Documents (SPD's) (if applicable)</li> </ul> <p>The National Planning Policy Framework can be viewed on the GOV.UK website: <a href="http://www.gov.uk/">www.gov.uk/</a>.</p> <p>The other abovementioned policy documents can be viewed on the Council's website:<br/> <a href="http://www.braintree.gov.uk">www.braintree.gov.uk</a>.</p> |

1. EXECUTIVE SUMMARY

- 1.1 The application site relates to 32 Dorewards Avenue, a two-storey detached dwellinghouse.
- 1.2 The application site is located within the Braintree development boundary, as defined within the Adopted Local Plan.
- 1.3 Planning permission is sought for the erection of a single storey front extension, with a reduction in width of a ground floor window on the front elevation of the dwellinghouse.
- 1.4 The proposed development is considered to be subordinate to the host dwelling, and its appearance would be compatible with the character of the dwellinghouse and its surroundings.
- 1.5 The proposed development would not impact upon the amenity of neighbouring dwellings.
- 1.6 The proposed development would not have any impact on highway safety, and the current off-street parking provision at the site would be unaffected.
- 1.7 Taking these factors into consideration, it is recommended that the application is approved, and planning permission granted for the proposal.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

- 2.1 This application is being reported to Planning Committee in accordance with Part A of the Council's Scheme of Delegation as the Applicant is an employee 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 comprises a two-storey, detached dwellinghouse on the south side of Dorewards Avenue, close to its junction with Carrington Way. The application site is located within the Braintree development boundary.
- 5.2 The application site shares a boundary with 30 Dorewards Avenue to the southwest and 34 Dorewards Avenue to the northeast.
- 5.3 32 Dorewards Avenue (*"the host dwelling"*) is set back from the highway and benefits from a well-proportioned front garden.
- 5.4 The application site benefits from a driveway to the side of the dwellinghouse, with capacity for two vehicles to park back-to-back. The driveway is positioned along the southwest boundary, adjacent to 30 Dorewards Avenue.
- 5.5 The dwellinghouse has not been extended previously.
- 5.6 The dwellinghouse is not a listed building, nor is it set within the curtilage of any listed building.
- 5.7 The dwellinghouse is not located within a Conservation Area.

6. PROPOSAL

- 6.1 The application seeks permission for the erection of a single storey front extension.
- 6.2 The proposed extension would have a width of 3.0 metres and a depth of 2.0 metres. The extension would have a mono-pitched roof with a maximum height of 3.5 metres and an eaves height of 2.7 metres.

- 6.3 The proposed extension would be finished with smooth render and concrete roof tiles to match the existing dwellinghouse.
- 6.4 The ground floor window on the left side of the dwellinghouse (as viewed from the highway) would be reduced from a width of 1.8 metres to a width of 1.4 metres.
- 6.5 The proposed windows would be framed with uPVC, to match those found on the existing dwellinghouse.

## 7. SUMMARY OF CONSULTATION RESPONSES

### 7.1 Consultee

- 7.1.1 N/A

## 8. PARISH / TOWN COUNCIL

### 8.1 Parish/Town Council

- 8.1.1 N/A

## 9. REPRESENTATIONS

- 9.1 A site notice was displayed to the front of the application site for a period of 21 days, and immediate neighbours were notified by letter. No representations have been received in relation to this planning application.

## 10. PRINCIPLE OF DEVELOPMENT

- 10.1 The application site is located within the Braintree development boundary, wherein the alteration or extension of a dwellinghouse is acceptable in principle, as established in Policies LPP1 and LPP36 of the Adopted Local Plan, subject to satisfying criteria pertaining to amenity, design, environmental, highway and other material considerations.
- 10.2 As such, the proposed development is acceptable in principle, subject to the relevant policy considerations.

## 11. SITE ASSESSMENT

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

- 11.1.1 Paragraphs 131 and 139 of the National Planning Policy Framework (NPPF) communicate that good design is a core principle of sustainable development and that poorly designed development should be refused.



- 11.1.2 Policy SP7 of the Adopted Local Plan states that all new development should respond positively to the local context and character of its setting, preserving, and enhancing the quality of existing places.
- 11.1.3 Policy LPP52 of the Adopted Local Plan requires the design and layout of development to reflect or enhance local distinctiveness, and to be in harmony with the character and appearance of the surrounding area in respect of form, scale, composition, proportion, orientation, materials, and details.
- 11.1.4 Policy LPP36 of the Adopted Local Plan permits residential alterations, extensions, and outbuildings, subject to an appropriate use of scale, massing, siting, bulk, form, height, and materials. There should be no detrimental impact to the amenity of adjoining residential properties, nor on the identity of the street scene and/or the appearance of the countryside.
- 11.1.5 The proposed front extension would be appropriately scaled and proportionate to the host dwelling. The extension would be subordinate to the original dwellinghouse in terms of its bulk, height, and position.
- 11.1.6 The siting of the proposed extension would be acceptable, and it is considered that there would be no overdevelopment of the plot. It is further considered that the proposed extension would have an appropriate relationship to the plot boundaries.
- 11.1.7 The proposed front extension would be sited in a slightly off-centre position to the front of the dwellinghouse. It is considered that the position of the proposed extension would be compatible with the dwellinghouse, given the existing front elevation does not benefit from a precise symmetry.
- 11.1.8 In terms of elevational composition, the proposed front extension would have its entrance door on the front elevation, with a window on each of the side elevations.
- 11.1.9 It is considered that the placement of openings would be compatible with the proposed extension and with the dwellinghouse overall. It is noted that the position of the front door would be off-centre, but it is considered that this would not be detrimental to the character or appearance of the host dwelling.
- 11.1.10 The proposed front extension would be constructed with a brick plinth and finished with smooth render above, to match the existing dwellinghouse. The roof of the proposed extension would be covered with concrete tiles to match the main roof of the dwellinghouse. It is considered that the proposed materials would be acceptable.
- 11.1.11 Other dwellings on Dorewards Avenue benefit from single storey front enlargements, which vary in form and design. As such, it is considered that the proposed front extension would not unacceptably impact the identity of

the street scene, and its design would largely be in keeping with the surrounding area.

- 11.1.12 The proposal includes the reduction in width of an existing ground floor window, to facilitate the proposed front extension. The ground floor window that would be altered is northwest facing and provides light into a dual-aspect habitable room.
- 11.1.13 As such, it is considered that the proposed narrowing of the window would not give rise to an unacceptable loss of amenity for the residents of the host dwelling, as the affected habitable room also benefits from a rear window on the southeast elevation. In any case, it is considered that the resultant window would remain adequately sized.
- 11.1.14 It is further considered that the alteration of the window would not be detrimental to the appearance of the dwellinghouse or the street scene. The window would be similar to existing windows on the dwellinghouse in terms of its proportions, and its height and vertical alignment would be unchanged.
- 11.1.15 Officers consider that the proposed development would comply with the NPPF and Policies SP7, LPP36 and LPP52 of the Adopted Local Plan in respect of its design and appearance.

## 11.2 Highway Considerations

- 11.2.1 Policy LPP43 of the Adopted Local Plan states that development will be required to comply with Essex Vehicle Parking Standards. The adopted Parking Standards (2009) requires dwellinghouses with two or more bedrooms to provide parking spaces for a minimum of two vehicles per dwelling.
- 11.2.2 The application site benefits from an area of hardstanding that forms its driveway. The driveway is positioned to the side of the dwellinghouse, along the southwest boundary adjacent to 30 Dorewards Avenue.
- 11.2.3 The proposed development would not encroach onto the driveway, and therefore the existing parking arrangements would be unchanged.
- 11.2.4 It is therefore considered that the proposed development would be comply with Policy LPP43 of the Adopted Local Plan and the Essex Parking Standards (2009).

## 11.3 Impact upon Neighbouring Residential Amenity

- 11.3.1 Policies LPP36 and LPP52 of the Adopted Local Plan state that development should not unacceptably impact the amenity of neighbouring properties, in terms of privacy, overshadowing, loss of light and overbearing impact.

- 11.3.2 The host dwelling is detached and is well-spaced from its neighbours. On either side of the host dwelling, the side-way parking areas belonging to 30 Dorewards Avenue and 34 Dorewards, provide a degree of separation between the dwellinghouses.
- 11.3.3 It is considered that the scale and siting of the proposed extension would be compatible with the plot, and the extension would not give rise to any loss of light or overshadowing of neighbouring dwellings.
- 11.3.4 It is further considered that the proposed front extension would not give rise to any overbearing of neighbouring dwellings.
- 11.3.5 The proposed front extension would benefit from a small window on both its side elevations. The window proposed on the right-hand side (as viewed from the highway) would allow light into the lobby and would overlook the application site's driveway. The window would not allow for direct views into the neighbouring dwelling.
- 11.3.6 The window proposed on the left-hand side (as viewed from the highway) would allow light into a WC, and as such, would benefit from obscure glazing.
- 11.3.7 It is considered that there would be no loss of privacy for the residents of 30 Dorewards Avenue or 34 Dorewards Avenue as a result of the proposed windows.
- 11.3.8 Officers consider that the proposed development would have no impact on neighbouring residential amenities, and therefore the proposal would accord with Policies LPP36 and LPP52 of the Adopted Local Plan in this regard.
- 11.4 Trees and Hedges
- 11.4.1 Paragraph 136 of the NPPF states that existing trees should be retained wherever possible.
- 11.4.2 Policy LPP65 of the Adopted Local Plan states that trees which make a significant positive contribution to a setting and are in good condition should be retained.
- 11.4.3 The application site benefits from a small tree along its front boundary, adjacent to the footway, which is to be retained. The tree is not subject to any TPO.
- 11.4.4 Officers consider that the proposed development would not be detrimental to the condition of the tree, and there would be no conflict with Policy LPP65 of the Adopted Local Plan or the NPPF.

12. CONCLUSION

- 12.1 Officers consider that the proposed single storey front extension and reduction in size of the ground floor front window would be compatible with the host dwelling and the surrounding area in terms of its scale, layout, and design. The proposed development would not unacceptably impact upon the amenity of any neighbouring residential dwellings, and the scheme raises no highway related issues. It is considered that the proposed development would be acceptable and compliant with the relevant planning policies, and it is recommended that the application is approved.

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)

| <b>Plan Description</b>             | <b>Plan Ref</b> | <b>Plan Version</b> |
|-------------------------------------|-----------------|---------------------|
| Location / Block Plan               | 505A (S3)       | N/A                 |
| Proposed Elevations and Floor Plans | 505A (S2)       | N/A                 |

#### Condition(s) & Reason(s)

##### Condition 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).

##### Condition 2

The development hereby permitted shall only be implemented in accordance with the approved plan(s) / document(s) listed above.

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

##### Condition 3

The external materials and finishes shall be as indicated on the application form and permanently retained as such.

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

#### Positive and Proactive Statement

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

## APPENDIX 2:

### POLICY CONSIDERATIONS

#### National Planning Guidance

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

#### Braintree District Local Plan 2013 - 2033

|       |  |
|-------|--|
| SP1   | Presumption in Favour of Sustainable Development     |
| SP7   | Place Shaping Principles                             |
| LPP1  | Development Boundaries                               |
| LPP36 | Residential Alterations, Extensions and Outbuildings |
| LPP43 | Parking Provision                                    |
| LPP52 | Layout and Design of Development                     |
| LPP65 | Tree Protection                                      |

#### Other Material Considerations

Essex Design Guide (2005)  
Essex Parking Standards (2009)

APPENDIX 3:

SITE HISTORY

| <b>Application No:</b> | <b>Description:</b> | <b>Decision:</b> | <b>Date:</b> |
|------------------------|---------------------|------------------|--------------|
| 23/02946/HH            | Front extension     | Withdrawn        | 29.01.24     |