

# **PLANNING COMMITTEE AGENDA**

**Tuesday, 13 December 2016 at 07:15 PM**

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

**THIS MEETING IS OPEN TO THE PUBLIC**  
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**Members of the Planning Committee are requested to attend this meeting to transact the business set out in the Agenda.**

**Membership:-**

Councillor K Bowers	Councillor J O'Reilly-Cicconi (Vice Chairman)
Councillor Mrs L Bowers-Flint	Councillor Mrs I Parker
Councillor P Horner	Councillor Mrs W Scattergood (Chairman)
Councillor H Johnson	Councillor P Schwier
Councillor S Kirby	Councillor Mrs G Spray
Councillor D Mann	Vacancy
Councillor Lady Newton	

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.

N BEACH  
Chief Executive

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

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

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

### **Public Question Time – Registration and Speaking on a Planning Application/Agenda Item**

Anyone wishing to speak are requested to register by contacting the Governance and Members Team on 01376 552525 or email [governance@braintree.gov.uk](mailto:governance@braintree.gov.uk) no later than 2 working days prior to the meeting. The Council reserves the right to decline any requests to register to speak if they are received after this time.

Registered speakers will be invited to speak immediately prior to the relevant application/item. Registered speakers wishing to address the Committee on non-Agenda items will be invited to speak at Public Question Time. All registered speakers will have 3 minutes each to make a statement.

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

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

**Documents:** There is limited availability of printed Agendas at the meeting. Agendas, Reports and Minutes can be accessed via [www.braintree.gov.uk](http://www.braintree.gov.uk)

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

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**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 can view webcasts for up to 6 months after the meeting using this link: <http://braintree.public-i.tv/core/portal/home>

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 can 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**

There are no Minutes to approve.

**4 Public Question Time**

(See paragraph above)

**5 Planning Applications**

To consider the following planning applications and to agree whether either of the more minor applications listed under Part B should be determined “en bloc” without debate.

Where it has been agreed that applications listed under Part B will be taken “en bloc” without debate, these applications may be dealt with before those applications listed under Part A.

**PART A**

Planning Applications:-

- |           |   |                |
|-----------|---|----------------|
| <b>5a</b> | <b>Application No. 13 01476 FUL - Land to the South of Millennium Way, CRESSING</b> | <b>5 - 71</b>  |
| <b>5b</b> | <b>Application No. 15 01457 FUL - Land East of Cherry Tree Close, HALSTEAD</b>      | <b>72 - 99</b> |

**PART B**

Minor Planning Applications:-

- |           |  |                  |
|-----------|--|------------------|
| <b>5c</b> | <b>Application No. 16 01557 FUL - Oakwood House, Oak Road, LITTLE MAPLESTEAD</b> | <b>100 - 106</b> |
| <b>5d</b> | <b>Application No. 16 01617 FUL - Guithavon House, Guithavon Street, WITHAM</b>  | <b>107 - 114</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.*

**PRIVATE SESSION**

**Page**

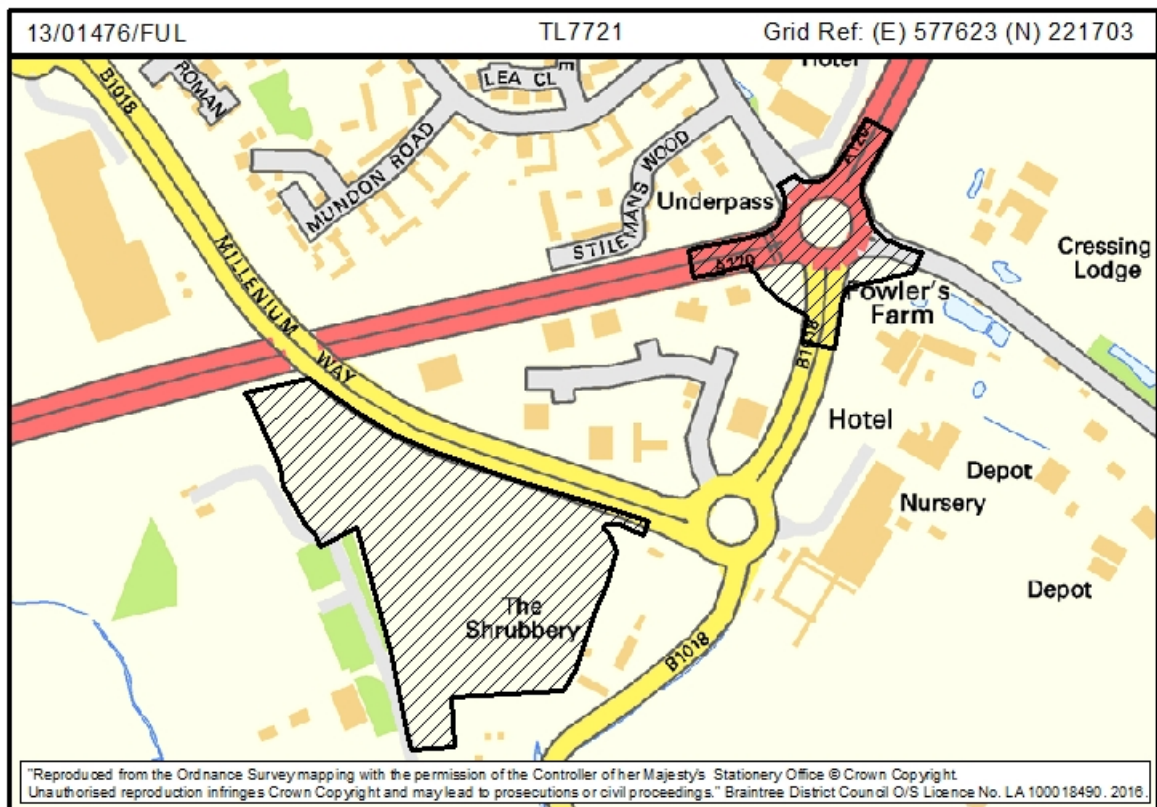
**8 Urgent Business - Private Session**

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

PART A

APPLICATION NO: 13/01476/FUL DATE: 20.01.14  
 VALID:  
 APPLICANT: Braintree Properties LLP  
 68 Pageant Road, St Albans, Herts, AL1 1NH  
 AGENT: Emery Planning Partnership Ltd  
 FAO Mr Rawdon Gascoigne, 4 South Park Court, Hobson  
 Street, Macclesfield, Cheshire, SK11 8BS  
 DESCRIPTION: Erection of DIY retail warehouse with associated access,  
 car parking and landscaping and improvement works to the  
 A120/B1018  
 LOCATION: Land To The South Of Millennium Way, Cressing, Essex

For more information about this Application please contact:  
 Christopher Paggi on: 01376 551414 Ext. 2548  
 or by e-mail to: [christopher.paggi@braintree.gov.uk](mailto:christopher.paggi@braintree.gov.uk)



## **SITE HISTORY**

11/00008/SCR	Screening opinion request for the redevelopment of the site for 7 no. retail units (13,401m2 gross) and associated highway works	17.10.11
12/00001/SCO	Scoping opinion request for land south of Millennium Way, Freeport Outlet Village	22.03.12

## **POLICY CONSIDERATIONS**

Currently the Council's development plan consists of the Braintree District Local Plan Review (2005) and the Core Strategy (2011).

The Council is currently working on a Draft Local Plan, which was approved by the Council unanimously for consultation on the 20<sup>th</sup> June 2016 and was the subject of public consultation between the 27<sup>th</sup> June and 19<sup>th</sup> August 2016.

In accordance with paragraph 216 of the NPPF, from the day of publication the Council can give weight to the emerging Draft Local Plan and the weight that can be given is related to:

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

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

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

Accordingly the Council can currently afford some weight to the emerging Draft Local Plan 2016.

It should also be noted that the Council was previously working on a Site Allocation and Development Management Plan (the ADMP). This plan was subject to extensive public consultation in 2013 and 2014. The ADMP was not however submitted to the Planning Inspectorate, due to the decision to begin work on a new Local Plan, to take into account the most up to date Government guidance. However parts of the ADMP have been rolled forward into the emerging Draft Local Plan.

It is therefore considered that it would be consistent with the provisions in paragraph 216 of the NPPF, to afford more weight in decision making to the

parts of the emerging Draft Local Plan which have been rolled forward from the ADMP, due to the more advanced stage reached by those elements.

### National Planning Guidance

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

### Braintree District Local Development Framework Core Strategy

CS4	Provision of Employment
CS5	The Countryside
CS6	Retailing and Town Centre Regeneration
CS7	Promoting Accessibility for All
CS8	Natural Environment and Biodiversity
CS9	Built and Historic Environment
CS11	Infrastructure Services and Facilities

### Braintree District Local Plan Review

RLP2	Town Development Boundaries and Village Envelopes
RLP4	Prevention of Town Cramming
RLP35	Non-conforming and un-neighbourly Industry
RLP36	Industrial and Environmental Standards
RLP40	Minor Industrial and Commercial Development in the Countryside
RLP49	Pedestrian Networks
RLP50	Cycleways
RLP51	Cycle Parking
RLP52	Public Transport
RLP53	Generators of Travel Demand
RLP54	Transport Assessments
RLP55	Travel Plans
RLP56	Vehicle Parking
RLP58	Galleys Corner Special Policy Area
RLP62	Development likely to give rise to pollution, or the risk of pollution
RLP63	Air Quality
RLP64	Contaminated Land
RLP65	External Lighting
RLP67	Flood Risk in Undeveloped Areas
RLP69	Sustainable Drainage
RLP70	Water Efficiency
RLP71	Water Supply, Sewerage and Land Drainage
RLP72	Water Quality
RLP73	Waste Minimisation
RLP76	Renewable Energy
RLP78	Countryside
RLP80	Landscape Features and Habitats
RLP81	Trees, Woodlands, Grasslands and Hedgerows

RLP84	Protected Species
RLP90	Layout and Design of Development
RLP91	Site Appraisal
RLP92	Accessibility
RLP93	Public Realm
RLP105	Archaeological Evaluation
RLP106	Archaeological Excavation and Monitoring
RLP110	Retail and Town Centre Development – The Sequential Approach
RLP111	Retail Development
RLP118	Retail Warehouse Development
RLP164	Environmental Impact Assessment

#### Braintree District Draft Local Plan

SP1	Presumption in Favour of Sustainable Development
SP3	Providing for Employment
SP4	Infrastructure & Connectivity
SP5	Place Shaping Principles
LPP1	Location of Employment Land
LPP2	Employment Policy Areas
LPP4	Design & Layout of Employment Policy Areas & Business Areas
LPP7	Retailing & Regeneration
LPP36	Sustainable Access for All
LPP37	Parking Provision
LPP42	Built & Historic Environment
LPP44	Provision for Open Space, Sport & Recreation
LPP46	Layout & Design of Development
LPP56	Natural Environment
LPP58	Enhancement, Management & Monitoring of Biodiversity
LPP59	Landscape Character & Features
LPP61	Protecting & Enhancing Natural Resources, Minimising Pollution & Safeguarding from Hazards
LPP62	Energy Efficiency
LPP64	Renewable Energy within New Developments
LPP65	Surface Water Mitigation Plan
LPP66	Sustainable Urban Drainage Systems
LPP67	Run-Off Rates
LPP68	External Lighting

#### Other Material Considerations

Site Allocations and Development Management Plan  
 Essex Design Guide  
 Essex Parking Standards  
 Retail Study Update 2012 (Nathaniel Lichfield & Partners)  
 Retail Study Update 2015 (Nathaniel Lichfield & Partners)

## **INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE**

This application is brought before the Planning Committee as the application is considered to be of significant public interest and represents a departure from the Development Plan. It is therefore an application which has significant policy implications.

## **NOTATION**

The application site is located outside of the Braintree Town Development Boundary as designated in the Adopted Local Plan Review 2005.

The application site is allocated for development in the emerging Draft Local Plan for retail warehousing.

## **APPLICATION PUBLICITY**

### **Initial Consultation (January 2014)**

The application was originally subject to public consultation in 2014.

A site notice was displayed on the application site.

The application was advertised in the Braintree and Witham Times on 30.01.2014.

The application was advertised as a Major Planning Application accompanied by an Environmental Statement, which is not in accordance with one or more provisions of the Development Plan, and as affecting a Public Right of Way.

### **Re-consultation (November 2014)**

Re-consultation letters were sent to all contributors who made representations on the application, notifying them that amendments had been made to the application submission.

### **Re-consultation (November 2016)**

Site notices were erected around the perimeter of the site along Millennium Way and on the other side of the road, adjacent to the pedestrian crossing.

The application was advertised in the Braintree and Witham Times on 17.11.2016.

The application was advertised as a Major Planning Application accompanied by an Environmental Statement, which is not in accordance with one or more provisions of the Development Plan, and as affecting a Public Right of Way.

Re-consultation letters were sent to all contributors who made representations on the application in November 2016 and to all addresses originally consulted on the planning application to give notification that the applicant had submitted additional information, including additional/revised information pertaining to the submitted Environmental Statement.

It should be noted that the publicity for the application does not expire until 8<sup>th</sup> December 2016, after the publication of the Committee Report. Any representations received after the publication of the Committee Report will be reported to Planning Committee on 13<sup>th</sup> December.

## **SITE DESCRIPTION**

The application site is located to the south of Braintree, immediately to the south of Millennium Way (B1018). The application site comprises an area of undeveloped land of approximately 3.1 hectares in size. The site is subdivided into two fields: a small field in the northernmost part of the site is separated from the larger field by a central hedgerow.

The north-eastern boundary of the site comprises the Millennium Way highway embankment. The south-eastern boundary is defined by a belt of scrub vegetation and mature hedgerow with some mature trees which act as a buffer to the two adjacent residential properties. The western boundary comprises another mature hedgerow and trees which act as a buffer to the large electricity substation to the west. The northern-most part of the application site is bound by the A120.

There is an existing public right of way to the east of the site.

The site is not located within a Conservation Area and is not situated within the vicinity of any nearby Listed Buildings, scheduled ancient monuments or any other designated heritage assets.

The application site is located outside of the Braintree Town Development Boundary in an area of countryside as designated in the Adopted Local Plan Review 2005.

## **PROPOSAL**

The application seeks permission for the erection of a DIY Retail Warehouse unit with a total of 5,894sq.m of Use Class A1 Retail floorspace, comprising 5,652sq.m gross at ground floor and 242sq.m gross within a mezzanine floor. In addition, an outdoor Garden Centre and Builders Yard is proposed with an external area of 1,115sq.m and 744sq.m respectively. A service yard is also proposed at the rear of the building, accessed via a separate internal access road.

The application site is proposed to be accessed from a new access off the west-bound side of Millennium Way. The access would provide a left turn into

the site from Millennium Way and a left turn out of the site onto Millennium Way.

With regard to parking, the application proposes a large car parking area at the front of the site, accessed off Millennium Way, comprising 255 car parking spaces (including 4 family spaces), 11 motorcycle spaces, 19 accessible spaces for disabled persons and 38 covered cycle parking spaces. The parking layout includes space for 6 trolley bays.

The application submission estimates that the proposed development would generate employment for up to 65 people.

The opening hours for the proposed DIY Store are as follows: 07:00-21:00 Monday to Friday, 07:00-20:00 Saturdays and 10:00-16:00 on Sundays and Bank Holidays.

In response to the main public views of the application site, the proposed DIY Store is orientated to face towards Millennium Way. The DIY Store has been designed as a single large retail unit and follows a generic operator model for the use proposed. The large building footprint provides flexibility for future occupiers to allow the operator to adapt to changing requirements.

The lowest part of the site has been selected for the siting of the proposed building, to maximise the advantage of the existing hedgerow and tree belts in screening and softening the impact of the proposed development within wider landscape views.

The proposed building would be 9.48m in height (to the ridge of each of the two portal frames). The roof sits behind a parapet that gives a perimeter height of 8.8m. Two entrances are proposed on the front elevation of the building – the height of these entrances exceeds the height of the main roof and would measure 10.31m in height.

The design and external appearance of the proposed building has been influenced by the semi-rural setting of the building. The two entrances feature vertical timber cladding with curved edges. Two glazed draught lobby areas are proposed on each of the side elevations along with a 'weather' canopy. Two rows of low level aluminium framed doubled glazed windows are also proposed on the two side elevations. The rear elevation is characterised by a large canopy over the loading bay area/roller shutter doors, high and low level rows of aluminium framed double glazed windows and various escape doors.

Metallic silver Kingspan cladding is proposed as the main cladding material for the building. Vertical timber cladding is also proposed around the upper half of the building on the rear and two side elevations. It is proposed to be applied to the composite cladding on the façade of the building in a 'hit and miss' manner. The front elevation is proposed to comprise a masonry podium on the lower half and the metallic silver Kingspan cladding on the upper half of the building. A pressed metal capping is proposed for the building's parapet.

The application submission includes landscaping proposals for the site, and it is proposed to retain the mature hedgerow and tree screens to the south, east and west.

The application is supported by a suite of documents which include:

- Design & Access Statement, prepared by Corstorphine + Wright (Sep 2014)
- Retail Statement, prepared by Emery Planning and MT Town Planning (Nov 2013)
- Addendum to Retail Statement, prepared by Emery Planning (Nov 2014)
- Addendum to Retail Statement, prepared by Emery Planning (Oct 2015)
- Transport Assessment, prepared by Connect Consultants (Dec 2013)
- Noise Assessment Supplement, Acoustic Barrier, prepared by S.B Mellor (Oct 2014)
- Desk-Based Archaeological Assessment, prepared by Heritage Network (Jun 2012)
- Stage 1 Safety Audit, prepared by Connect Consultants (Mar 2014)
- Draft Site Waste Management Plan, prepared by Peak Associates (May 2012)
- Travel Plan, prepared by Connect Consultants (Dec 2013)
- Tree Survey, prepared by B.J. Unwin Forestry Consultancy (May 2012)
- Landscape Architect Statements, prepared by Andrew Davies Partnership (Dec 2013)
- Flood Risk Assessment & Outline Sustainable Drainage Strategy, prepared by Peak Associates (Jun 2014)
- Planning Statement, prepared by Emery Planning (Nov 2013)
- Environmental Statement (see Environmental Issues section of this report for further detail)

## **CONSULTATIONS**

It should be noted that the publicity for the application does not expire until 8th December 2016, after the publication of the Committee Report. Any consultation responses received after the publication of the Committee Report will be reported to Planning Committee on 13th December.

### **BDC Engineers (dated 17.10.2014)**

No objections raised and commented that not aware of any surface water issues affecting this site. Recommended that as a greenfield site, any permission should be subject to a SuDs scheme.

## **BDC Environmental Health (dated 18.03.2014)**

### General Comments

- Commented that there would be a preference for a brick wall to the builder's yard and details of any boundary treatments and acoustic fencing would be needed.
- Expected confirmation of proposed plant location, type, specifications etc. but satisfied that this could be conditioned (see Conditions 18 & 19)
- Accepted locations of the monitoring positions chosen and that these identify the worst case scenario.

### Design

- Disappointed that the design of the site's layout has not sought to safeguard the nearest residential premises more than it had – i.e. the service road for HGV's is closest to the nearest residential properties. Similarly garden centre could be swapped with the location of the builder's yard. Accept that noise can be mitigated but this would not be necessary (or to a lesser extent) if the layout was amended.

### Plant

- Insufficient information provided on the plant proposed, including location, specifications etc. and as such would recommend that this is subject to a condition (see Conditions 18 & 19).

### Delivery/Service Yard

- Recommended a condition restricting HGV vehicular movements to, from or within the site outside the following hours: 08:00-20:00 Monday to Saturdays and no HGV movements on Sundays or Bank Holidays (see Condition 24);
- Details of acoustic fencing/boundary treatment to be secured through a planning condition (see Conditions 16 & 17).

### Construction Phase

- Conditions recommended to control: site clearance, demolition and construction (see Condition 26); piling (see Condition 27); and burning of refuse, waste materials or vegetation on site (see Condition 25).

### Contaminated Land

- Satisfied with the findings of the contaminated survey provided by the applicant and agree that a phase 2 is not required. Condition recommended in respect of any unexpected contamination (see Condition 23).

### Air Quality

- Satisfied with the information provided by the applicant. Condition recommended in respect of dust and mud control management (see Condition 20).

**BDC Environmental Health (dated 22.11.2016)**

No objections subject to conditions. Concern raised in respect of the proposed layout of the site, HGV access and builder's yard closest to the nearest residential property. Conditions to mitigate impacts of these features are therefore required.

**BDC Landscape Services (dated 14.03.2014)**

Commented that:

- Any new landscape proposals should build on the species mix of the existing vegetation;
- Landscaping scheme required for the site – should include a selection of mature hedgerow trees with proposals that augment and reinforce the qualities of this boundary through new planting and appropriate management;
- Visual impact of the development largely negated by the scale and size of the existing infrastructure for energy transmission – which given their size dominate the local landscape;
- Considers that the survey data for Great Crested Newts needs to be refreshed – mitigation measures identified should be adhered to;
- Conditions required to protect existing hedgerows and trees (see Conditions 5, 6 & 7);
- Opportunities should be taken to enhance existing landscape features and biodiversity habitats on the site (see Conditions 8, 9, 10, 11 & 12).

**BDC Operations (Waste) (dated 22.11.2016)**

No comments.

**ECC Archaeology (dated 28.01.2014)**

No objections subject to a full archaeological condition (see Condition 14).

**ECC Education (dated 12.02.2014)**

No objections or requests for Section 106 contributions.

**ECC Highways (dated 24.02.2015)**

Advised that based on the submitted information (to date) the proposed development and its associated highway mitigation would have an adverse impact on the county road network.

**ECC Highways (dated 21.08.2015)**

Advised that the highway authority have completed extensive investigation and analysis of the highways and transportation information submitted with the planning application. Raises no objections to the proposed development subject to specific mitigation measures to be secured through condition/Section 106 obligations. Subject to the mitigation identified the proposed development would not have a detrimental impact upon the highway network.

**ECC SuDs (dated 31.01.2014)**

Raised a number of detailed comments in respect of the submitted Flood Risk Assessment and the outline Sustainable Drainage Strategy.

**ECC SuDs (dated 09.10.2014)**

Informal comments on the application provided at the time without prejudice to any future application under the Flood and Water Management Act.

Commented at the time that the Environment Agency remains the statutory consultee on surface water. Raised the following comments on the Flood Risk Assessment:

- Requested confirmation on the boundary of the application site;
- Commented that a detailed drainage scheme should be provided as the application is a full planning application – should include detailed infiltration testing;
- Requested confirmation on what rainfall event calculations are based on – commented that interception storage to be effective for at least 80% of summer events and 50% of winter events;
- SuDs design should deal with both quantity and quality of discharge;
- SuDs system should be designed to accommodate a 1 in 100yr +20% event with route in place to deal with events in excess of this safely;
- Pending intrusive ground tests a non-lined crate system could provide infiltration if ground conditions allow it;
- Consideration should be given to natural methods of filtration such as filter strips which are easier to maintain and less prone to failure and provide an element of biodiversity and amenity;
- The drainage strategy for the site must provide for both onsite and offsite protection;
- The issue of ground water flooding has not been addressed – is there any known history of on-site groundwater flooding?
- The Flood Map for Surface Water Flooding indicates that at the low point of the site there is a risk of flooding during a 1 in 30 year event – how is this being mitigated?
- Is there any record of historic flooding onsite?

**ECC SuDS (dated 15.11.2016)**

Maintains objection to the proposed development and comments that no additional information has been provided to address concerns made in October 2014.

**Environment Agency (dated 12.03.2014)**

Support the comments made by ECC SuDs (LLFA). Commented that they appreciate the site conditions may not allow infiltration SuDs to be utilised on the site. Further information required to show how surface water will be managed to ensure there is not an increased flood risk offsite. Flood Risk Assessment needs to be amended with detailed calculations and capacities – in order to assess whether surface water will be managed effectively.

**Environment Agency (dated 04.11.2014)**

Object to the proposed development in the absence of an acceptable Flood Risk Assessment – the submitted FRA fails to: provide the results of infiltration testing in line with BRE 365; and does not consider discharge in line with the SuDs hierarchy.

**Environment Agency (dated 17.11.2014)**

Advised that the proposed development will be acceptable if a condition requiring the submission of a surface water drainage scheme, based on sustainable drainage principles, is secured on any planning permission (see Condition 15).

**Highways England (formerly Highways Agency) (dated 11.02.2014)**

Holding response directing that planning permission should not be granted until 28.02.2014.

**Highways England (formerly Highways Agency) (dated 30.06.2014)**

Holding response directing that planning permission should not be granted until 31.07.2014.

**Highways England (formerly Highways Agency) (dated 02.09.2014)**

Holding response directing that planning permission should not be granted until 30.09.2014.

**Highways England (formerly Highways Agency) (dated 01.10.2014)**

Holding response directing that planning permission should not be granted until 30.10.2014.

**Highways England (formerly Highways Agency) (dated 13.10.2014)**

Advised that ongoing discussions have been taking place and have now concluded. Advised that the technical issues in respect of the impact on the A120 trunk road have been addressed to the satisfaction of the Highways Agency.

The proposed development will have a material impact upon on the operation of the strategic road network and consequently there will be a need to mitigate the impact through improvements to the A120 – the level of mitigation has been agreed with the applicant.

Confirmed that the Highways Agency raise no objections to the proposed development subject to conditions and informatives.

**Highways England (dated 10.11.2016)**

No additional/supplementary comments to previous response.

**National Grid (dated 25.02.2014)**

No objections. Informative recommended.

**National Grid (dated 16.11.2016)**

No objections. Informative recommended.

**National Grid (dated 18.11.2016)**

No objections.

**UK Power Networks (dated 14.02.2014)**

No objections. Informative recommended.

**REPRESENTATIONS**

It should be noted that the publicity for the application does not expire until 8th December 2016, after the publication of the Committee Report. Any representations received after the publication of the Committee Report will be reported to Planning Committee on 13th December.

**Cressing Parish Council (dated 02.04.2014)**

Objects to the application on the following grounds:

- The increase and significant growth to Galleys Corner will bring the whole development closer to Cressing which has always been agreed as undesirable;
- The proposal would generate a considerable amount of additional traffic and congestion, which would have an adverse impact on existing businesses, pedestrian/vehicular movement and movement of emergency vehicles;
- Should planning permission be given, Parish Council request some significant contribution to Cressing for local infrastructure through Section 106 scheme specifically we would look to improvements in footpaths and footways to alleviate risk to pedestrians in the area and also a contribution towards improving children's playground in the Parish.

**Cressing Parish Council (dated 14.05.2014)**

Reiterates previous objections received 03.04.2014.

**Cressing Parish Council (dated 15.12.2014)**

Maintain objection to the proposed development on the following grounds:

- The development will bring the urbanisation of Braintree closer to the Parish of Cressing which is undesirable;
- The Parish Council cannot see anything in the amended plans that will address congestion in the area – the development will generate

additional traffic and congestion which will have a detrimental impact on the traffic network;

- The Parish Council contends that there are far more suitable areas for such development and should have regard to its own 'sequential test' and that the land to the north of Freeport which is already allocated as an employment policy area and land off Pods Brook Road would be far more suitable sites for this development.

#### **Cressing Parish Council (dated 26.11.2016)**

Maintains previous objections and considers that this application is even less appropriate now than when it was originally proposed in 2014. The traffic around the B1018 and around both the Wyevale and the Galley's corner roundabouts has significantly increased since 2014. In addition, the Council deem the timing of this application to be completely inappropriate give the current discussions regarding the A120 route and the feasibility study being conducted to improve the junction.

#### **Black Notley Parish Council (dated 01.09.2014)**

Objects to the planning application on the following grounds:

- It is the wrong site for a B&Q expansion;
- It is the wrong place as this is a special policy area and to allow this would not be exercising "strict control". The proposed development does not fit within the businesses stated within BDC policy RLP58. Expansion at this site would threaten the village of Tye Green/Cressing from urban expansion from Braintree as the "physical" gap would be lost.
- Traffic congestion is already causing problems and will cause more traffic to cut through the town to other villages e.g. Black Notley via Chapel Hill to reach the site. Most trips will be via car (255 car parking spaces are proposed) and further vehicular traffic will create a large and more detrimental carbon and environmental footprint.
- The access is only 90 metres from a major roundabout which will further add to the already existing chaos, causing further tailbacks and snarls to the country roads by people using back streets instead, thereby causing further loss of local amenity.

#### **Black Notley Parish Council (dated 15.12.2014)**

Reiterates previous objections received 02.09.2014.

#### **Black Notley Parish Council (dated 28.11.2016)**

The Parish Council reiterates previous objections that this application will add to the already existing appalling highway problems in this area and subsequently put more traffic onto local roads.

## GENERAL Comments

### **Ramblers Association (dated 16.04.2014)**

Requested improvements to public rights of way – both in terms of minimum path widths and in terms of improvements in the network – as and when the site is developed. Also requested improvements in connecting walking and cycling and equestrian routes around the B1018/Braintree Road, the Millennium Way/B1018 roundabout and PROWs Crossing 22, 34, 35, and 4.

## OBJECTION Comments

### **B&Q (dated 13.01.2015)**

Advised that B&Q's clear preference was to remain in the current store and advised that negotiations are ongoing in this respect. Advised that if B&Q did relocate in the future, they would take the opportunity to look for a marginally larger store 40,000sq.ft and 15,000sq.ft garden centre. Confirmed that no negotiations taking place in relation to other sites within Braintree, but advised that B&Q have not ruled out any of the potential sites should a relocation be required in due course.

### **Braintree & Bocking Civic Society**

(Dated 17.08.2014)

Objects – the proposed development would erode the countryside between Crossing and Braintree; would set a precedent for further development outside existing road layouts into the countryside; the new development together with a re-occupied B&Q store would add greatly to the chaotic and dangerous road network in the Galleys Corner area – this junction is already a notorious traffic blackspot and further development can only worsen it; and could result in the potential loss of the public footpath along the site's eastern boundary.

(Dated 28.11.2014)

Proposal fails to address issues raised in letter of 17.08.2014. Disagrees with transportation assessment and comments that more development in the area can only exacerbate an already dire situation.

### **Gregory Gray Associates**

(Dated 26.08.2014)

Objects – the proposal is contrary to Policy CS5 as the site is located within an area of countryside and the proposal would represent a significant urban intrusion into an undeveloped area. It is not accepted that there are not any sequentially preferable sites.

(Dated 11.12.2014)

Comments that the submission does not address the significant objections raised on behalf of client in their previous objection letter. Comments that the site is within an area designated as countryside where the principle of

development is resisted. The submitted retail information contains no new evidence of a retail need for the application proposal. Accepts there is a need for additional bulky goods provision, the need has been addressed through the site allocations identified in the emerging Development Plan. Does not accept that the proposed highway improvements are in any way sufficient to mitigate the impact of the development. The positive benefits such as job creation do not outweigh the overriding objections to the proposed development.

### **Hermes (Freeport) Partnership Ltd**

(Dated 15.05.2014) (submitted by Planning Perspectives)

Objects – comments that the occupation of the proposed unit by B&Q is unconfirmed and as such question the validity of the scheme. The site is also less sequentially preferable than other sites identified for retail development, including land to the north of Freeport. Disagree that the proposal complies with the NPPF and the thirteen principles of sustainable development. Site is located in countryside and in a remote location and as such is not well situated to Braintree and would be an unsustainable location for bulky goods retail. Considers that emerging policy is meeting the need for additional comparison floorspace within the District. Agree that there are some economic benefits from the scheme, but that this could be at the expense of existing premises in more established areas. Does not consider that there is the potential for linked trips between the site and Freeport/Braintree Retail Park.

(Dated 10.11.2014) (Submitted by Cottee Transport Planning)

Advised that they are in the process of preparing a Transport Assessment involving a DIY store of a similar scale to that proposed on the application site on land to the north of Freeport. Comments in relation to the transportation assessment undertaken for the proposed development, that: there will be additional u turning movements at adjacent roundabouts; a new access will be contrary to ECC policy; linked pedestrian trips from Freeport are highly unlikely given the remote nature of the development; disagrees that employees would utilise the Freeport Railway station; and considers overall that the site is poorly located.

(Dated 11.11.2014) (submitted by Planning Perspectives)

Objects – considers that the land to the north of Freeport is capable of accommodating a DIY store and consider that this site (to the north of Freeport) is more sequentially preferable. The application site is poorly connected to the town in an unsustainable location.

(Dated 22.12.2014) (submitted by Carter Jonas)

Objects – the assessment does not fully address the requirements set out in the NPPF in that the application does not demonstrate flexibility on sites such as format and scale. The site to the north of Freeport is suitable and available for new retail warehouse floorspace and is a sequentially preferable site. Disagrees with the applicant's assessment and justification for the size of store proposed and does not consider that they have demonstrated flexibility

in terms of format and scale. Comments that DIY operators are downsizing their store portfolios. Disagrees with the applicant's contention that the site to the north of Freeport could not accommodate the proposed DIY Store on grounds of lack of parking. Viability of the scheme is questioned and comments that B&Q have confirmed that they will not occupy the DIY store.

(Dated 02.04.2015) (submitted by Carter Jonas)

Objects – the assessment does not fully address the requirements set out in the NPPF in that the application does not demonstrate flexibility on sites such as format and scale. The site to the north of Freeport is suitable and available for new retail warehouse floorspace and is a sequentially preferable site. Viability of the scheme is questioned and comments that B&Q have confirmed that they will not occupy the DIY store.

(Dated 02.10.2015) (submitted by Carter Jonas)

Objects – the proposal represents a speculative retail development, on a site that is poorly connected to Braintree town centre. Site is located beyond development limits in an area of countryside. Conflicts with NPPF and the thirteen principles of sustainable development. Disagrees with the sequential analysis within the application in relation to the site to the north of Freeport, which can accommodate a new retail warehouse. The proposed scheme is speculative with no occupier identified and therefore the potential for new jobs and uplift in turnover for Braintree is also speculative.

### **381 Cressing Road, Braintree (dated 10.11.2016)**

Clarified that previous response (17.08.2014) was submitted as president of Braintree & Bocking Civic Society. Resident no longer fulfils that role, but reiterates previous objections to the scheme, as a resident living close to the Fowler's Farm roundabout.

### **8 Sedgefield Way, Braintree**

(Dated 15.02.2014)

The development cannot be considered as sustainable as it is on a greenfield site and will adversely affect the wildlife and countryside in that area. The design is unsightly. The development would generate extra traffic causing congestion at peak periods. Existing hedgerows should be protected. Provision must be made for ecology and any protected species must be safeguarded. Any works to trees/hedgerows must be outside of the nesting season. Support the mitigation measures in the Environmental Statement dated December 2013. Provision should be made for adequate archaeological investigation.

(Dated 15.11.2016)

Comments in previous letter of 15.02.2014 remain valid. The proposal is contrary to the NPPF. The Transport Technical note submitted on 11.09.15 and update letter of 27.09.16 which forecast improvements in traffic around Fowlers Farm roundabout after remedial works are over optimistic – the new improved A12 turn off lane with the A130 has increased queuing time

considerably in the rush hours, which undermines confidence in both Highways England and Essex Highways.

**Fielding House, Mill Lane, Cressing (dated 23.11.2016)**

Objects – comments that it is inappropriate to allow any development on this land until the problem of congestion on the A120 is sorted out and knowledge of where the new road will go. Currently unsustainable overdevelopment without appropriate infrastructure to support it. Extra traffic lights are not an improvement. Proposal appears to be speculative for an unneeded use.

SUPPORT Comments

**2 Church Road Cottages, Bradwell (dated 10.07.2014)**

Supports the planning application for a new DIY Store in Braintree – it will create more than 20 new jobs and will give local people a lot more choice about where they can shop.

**39 Bourne Road, Colchester (dated 10.07.2014)**

Supports the application - it will provide a larger store and give people more choice without having to drive for miles.

**4 The Yard, Braintree (dated 10.07.2014)**

Welcome investment by businesses in Braintree which will create jobs.

**5 Court Eleven Virgil Road, Witham (dated 10.07.2014)**

Supports the proposal – will help stop people going further out to places like Colchester or Chelmsford – the more money we can keep in the town the better.

**9 Station Road, Maldon (dated 10.07.2014)**

Supports the proposal – it will mean that the larger store can carry lots more stock and offer some great services to customers.

**Rolphs Farm, Boars Tye Road, Silver End (dated 10.07.2014)**

Supports the application – the large store will be able to offer a much greater range of goods and services.

REPORT

Principle of Development

**Policy Considerations**

National planning policy is set out in the National Planning Policy Framework (NPPF), whilst guidance on the application of policy is outlined in the National Planning Policy Guidance (NPPG).

In respect of retail development, the NPPF states:

(Paragraph 24 of the NPPF)

*“Local Planning Authorities should apply a sequential test to planning applications for main town-centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town-centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of-centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.”*

(Paragraph 26 of the NPPF)

*“When assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq m). This assessment should include:*

- the impact of a proposal on existing, committed and planned public and private investment in the centre or centres in the catchment area of the proposal; and*
- the impact of the proposal on town-centre vitality and viability, including local consumer choice and trade in the town-centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in 5 years, the impact should also be assessed up to 10 years from the time the application is made”.*

(Paragraph 27 of the NPPF)

*“Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one of more of the above factors, it should be refused”.*

As the proposed development would be greater than the default 2,500sq.m threshold set under national policy in the NPPF it is necessary for the Local Planning Authority to apply a sequential test in this case.

National Planning Policy Guidance (NPPG) states that *“Local planning authorities should plan positively, to support town-centres to generate local employment, promote beneficial competition within and between town-centres, and create attractive, diverse places where people want to live, visit and work. Local planning authorities should assess and plan to meet the need of main town centre uses in full, in broadly the same way as for their housing and economic needs, adopting a “town centre first” approach”.*

The Adopted Development Plan for the Braintree District comprises the Local Plan Review (2005) and the Core Strategy (2011).

Policy CS6 sets out the Council's policy in respect of retailing and town centre regeneration. This policy outlines the Council's approach to retail development and states that any proposals for retailing and town centre uses will be based on the sequential approach in accordance with NPPF guidance. It also states that District and Local centres will be protected and enhanced.

The emerging Draft Local Plan within Policy LPP7 sets out the Council's emerging policy in respect of retailing and regeneration. This states, inter alia that: *"Proposals for Main Town Centre Uses will be permitted when a Sequential Test, and if required, an Impact Assessment, demonstrates that there are no sequentially preferable sites which could accommodate the development"*. The policy also sets out the locally defined floorspace thresholds that will trigger the requirement for an Impact Assessment, which for proposals affecting Braintree Town Centre, equates to development with a gross floorspace of 2,500sq.m or more.

Policy LPP12 of the emerging Draft Local Plan states that *"Retail Warehouse Development will be permitted within or immediately adjoining town centres. If no such sites are available, then the sequential approach will be applied, together with an impact assessment, if applicable"*. The policy further states that *"bulky retail proposals outside of town centres will be required to satisfy all of the following criteria:*

- 1. A sequential test and impact assessment demonstrates that no material harm to an identified Town, District or Local Centre would occur and that no sequential preferable sites are available;*
- 2. Development to be confined to the sale or non-food retail products, of a weighty or bulky nature and associated ancillary goods; and*
- 3. A Traffic Impact Assessment demonstrating that the proposal would not cause any detriment to the local traffic network and Travel Plan.*

*Land for retail warehousing is identified on the Proposals Map at Braintree Retail Park.*

As identified earlier in this report, the application site is designated within the emerging Draft Local Plan for Retail Warehousing. As such, the proposed development of the site for a DIY Retail Warehouse unit accords with the Council's emerging policy. The emerging policy indicates the direction of travel in respect of future retail development within the Braintree District. However, given the status of the emerging Draft Local Plan, the Local Planning Authority can afford some, albeit limited weight, to this emerging policy context.

As the application site is not allocated for retail warehousing development within either the Adopted Local Plan Review or Core Strategy, the proposal represents a Departure from the Development Plan. Taking into account the

above and the floorspace proposed for the DIY Retail Warehouse unit, both a sequential test and impact assessment is required in this case.

The application submission is supported by a Retail Assessment, prepared by Emery Planning and MT Town Planning (Nov 2013). This report was supplemented by two addendums to the Retail Assessment, prepared by Emery Planning dated November 2014 and November 2015 respectively.

## **Assessment**

### Retail Study Update 2015

Braintree District Council commissioned Nathaniel Lichfield & Partners (NLP) to prepare a Retail Study update. NLP prepared the previous Retail Study Update in 2012. The purpose of the study is to provide a robust and credible evidence base to inform the Council's Development Plan, taking into account changes since the 2012 Retail Study Update and incorporating revised housing forecasts.

The study concludes that the quantitative assessment of the potential capacity for retail floorspace suggests that there is scope for new development within Braintree District. In terms of comparison goods projections, the study suggests a total of 14,088sq.m gross additional comparison retail floorspace between 2015-2033 in Braintree and Freeport/Braintree Retail Park, comprising 7,030sq.m in Braintree and 7,058 in Freeport/Braintree Retail Park.

The study makes specific reference to the household survey which suggests that the District's retention of comparison goods expenditure is generally lower than for convenience goods. The lower level of comparison expenditure retention is attributed to the strength of other facilities in nearby authorities, and cites Chelmsford, Colchester, Sudbury and Lakeside as particular examples.

The study indicates that further improvements to comparison retail provision within the District could help claw back some additional expenditure leakage from the District. Moreover, the study indicates that some retail development will be necessary in the District in order to prevent market shares falling significantly in the future, whilst maintaining the vitality and viability of centres. The study indicates that the surplus expenditure at 2033 could support 11,108sq.m net of sales floorspace (15,869sq.m gross in the District).

The sequential approach indicates that designated centres should be the first choice for retail and leisure development. The previous 2012 Retail Update Study along with the 2015 Retail Update Study highlights 4 sites within Braintree Town Centre for retailing and other main town centre uses: land to the west of George Yard; land at Manor Street; Tesco Store, car park and Pound End Mill, New Street; and Sainsbury's Store and Car Park, Toft's Walk.

The site to the west of George Yard is occupied by a surface car park and supermarket (previously occupied by Morrisons, now occupied by B&M). The previous study indicated that there may be scope for a more comprehensive redevelopment of the site in conjunction with the adjoining George Yard multi-storey car park. Officers accept that the site is unlikely to come forward for any redevelopment in the short term. In this regard it should be noted that B&M's occupation of the store is still relatively recent following the closure of Morrisons.

The Manor Street site, comprises land to the rear of the Town Hall and Library, and currently contains a surface level car park, bus stands and public toilets. The study highlights that the site could accommodate around 5,000sq.m gross comparison goods floorspace. Officers accept that this site is likely to come forward in the short term. However, it has been identified as a location for a new doctor's surgery and other uses/development. Officers would also question the suitability of this site for a large DIY Store given the site's location within a designated Conservation Area and also affecting the setting of nearby Listed Buildings.

The Tesco store and associated car park is highlighted as having the potential for redevelopment, comprising a replacement Tesco store and additional comparison units. The study highlights, and officers would concur that this site is only likely to come forward in the medium to long term.

The Sainsbury's store and car park is identified as having redevelopment opportunities with the scope to provide approximately 2,000sq.m of additional comparison floorspace on Drury Lane, with the part redevelopment of the existing store. It is acknowledged that the site is constrained being located within the Conservation Area and in close proximity to nearby Listed Buildings. Similarly to the Tesco site, officers do not consider that the site would come in the short term and moreover, would not be of sufficient size to accommodate the proposed development subject to this application.

Other identified windfall opportunities may come forward, however the study indicates that these are likely to be less than 500sq.m gross in floorspace.

In terms of sites located outside of designated centres, both the 2012 and 2015 studies highlighted: Braintree Retail Park; Land north of Freeport Outlet Village; and Broomhills industrial area.

The study considers that there may be scope within Braintree Retail Park for some intensification, estimating this to be approximately 2,000sq.m (gross) of additional floorspace. There is an extant planning permission for a new unit adjacent to the Halfords store, which is in the process of being implemented. The study also highlights that any intensification in the Retail Park would need to be considered against parking requirements and any loss of parking would need to be mitigated.

The site to the north of Freeport comprises a car park serving Freeport and some undeveloped land. The previous 2012 Retail Update Study suggested that this site could include either approximately 5,000sq.m gross convenience floorspace or 7,500sq.m gross convenience goods floorspace. The 2015 Retail Update Study considers that the site is most suitable for bulky comparison goods retail or 'outlet' retailers consistent with the existing function of the Freeport site as a retail destination. As with the Braintree Retail Park, parking and any loss of parking would be a key consideration. It should be noted that this site has been allocated within the emerging Draft Local Plan for retail warehousing. It should be noted that officers expect to receive a planning application in connection with this site in the near future, following public consultation in October 2016. The publicity which was also reported in the local press indicates the provision of 5 new retail units for retailers not currently present in Braintree. As such, it is not considered that this site would be available as an alternative site for the proposed development.

Lastly, Broomhills Industrial Estate in Braintree is also highlighted as an alternative site within the study and could provide up to 10,000sq.m of comparison goods floorspace. The site was subject to an appeal by Sainsbury's supermarket for a new store which was ultimately dismissed in June 2015. It should be noted that this site has an allocation within the emerging Draft Local Plan as a residential site for 10 or more dwellings. Officers expect this site to come forward for residential and it is anticipated that a planning application for the redevelopment of the site for residential will be submitted in the short term.

### Sequential Test

As identified above, the application submission is supported by a Retail Assessment, prepared by Emery Planning and MT Town Planning (Nov 2013). This report was supplemented by two addendums to the Retail Assessment, prepared by Emery Planning dated November 2014 and November 2015 respectively. Within the supporting documentation the application has undertaken a sequential test and analysis of alternative sites capable of accommodating the proposed development.

During the course of the application it has been agreed with the applicant that the appropriate area of search is Braintree Town.

In terms of flexibility – format and scale, there is no specific guidance on disaggregation in the NPPF but it requires applicants to demonstrate flexibility on issues such as format and scale. The most recent Retail Assessment Addendum (November 2015) includes additional analysis on occupier requirements and includes supporting documentation from Kingfisher which includes that the minimum store size targeted to cater for the DIY market in the UK is a store with floorspace between 4,000-5,000sq.m.

The sequential test analysis presented by the applicant includes commentary on the suitability, availability, and viability of each of the specific sites identified above. During the course of the application the Council sought independent advice from WYG to review the retail analysis undertaken by the applicant. The last report from WYG (dated January 2015) based on the Council's instruction concluded that both Broomhills Industrial Estate and land to the north of Freeport were sequentially preferable sites to the application site and identified these as being potentially available, suitable and viable for the retail floorspace proposed. However, since this review and as highlighted above within the analysis undertaken within the Council's Retail Update Study 2015, it is considered that neither of the sites (Broomhills or land to the north of Freeport) is now available for the proposed development. Furthermore, although limited weight can be attributed, the draft allocation for retail warehousing within the emerging Local Plan also indicates that the site is suitable for the proposed use and indicates the Council's direction of travel in this regard. It is therefore considered that the sequential test has been satisfied in this case.

It should be noted that Hermes (Freeport) Partnership Ltd have submitted a number of objections to this application, the last of which was received on 6<sup>th</sup> October 2015 and was submitted on behalf of Hermes (Freeport) Partnership Ltd by Carter Jonas. As highlighted above, the re-consultation on this application does not expire until 8<sup>th</sup> December 2016, after the publication of this committee report. It is unknown whether Hermes (Freeport) Partnership Ltd will make any further comments or objections to the proposed development. Any further comments will be presented at the Planning Committee on 13<sup>th</sup> December 2016.

### Impact Assessment

In addition to the sequential test analysis, the applicant also provided an impact assessment analysis for the proposed development as required by the NPPF. This analysis is contained within the Retail Assessment, prepared by Emery Planning and MT Town Planning (Nov 2013) and the two supplementary addendums to the Retail Assessment, prepared by Emery Planning dated November 2014 and November 2015 respectively.

As highlighted above, during the course of the application the Council sought independent advice from WYG to review the retail analysis undertaken by the applicant. The last report from WYG (dated January 2015) indicated that the applicant's quantitative assessment of impact was based on out-dated data sources and considered that additional analysis in terms of growth rates and special forms of trading, as well as turnover of proposals and sales density efficiency rates was required before it would be possible to confirm whether the proposals satisfactory address the impact test. The additional information requested was submitted by the applicant within their 2015 addendum report.

Similarly to the sequential test, the Council now also has the benefit of the conclusions from the Council's commissioned Retail Update Study 2015

which forms part of the evidence base for the emerging Draft Local Plan. As highlighted above, the study suggests capacity for a considerable amount of additional comparison retail floorspace, and suggests that Braintree currently suffers from expenditure leakage to other nearby facilities in neighbouring authorities and cities such as Colchester and Chelmsford. Taking into account the additional analysis undertaken by the applicant, and the conclusions of the Retail Update Study 2015, it is considered that the impact of the proposed development on the vitality and viability of the town centre is acceptable.

#### **Restriction on Use & Conclusion**

Having regard to the above assessment, it will be necessary to ensure that the proposed development is restricted for retail warehouse development through the imposition of a suitable planning condition (see Condition 31). An additional condition is also recommended to prevent the subdivision of the unit and to prevent the insertion of a mezzanine floor (see condition 32). A condition to remove permitted development rights is also recommended (see Condition 33). Subject to suitably worded conditions, the principle and retail impact of the proposed development is considered to be acceptable.

#### **Design, External Appearance & Landscaping**

Paragraph 56 of the NPPF states that good design is a key aspect of sustainable development; is indivisible from good planning, and should contribute positively to making places better for people. Paragraph 58 states that developments should aim to 'establish a strong sense of place, using streetscapes and buildings to create attractive comfortable places to live, work and visit; and respond to local character and history and reflect the identity of local surroundings and materials'.

Policy CS9 of the Core Strategy states that the Council will promote and secure the highest possible standards of design and layout in all new development and the protection and enhancement of the historic environment. This is supported by Policy RLP90 of the Local Plan Review.

As identified earlier within the report, the design approach for this proposal has been to locate the proposed building on the lowest part of the site and has been orientated to face towards Millennium Way - the main public vista of the application site. The design of the DIY Store has been informed by a generic operator model for the use proposed and comprises a single building with a large footprint to provide flexibility for future occupiers to adapt to changing requirements.

Taking into account the proposed use, floorspace and operational requirements of the building, it is accepted that the proposed building will have a utilitarian form. The front elevation, facing towards Millennium Way is animated through the two entrance 'features' which adds a degree of legibility to the building. The design approach to the other three elevations is 'secondary' to the primary or front elevation of the building, and therefore

comprises limited visual interest – the most notable feature comprises the two glazed draught lobby areas on the two side elevations. Given the height of the building and the large plan form, the building will have a strong horizontal emphasis. As such, the proposed use of materials for the building will be critical to the design quality of the development.

The external cladding proposed within the submitted application comprises: metallic silver Kingspan cladding (the main cladding material for the building); and vertical timber cladding (around the upper half of the building on the rear and two side elevations, which is proposed to be applied to the composite cladding on the façade of the building in a ‘hit’ and ‘miss’ manner). The front elevation is proposed to comprise a masonry podium on the lower half and the metallic silver Kingspan cladding on the upper half of the building. A pressed metal capping is proposed for the building’s parapet.

Officers consider that the cladding proposed for the building would result in a poor quality development. The masonry podium to the building has an unfortunate breeze block appearance and it is considered that the composite cladding is not sufficiently robust and would not weather well over time. The application of ‘hit’ and ‘miss’ timber cladding on the side and rear elevations over the underlying composite cladding is considered to be arbitrary and would interrupt the prevailing horizontal emphasis of the building. These concerns have been raised with the applicant.

The Local Planning Authority can maintain some control over the quality of the external materials for the proposed development through a standard planning condition, i.e. to require samples of materials to be submitted for approval. In this case however, the specific concerns highlighted above have been raised with the applicant. In order to ensure that the treatment to each façade of the building is acceptable, officers recommend that the external treatment and cladding proposed for the building is not approved, and that a condition is imposed to require details of a revised façade treatment and samples of cladding materials to be submitted for approval prior to the commencement of development (see Condition 3). It is also considered that the parapet is rather weak as a design feature, being relatively short in height. It is considered that this poor detail is a further missed opportunity to provide some additional visual interest to the building. As such, a condition to require a revised parapet detail is recommended (see Condition 3). Subject to these conditions, it is considered that the design and external appearance of the building would be acceptable and compliant with the abovementioned policy requirements, subject to a further condition to require a schedule and samples of proposed materials to be submitted for approval (see Condition 4).

The application submission includes landscaping proposals for the site, and it is proposed to retain the mature hedgerow and tree screens to the south, east and west. In addition to the retention of existing features, given the edge of town location, it will be necessary to secure a high quality soft and hard landscaping scheme. The ecology assessment, which is set out in more detail in the section below (Environmental Issues) highlights the need to supplement and reinforce existing tree and hedgerow landscape boundary

features. In addition, and as also identified in the ecology assessment, it will be necessary to ensure that the visual impact of the car parking area in front of the proposed DIY store is softened through additional tree planting.

The submitted statement from the Landscape Architect outlines a number of mitigation measures for the proposed development which can be summarised as follows:

#### *Primary Mitigation Measures*

- Retention and protection of existing landscaping boundaries, including the key mature trees;
- Reinforcement of existing landscape boundaries and extension of the native landscape infrastructure on the western, southern and eastern boundaries;
- The introduction of a new area of native shrub planting to the northern boundary to ameliorate views towards the edge of the car park, particularly when travelling north-west up Millennium Way;
- The introduction of advanced stock tree planting throughout the car park to ameliorate views towards the building and of the car park;

#### *Secondary Mitigation Measures*

- A 5 year landscape and habitat management plan, incorporating opportunities for habit creation, as highlighted within the submitted Environmental Statement.

The supporting documentation also outlines that the proposed planting would predominantly comprise native species, which is consistent with the ecological mitigation measures recommended within the submitted Environmental Statement. The ecology assessment recommends the planting of seed, fruit or berry-bearing tree and shrub species. The ecology assessment considers that there is also scope within the soft landscaping scheme for the development to create smaller areas of higher value habitat, such as species rich wildflower grassland and the creation of a new pond (on the southern edge of the site to provide a habitat for Great Crested Newts and other amphibians).

A number of conditions are recommended to protect the existing landscape features to the site and in relation to mitigation measures including landscaping to the site and ecology and biodiversity enhancement (see Conditions 5, 6, 7, 8, 9, 10, 11, 12 & 13).

### **Environmental Issues**

#### **Introduction**

Officers have taken environmental information into consideration in the assessment of this application in accordance with the Town and Country Planning (Environmental Impact Assessment) (England and Wales)

Regulations 2011 (as amended). The Environmental Statement (ES) has been prepared to comply with the requirements of Schedule 4, Part 1 of the Regulations.

The applicant sought a formal Screening Opinion from the Local Planning Authority and in response a Screening Opinion was issued on 17<sup>th</sup> October 2011 stating that the proposals represented EIA development within the meaning of the 2011 regulations (as amended). The proposed development was considered to be Schedule 2 development, constituting an urban development project on land which exceeds 0.5 hectares in area. The Local Planning Authority set out within the screening opinion that the proposed development would result in the loss of a substantial area of undeveloped land that is outside of Braintree's Town Development Boundary, would likely affect neighbouring residents and would likely result in significant vehicle movements which would have environmental implications.

The applicant undertook formal Scoping Opinion from the Local Planning Authority. A formal Scoping Opinion was issued on 19<sup>th</sup> March 2012.

The submitted Environmental Statement has been prepared by Emery Planning Partnership. The submitted ES comprises the following documents:

- ES Volume 1: Non-Technical Summary
- ES Volume 2: Main Text
- ES Volume 3: Technical Appendices
- ES Addendum: Volume 2: Main Text
- ES Addendum: Volume 3: Technical Appendices

The following topics were assessed in the ES:

- Ecology
- Flood Risk
- Ground conditions and contamination
- Noise
- Lighting
- Transport
- Landscape and Visual Impact
- Air Quality
- Daylight/Sunlight

A summary and conclusion of significant impacts and mitigation is included within Chapter 16 of Volume 2 of the ES and each of the chapters include assessment on cumulative and residual effects.

#### Addendum to the Environmental Statement

An addendum to the ES was received in November 2016. The addendum updates and provides supplementary environmental information to the 2013 ES, this includes further environmental surveys and assessment which

include habitat and species surveys. Further information clarifying aspects of the surface water drainage assessment, changes to the highway mitigation proposals have also been introduced and the impact of new guidance on assessing air quality impacts has been considered.

The following chapters are included within the Addendum to the Environmental Statement:

- Ecology
- Flood Risk
- Noise
- Transportation
- Air Quality

The following sections of this report, assess each of the respective topic areas included within the ES, including the addendum where relevant. Each section summarises the impacts of the proposal and mitigation where relevant.

## **Ecology (Chapter 7 of the ES)**

### Introduction

Chapter 7 of the submitted Environmental Statement (ES) assesses the impact of the development on ecology. A scoping survey was completed in 2011 which found that the site had the potential to contain protected species and recommended further surveys for bat roosts, dormouse and Great Crested Newts – these surveys were completed in March-April 2012. The report also found that nesting birds would be present during the nesting season.

### Methodology

The submitted ES details the data search undertaken, as well as the site specific surveys undertaken for bat roosts, dormouse and Great Crested Newts.

### Baseline Conditions

The ES sets out the baseline conditions of the application site that existed at the time. Officers are satisfied that this accurately identified the physical features present on the application site. The addendum to the ES includes an update in this regard, to take account of the passage of time since the application was originally submitted for consideration.

### Impacts

The ES identifies that the proposed development would have no significant impact upon ancient woodland and traditional orchard sites within the surrounding area and will not directly affect National or local nature reserves,

SSSIs, Biodiversity Action Plans or priority habitats and that key environmental schemes or designations will not be affected.

### Protected Species

The ES identifies that the proposed development would have no significant impact on dormice and roosting bat species. The surveys undertaken to support the assessment within the ES state that the proposals may directly affect Great Crested Newts and nesting birds and moreover a breach of the legislation afforded to them may occur without appropriate mitigation measures in place.

### Mitigation Measures

The ES identified a number of mitigation measures in relation to nesting birds and Great Crested Newts. It also set a number of landscaping recommendations for the site to enhance the biodiversity and habitat value of the site. The Addendum to the ES (which is described in more detail below) updates the assessment in respect of ecology and also includes updated mitigation measures. As such, all of the mitigation measures proposed are described below for completeness.

### Addendum to the ES (November 2016)

Since the application was submitted for consideration, the following further ecological surveys have been undertaken:

- 2014: Habitat Suitability Index (HSI) assessment of the ponds in the vicinity of the site, surveyed prior to the 2013 ES preparation;
- 2016: updated ecological appraisal, including an extended habitat survey;
- 2016: reptile presence survey, in response to the recommendation within the 2016 ecological appraisal report.

### Methodology

The methodology for the assessment of the likely ecological effects of the proposed development was based on the principles of CIEEM's (Chartered Institute of Ecology and Environmental Management) guidelines for Ecological Assessment in the UK, 2<sup>nd</sup> Edition. Online resources also informed the addendum.

A walkover habitat survey was undertaken on 24<sup>th</sup> August 2016 and was based on the earlier Phase 1 habitat survey conducted for the site. The timing of the survey was within the optimal period for completing the survey. Officers are therefore satisfied that the survey represents a robust assessment of the habitats present and their potential to support legally protected species.

As required by the CIEEM guidelines a 'zone of influence' is identified, which identifies ecological effects which can potentially extend beyond site boundaries. In this case, the 'zone of influence' identified is limited to the footprint of the development and the immediately adjacent habitat. Officers are satisfied with this approach.

### Baseline Conditions

The addendum to the ES sets out the baseline conditions of the application site. Officers are satisfied that this accurately identifies the physical features present on the application site.

### Impacts: Amphibians

A number of ponds are present within the vicinity of the site and have been surveyed at various points since the 2011 survey to determine their use by Great Crested Newts. In total, 9 ponds have been surveyed within the vicinity of the application site. Ponds 1-3 were surveyed in 2011, ponds 1-9 were surveyed in 2012 and HSI surveys were repeated for some of the ponds in 2014 and 2016.

The 2012 survey found that ponds 3 and 5 (located 80 metres south and 250 metres south of the application site respectively), to have a medium population of Great Crested Newts. The 2012 survey is now out of date, but the 2014 and 2016 HSI surveys suggest that the condition of these ponds has not changed significantly since the 2012 survey and therefore concludes that changes in the Great Crested Newts population are unlikely.

Although none of the ponds are located within the red line of the application site, the addendum does highlight that habitat on the site is suitable for Great Crested Newts in their terrestrial stage. Pond 3 is located outside the core area of a terrestrial habitat but it is possible that there could be occasional use by juvenile newts dispersing between ponds 3 and 5.

However, as discussed below, during the 2016 reptile survey, although no reptiles were found to be present on the application site, a single resting Great Crested Newt was found during the survey, to the south of the site.

### Impacts: Reptiles

The 2011 report concluded that the site was unsuitable for reptiles due to a lack of suitable vegetation structure. The addendum highlights that since the 2011 survey was undertaken, the vegetation structure has developed over the site and much of the habitat could now be suitable for reptiles, including slow worms, lizards and potentially grass snakes. The habitat within the southern field is identified as being more suitable as a habitat for reptiles, but it doesn't disregard the suitability of the northern field.

An updated reptile survey was undertaken between 28<sup>th</sup> September 2016 and 25<sup>th</sup> October 2016 (involving 8 visits to the application site). No reptiles were found within the survey area. A single resting Great Crested Newt was found during the survey, to the south of the site.

#### Impacts: Bats

The 2011 report noted a potentially suitable tree for bats to roost in the northwest corner of the site and highlighted that other trees and hedgerows could also be suitable. A more detailed survey was undertaken in 2012 which concluded that the tree was of negligible suitability for roosting bats. The addendum concludes that the suitability of the site for bats has not changed significantly since this time.

#### Impacts: Terrestrial Mammals

No evidence of badgers was found at the site in 2011, or in 2016, but these surveys excluded some denser areas of scrub that were not accessible, in which setts could be present. The 2011 highlighted the potential suitability of the hedgerows on the site for dormice. A 'nut search' survey of chewed hazelnut shells was undertaken in 2012 and found no evidence of dormice present at the site. The addendum concludes that the suitability of the site for dormice has not changed significantly since the previous surveys were undertaken.

#### Impacts: Nesting Birds

The addendum highlights that much of the hedgerow and scrub vegetation is suitable for a variety of common bird species to nest. A family of grey partridge was noted in the 2016 survey.

#### Mitigation Measures: Habitats

The addendum concludes that the proposed development would result in the loss of habitats of local ecological value, but identifies that this could be mitigated through the creation of a smaller area of higher value habitat, such as species rich wildflower grassland, which could also act as mitigation land for Great Crested Newts.

The addendum also highlights the need to ensure existing hedgerows and trees should be protected during construction using standard arboricultural tree protection measures.

#### Mitigation Measures: Great Crested Newts

The original Great Crested Newt survey is now out of date. An updated survey would be needed to be undertaken before any application for an EPS (European Protected Species) licence was made by the applicant. The addendum concludes that an updated Great Crested Newt survey only needs

to include ponds 1-5 as the other ponds are considered to be outside of the 'zone of influence'.

Given the previous survey results and the proximity of the ponds to the application site, the addendum highlights that an EPS (European Protected Species) licence would be required for the works to take place. Mitigation for Great Crested Newts would entail the capture of newts from suitable habitat on the south of the site and their relocation. As highlighted within the 2016 reptile survey, a single resting Great Crested Newt was found on the application site, to the south of the site.

#### Mitigation Measures: Reptiles

The addendum highlights that habitat on the site is suitable for reptiles which are protected from killing and injury under the Wildlife & Countryside Act 1981. However, the 2016 survey found no presence of reptiles on the application site. No specific mitigation in respect of reptiles is therefore recommended.

#### Mitigation Measures: Bats

The addendum recommends further targeted surveys for bats are undertaken if any hedgerow is proposed to be removed. Any reduction in the habitat for bats would need to be mitigated through compensatory hedge and shrub planting. The protection of all existing hedgerows on the site can be secured through a planning condition (see Conditions 5 & 6), which would negate the need for any further bat surveys to be undertaken.

#### Mitigation Measures: Nesting Birds

The addendum highlights that any vegetation clearance should be carried out outside the bird nesting season (March to August) – this can be secured through a planning condition (see Condition 7).

#### Mitigation Measures: External Lighting

The addendum recommends that any external lighting is designed so that adjacent habitats, particularly the boundary hedgerows, do not receive any additional illumination. Details of any external lighting for the site, including levels of luminance and times of use can be secured by condition (see Condition 13).

#### Ecological Enhancements

In addition to the specific mitigation identified above, the following additional ecological enhancements are proposed:

- Pond Creation – it is proposed to create a new pond on the southern edge of the application site, to provide a habitat for Great Crested Newts and other amphibians and enhance the ecological value of the site for a variety of invertebrates, birds and bats.

- Planting of seed-bearing tree and shrub species – in addition to protecting existing landscape features, it is recommended that any supplementary landscaping to the site, includes a variety of seed, fruit, or berry-bearing trees and shrub species. This will provide a valuable food source for a variety of birds, including house sparrow, dunnock, starling and song thrush. Silver birch, holly, bird cherry, wild cherry, small-leaved lime, hornbeam, hawthorn, field maple and dogwood are suggested as suitable specimens.
- Nesting features for birds – It is proposed to erect a number of bird boxes on the site on existing trees and on the new building.

### Ecology: Conclusion

Officers are satisfied that the ecology chapter of the ES along with the additional information contained within the addendum to the ES presents a sound and robust assessment of the likely impacts of the development and that the proposed mitigation would satisfactorily address these impacts.

## **Flood Risk and Drainage (Chapter 8 of the ES)**

### Introduction

Chapter 8 of the submitted Environmental Statement (ES) assesses the impact of the development on flood risk. The ES is supported by additional information including a Flood Risk Assessment (FRA) and a conceptual sustainable drainage strategy. The ES identifies the physical characteristics and key features of the site, and establishes that the site is located within Flood Zone 1.

### Methodology

The ES outlines that the FRA is based on observations made during a site visit and on the Environment Agency flood map and follows the technical guidance contained within the NPPF and therefore takes into account the vulnerability of the risks of flooding both from and to the development, having regard to climate change.

### Baseline Conditions

The ES establishes that the site is located within Flood Zone 1 – which means that there is little or no flood risk and the annual probability of either river or coasting flooding is less than 0.1 per cent (i.e. less than one in one thousand years). The ES outlines that the nearest watercourse to the site is a small tributary of the River Brain located approximately 185m to the west, which is fed by a pond. The nearest main river to the site is the River Brain which is located approximately 740m to the west. The site comprises almost entirely open rough grassland with clayey soil.

### Existing Site Drainage

The ES identifies the presence of an existing surface water drain owned by Anglian Water along the base of the Millennium Way embankment immediately beyond the site boundary. It also highlights a shallow ditch located between the site and the A120 and a sewer outfall approximately 100m west of the site. The ES highlights that it may be possible to make a surface water connection from the site, but acknowledges that there will be a requirement to reduce the discharge velocity into the sewer from the new development as part of a sustainable urban drainage system.

### Ground Conditions & Hydrogeology

The ES identifies that the superficial deposits recorded directly beneath the site comprise 'boulder clay or 'till' of moderate to low permeability. The bedrock is shown to comprise moderate to low permeability clay with local silt deposits and sand beds. There are no licenced groundwater water or surface water abstractions recorded within 100m of the site. Additionally the site is not within a groundwater source protection zone.

### Evaluation

The proposed development of the site would significantly increase the proportion of hardstanding through the construction of roads, roofs, parking and pedestrian areas. This amounts to an area of approximately 21,863sq.m.

### Impacts

The ES provides a breakdown of the predicted surface water discharge rates for the development. Taking into account the impermeable surfaces and the average rainfall intensity the total predicted surface water flow rate for the development is identified as 317.36 litres per second. The ES states that the surface water discharge rate should be able to be reduced to the greenfield runoff rate for the area by the installation of appropriate SuDs features.

### Mitigation Measures

The ES identified a number of mitigation measures. The Addendum to the ES (which is described in more detail below) updates the assessment in respect of flood risk and drainage and also includes updated mitigation measures. As such, all of the mitigation measures proposed are described below for completeness.

### Addendum to the ES (November 2016)

The original Flood Risk and Drainage report was submitted in 2012 as a supporting document to this planning application. The report was amended in August 2014 to take account of the Essex County Council SuDs team's

observations. The report was reviewed further in September 2016, where the following amendments to the report have been made:

- Additional section added to list the responses made by Essex County Council and how the issues raised have been addressed;
- Data such as the Flood Zone classification by the Environment Agency has been checked for accuracy;
- Section 4.2 – a minor change has been made to refer to Environmental Permits rather than Discharge Consents to reflect changes made by the Environment Agency regulations;
- Section 4.4 and 4.5 has been updated following the response from Essex County Council SuDs.

### Methodology

The methodology used is unchanged from that used in the originally submitted ES.

### Predicted Surface Water Discharge Rates

The addendum details that the total predicted surface water flow rate for the development has increased from 317.36 litres per second to 349.81 litres per second.

The addendum details that the surface water discharge rate should be reduced to the greenfield runoff rate through the installation of SuDs features.

### Proposed Conceptual Sustainable Drainage Scheme

A conceptual SuDs scheme has been incorporated into the drainage strategy for the proposed development. The scheme strategy may be limited to the use of permeable paving with underground storage and/or underground attenuation cells or tanks for the roads and pavements in the development. This is due to the presence of the underlying London Clay. Further percolation tests would be needed to be undertaken at the detailed design phase of the drainage system.

### Mitigation Measures

Changes have been made to the Flood Risk and Drainage Assessment Report during the course of the application. The overall conclusions and recommendations remain unchanged. The site is at a low risk of flooding being located within Flood Zone 1. Essex County Council's SuDs team maintain an objection to the application within their consultation response dated 15<sup>th</sup> November 2016. Notwithstanding the objection, a SuDs scheme is recommended for the development to mitigate the impact of surface water

runoff. This can be secured through an appropriate planning condition (see Condition 15).

The ES identifies that it may be possible to achieve a connection to the nearest Anglian Water sewer. The ES also highlights that the remote location of the nearest Anglian Water foul sewer may mean that it is necessary to install a private sewerage treatment works to serve the development, which would require an Environment Agency Discharge Permit.

### Flood Risk and Drainage: Conclusion

Officers are satisfied that the flood risk and drainage chapter of the ES along with the additional information contained within the addendum to the ES presents a sound and robust assessment of the likely impacts of the development and that the proposed mitigation would satisfactorily address these impacts.

## **Ground Conditions and Contamination (Chapter 9 of the ES)**

### Introduction

Chapter 9 of the submitted Environmental Statement (ES) assesses the impact of the development on ground conditions and contamination. The ES is supported by a phase 1 investigation, comprising essentially a desk top study and site walkover survey.

### Methodology

The ES details that the phase 1 report was based on the findings from a site visit and walkover survey, review of the historical survey plans, review of environmental registers and a local authority environmental search. Furthermore, the phase 1 survey was undertaken in accordance with local authority requirements and BS10175:2011 (Code of practice for investigation of potentially contaminated sites).

### Baseline

The phase 1 assessment found no evidence of any known historically potentially contaminative use of the site, or recent or current potentially contaminative activities. The existing electrical sub-station to the west was identified as a potential source of contamination.

### Evaluation

The ES outlines that the site is not considered to have been impacted by any known contaminative use and that the local authority holds no records of pollution incidents or complaints relating to the site.

## Impacts

The site is not considered to cause any adverse impact on the environment, as a result of any suspected contamination present at concentrations requiring remedial works.

## Mitigation Measures

No mitigation measures are recommended within the ES.

The Council's Environmental Health officer raised no objections to the proposed development on these grounds and was satisfied with the phase 1 assessment undertaken. A condition in respect of unexpected contamination was recommended (see Condition 23).

## Ground Conditions and Contamination: Conclusion

Officers are satisfied that the ground conditions and contamination chapter of the ES presents a sound and robust assessment of the likely impacts of the development.

## **Noise (Chapter 10 of the ES)**

### Introduction

Chapter 10 of the submitted Environmental Statement (ES) assesses the impact of the development in terms of noise. The ES is supported by additional information including a noise and vibration report. Monitoring was agreed to be undertaken by the LPA in order to make comparisons and establish where any potential impact may occur on a quantitative and qualitative basis. For comparison, the yard and vehicle activities were measured at the B&Q Braintree store at Braintree Retail Park.

### Methodology

The two sites (the application site and the B&Q store) were visited from the 10<sup>th</sup> to the 12<sup>th</sup> June 2012 to undertake ambient/background noise measurements.

### Baseline Conditions

The ES identifies sources of noise at the application site which contribute to the ambient noise level. The ES identifies road traffic as the principle source of noise, but also identifies bird song. At the B&Q store, road traffic, HGV delivery vehicles, reversing alarm on fork lift truck, impact noise from handling equipment for loading/unloading and general yard activities were identified as the principle sources of noise.

The ES identifies that based on BS8233 / WHO Guidelines, in order to achieve the desirable external and therefore desirable internal levels, during the day at the nearest residences (Avilion and Hoppit House), external levels should not exceed LAeq 55dB. At the rear of Avilion the ES highlights that this level was exceeded during the daytime monitoring by 1dB.

The monitoring at the B&Q store at Braintree Retail Park highlighted that the noise levels were around 72 to 78dB.

### Impacts

The ES highlights that the results of the noise assessment mean that unless adequately mitigated the proposed development would have an adverse and potentially unacceptable impact upon the nearest residential premises. Vibrations impacts were also assessed within the ES, however it was concluded that when taking into account proximity, likely speed of delivery vehicles that any damage as a result of ground-borne vibration is unlikely.

### Mitigation Measures

The ES identified a number of mitigation measures. The Addendum to the ES (which is described in more detail below) updates the assessment in respect of noise. As such, all of the mitigation measures proposed are described below for completeness.

### Addendum to the ES (November 2016)

The addendum to the ES includes an updated noise/vibration assessment report.

### Methodology

The updated noise/vibration assessment report reflects the use of new reference standards for noise assessment introduced since the application was submitted.

### Impacts

The addendum highlights that based on the BS8233 Who Guidelines, in order to achieve the desirable external and therefore desirable internal levels, during the day at the nearest residences, external levels should not exceed LAeq 55dB. The addendum highlights that at the rear of the residential property 'Avilion', this level was exceeded during the daytime monitoring by 1dB. The addendum considers the impact of HGVs, plant, and other on-site equipment on nearby residential properties during both the day and night and concludes that the impacts of the proposed development are acceptable, subject to suitable mitigation measures.

## Mitigation Measures

The ES identifies a number of mitigation measures, which can be summarised as follows:

- Restricting night time deliveries – should be avoided or other kept below 10 occasions;
- A barrier at the site boundary (close to the HGVs) should reduce noise levels by between 5-10dB;
- Speed limits within the site should be kept low (5-10MPH);
- Road/access surfaces should be smooth.

The ES also makes reference to acoustic screens/fencing to the builder's yard and service yard and utilising suitable vehicle reversing alarms to reduce potential impact in terms of noise (the use of directional broadband noise emitters was referenced). The ES lastly acknowledges the need for mitigation in respect of plant noise and construction activity to mitigate the impact of the development.

The Council's Environmental Health officer has raised no objections to the proposed development. Concern and disappointment was raised in respect of the layout of the site in that both the service yard and HGV/delivery access for the DIY Store are located closest to the nearest residential property. However, it was acknowledged that the impacts of the development in terms of noise could be mitigated through appropriate conditions. Considered that there was insufficient justification/information to demonstrate the acceptability of night time deliveries at the site and as such should be conditioned accordingly. The following mitigation measures would be secured through appropriate planning conditions:

- Details of all plant equipment including location and specification to be submitted to the LPA and approved in writing (see Conditions 18 & 19);
- HGV vehicular movements/delivery hours to, from or within the site to be restricted outside the following hours: 08:00-20:00 Monday to Saturdays and no HGV movements on Sundays or Bank Holidays (see Conditions 24);
- Details of acoustic fencing/boundary treatment to the site and to the builders yard to be submitted to the LPA and approved in writing (see Condition 16);
- Hours of site clearance, demolition and construction (see Condition 26);
- Piling – any proposed piling to accord with an approved scheme (see Condition 27);

- Restriction over the use of beepers on delivery vehicles/fork lift trucks and other on-site equipment and machinery during the operational phase of the development (see Condition 22).

### Noise: Conclusion

Officers are satisfied that the noise chapter of the ES along with the additional information contained within the addendum to the ES presents a sound and robust assessment of the likely impacts of the development and that the proposed mitigation would satisfactorily address these impacts.

## **Lighting (Chapter 11 of the ES)**

### Introduction

Chapter 11 of the submitted Environmental Statement (ES) assesses the impact of the development in terms of lighting. The ES considers the impact of lighting for the proposed development on the site and its affect on nesting birds, bats, amphibians and invertebrates. The assessment considers the type of lighting that will have the least impact and how the lighting should be implemented to create the least spill.

### Methodology

The ES recommends the use of white LED lighting, but acknowledges the Council's policy is for High Pressure Sodium (SON) lighting. The ES states that the lack of UV from LED sources maximises the benefit over other sources of light and would have a less damaging effect on habitat and species such as birds and bats.

### Baseline Conditions

The ES identifies that the site is bordered by existing commercial sites and Millennium Way and acknowledges and references the ecological survey which has identified the potential for nesting birds to be present on the site and that Great Crested Newts have been located near to the site.

### Impacts

The ES identifies that lighting could have an impact upon habitat and protected species.

### Mitigation Measures

The ES recommends the following mitigation measures in respect of external lighting for the proposed development:

- The use of white LED lighting without UV;
- Keeping lighting levels low at all times and incorporation of dimmers to reduce light levels after hours and after 10pm;

- Keeping column heights at 6 metres;
- Use lighting shields to contain the light and reduce bright spots visibility from a distance which may confuse the wildlife.

In order to ensure any external lighting to the site is acceptable and minimises the impact upon habitats and ecology, a full lighting condition is recommended.

### Lighting: Conclusion

Officers are satisfied that the lighting chapter of the ES presents a sound and robust assessment of the likely impacts of the development and that the proposed mitigation would satisfactorily address these impacts.

## **Transportation (Chapter 12 of the ES)**

### Introduction

Chapter 12 of the submitted Environmental Statement (ES) assesses the impact of the development in terms of highways and transportation. In addition to the assessment contained within the submitted Environmental Statement, the application is accompanied by a full Transport Assessment.

### Methodology

The ES analyses the potential transport effects having regard to the following considerations:

- The location of the site in relation to its environs and the extent to which it is capable of being well served by rail, bus, cycle and pedestrian routes as well as the existing highway infrastructure;
- The potential for the scheme to result in changes to traffic flows on the local highway network and the effect that any such changes may have in relation to highway capacity and road safety;
- The identification of, where necessary mitigation measures; and
- Assessing the effect of the proposed mitigation measures.

### Baseline Conditions

The ES identifies that the site can be accessed by footway/cycleway links. The toucan crossing facility located to the site on Millennium Way, provides a connection to the existing pedestrian network including the Braintree Retail Park, Freeport, Freeport station and residential areas.

In terms of cycling the ES identifies the site within catchment of existing residential areas, where trips of less than 5km can be an alternative to car travel for trips. With regard to public transport, a bus stop is located in close proximity to the proposed new site access, which is located on Route 132 (a service that runs approximately every 30mins Monday to Saturday, between Braintree and Witham. In respect of rail, the site is located approximately

1.25km away from Freeport railway station, which is outside a suggested catchment area of 800m. The ES considers that rail travel however represents a viable method of travel for future employees.

The supporting documentation to the application, including a road safety assessment which focuses on the junctions, including the interconnecting links and closely associated junctions: A120/B1018 Galley's Corner roundabout; B1018 Braintree Road/Millennium Way roundabout; Millennium Way/Charter Way roundabout; B1018 Braintree Road corner adjacent to Electrical Sub Station access.

The ES details accident data obtained from Essex County Council for a five year period between the 1<sup>st</sup> April 2006 and the 31<sup>st</sup> March 2011 – there were a total of 45 accidents within or in close proximity to the above junctions. The ES concludes that the safety of the existing highway network is considered to be of medium sensitivity.

The assessment has been informed by traffic surveys at all of the above junctions to establish weekday AM, PM and Saturday peak hour flows. Queue length surveys have also been undertaken. The assessment considers a year of opening of 2015 and a 10 year horizon of 2023 in line with DfT guidance. The ES anticipates that the additional peak hour vehicle trips calculated to the development would be: a total of 111 trips (weekday 08:00-09:00), 322 trips (weekday 16:30-17:30); and 702 trips (Saturday 12:45-13:45).

The capacity of existing junctions was assessed for the weekday AM and PM peak hours as well as the Saturday midday peak hour periods. The assessment was undertaken for the 2011, 2015 and 2023 scenarios for all peak periods without the proposed development. The results of the analysis demonstrate that the junction capacity is of high sensitivity, as the A120/B1018 Galleys Corner roundabout is predicted to operate over capacity in the 2015 and 2023 scenarios without the proposed development. The ES and accompanying Transport Assessment acknowledges that this junction forms part of the Strategic Road Network.

### Impacts

The ES assesses the impact of the development during both the construction period and during the operation of the development.

In terms of the construction phase, the assessment concludes that the overall impact, taking into account the temporary nature of this phase, would be negligible – there would be a likely minor increase in traffic volumes but no adverse effect on junction safety or capacity.

With regard to the operational phase of the development, the ES identifies in terms of road safety that the increased volumes of traffic associated with the proposed development would be adverse, minor, long term at a regional level.

In respect of junction and highway capacity, the traffic assessment has been undertaken on the basis that a 4,378sq.m DIY with garden centre unit is relocated from the Braintree Retail Park to the proposed development site, and assumes that the vacant store would be re-occupied by a non-food, non-DIY retailer.

The results of the assessment indicate that the B1018 Braintree Road/Millennium Way round will operate within capacity in the 2015 and 2023 base with the additional trips attributed to the proposed development. The impact on this junction is assessed as being negligible, and at District level.

The results for the A120/B1018 Galleys Corner roundabout indicate that the junction will operate beyond capacity in the 2015 and 2023 base with the additional trips attributed to the proposed development. The impact on this junction is assessed as being adverse, minor, long term at a regional level.

The proposed access to the application site was also taken into account in the assessment which concluded that it would have a negligible impact at District a level.

### Mitigation Measures

The ES identified a number of mitigation measures. The Addendum to the ES (which is described in more detail below) updates the assessment in respect of transportation and also includes updated mitigation measures. As such, all of the mitigation measures proposed are described below for completeness.

### Addendum to the ES (November 2016)

The addendum provides an update on the transportation chapter of the ES and includes some changes to the information contained in the mitigation section for the operational phase of the development. It also reflects the enhanced mitigation proposals that have been developed in consultation with Essex County Council Highways and Highways England.

### Methodology

The methodology used to undertake the assessment is unchanged from the original assessment.

TRANSYT was used to assess the capacity and operation of the proposed partially signalised A120/B1018 Galley's Corner and B1018 / Millennium Way Fowlers Farm junctions with the proposed development in place. Baseline junction capacity test outputs are unchanged from those provided within the original ES.

## Mitigation Measures

Mitigation measures have been subject to considerable discussion and negotiation with Essex County Council Highways and Highways England.

The A120 / B1018 Galley's Corner junction, which is formed at the intersection of the A120, B1018, Long Green and Cressing Road, comprises a 5 arm roundabout junction with dual approaches on the A120 arms of the junction. The proposed mitigation scheme at this location includes the partial signalisation of the B1018 / Millennium Way Fowlers Farm roundabout. The proposed mitigation scheme is identified on Drawing Nos 10051-SK140819.1 and 10051-B3-015-A.

The A120 West and B1018 South entry arms are proposed to be signalised along with the corresponding positions on the circulatory carriageway. Both of the signalised entry arms will include three lanes at the stop lane, with additional circulatory lanes to provide storage space to minimise blocking of through movements.

The proposals also include widening of the A120 North approach to have three entry lanes.

The proposed signalisation of the B1018 south arm includes a 3m wide pedestrian/cycle crossing, in place of the existing informal crossing. This would not be a signal controlled, but has been aligned such that the crossing of the northbound carriageway of the B1018 is in front of the waiting traffic. The proposed 3m wide shared footway/cycleway would connect to the existing pedestrian/cycle network on the west side of the B1018 as well as the existing facilities along Long Green.

The mitigation at the B1018 / Millennium Way roundabout is in the form of signalisation of the B1018 southbound entry arm and the corresponding section of the circulatory carriageway which is intended to be active during the Saturday peak periods.

Based on the analysis undertaken the mitigation measures proposed would ensure that the impact of the development is acceptable. The mitigation measures are proposed to be secured through appropriate conditions and Section 106 obligations.

Both Highways England and Essex County Council Highways have assessed the submitted ES, Transport Assessment and accompanying documentation and have confirmed that they raise no objections to the proposed development, subject to the specific mitigation measures identified. In addition to the junction improvements identified above the following additional mitigation measures have been recommended by Highways England / Essex County Council Highways:

- Condition requiring the submission of a Construction Method Statement (for the construction phase of the development to mitigate the impact of the development on the highway network) (see Condition 21);
- Transfer of land from the ownership of the applicant required to deliver the B1018 Braintree Road Crossing Improvement Scheme (Drawing No. DC1940-100-001 dated March 2014) (see S106 Heads of Terms);
- Financial contribution of £10,000 index linked towards the improvement of Public Footpath 22 Crossing, to improve pedestrian access to the application site (see S106 Heads of Terms);
- Implementation of a Travel Plan, including a financial contribution of £3,000 towards the monitoring of the Travel Plan (see S106 Heads of Terms).

The abovementioned mitigation measures would be secured through appropriate conditions and Section 106 obligations.

#### Transportation: Conclusion

Officers are satisfied that the transportation chapter of the ES along with the additional information contained within the addendum to the ES presents a sound and robust assessment of the likely impacts of the development and that the proposed mitigation would satisfactorily address these impacts.

### **Landscape and Visual Impact Assessment (Chapter 13 of the ES)**

#### Introduction

Chapter 13 of the submitted Environmental Statement (ES) assesses the impact of the development in terms landscape and visual impact. A Landscape and Visual Impact Assessment (LVIA) was undertaken in March 2012.

#### Methodology

The assessment considers the direct effects on the physical landscape – it considers the nature and extent of the landscape changes likely to occur and options for mitigating adverse effects if necessary; the effect on any national, regional or local designation.

#### Baseline Conditions

Areas of landscape character were identified for the purpose of assessment, based on fieldwork and desktop study. The zone of visual influence (ZVI) for the application site is identified within the ES. The contour analysis demonstrates that the application site lies behind locally high ground to the

east and forms part of an extensive area of low-lying, flat landscape to the south and east.

### Impacts

The ES assessment on the local landscape character concludes that two of the eight landscape character areas would be affected as a result of the development: marginal arable fringe and the adjacent developed urban fringe. Both are considered to be low value.

The views into the application site from the north are screened by development immediately north of the A120 in all but a few locations.

The views into the application site from the west are screened by the high ground, reinforced by the industrial scale of the electricity substation.

The views from the south and east are screened by intervening mature tree belts and hedgerows which dominate views in the flat landscape.

The principle roads within the ZVI are the A120 and B1018 – these provide the principle views into the application site. The majority of viewpoints recognise there will be a potential minor influence on existing views, principally as a result of the roof-scape being visible just above or through existing vegetation. Overall, the LVIA concludes that there are no significant adverse impacts as a result of the development that cannot be mitigated or ameliorated.

### Mitigation Measures

The ES identifies the following primary mitigation measures:

- Retention and protection of existing landscape boundaries, including the key mature trees;
- Reinforcement of existing landscape boundaries and extension of the native landscape infrastructure on the western, southern and eastern boundaries;
- The introduction of an area of new native shrub planting to the northern boundary to ameliorate views towards the edge of the car park, particularly when travelling north-west up Millennium Way;
- The introduction of advanced stock tree planting throughout the car park to ameliorate views towards the building and of the car park;
- The composition of the planting will be predominately native species to enhance the ecological value of the site.

The mitigation measures identified would be secured through appropriate conditions.

## Landscape and Visual Impact Assessment: Conclusion

Officers are satisfied that the Landscape and Visual Impact Assessment chapter of the ES presents a sound and robust assessment of the likely impacts of the development and that the proposed mitigation would satisfactorily address these impacts.

## **Air Quality (Chapter 14 of the ES)**

### Introduction

Chapter 14 of the submitted Environmental Statement (ES) assesses the impact of the development on air quality. More specifically, the impact upon air quality within the vicinity of the development through the generation of dust and particulate matter.

### Methodology

The ES includes assessment of the potential air quality impacts, including: dust nuisance and potential health effects; and emissions from on-site plant and machinery. The assessment uses guidance from British Research Establishment and the Greater London Authority.

### Baseline Conditions

Based on the BDC Air Quality Progress Report in April 2011, there is no requirement to monitor PM10 (particulate matter 10 micrometers or less in diameter) levels within the District. A number of sensitive receptors have been identified within the ES – these include residential areas off Mundon Road, Chelmer Road, Stilemans Wood and Braintree Road, as well as existing commercial development at Charter Way and Galleys Corner.

### Impacts

The ES identifies that potential dust impacts on the existing commercial development at Galleys Corner could occur without effective mitigation. In respect of particulate matter, the ES identifies that these concentrations will increase as a result of the proposed development, but the overall increase is small and will only occur over a short period of time.

### Mitigation Measures

The ES identified a number of mitigation measures. The Addendum to the ES (which is described in more detail below) updates the assessment in respect of air quality and also includes updated mitigation measures. As such, all of the mitigation measures proposed are described below for completeness.

## Addendum to the ES (November 2016)

The addendum to the ES includes an update to the air quality chapter of the ES, and details changes to the information describing the impact of the development, reflecting new guidance on assessing the significance of impacts, and additional mitigation measures.

### Methodology

Utilising the guidance on the assessment of dust from construction and demolition published by the Institute of Air Quality Management (IAQM), the addendum to the ES summarises the main impacts arising from the construction phase of the development as follows:

- Dust deposition, resulting in the soiling of surfaces;
- Visible dust plumes, which are evidence of dust emissions;
- Elevated PM10 (particulate matter 10 micrometers or less in diameter) concentration, as a result of dust generating activities on site; and
- An increase in concentrations of airborne particles and nitrogen dioxide due to exhaust emissions from diesel powered vehicles and equipment on site.

The IAQM guidance subdivides the construction activities into four types to reflect their different potential impacts as follows: demolition, earthworks, construction and track out.

Dust is a major environmental concern associated with construction activities. Residences within 1km from a site can potentially be affected by site dust, although the more significant impacts would generally be within 100m.

The addendum assesses the risk of dust arising in sufficient quantities to cause annoyance and/or health and/or ecological impact based on four risk categories: negligible, low, medium and high risk. A development is allocated to a risk category based on two factors: the scale and nature of the works (which determine the potential dust emission magnitude) and the sensitivity of the area to dust impacts.

### Impacts

The assessment of construction activities has focused on demolition, earthworks, construction and track out activities at the site. The ES addendum identifies the dust emission magnitude for each activity as follows:

- Demolition – Not Applicable (No demolition proposed)
- Earthworks – Large
- Construction – Small
- Track out – Medium

The sensitivity of the surrounding area is identified as being 'low' for dust soiling and human health impacts during earthworks, construction and track out and non-applicable for ecological impacts during earthworks, construction and track out.

The dust emission magnitudes and sensitivity of the surrounding area are combined to determine the risk of dust impacts with no mitigation applied. Dust soiling and human health impacts are identified as 'low risk' during earthworks and track out and 'negligible' during construction. Ecological impacts are identified as non-applicable.

The addendum identifies that the likelihood of an adverse impact occurring would be correlated to wind speed and wind direction, which would need to occur at the same time as a dust generating activity in order to generate an adverse impact.

The addendum highlights that the air quality assessment does not include an assessment of exhaust emissions from construction vehicles. Air quality planning guidance issued by EPUK, would require an assessment of construction and exhaust emissions on the local road network where there would be more than 200 movements per day. Taking into account the scale of the development proposed, the need for an assessment is not considered to be applicable in this case.

### Mitigation Measures

As summarised above, the addendum to the ES identifies that the proposed development would be considered to be a low risk to local receptors. However, the following best practice mitigation measures have been identified to reduce the impacts of dust soiling and human health to negligible.

- Site Management
  - Display contact details for site management;
  - Record dust and air quality complaints, identify and take appropriate measures to rectify and record actions and make this available to LPA if requested;
  - Undertake regular site inspections to monitor compliance, particularly when activities on site could generate higher levels of emissions and dust;
- Construction Activity
  - Record any exceptional incidents that cause dust and air, the action taken and make this available to LPA if requested;
- Preparing and maintaining the site
  - Machinery and dust causing activities should be located away from sensitive receptors;
  - Solid screens/barriers should be erected (as high as any stockpiles on site) around dust activities or the site boundary;
  - Avoid site runoff of water or mud;

- Operating vehicle/machinery
  - Ensure all vehicles switch off engines when stationary;
  - Avoid the use of diesel powered generators and use mains electricity or battery powered equipment where possible;
  - Only use cutting, grinding or sawing equipment fitted with suitable dust suppression systems;
  - Use enclosed chutes, conveyors and covered skips;
  - Minimise 'drop' heights and use fine water sprays whenever appropriate;
- Waste Management
  - Reuse and recycle waste to reduce dust from waste materials;
  - Avoid bonfires and burning of waste materials.

The Council's Environmental Health officer raised no objections to the proposal subject to conditions to control the construction phase of the development (see Conditions 20, 21, 25, 26 & 27). Subject to these conditions, the impacts of the proposed development in terms of air quality are considered to be acceptable.

#### Air Quality: Conclusion

Officers are satisfied that the noise chapter of the ES along with the additional information contained within the addendum to the ES presents a sound assessment of the likely impacts of the development and that the proposed mitigation would satisfactorily address these impacts.

### **Daylight and Sunlight (Chapter 15 of the ES)**

#### Introduction

Chapter 15 of the submitted Environmental Statement (ES) assesses the impact of the development on daylight and sunlight. The application is also supported by BRE Daylight and Sunlight Study. The study assesses the impact of the development on the daylight and sunlight receivable by the neighbouring residential properties at Avilion and Hoppit House.

#### Methodology

The assessment is based on the British Research Establishment Guidelines (BRE). The assessment includes: daylight to windows, measuring both the vertical sky component and daylight distribution; sunlight availability to windows; and overshadowing to gardens and open spaces.

#### Baseline Conditions

The ES details that both Avilion and Hoppit House (the nearest residential properties to the proposed development) receive a very good standard of daylight and sunlight. Before development:

- All windows surpass the BRE vertical sky component target of 27%;
- All windows which face within 90 degrees of due south surpass the BRE direct sunlight to windows targets;
- All windows receive more than 25% of annual probable sunlight hours, and more than 5% of annual probable sunlight hours between 21<sup>st</sup> March and 21<sup>st</sup> September; and
- Each garden has at least 50% of its area which can receive at least two hours of sunlight on 21<sup>st</sup> March.

### Impacts

The ES details the impacts of the development on the two existing residential properties adjacent to the site:

- Daylight to windows – all windows surpass the vertical sky component test and surpass the daylight distribution test. Therefore the proposal satisfies the BRE guidelines;
- Sunlight to windows – all windows which face within 90 degrees of due south surpass the BRE direct sunlight to window targets;
- Overshadowing to gardens and open spaces – the proposed development would not create any new areas which receive less than two hours of sunlight.

### Mitigation Measures

As the proposed development complies with the BRE guidelines, no mitigation measures are proposed within the ES.

### Daylight and Sunlight: Conclusion

Officers are satisfied that the daylight and sunlight chapter of the ES presents a sound and robust assessment of the likely impacts of the development.

### **Officer Conclusion: Environmental Issues**

Officers are satisfied that the ES along with the additional information contained within the addendum to the ES presents a sound and robust assessment of the likely impacts of the development and that the proposed mitigation would satisfactorily address these impacts. Officers recommend that mitigation measures identified within the assessment of the ES are secured through appropriate conditions/Section 106 obligations.

### **Impact upon Neighbouring Residential Amenity**

Two residential properties are located adjacent to the application site – Avilion and Hoppit House. As identified earlier in the report, the planning application is accompanied by an Environmental Statement (ES) and other supporting documentation which assesses specific impacts of the proposed development. Specific chapters within the ES assess the impact of the development in terms of noise, air quality, landscape and visual impacts, and daylight and sunlight. Given the proximity of the proposed development to these residential properties it is acknowledged that the proposals will have an impact upon neighbouring residential amenity. However, subject to a number of mitigation measures officers conclude that the proposal would not have a detrimental impact upon neighbouring residential amenity.

Further conditions are recommended to control the construction phase of the development (see Conditions 20, 21, 25, 26 & 27) and the hours of operation when the DIY Store is open for trade during the operational phase of the development (see Condition 31).

### **Parking**

Policy RLP56 of the Local Plan Review requires that vehicle parking should be provided in accordance with ECC Vehicle Parking Standards 2009. In terms of parking provision, the proposed development will meet the Standards, as referred to above.

As identified earlier in the report, the application proposes a large car parking area at the front of the site, accessed off Millennium Way, comprising 255 car parking spaces (including 4 family spaces), 11 motorcycle spaces, 19 accessible spaces for disabled persons and 38 covered cycle parking spaces. The parking layout includes space for 6 trolley bays. With the exception of the accessible parking spaces for disabled persons, all car parking spaces are proposed to measure 2.9m x 5.5m to comply with the adopted parking standards. The accessible parking spaces for disabled persons along with the family spaces are proposed in the rows closest to the entrance to the store. Pedestrian circulation spaces and crossing points within the car park are indicated on the submitted plans. The proposed development is considered to be acceptable in this regard subject to conditions in relation to cycle parking details (see Condition 29) and provision of parking spaces (see Condition 30).

### **Other Issues**

The response from the Ramblers Association dated 16<sup>th</sup> April 2014 is noted. As set out in the assessment of Chapter 12 of the Environmental Statement (Transportation) above, a number of mitigation measures are proposed including highway improvements to key junctions as set out in full in the Recommendation section below. In addition, a financial contribution to the improvement of Public Footpath 22 is recommended, which was one of the public footpaths highlighted by the Ramblers Association for improvement in

their letter of representation. While the Ramblers Association's request for improvements to Public Right of Ways (PROWs) Crossing 34, 35 and 4 are noted, it is not considered that further improvements are required to these PROWs to mitigate the impact of the development, and moreover that such a request would not meet the requisite tests for planning obligations.

## **RECOMMENDATIONS**

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:

### **SECTION 106 HEADS OF TERMS:**

- **Public Footpath 22 (Cressing)**  
The DIY Store shall not be opened for trade unless and until the applicant has made a financial contribution of £10,000 index linked towards the improvement of Public Footpath 22 (Cressing) to provide pedestrian facilities to access the store.
- **Travel Plan & Travel Plan Monitoring**  
The DIY Store shall not be opened for trade unless and until the applicant has provided and implemented a Travel Plan, details of which shall be submitted to and approved in writing by the Local Planning Authority, and shall make a financial contribution of £3,000 index linked towards Travel Plan Monitoring.
- **B1018 Braintree Road Cressing Improvement Scheme**  
The DIY Store shall not be opened for trade unless and until the land in the ownership of the applicant required to deliver the B1018 Braintree Road Cressing Improvement Scheme shown on Drawing No. DC1940-100-001 dated March 2014 has been transferred to the Highway Authority free of all charges.
- **Roundabout Improvement Scheme**  
The DIY Store shall not be opened for trade unless and until the roundabout improvement scheme has been implemented as shown in principle on Drawing 10051-B3-015 Revision A dated May 2015. These works shall include but not be limited to traffic signals on the circulatory carriageway of the Fowlers Farm roundabout and on the B1018 south bound approach to the Fowlers Farm roundabout, together with CCTV provision and appropriate traffic control systems. Such equipment to be subject to a commuted sum for maintenance for a period of 15 years.
- **Galleys Corner Roundabout Scheme**  
The DIY Store shall not be opened for trade unless and until the Galleys Corner roundabout improvement / partial signalisation scheme shall be implemented as shown in principle on Drawing No. C4-10051-014 Revision D dated September 2012, together with CCTV provision and

appropriate traffic control systems. Such equipment to be subject to a commuted sum for maintenance for a period of 15 years.

- **Vehicle Detection Loops for Roundabout Improvement Scheme**  
The DIY Store shall not be opened for trade unless and until details for the provision of vehicle detection loops at appropriate locations including the A120 approaches to Galleys Roundabout, Braintree Road (B1018), Cressing and the B1018 southbound approach to the Fowlers Farm roundabout to assist with the local management of traffic and queue lengths during peak times, in conjunction with the delivery of the Galleys Corner and Fowlers Farm roundabout improvement schemes, have been submitted to and approved in writing by the Local Planning Authority.
- **Bus Stop**  
Bus stop alterations / relocation on Millennium Way to facilitate the proposed access to the application site.

The Development Manager be authorised to GRANT planning permission under delegated powers subject to the conditions and reasons set out below and in accordance with the approved plans. Alternatively, in the event that a suitable planning obligation is not agreed within 3 calendar months of the date of the resolution to approve the application by the Planning Committee the Development Manager may use her delegated authority to refuse the application.

## **CONDITIONS:**

### **1. Time Limit**

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

#### **Reason**

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

### **2. Approved Plans**

The development hereby permitted shall be carried out in accordance with the approved plans listed above, except as follows:

- The external treatment and cladding proposed for the building, as indicated on Drawing Numbers: 0350 Revision C (Building Elevations); 0351 Revision D (Building Elevations); 0352 Revision A (Visualisations) and the 'DIY Store Proposed Specification' dated September 2016 is not approved; and
- The proposed parapet detail as indicated on Drawing Numbers: 0321 Revision B (Building Roof Plan); 0350 Revision C (Building Elevations); 0351 Revision D (Building Elevations); 0352 Revision A (Visualisations) and the 'DIY Store Proposed Specification' dated September 2016 is not approved.

Reason

To ensure a satisfactory quality of development that is in keeping with the character and appearance of the surrounding area and does not prejudice the appearance of the locality.

**3. Revised Façade/Cladding Treatment**

No development shall commence unless and until details for a revised façade and cladding treatment and parapet detail for each elevation of the building has been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details and shall thereafter be retained as approved.

Reason

To ensure that the development does not prejudice the appearance of the locality. These details are required prior to the commencement of development in order to ensure that the external treatment to all elevations of the building have been approved prior to development commencing on site.

**4. Samples of External Materials**

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

Reason

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

**5. Tree and Hedgerow Protection**

No development shall commence unless and until details of the means of protecting all of the existing trees, shrubs and hedges on the site from damage during the carrying out of the development have been submitted to the Local Planning Authority for approval. The approved means of protection shall be installed prior to the commencement of any building, engineering works or other activities on the site and shall remain in place until after the completion of the development to the complete satisfaction of the Local Planning Authority.

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 unless the express consent in writing of the Local Planning Authority has previously been obtained. No machinery of

any kind shall be used or operated within the extent of the spread of the existing trees, shrubs, hedges.

The Local Planning Authority shall be notified in writing at least 5 working days prior to the commencement of development on site.

**Reason**

These details are required prior to the commencement of the development to ensure existing trees, shrubs and hedges are retained as they are considered essential to enhance the character of the development.

**6. Tree and Hedgerow Removal**

No trees or hedgerows within the application shall be removed unless and until full details of the tree or hedgerow proposed to be removed have been submitted to and approved in writing by the Local Planning Authority. The details shall include a targeted bat survey for the tree and/or hedgerow proposed to be removed and include mitigation proposals for the loss of the tree and/or hedgerow. The development shall only be carried out in accordance with the approved details.

**Reason**

To ensure existing trees, shrubs and hedges are retained as they are considered essential to enhance the character of the development and to ensure that any trees that are proposed to be removed from the site do not have a detrimental impact upon ecology and that appropriate mitigation is secured as identified within the submitted Environmental Statement.

**7. Bird Nesting Season**

No vegetation clearance or trees/hedgerow removal shall take place during the bird nesting season (1<sup>st</sup> March to 31<sup>st</sup> August).

**Reason**

In order to protect nesting birds that may be present on the application site in accordance with the mitigation identified within the submitted Environmental Statement.

**8. Landscaping Scheme**

No above ground development shall take place unless and until a scheme of landscaping has been submitted to and approved in writing by the Local Planning Authority. The scheme shall:

- Incorporate a detailed specification including plant/tree types and sizes, plant numbers and distances, soil specification, seeding and turfing treatment, colour and type of material for all hard surface areas and method of laying where appropriate;
- Build on the species mix of the existing vegetation and include a selection of seed, fruit or berry-bearing mature hedgerow trees and additional hedgerow planting to reinforce the existing native landscape

features on the western, southern and eastern boundaries of the application site;

- Include the provision of advanced stock tree planting throughout the car park and a new area of native shrub planting to the northern boundary of the application site; and
- Include the provision of an area of rich wildflower grassland.

All areas of hardstanding shall be constructed using porous materials laid on a permeable base, unless otherwise agreed within the approved sustainable urban drainage SuDs scheme.

All planting, seeding or turfing contained in the approved details of the landscaping scheme shall be carried out in the first planting and seeding seasons after the commencement of the development.

All hard surface areas agreed as part of the scheme shall be carried out before the first occupation of the buildings or upon the completion of the development whichever is the earlier.

Any trees or plants which die, are removed, or become seriously damaged or diseased within a period of 5 years from the completion of the development shall be replaced in the next planting season with others of a similar size and species.

#### Reason

To enhance and mitigate the appearance of the development, in the interests of amenity and privacy, and to preserve and enhance the ecological value of the application site in accordance with the mitigation identified within the submitted Environmental Statement.

### **9. Management Proposals for Landscaping Scheme**

The DIY Store shall not be opened for trade unless and until a landscape and habitat management strategy, has been submitted to and approved in writing by the Local Planning Authority. The operation and use of the site shall accord with the approved landscape and habitat management strategy.

#### Reason

To enhance and mitigate the appearance of the development, in the interests of amenity and privacy, and to preserve and enhance the ecological value of the application site.

### **10. Bird/Bat Boxes**

No above ground development shall commence unless and until details of a scheme for the provision of nest/roost sites for bats and birds have been submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details and thereafter so retained. The DIY Store shall not be opened for trade unless and until the approved details have been implemented.

Reason

To enhance the ecological value of the application site.

### **11. Great Crested Newt Survey**

No development shall commence unless and until an updated Great Crested Newt survey, which includes Ponds 1-5 as identified within the submitted Environmental Statement, has been submitted to and approved in writing by the Local Planning Authority. The survey shall include proposals for any further mitigation along with timescales for the implementation of any further mitigation.

Reason

These details are required prior to the commencement of development in order to protect Great Crested Newts that may be present on the application site in accordance with the mitigation identified within the submitted Environmental Statement.

### **12. Great Crested Newt Mitigation**

No above ground development shall commence unless and until details for the creation of a new pond to provide a habitat for Great Crested Newts and other amphibians have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details. The DIY Store shall not be opened for trade unless and until the approved details have been implemented.

Reason

In order to enhance the ecological habitat on the application site for Great Crested Newts and other amphibians in accordance with the mitigation identified within the submitted Environmental Statement.

### **13. External Lighting**

No above ground development shall commence unless and until details of any proposed external lighting for the site have been submitted to and approved in writing by the Local Planning Authority. The details shall include a layout plan with beam orientation and a schedule of equipment in the design (luminaire type, mounting height, aiming angles, luminaire profiles and energy efficiency measures). All lighting shall be installed, retained and operated in accordance with the approved details. No other sources of external illumination shall be installed on the application site.

Reason

To protect the amenities of the occupiers of nearby residential properties and the surrounding area and to protect ecological habitats on the application site.

### **14. Archaeology**

No development or preliminary groundworks of any kind shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning

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

Reason

To enable full investigation and recording of this site of archaeological importance.

### **15. SuDs**

No development shall commence unless and until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The drainage strategy shall demonstrate that the surface water run-off generated up to and including the 1 in 100 year event critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall only be implemented in accordance with the approved details. The DIY Store shall not be opened for trade unless and until the approved details have been implemented.

Reason

To prevent the increased risk of flooding, both on and off site, and to ensure that a satisfactory surface water drainage scheme is provided for the development.

### **16. Boundary Treatment, including acoustic mitigation**

No above ground works shall commence unless and until details of all gates, fences, wall, or other means of enclosure have been submitted to and approved in writing by the Local Planning Authority. The details shall include position, design, height and materials of the enclosures and shall include full details of a brick wall to the builder's yard and the other acoustic measures including acoustic fencing along the service road, to mitigate the impact of the development on the adjacent residential properties. The enclosures as approved shall be provided on site prior to the first opening of the DIY Store for trade and shall thereafter be retained as approved.

Reason

In order to secure the satisfactory development of the site and in the interests of visual amenity and to protect the amenities of the occupiers of nearby residential properties, the surrounding area and to minimise nuisance caused by pollution in the interests of residential amenity in accordance with the mitigation identified within the submitted Environmental Statement.

### **17. Service Road**

No above ground works shall commence unless and until details of the proposed surface treatment of the access road and proposed speed limit restrictions to mitigate the noise impact from HGV and other delivery, service and maintenance vehicles have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details. The approved details shall be

implemented prior to the first opening of the DIY Store for trade and shall thereafter be retained as approved.

Reason

In the interest of nearby residential amenity.

### **18. Plant (Roof)**

No above ground development shall take place unless and until full details, including specification, location and design of the proposed roof top plant/ventilation system, as shown in principle with the 'DIY Store proposed specification' dated September 2016, has been submitted to and approved in writing to the Local Planning Authority. The development shall only be carried out in accordance with the approved details and shall thereafter be retained as approved. No further plant equipment/extraction/air handling units shall be installed on any area of the roof or parapet of the building.

Reason

In the interest of visual amenity and in the interest of nearby residential amenity.

### **19. Plant (Service Yard)**

No above ground development shall take place unless and until full details, including specification, location and design of any plant, extraction/air handling equipment, or air conditioning condenser units proposed in the service yard area, as indicated on Drawing No. 0310 Rev K, have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details and shall thereafter be retained as approved. No further plant equipment/extraction/air handling units or air conditioning condenser units shall be installed on any area of the building or within the application site.

Reason

In the interest of visual amenity and in the interest of nearby residential amenity.

### **20. Dust**

No development shall commence unless and until a dust and mud control management scheme has been submitted to and approved in writing by the Local Planning Authority. The dust and mud control management scheme shall incorporate the following best practice measures:

- Site Management
  - Display contact details for site management;
  - Record dust and air quality complaints, identify and take appropriate measures to rectify and record actions and make this available to LPA if requested;
  - Undertake regular site inspections to monitor compliance, particularly when activities on site could generate higher levels of emissions and dust;

- Construction Activity
  - Record and exceptional incidents that cause dust and air, the action taken and make this available to LPA if requested;
- Preparing and maintaining the site
  - Machinery and dust causing activities should be located away from sensitive receptors;
  - Solid screens/barriers should be erected (as high as any stockpiles on site) around dust activities or the site boundary;
  - Avoid site runoff of water or mud;
- Operating vehicle/machinery
  - Ensure all vehicles switch off engines when stationary;
  - Avoid the use of diesel powered generators and use mains electricity or battery powered equipment where possible;
  - Only use cutting, grinding or sawing equipment fitted with suitable dust suppression systems;
  - Use enclosed chutes, conveyors and covered skips;
  - Minimise 'drop' heights and use fine water sprays whenever appropriate;
- Waste Management
  - Reuse and recycle waste to reduce dust from waste materials;
  - Avoid bonfires and burning of waste materials.

The approved dust and mud control management scheme shall be adhered to throughout the site clearance and construction process.

#### Reason

These details are required prior to the commencement of development to ensure mitigation measures are in place for the start of the construction phase of the development to protect the amenities of the occupiers of nearby residential properties, the surrounding area and to minimise nuisance caused by pollution in the interests of residential amenity.

### **21. Construction Method Statement**

No development shall commence, including any ground works or demolition, until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for the following all clear of the highway:

- safe access to/from the site
- the parking of vehicles of site operatives and visitors
- loading and unloading of plant and materials
- storage of plant and materials used in constructing the development
- wheel and underbody washing facilities
- the safe guarding of the Public Rights of Way during construction

#### Reason

These details are required prior to the commencement of development to ensure mitigation measures are in place for the start of the construction phase of the development in the interest of highway safety, sustainability and to safeguard the amenity of nearby residential properties.

### **22. White noise reversing alarms**

No above ground development shall take place unless and until, full details of white noise reversing alarms for delivery vehicle, forklifts and other mechanical equipment that access/use the site for delivery, servicing and maintenance purposes shall be submitted to and approved in writing by the Local Planning Authority. Only the approved alarms will be permitted for use on the site by delivery vehicles, forklifts and other mechanical equipment used on site.

#### Reason

To protect the amenities of the occupiers of nearby residential properties, the surrounding area and to minimise nuisance caused by pollution in the interests of residential amenity.

### **23. Unexpected Contamination**

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. No further development shall take place unless and until:

1. An investigation and risk assessment must be undertaken in accordance with the following requirements:
  - i. a survey of the extent, scale and nature of contamination;
  - ii. an assessment of the potential risks to:
    - human health;
    - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
    - adjoining land;
    - groundwaters and surface waters;
    - ecological systems;
    - archeological sites and ancient monuments.
  - iii. an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

2. Where remediation is necessary, no further development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and

historical environment, has been prepared, and submitted to the Local Planning Authority for approval. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

3. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, and submitted to the Local Planning Authority for approval.

#### Reason

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

#### **24. Deliveries**

There shall be no HGV or other delivery/service/maintenance vehicle movements to, from or within the premises outside the following times:

- 08:00-20:00 Monday to Saturday
- No movements on Sundays or Public/Bank Holidays

#### Reason

To protect the amenities of the occupiers of nearby residential properties, the surrounding area and to minimise nuisance caused by pollution in the interests of residential amenity.

#### **25. Burning of Waste**

No burning of refuse, waste materials or vegetation shall be undertaken in connection with any site clearance or during the construction of the development.

#### Reason

To protect the amenities of the occupiers of nearby residential properties, the surrounding area and to minimise nuisance caused by pollution in the interests of residential amenity.

#### **26. Site Clearance**

No site clearance, demolition or construction work shall take place on the site, including starting of machinery and delivery of materials, outside the following times:

- 08:00-18:00 Monday to Friday
- 08:00-13:00 Saturday
- No work on Sundays, Public/Bank Holidays

Reason

To protect the amenities of the occupiers of nearby residential properties, the surrounding area and to minimise nuisance caused by pollution in the interests of residential amenity.

**27. Piling**

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

Reason

To protect the amenities of the occupiers of nearby residential properties and the surrounding area.

**28. Site Access**

The DIY Store shall not be opened for trade unless and until the site access has been constructed and implemented shown in principle with Drawing No. C4-10051-SK141010.1 dated Oct 2014 in accordance with further details to be submitted to and approved in writing by the Local Planning Authority. The details shall include a visibility splay of 2.4 by 70 metres to the east. The development shall only be carried out in accordance with the approved details and thereafter retained as approved. The access shall be kept free from any obstruction at all times.

Reason

In the interest of highway safety.

**29. Cycle Parking Details**

No above ground development shall commence, unless and until details of the number, location and design of cycle parking facilities have been submitted to and approved in writing by the Local Planning Authority. The details shall demonstrate that the cycle parking provision will be designed to be secure, convenient and covered. The cycle parking provision shall be implemented in accordance with the approved details and shall thereafter be retained.

Reason

In the interest of promoting sustainable modes of transport.

**30. Parking Spaces**

The DIY Store shall not be opened for trade unless and until the vehicle parking area indicated on the approved plans, including any accessible parking spaces for disabled users, have been hard surfaced, sealed and marked out in parking bays, in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details. The vehicle parking area and associated turning area shall be retained as approved at all

times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development.

**Reason**

In the interest of highway safety and to ensure sufficient parking provision is provided on the application.

**31. Use Restriction**

The premises shall only be used for the sale of bulky comparison goods consisting of building and DIY products, garden products and plants, pets and pet supplies, furniture, carpets, floor coverings and household furnishings, electrical and gas products, vehicle accessories and parts, bicycles and cycle accessories, office supplies, computers and accessories, caravans, tents and camping and boating equipment and any other goods which are ancillary and related to the main use of the premises for the sale of bulky comparison goods.

**Reason**

For the avoidance of doubt on the scope of this permission and to ensure that the use of the site does not have a detrimental impact upon the vitality and viability of Braintree Town Centre.

**32. Subdivision / Mezzanine Floor Restriction**

There shall be no subdivision of the DIY Store hereby granted planning permission and no additional internal floor space shall be created, including the insertion of mezzanine floors.

**Reason**

For the avoidance of doubt on the scope of this permission and to ensure that the use of the site does not have a detrimental impact upon the vitality and viability of Braintree Town Centre.

**33. PD Removal**

Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order amending, revoking and re-enacting that Order) no enlargement of the DIY Store as permitted by Class A of Part 7 of Schedule 2 of that Order shall be carried out without first obtaining planning permission from the Local Planning Authority.

**Reason**

For the avoidance of doubt on the scope of this permission, to control any future extension proposals to ensure that the use of the site does not have a detrimental impact upon the vitality and viability of Braintree Town Centre.

**INFORMATION TO APPLICANT:**

1. Please note that in accordance with Government Legislation a formal application must be made to the Local Planning Authority when submitting details in connection with the approval of details reserved by

a condition. Furthermore, a fee of £28 for householder applications and £97 for all other types of application will be required for each written request. Application forms can be downloaded from the Council's web site [www.braintree.gov.uk](http://www.braintree.gov.uk).

2. Your attention is drawn to the need to discharge conditions before development starts where it is a requirement of the conditions. Development will be treated as having been commenced when any material change of use or material operation has taken place, pursuant to Section 56 of the Town and Country Planning Act 1990. A material operation means any work of construction in the course of the erection of a building, including: the digging of a trench which is to contain the foundations, or part of the foundations of a building; the laying of any underground main or pipe to a trench, the foundations, or part of the foundations of a building; any operation in the course of laying out or constructing a road or any part of a road; and any work of demolition of a building. If development begins before the discharge of such conditions then those conditions cannot be discharged and a breach of planning control will have occurred, which may result in enforcement action being taken.
3. All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works. An application for the necessary works should be made to [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or SMO1 - Essex Highways, Colchester Highways Depot, 653, The Crescent, Colchester Business Park, Colchester, CO4 9YQ.
4. The applicant is reminded of the need to enter into a Section 278 Agreement with the Highway Authority for the various highway mitigation schemes and other works within the adopted Highway.
5. Your attention is drawn to Condition 14 of this planning permission and that there may be archaeological remains on the site. Any financial implications resulting from the need for archaeological investigation and subsequent protection measures are the responsibility of the developer/applicant. In respect of these requirements, you are advised to contact Essex County Council for further advice.
6. You are advised that the granting of planning permission does not absolve you from complying with the relevant law regarding protected species, including obtaining and complying with the terms and conditions of any licenses required by Part IV B of the Circular 06/2005 (Biodiversity and Geological Conservation - Statutory Obligations). As highlighted within the submitted Environmental Statement, given the previous survey results and the proximity of the ponds to the application site, an EPS (European Protected Species) licence would be required before development could commence on site.

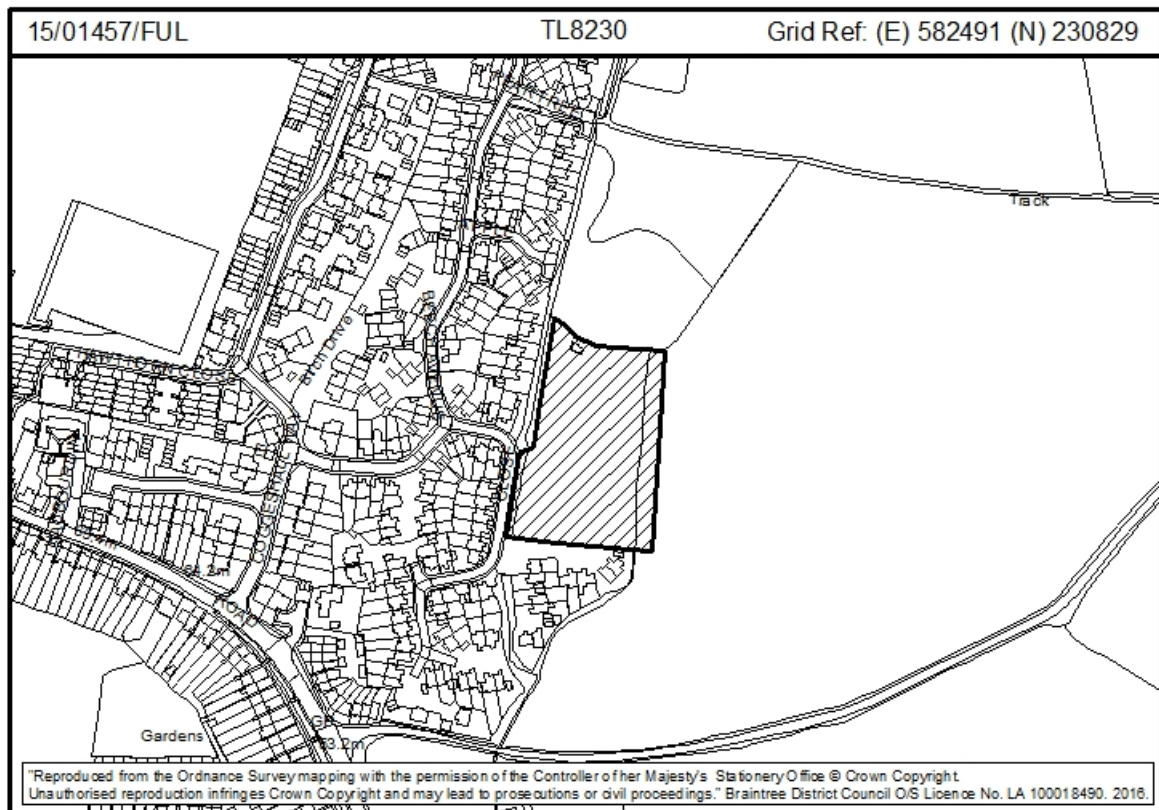
TESSA LAMBERT - DEVELOPMENT MANAGER

PART A

APPLICATION NO: 15/01457/FUL DATE: 01.12.15  
 VALID:  
 APPLICANT: George Tanner (Shalford) Ltd  
 Shalford, Braintree, Essex, CM7 5HB  
 AGENT: Hollins Architects  
 4A Market Hill, Framlingham, Woodbridge, Suffolk, IP13  
 9BA  
 DESCRIPTION: Erection of 20 No. Dwellings and Construction of Access  
 Road  
 LOCATION: Land East Of, Cherry Tree Close, Halstead, Essex

For more information about this Application please contact:

Nina Pegler on:- 01376 551414 Ext. 2513  
 or by e-mail to: [nina.pegler@braintree.gov.uk](mailto:nina.pegler@braintree.gov.uk)



## SITE HISTORY

None.

## POLICY CONSIDERATIONS

Currently the Council's development plan consists of the Braintree District Local Plan Review (2005) and the Core Strategy (2011).

The Council is currently working on a Draft Local Plan, which was approved by the Council unanimously for consultation on the 20<sup>th</sup> June 2016 and was the subject of public consultation between the 27<sup>th</sup> June and 19<sup>th</sup> August 2016.

In accordance with paragraph 216 of the NPPF, from the day of publication the Council can give weight to the emerging Draft Local Plan and the weight that can be given is related to:

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

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

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

Accordingly the Council can currently afford some weight to the emerging Draft Local Plan 2016.

It should also be noted that the Council was previously working on a Site Allocation and Development Management Plan (the ADMP). This plan was subject to extensive public consultation in 2013 and 2014. The ADMP was not however submitted to the Planning Inspectorate, due to the decision to begin work on a new Local Plan, to take into account the most up to date Government guidance. However parts of the ADMP have been rolled forward into the Draft Local Plan.

It is therefore considered that it would be consistent with the provisions in paragraph 216 of the NPPF, to afford more weight in decision making to the parts of the Draft Local Plan which have been rolled forward from the ADMP, due to the more advanced stage reached by those elements.

## National Planning Guidance

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

## Braintree District Local Development Framework Core Strategy

CS1	Housing Provision and Delivery
CS2	Affordable Housing
CS5	The Countryside
CS7	Promoting Accessibility for All
CS8	Natural Environment and Biodiversity
CS9	Built and Historic Environment
CS10	Provision for Open Space, Sport and Recreation
CS11	Infrastructure Services and Facilities

## Braintree District Local Plan Review

RLP2	Town Development Boundaries and Village Envelopes
RLP3	Development within Town Development Boundaries and Village Envelopes
RLP8	House Types
RLP10	Residential Density
RLP51	Cycle Parking
RLP56	Vehicle Parking
RLP69	Sustainable Urban Drainage
RLP71	Water Supply, Sewerage & Drainage
RLP74	Provision of Space for Recycling
RLP80	Landscape Features and Habitats
RLP84	Protected Species
RLP90	Layout and Design of Development
RLP94	Public Art
RLP138	Provision of Open Space in New Housing Developments

## Braintree District Draft Local Plan

SP1	Presumption in Favour of Sustainable Development 22
SP2	Meeting Housing Needs
LPP16	Housing Provision and Delivery
LPP24	Affordable Housing
LPP28	Housing Type and Density
LPP37	Parking Provision
LPP42	Built and Historic Environment
LPP44	Provision for Open Space, Sport and Recreation
LPP46	Layout and Design of Development
LPP56	Natural Environment
LPP57	Protected Species
LPP58	Enhancements, Management and Monitoring of Biodiversity
LPP59	Landscape Character and Features
LPP61	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP65	Surface Water Management Plan
LPP66	Sustainable Urban Drainage Systems 153
LPP67	Run-off Rates

## Supplementary Planning Guidance

ECC Development Management Policies 2011 (Highways)

Essex Design Guide 2005

Affordable Housing SPD

Open Space SPD and Action Plan

ECC Parking Standards

## INTRODUCTION

This application is brought before the Planning Committee as the Town Council has raised an objection, contrary to Officers recommendation.

## NOTATION

The site abuts, but is located outside of the Town Development Boundary in the adopted Local Plan Review. However it is proposed that this site is allocated for residential development within the Draft Local Plan.

## SITE DESCRIPTION

The site is located to the north eastern side of Halstead and currently falls outside the town development boundary. It is a vacant area of land which comprises scrub, trees and hedges.

To the west and south of the site is existing residential development. The existing road passes along the western boundary of the site. The site slopes downwards from east to west, with a difference in levels of approximately 8 metres. There is an existing hedge and trees along the eastern boundary (the highest part of the site). There is an existing watercourse which passes along the western boundary of the site.

## PROPOSAL

This application seeks planning permission for the erection of 20 dwellings and the construction of an access road.

The dwellings would be located in a semi-circular arrangement around a central area of amenity space with a new access taken off Cherry Tree Close. The proposal includes a range of size and types of dwellings, including a mix of detached and semi-detached 2, 3 and 4 bedroom dwellings. This includes 6 no. affordable dwellings. The design of the dwellings includes pitched roofs, canopy porches and many have garages and on-plot parking.

This application was originally submitted in 2015 for the erection of 24 dwellings along with a new access road. During the consideration of the application concerns were raised by Officers regarding the layout and design of the development. The application has been amended to its current form. This has resulted in a reduction in the number of dwellings from 24 to 20. The

red line plan has also been amended to include a slightly larger area of land along the southern boundary of the site which falls within the applicant's ownership.

## CONSULTATIONS

Town Council – No objection raised to the application as originally submitted (24 dwellings) but requested any S106 contribution goes towards the Community Centre, open spaces and youth projects within the town. The Town Council later confirmed that it did not wish to seek a contribution to the community centre given the pooling restrictions on financial contributions sought through S106 Agreements.

The Town Council was consulted on the revised proposal for 20 dwellings and has raised an objection “on grounds of access and impact upon parking”. It also stated that issues raised by residents regarding surface water should be noted and conditions imposed if planning permission is granted.

The site has been considered for inclusion within the draft Local Plan. The minutes of the Local Plan Sub-Committee meeting of 25<sup>th</sup> May 2016 note that the Town Council support the allocation of this site for residential development.

Housing Strategy – Request 30% affordable housing provision (6 units), in accordance with Policy CS 2 of the Core Strategy.

Environmental Health – No objection subject to conditions to protect neighbouring amenity during construction.

Waste Services – No response at the time of writing.

Engineers – No response at the time of writing.

Highways – No objection subject to conditions.

Landscape Services – No objection subject to conditions.

ECC Education – A contribution is not requested for the revised scheme.

Essex Police – No response at the time of writing.

Anglian Water – No response at the time of writing.

Lead Local Flood Authority (ECC) – No objection, based on a revised Flood Risk Assessment. Recommend a number of conditions, including a surface water drainage scheme.

Environment Agency – No response at the time of writing.

## REPRESENTATIONS

A site notice was displayed and neighbouring properties were notified by letter.

16 letters of objection were received to the original application raising the following points:

- Excessive water run-off into the stream at the boundary edge will cause flooding. Concerns regarding impact upon existing watercourses and drainage;
- There are springs and a brook on the site;
- Concern as to where construction vehicles will park;
- Wildlife can be found on the site, including badgers;
- Schools and medical facilities cannot cope with extra development;
- Parking on the narrow roads around the site is already a problem and will be made worse by the development & cause highway safety problems for pedestrians and vehicles;
- Concern regarding access for emergency vehicles, delivery vehicles and dust carts and safety of children;
- Object to the design and layout of the dwellings. The design is not in keeping with the surrounding estate;
- Concern that the private drive will be used to access the site;
- Tree marked T48 is shown to be removed but is outside of the application site;
- Construction works would cause noise, mud and dust at all times of day and night;
- The existing roads are not wide enough to accommodate the additional traffic;
- The development is unnecessary due to the 292 homes approved at Oak Road, Halstead;
- Existing trees would be lost with no plans to replace them;
- Many of the allocated parking spaces are away from the houses to which they relate;
- There is no proposal to address the badger sett on the site;
- Residents would not give permission for the use of the private drive for construction or occupants or for the removal of existing trees/plants in this area;

Following the amendment to the proposal and a reduction in the number of dwellings a further consultation exercise was carried out. In response to this 12 letters of objection have been received raising the following points:

- There is a serious increased risk of flooding;
- There are natural springs on the site;
- Increase in traffic and location of the junction would increase the risk of injury/accidents;
- Mud left on the road from construction will cause a danger
- Would result in a loss of available parking space;

- Existing roads are too narrow and inadequate to support additional traffic and construction traffic;
- No consideration given to the loss of wildlife;
- No space for contractors vehicles or workers to park;
- Schools and medical facilities are finding it difficult to cope with the existing population;
- Do not wish private drive to be used by construction vehicles;
- Dwellings now sited closer to existing dwellings and trees would be removed;
- Query why it is necessary to build on this site when developments elsewhere in the town have already been approved;
- The dwellings would not be in keeping with the rest of the estate.

## REPORT

### Principle of Development

National planning policy set out in the National Planning Policy Framework (NPPF), which is a material consideration in determining applications, states that housing applications should be considered in the context of a presumption in favour of sustainable development. Local planning authorities should seek to deliver a wide choice of quality homes and plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community.

Policy CS7 states that future development will be provided in accessible locations to reduce the need to travel.

In this case the site is located outside of the Town Development Boundary as defined in the adopted Local Plan Review (2005). At the time of writing, the situation is that the Council does not have a deliverable 5 year supply of land for housing "...that meets the full objectively assessed needs for market and affordable housing", together with an additional buffer of 5%, as required under paragraph 47 the National Planning Policy Framework (NPPF). The Council's view as at 28 September 2016 is that the current forecast supply for the period 2016-2021 is 4.25 years and for the period 2017-2022 is 4.25 years. However, this is currently being updated and details of the latest position can be provided at the Committee meeting.

In the absence of a five-year supply of housing, policies CS5 and RLP2, which seek to restrict new development to areas within Town Development Boundaries and Village Envelopes, are "out of date" by virtue of paragraph 49 NPPF. The NPPF does not set the weight to be afforded to a conflict with policies of the development plan in circumstances where they are out of date. Weight is for the decision taker. The first two considerations in considering the appropriate weight are to consider the degree of the shortfall and the steps being taken to meet that shortfall.

The Council is seeking to address the shortfall in housing supply. A draft Local Plan has been prepared and has been subject to public consultation. It is

proposed to submit the plan to the Secretary of State in Spring 2017. Within this plan it is proposed to allocate the site for residential development. As set out above, it is considered that some weight can be given to the draft Local Plan. Whilst it is acknowledged that the plan has not been subject to public examination, it has been subject to public consultation and it clearly sets out the Council's approach to the delivery of housing. This includes the allocation of this site. The Planning Policy team has advised that no objections were received to the proposed inset map which shows the allocation during the public consultation on the Draft Local Plan which took place in the summer. On this basis there do not appear to be any unresolved objections to the proposed inset map.

It is also necessary to consider the proposal having regard to the NPPF in terms of sustainable development and to assess whether there are any other material planning considerations and benefits arising from the proposed development that are outweighed by any identified adverse impacts of the proposed development. The NPPF advocates a presumption in favour of sustainable development. It states that this means that where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

- 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; or
- specific policies in this Framework indicate development should be restricted.

As set out in the NPPF there are three dimensions to sustainable development – an economic role, a social role and an environmental role. These roles should not be considered in isolation, because they are mutually dependant. The proposal would deliver some economic benefits. New jobs would be created at the construction stage (although this would not be a long term benefit) and new residents are likely to support existing facilities and businesses. The proposal would fulfil a social role by contributing to the support and vitality of the town. It would also contribute to the supply of housing, delivering a mix of housing, including market and affordable housing and an area of public open space. Financial contributions would also be secured through a S106 Agreement to enhance and improve public open space. Furthermore, the site is located in a sustainable location and within walking distance of facilities, amenities and public transport links. Although the site lies on a hillside and will be prominent when viewed from Cherry Tree Close, it benefits from natural boundaries which contain the site and therefore its impact on the wider landscape setting, with care will be negligible. The proposal would not have an adverse impact upon the natural environment. It is considered that the proposal represents a sustainable form of development in terms of the NPPF.

Having regard to the absence of a 5 year housing land supply, the strategy for the delivery of new homes, the proposed allocation within the draft Local Plan,

and the sustainable form of development, Officers consider that the principle of this proposal is acceptable.

Whilst the principle of this proposal is considered acceptable, Policy RLP3 of the Local Plan Review also states that new development should satisfy amenity, design, environmental and highway criteria and is subject to compliance with other relevant planning policies. These issues are discussed below.

### Design and Layout

Both the NPPF and Planning Practice Guidance refer to the importance of good design. Policy CS 9 of the Core Strategy states that the Council will promote and secure the highest possible standards of design and layout in all new development. Policies RLP 3, 10 and 90 of the Local Plan Review seek to ensure that new development relates well to the site and surrounding development in terms of layout, density and design.

With regard to amenity space, guidance set out in the Essex Design Guide indicates that dwellings with two bedrooms should be provided with a minimum of 50sqm private rear garden space and dwellings with three or more bedrooms should be provided with a minimum of 100sqm.

The submitted plans demonstrate that the site can accommodate the number of dwellings proposed whilst also meeting garden size and parking requirements. The majority of the dwellings would be positioned around an area of public amenity space, whilst the dwellings on the southern side of the site would provide a relationship with existing dwellings in Cherry Tree Close, rather than the development appearing insular. The public open space would provide a usable area of amenity space, a pleasant outlook and adequate separation from the existing development. Below the open space would be a surface water attenuation tank.

The design of the dwellings is considered acceptable and would not have an adverse impact upon the character of the surrounding area. Detailed matters such as external materials, window/door design, boundary enclosures etc can be dealt with by condition.

The topography of the site is such that earth will need to be removed from the upper part of the site and the dwellings on the eastern side would have terraced gardens. This would avoid the need for large retaining walls through the use of smaller retaining walls and is not an uncommon situation on sloping sites. Details of existing and proposed ground levels have been provided. New planting within the site is proposed; details of this can be secured through a landscaping condition.

### Impact on Neighbouring Amenity and the Wider Landscape

A study prepared as part of the evidence base for the Draft Local Plan considers the character of the landscape around Halstead and its ability to

absorb new development. The site forms the southernmost part of a parcel of land which comprises a stream valley adjacent to the north eastern fringes of the existing settlement (referred to as Star Stile Stream) in the 'Braintree District Settlement Fringes - Evaluation of Landscape Analysis Study of Halstead' (June 2015).

The Study identifies the parcel as a whole as having a strong landscape character and low landscape capacity. It indicates that sensitivity increases within central parts due the presence of a continuous thread of semi-natural vegetation that lines the minor tributary stream, contributing to an intimate, tranquil and remote character. In this case, the site forms the very edge of the parcel which is adjacent existing residential development, covered by scrub, enclosed to the boundaries by vegetation and not visible from the wider landscape due to the topography of the site. The land to the north within the same parcel is quite different in character, being defined by mature trees and hedgerows which line the margins of the valley, providing definition to the farmland landscape beyond, as stated in the Study. The Study recognises the existing residential development on the valley floor at Cherry Tree Close which truncates the Parcel. It also acknowledges that "views into the Parcel from the slopes to either side of the valley landscape are limited by the mature vegetation cover along the length of the stream valley, and the sunken nature of the valley floor itself". Officers consider that the proposal relates to a small, contained site of limited value within the wider setting and that development of this area of land would not have an unacceptable impact upon the landscape character of the north eastern edge of the town.

The NPPF states that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Policies RLP 3 and RLP 90 of the Local Plan Review seek to ensure that there is no undue or unacceptable impact on the amenity of any nearby residential properties.

It is acknowledged that the outlook from existing dwellings would change. However, the dwellings would be sited sufficient a distance from neighbouring dwellings and are orientated so as not to give rise to unacceptable impacts in terms of overlooking, overbearing or loss of light.

Concerns have been raised in the letters of representation about impacts arising from the construction such as mud, noise, parking. Conditions can be imposed requiring a construction management plan and measures to protect neighbouring amenity during construction.

### Highway Issues

Policy RLP 3 of the Local Plan Review states that development will only be permitted where it satisfies, inter alia, highway criteria and where it can take place without material detriment to the existing character of the settlement. Policy RLP90 (viii) promotes safe and secure designs and layouts.

Policy RLP56 states that parking should be provided in accordance with the Council's adopted Parking Standards. These state that two off-road parking spaces should be provided for dwellings with two bedrooms or more and visitor spaces on the basis of 1 space per 4 dwellings should be provided. Each parking space should measure 5.5m x 2.9m and garages should have internal measurements of 3 x 7 metres.

Each dwelling would benefit from two off-road parking spaces. Some of these would be within a garage. Therefore it is proposed that a condition is included to ensure that the garages remain as such and cannot be converted to living accommodation. The submitted plans demonstrate that the parking spaces and garages would accord with the above size requirements. Six visitor spaces would be included; three on the northern side of the public open space and three on the southern side.

The proposal has been considered by the Highway Authority who has not raised an objection to the proposal subject to conditions to ensure a safe access is provided along with improvements to the footpaths.

Concerns have been raised about construction vehicles using the private drive. The granting of planning permission does not convey any rights to enter onto private land. Should this occur, this is a civil matter which would need to be resolved between the landowners.

### Flood Risk and Drainage

Paragraph 103 of the NPPF states that when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere. It states that priority should be given to the use of sustainable drainage systems.

Paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability.

A Ministerial Statement issued by The Secretary of State for Communities and Local Government on 18 Dec 2014 states that the Government's expectation is that sustainable drainage systems will be provided in new developments wherever this is appropriate. It states "To this effect, we expect local planning policies and decisions on planning applications relating to major development - developments of 10 dwellings or more; or equivalent non-residential or mixed development - to ensure that sustainable drainage systems for the management of run-off are put in place, unless demonstrated to be inappropriate. Under these arrangements, in considering planning applications, local planning authorities should consult the relevant lead local flood authority on the management of surface water; satisfy themselves that the proposed minimum standards of operation are appropriate and ensure through the use of planning conditions or planning obligations that there are

clear arrangements in place for ongoing maintenance over the lifetime of the development.

These changes took effect from 6 April 2015. It also states that for avoidance of doubt the statement should be read in conjunction with the policies in the National Planning Policy Framework. The statement should also be taken into account in the preparation of local and neighbourhood plans, and may be a material consideration in planning decisions.

The Planning Practice Guidance states that when considering major development the local planning authority should consult the lead local flood authority.

Policy RLP 69 of the Local Plan Review states that where appropriate, the District Council will require developers to use sustainable drainage techniques. Policy RLP 71 states that planning permission will not be given where there is inadequate water supply, sewerage or land drainage systems available to meet the anticipated demands of the development, unless there is an agreed phasing arrangement between the developer and the relevant service provider, for the provision of the necessary infrastructure.

Current guidance states that surface water run-off should be controlled as near to its source as possible through a sustainable approach to surface water management. Sustainable Drainage Systems (SuDS) is an approach to managing surface water run-off by mimicking natural drainage systems and managing surface water at the source rather than allowing it to freely discharge through traditional piped systems. The NPPF and the Lead Local Flood Authority (Essex County Council) also require that the effect of climate change over the next 100 years be considered in any assessment of flood risk for developments. When considering the impacts of climate change on rainfall intensity, NPPF advises that when designing surface water drainage systems for developments allowance of 30% for climate change should be included.

In this case the site falls within Flood Zone 1 (lowest risk of flooding) on the Environment Agency's flood risk maps. The greatest concern with this application is the management of surface water run-off in order to ensure that the development does not increase the risk of flooding on site or elsewhere. This issue has been raised in several of the letters of representation and is clearly a valid concern for local residents.

The Lead Local Flood Authority (LLFA) became a statutory consultee on planning applications from 15<sup>th</sup> April 2015. The LLFA initially raised an objection due to the submitted Flood Risk Assessment not assessing all relevant issues. However further information in the form of a revised Flood Risk Assessment was submitted by the application to address these concerns. The LLFA has reviewed this information and advised that it does not object to the granting of planning permission, subject to the measures detailed in the Flood Risk Assessment being implemented and also subject to a number of recommended conditions.

The submitted Flood Risk Assessment indicates that ground conditions preclude the use of infiltration techniques for the disposal of surface water into the ground. Infiltration tests were carried out across the site but the water table was close to the surface and the holes did not drain within 24 hours. Therefore the use of an attenuation tank for storage is proposed. This would be located beneath the Public Open Space within the site.

An outline strategy has been produced to demonstrate that a sustainable drainage system can be provided on this site. The constant fall across the site allows such a strategy to be implemented without significant difficulty.

The principles by which it is proposed the drainage system will operate are as follows:

- A conventional pipe system will be used to collect surface water from the highway and connections from the permeable paving under-drains and route it to an attenuation tank within the Public Open Space at the front of the site. The pipe system, including the storage tank, will be designed to accommodate a 1:100 year event, plus an additional allowance of 30% for possible future climate change.
- A flow control device limited to 1.0l/s will be fitted on the outlet from the tank which will ensure that post development flows replicate pre-development flows.
- Permeable paving will be used for all unadoptable roads, shared parking areas and residential driveways. It is possible to ensure that the surface water falling onto the private drives and parking areas is collected and stored until it is able to drain away.

An initial drainage strategy plan shows how the site will be designed to route and store surface water during events greater than 1:100 year (1% annual probability) event which cannot be taken into the adoptable system. It is acknowledged that the strategy was based on the initial layout for 24 dwellings and this will need to be updated. It is practicable to use routing of flows to the attenuation tank below the public open space as the primary method of dealing with flows resulting from failure of the adoptable system during events greater than 1:100 year return periods.

The FRA states that the proposed system will meet the criteria required under the NPPF for replication of existing runoff rates by attenuating surface water flows in an off-line attenuation tank. The site will be designed to restrict flow rates to replicate the predevelopment regime in accordance with the requirements of the NPPF. The proposed system of surface water management will ensure that there is no significant flood risk to downstream land owners.

As a result of the number of concerns that have been raised in the letters of representation about the increased risk of flooding, further clarification has been sought from the LLFA, details of which are included below.

The LLFA has requested a condition requiring the submission and approval of a detailed surface water drainage scheme prior to the commencement of development. This shall include an assessment of the hydrological and hydro geological context of the development. The scheme must ensure that the surface water run-off is restricted to the 1 in 1 greenfield rate calculated from the area served by the drainage network. It must also include attenuation storage for surface water run-off for the 1 in 100 inclusive of climate change storm event and urban creep. As indicated above, the strategy needs to be based on the revised layout for 20 no. dwellings.

The LLFA has also requested, by way of condition, further modelling of the watercourse adjacent to the western boundary of the site where the lowest level of kerb is below the flood level. Any appropriate mitigation measures should be applied following the results of the modelling. It may be the case that the finished floor levels of Plots 1, 2 and 3 will need to be raised. It should be demonstrated that all properties are safe from flooding in a 1 in 100 inclusive of climate change critical storm event.

The drainage scheme required by condition shall also include:

- Further investigation into whether any springs are present on site. Appropriate measures should be demonstrated if they are found to be present.
- Demonstration of suitable mitigation measures for any high groundwater levels found at the site.
- Investigation into whether there are any existing drainage/pipes on site. If any changes are proposed to any existing pipes/drainage, it must be ensured this will not increase flood risk on or off site.
- A drainage plan highlighting final exceedance and conveyance routes, location and sizing of storage features, discharge rates and outfall/s from the site.

The FRA indicates that the trial pits excavated as part of the soil investigation (undertaken in March during a wet period) encountered ground water at depths of 1.0m, 1.3m and 1.8m. This groundwater has to be dealt with during the construction phase of the development and it is important that any pathways down the hill are maintained after the construction of the properties. The main row of dwellings is on the higher part of the site where the water table was at 1.8m depth. Normal foundations would be at 1m so these should not interfere with the natural pathways towards the watercourse on the lower part of the site. However, it may be better to use a reinforced concrete raft foundation or else short bore piles and a suspended floor on the site to ensure the ground water does not affect the properties and the foundations do not dam the flow of water. The design of the foundations will be subject to detailed design by Structural Engineers and it may be prudent to include a perimeter footing drain to take any groundwater around the block of dwellings. An informative regarding the design of the foundations (which would be controlled by Building Regulations) can be included on the decision notice.

The FRA also states that there is a similar risk created by surface water falling on the higher part of the site and running down the hill past these dwellings. This water will need to be intercepted by a French drain constructed at the rear of the properties and taken around to the front and directed towards the drainage system.

The LLFA has requested conditions requesting suitable mitigation measures for any high groundwater levels found at the site and information as to how surface water and groundwater will be managed during construction.

The submitted Flood Risk Assessment concludes that it is possible to provide a foul and surface water drainage scheme that is fit for purpose in terms of use, and fully in accordance with the latest policies on Sustainable Drainage. It acknowledges that a detailed drainage design will be required and that this will be secured through a planning condition. The LLFA is satisfied that, in principle, an appropriate drainage strategy can be achieved. However a more detailed drainage strategy is required, including further modelling of the watercourse and demonstrating that suitable mitigation measures are put in place for any surface water flood risk as a result of this modelling.

With regard to sewerage, the Flood Risk Assessment indicates that there is a 225mm diameter foul sewer available on the adjacent residential development in Cherry Tree Close. The foul sewer drains southwards, parallel with the western boundary of the site. A gravity connection from the site is possible without the need to pump the flows. The developer would need to liaise with Anglian Water directly in terms of connecting to the system. Anglian Water has a responsibility to accept flows from the development and would therefore take the necessary steps to ensure that there is capacity. This is a matter for the statutory undertaker to ensure.

### Landscape & Ecology

A preliminary Arboricultural Report was submitted with the application which included an assessment of all of the trees on the site. This indicates that the better quality trees are a single large oak, two large ash and two groups of large alder. The remainder are either self-sown willow or smaller specimens.

A number of trees will need to be removed to facilitate the development but the majority of these are low quality. Specialist techniques will also be required in some parts of the site such as where the access is proposed, parking areas, and other hard surfaces where these would encroach over the root protection areas of trees in order to ensure their future retention. It will also be necessary to install tree protection barriers. The report indicates that a thorough Arboricultural Method Statement will need to be produced. Details of fencing specifications, special foundations, no dig surfacing, development procedures and site monitoring will be included in this document. Conditions are therefore proposed to ensure that an Arboricultural Method Statement and Tree Protection Plan are submitted and approved prior to the commencement of development, the details of which will need to be adhered to throughout the construction phase.

A preliminary ecology survey has been submitted with the application to assess the impact of the proposal on legally protected species. The survey found evidence of badgers being present on site. It also notes that the trees are sufficient size and age to provide roosts for bats and barn owls and that the hedges and scrub also provide a suitable habitat for breeding birds. The conditions are unsuitable for most types of reptiles. Clearly the site includes habitats which are suitable for use by protected species and evidence of these has been found. This does not prevent the site being developed but means that mitigation measures and/or a licence from Natural England may be required. This survey was undertaken a year ago and it is possible that, if planning permission is granted, construction may not commence for some time. It is therefore considered appropriate that an updated ecology survey, including any proposed mitigation measures, is carried out and submitted to the LPA for approval prior to the commencement of development.

A letter of representation notes that tree T48, shown for removal, is outside of the application site. During the course of this application the red line has been amended to include a slightly larger area of land along the southern boundary of the site which incorporates T48.

#### S106 Agreement

Paragraph 73 of the NPPF states that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision.

Policy CS10 of the Core Strategy states that the Council will ensure that there is a good provision of high quality and accessible green space, including allotments and publicly accessible natural green space, to meet a wide range of recreation, outdoor sport and amenity needs in District.

The Council has adopted the Open Space Supplementary Planning Document (SPD) in accordance with Policy RLP 138 of the Local Plan Review. The SPD states that, in this case, a financial contribution in lieu of on-site provision is required for public open space.

The Council's Open Spaces Action Plan identifies a number of improvements required to existing public open spaces within the Ward. It is therefore considered that the Council is justified in seeking a financial contribution for the enhancement of public open space. The contribution required for each dwelling is based upon the number of bedrooms in each dwelling. In this case the contribution sought is £36,734.08.

Policy CS11 of the Core Strategy states that the Council will work with partners, including the development industry, to ensure that the infrastructure services and facilities required to provide for the future needs of the community are delivered. Infrastructure services and facilities could include

‘transport, health, education, utilities, policing, sport, leisure and cultural provision, and local community facilities’. When discussing housing growth in Halstead the Council’s Core Strategy further states that ‘The expansion of existing employment locations and community services will be supported’.

Policy CS2 states that affordable housing will be directly provided by the developer within housing schemes. 30% affordable housing provision is required on sites in urban areas. This is based on a threshold of 15 dwellings or 0.5ha. The District has a high level of need for affordable homes and therefore 6 affordable dwellings would be secured through a S106 Agreement.

It is noted that a number of concerns have been raised in the letters of representation about the impact of the proposed development upon the GP surgery and schools. The responsibility for these lies with NHS England and the Education Authority (Essex County Council) respectively. The scale of development falls below the threshold for contributions for the NHS and Essex County Council has advised that it will not be seeking a contribution towards schools in this case due to the restriction on pooling contributions. The District Council does not have any of its own data, nor has it been presented with any contrary data which could justify requiring additional contributions.

#### Other Matters

Policy RLP 94 of the Local Plan Review requires major development to make provision for public art.

In this case there is a good sized area of amenity space where a feature could be installed. A condition is recommended requiring an on-site feature to be provided.

#### CONCLUSION

The site is currently located outside (but adjacent) the Town Development Boundary, however the Council is proposing that this site is allocated for residential development in the draft Local Plan. Having regard to this, the absence of a five year housing land supply and the sustainability of the site, it is considered that the principle of this proposal is acceptable. Furthermore, having regard to Paragraph 14 of the NPPF, when assessing the planning balance, it is not considered that the proposal would give rise to any adverse impacts which would significantly and demonstrably outweigh the benefits of this proposal, when assessed against the policies in the NPPF when taken as a whole or that there are specific policies in the NPPF that indicate that development should be restricted.

The submitted plans demonstrate that the site can accommodate the proposed number of dwellings along with a suitable access, the required garden sizes, parking and surface water attenuation. The site is enclosed by natural boundaries and would not have an adverse impact upon the wider landscape. The design of the dwellings is considered acceptable and detailed

matters such as external materials, enclosures, additional landscaping etc. can be controlled by condition.

### RECOMMENDATION

It is RECOMMENDED that subject to the applicant entering into a suitable legal agreement pursuant to S106 of the Town and Country Planning Act 1990 (as amended) within one calendar month of this resolution (or any mutually agreed later date) to cover a financial contribution towards public open space that the Development Manager be authorised to GRANT planning permission under delegated powers subject to the conditions and reasons set out below. Alternatively, in the event that a suitable planning obligation is not agreed by the aforementioned date the Development Manager may use her delegated authority to refuse the application on the basis of the failure to make provisions in accordance with the relevant policies.

### APPROVED PLANS

Location Plan	Plan Ref: 12-095-001	Version: B
Block Plan	Plan Ref: 12-095-200	Version: M
Floor Plan	Plan Ref: 12-095-201	Version: C
Street elevation	Plan Ref: 12-095-202	Version: A
Street elevation	Plan Ref: 12-095-203	Version: B
Street elevation	Plan Ref: 12-095-204	Version: B
Street elevation	Plan Ref: 12-095-205	Version: B
Street elevation	Plan Ref: 12-095-206	Version: B
Section	Plan Ref: 12-095-207	Version: C

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

#### Reason

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

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

#### Reason

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

- 3 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting that Order) no enlargement of the dwelling-house as permitted by Class A, B and D 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 in the interests of residential and visual amenity.

- 4 The garages and car parking spaces shown on the approved plans listed shall be kept available for the parking of motor vehicles at all times. The garages shall not be used for living accommodation. The garages/car parking spaces shall be used solely for the benefit of the occupants of the dwelling of which it forms part, and their visitors, and for no other purpose and permanently retained as such thereafter.

Reason

To ensure adequate parking is provided within the site in accordance with the Parking Standards adopted by the local planning authority.

- 5 Construction of any buildings shall not be commenced until samples of the materials to be used on the external surfaces have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved samples.

Reason

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

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

Reason

In the interests of visual amenity.

- 7 Prior to installation, details of all windows and doors shall be submitted to and approved in writing by the local planning authority. Development shall be implemented in accordance with the approved details

Reason

In the interests of visual amenity.

- 8 Prior to the occupation of the development hereby approved a scheme of landscaping shall be submitted to and approved in writing by the local planning authority. The scheme shall incorporate a detailed specification including plant/tree types and sizes, plant numbers and distances, soil specification, seeding and turfing treatment where appropriate.

All planting, seeding or turfing contained in the approved details of the landscaping scheme shall be carried out in the first planting and seeding seasons after the commencement of the development unless otherwise previously agreed in writing by the local planning authority.

Any trees or plants which die, are removed, or become seriously damaged, or diseased within a period of 5 years from the completion of the development shall be replaced in the next planting season with others of a similar size and species unless the local planning authority gives written consent to any variation.

Reason

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

- 9 No development shall commence until details of hard landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
- Earthworks showing existing and proposed finished levels or contours;
  - Details of any retaining structures and hard landscaping such as steps within rear gardens;
  - Other vehicle and pedestrian access and circulation areas;
  - Colour and type of material for all hard surface areas and method of laying;
  - Proposed and existing functional services above and below ground [e.g. drainage, power, communications cables, pipelines etc. indicating alignments, levels, access points, supports as relevant];

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied.

All areas of hardstanding which do not form part of the adoptable highway shall be constructed using porous materials laid on a permeable base unless otherwise agreed in writing by the local planning authority.

Reason

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

- 10 Development shall not be commenced until an updated Arboricultural Report, Arboricultural Method Statement and Tree Protection Plan have been submitted and approved in writing by the local planning authority.

The report shall include:

- A detailed survey plan drawn to an adequate scale indicating the height, girth, spread, species and exact location of all existing trees, shrubs and hedges on the site and on land adjacent to the site (including street trees) that could influence or be affected by the development, indicating which trees are to be removed and which are to be retained;
- A schedule in relation to every tree identified listing details of any proposed pruning, felling or other work;

- Service routing and specifications;
- Details of any proposed alterations to existing ground levels, and of the position of any proposed excavation, that might affect the root protection area;
- Suitable space for site storage and other construction related facilities.

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

The information shall also include details of the means of protecting all of the existing trees, shrubs and hedges to be retained on the site from damage during the carrying out of the development. The approved means of protection shall be installed prior to the commencement of any building, engineering works or other activities on the site and shall remain in place until after the completion of the development to the complete satisfaction of the local planning authority.

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 unless the express consent in writing of the local planning authority has previously been obtained. No machinery of any kind shall be used or operated within the extent of the spread of the existing trees, shrubs, hedges.

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

#### Reason

These details are required prior to the commencement of development in order to identify which trees are to be removed and retained and to ensure that the retained trees are protected from damage during construction works.

- 11 Before the development is first occupied a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas and the public open space, shall be submitted to and approved in writing by the local planning authority. The landscape management plan shall be carried out as approved.

Reason

To ensure the long term maintenance and management of areas of public open space.

- 12 Development shall not be commenced until a survey of the application site has been carried out to establish the presence of any protected species or any other ecological implications which could be affected by the proposed development. Details of the methodology, findings and conclusions of the survey shall be submitted to the local planning authority within one month of the completion of the survey.

Should the results of the survey indicate that protected species are present within the application site, then details of the following shall be submitted to and approved in writing by the local planning authority prior to the commencement of the development:-

- (a) a scheme of mitigation/compensation works, including a method statement, to minimise the adverse effects of the development on protected species;
- (b) a scheme of translocation to be submitted if necessary;
- (c) a programme of timings for the works referred to in a) above.

Mitigation/compensation works shall be carried out in accordance with the scheme and programme approved in accordance with the above.

Where protected species are not present, details of the means of enhancing biodiversity of the site by mitigation / compensation works to include a method statement shall be submitted to and approved in writing prior to the commencement of development.

Reason

To safeguard any protect protected species that could be present on the site when construction commences and to ensure all impacts resulting from development are taken into account and mitigated. It will be necessary for this information to be supplied and agreed prior to the commencement of site clearance or development otherwise there would be a danger that valuable habitats used by protected species could be removed or irrevocably damaged.

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

Reason

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

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

Reason

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

- 15 No burning of refuse, waste materials or vegetation shall be undertaken in connection with the site clearance or construction of the development.

Reason

To protect the amenities of the occupiers of nearby residential properties and the surrounding area.

- 16 No site clearance, demolition or construction work shall take place on the site, including starting of machinery and delivery of materials, outside the following times:-

Monday to Friday 0800 hours - 1800 hours

Saturday 0800 hours - 1300 hours

Sundays, Public and Bank Holidays - no work

Reason

To protect the amenities of the occupiers of nearby residential properties and the surrounding area.

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

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

- and construction works;
- Details of how the approved Plan will be implemented and adhered to, including contact details for individuals responsible for ensuring compliance.

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

Reason

To protect the amenities of the occupiers of nearby residential properties and the surrounding area.

- 18 Prior to the first occupation of the development details shall be submitted to and approved in writing by the Local Planning Authority of an installation of public art to be displayed on the public open space within the development hereby approved. These details shall include, but not be limited to the design ethos, appearance, size and materials. The details as agreed shall be those implemented on site within one month of the occupation of the first dwelling and thereafter retained and maintained in the approved form.

Reason

To enhance the appearance of the development, in accordance with Policy RLP94 of the Local Plan Review.

- 19 Development shall not be commenced until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall include but not be limited to:

1. Surface water run-off restricted to the 1 in 1 greenfield rate calculated from the area served by the drainage network. The run-off should be a minimum of 1 l/s.
2. Attenuation storage for the 1 in 100 inclusive of climate change storm event and urban creep.
3. An appropriate amount of treatment in line with the CIRIA SuDS Manual C753.
4. Further modelling of the watercourse adjacent to the western boundary of the site. Any appropriate mitigation measures should be applied following the results of the modelling. It should be demonstrated that all properties are safe from flooding in a 1 in 100 inclusive of climate change critical storm event. This should include details of the finished floor levels for Plots 1, 2 and 3.
5. Demonstration of suitable mitigation measures for any high groundwater levels found at the site.
6. Further investigation into whether any springs are present on site. Appropriate measures should be demonstrated if they are found to be present.
7. Investigation into whether there are any existing drainage/pipes on

site. If any changes are proposed to any existing pipes/drainage, it must be ensured this will not increase flood risk on or off site.

8. A drainage plan highlighting final exceedance and conveyance routes, location and sizing of storage features, discharge rates and outfall/s from the site.

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

Reason

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

The details are required prior to the commencement of development as below ground investigations are required.

- 20 Development shall not be commenced until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works has been submitted to, and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason

Construction activities may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

- 21 Prior to first occupation a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, shall be submitted to and agreed in writing, by the Local Planning Authority. The surface water drainage system shall be permanently maintained in accordance with the approved details.

Reason

To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

- 22 The applicant or any successor in title must maintain yearly logs of

maintenance which should be carried out in accordance with the approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

Reason

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

- 23 Notwithstanding the approved plans listed above, prior to the commencement of development revised plans shall be submitted to and approved in writing by the Local Planning Authority to show the garage and parking space to plot 16 moved forward in order to prevent a third vehicle parking in front of the parking space and overhanging the footway. The development shall be carried out in accordance with the approved plans.

Reason

To protect highway efficiency of movement and safety in accordance with policy DM1 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011 and in the interests of visual amenity.

- 24 No occupation of the development shall take place until the following have been provided or completed in accordance with details submitted to and approved in writing by the local planning authority:
- a) A priority junction off Cherry Tree Close to provide access to the proposal site. The junction shall include but not be limited to a 5.5 metre wide carriageway, 1no. 2 metre wide footway, 2no. 6 metre kerbed radii with dropped kerbs/tactile paving and a 43 x 2.4 x 43 metre visibility splay.
  - b) A footway along the eastern side of Cherry Tree Close between existing footway to the northern and southern ends of the proposal site.

Reason

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

- 25 All vehicular hardstandings shall have minimum dimensions of 2.9 metres by 5.5 metres and all single garages shall have a minimum internal measurement of 7m x 3m.

Reason

To ensure adequate parking space is provided in accordance with the

Council's adopted Car Parking Standards.

- 26 Prior to the first occupation of each dwelling, the Developer shall be responsible for the provision of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator.

Reason

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

INFORMATION TO APPLICANT

- 1 Your attention is drawn to the need to discharge conditions before development starts where it is a requirement of the condition/s. Development will be treated as having been commenced when any material change of use or material operation has taken place, pursuant to Section 56 of the Town and Country Planning Act 1990. A material operation means any work of construction in the course of the erection of a building, including: the digging of a trench which is to contain the foundations, or part of the foundations of a building; the laying of any underground main or pipe to a trench, the foundations, or part of the foundations of a building; any operation in the course of laying out or constructing a road or any part of a road; and any work of demolition of a building. If development begins before the discharge of such conditions then those conditions cannot be discharged and a breach of planning control will have occurred, which may result in enforcement action being taken.
- 2 Please note that in accordance with Government Legislation a formal application must be made to the Local Planning Authority when submitting details in connection with the approval of details reserved by a condition. Furthermore, a fee of £28 for householder applications and £97 for all other types of application will be required for each written request. Application forms can be downloaded from the Council's web site [www.braintree.gov.uk](http://www.braintree.gov.uk)
- 3 You are advised that the granting of planning permission does not absolve you from complying with the relevant law regarding protected species, including obtaining and complying with the terms and conditions of any licenses required by Part IV B of the Circular 06/2005 (Biodiversity and Geological Conservation - Statutory Obligations).
- 4 All residential developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to the Advance Payments Code, Highways Act 1980. The developer will be served with an appropriate

notice within 6 weeks of building regulations approval being granted and prior to commencement of the development must provide guaranteed deposits, which will ensure the new street is constructed in accordance with a specification sufficient to ensure future maintenance as highway by the Highway Authority.

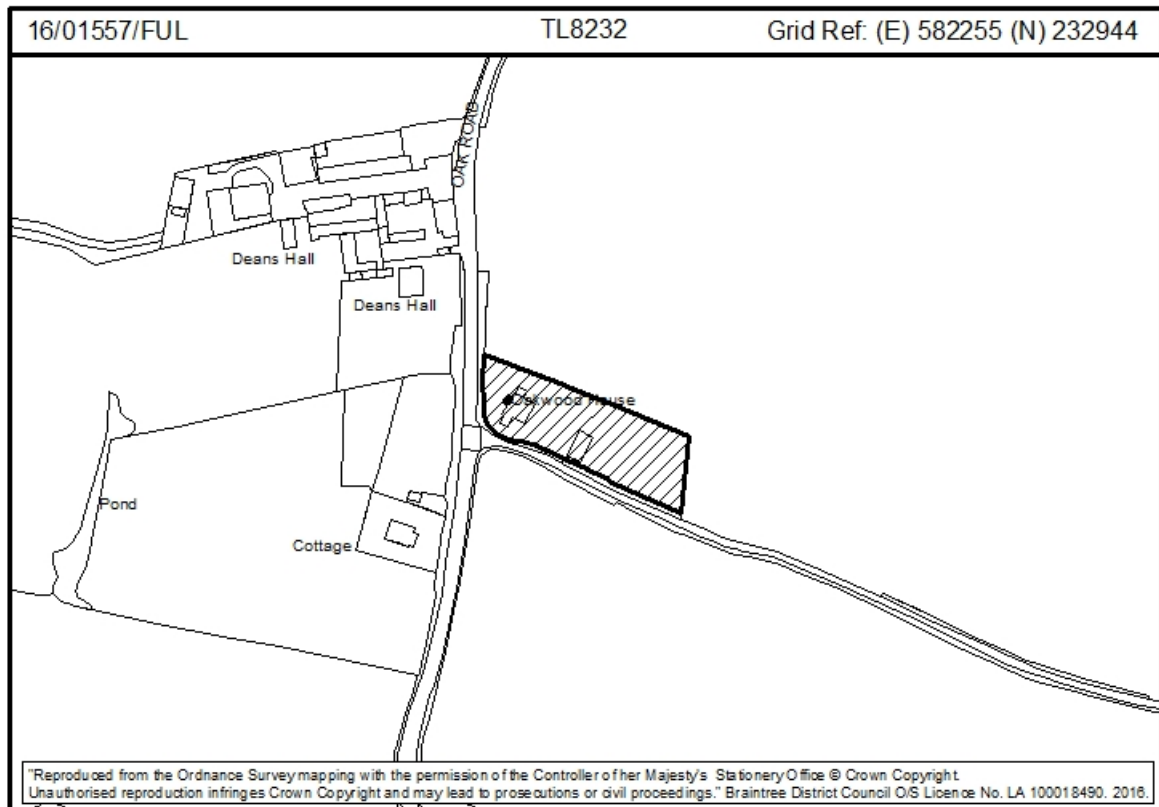
- 5 All works within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works. An application for the necessary works should be made to [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or SMO1 - Essex Highways, Colchester Highways Depot, 910 The Crescent, Colchester, CO4 9QQ.
- 6 When designing the foundations for the dwellings regard should be had to ground water levels. There may be a need to use a reinforced concrete raft foundation or else short bore piles and a suspended floor on the site to ensure the ground water does not affect the properties and the foundations do not dam the flow of water. The design of the foundations will be subject to detailed design by Structural Engineers and it may be prudent to include a perimeter footing drain to take any groundwater around the block of dwellings.
- 7 The developer is advised that Residential Travel Information Packs (as required by Condition 26) can be purchased from Essex County Council.

TESSA LAMBERT  
DEVELOPMENT MANAGER

PART B

APPLICATION NO: 16/01557/FUL  
 DATE: 13.09.16  
 VALID:  
 APPLICANT: Mr Everett Crack  
 Oakwood House, Oak Road, Little Maplestead, Essex, CO9 2RT  
 AGENT: Oswick Ltd  
 Mr George Edwards, 5/7 Head Street, Halstead, Essex, CO9 2AT  
 DESCRIPTION: Proposed works to modify the roof of the existing conservatory and extend the existing cart lodge  
 LOCATION: Oakwood House, Oak Road, Little Maplestead, Essex, CO9 2RT

For more information about this Application please contact:  
 Daniel White on:- 01376 551414 Ext. 2518  
 or by e-mail to: [daniel.white@braintree.gov.uk](mailto:daniel.white@braintree.gov.uk)



## SITE HISTORY

03/01702/COU	Erection of extension and alterations and change of use of land from agricultural to garden	Granted	05.12.03
04/00198/FUL	Demolition of existing cottage and garage and erection of replacement house and cart shed	Refused	17.03.04
04/01585/FUL	Erection of extension and alterations	Granted	28.09.04
07/00207/FUL	Erection of a timber framed conservatory	Granted	22.03.07

## POLICY CONSIDERATIONS

Currently the Council's development plan consists of the Braintree District Local Plan Review (2005) and the Core Strategy (2011).

The Council is currently working on a Draft Local Plan, which was approved by the Council unanimously for consultation on the 20<sup>th</sup> June 2016 and was the subject of public consultation between the 27<sup>th</sup> June and 19<sup>th</sup> August 2016.

In accordance with paragraph 216 of the NPPF, from the day of publication the Council can give weight to the emerging Draft Local Plan and the weight that can be given is related to:

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

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

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

Accordingly the Council can currently afford some weight to the emerging Draft Local Plan 2016.

It should also be noted that the Council was previously working on a Site Allocation and Development Management Plan (the ADMP). This plan was subject to extensive public consultation in 2013 and 2014. The ADMP was not however submitted to the Planning Inspectorate, due to the decision to begin work on a new Local Plan, to take into account the most up to date Government guidance. However parts of the ADMP have been rolled forward into the Draft Local Plan.

It is therefore considered that it would be consistent with the provisions in paragraph 216 of the NPPF, to afford more weight in decision making to the parts of the Draft Local Plan which have been rolled forward from the ADMP, due to the more advanced stage reached by those elements.

#### National Planning Guidance

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

#### Braintree District Local Development Framework Core Strategy

CS5            The Countryside  
CS9            Built and Historic Environment

#### Braintree District Local Plan Review

RLP2           Town Development Boundaries and Village Envelopes  
RLP18          Extensions to Existing Dwellings in the Countryside  
RLP90          Layout and Design of Development

#### INTRODUCTION

This application is brought before the Planning Committee due to a Council Member calling it in on the basis that the proposal is not contrary to Policy RLP18, contrary to the Officers recommendation.

#### SITE DESCRIPTION

The application site comprises a detached property situated on the corner of Oak Road and Pebmarsh Road. The dwelling faces onto the Oak Road frontage of the site. To the rear of the dwelling is a large gravelled driveway in front of the cart lodge with a large grassed area behind it. The site has two vehicular entrances off of Pebmarsh Road, one just in front of the cart lodge and the other behind the cart lodge.

#### PROPOSAL

The proposal comprises of two elements, the first is the modification of the existing conservatory roof on the south side of the dwelling. The second is the extension of the existing cart lodge.

The conservatory is attached to the south side of the main dwelling. The modification of the roof of the existing conservatory would involve the removal of the glazed panels that make up the conservatory roof, and them being replaced with zinc panels.

The existing cart lodge is situated to the rear of the site and is constructed from blackened featheredge weatherboard, with a hipped roof. The proposed

extension to the existing cart lodge would create a first floor workshop above the existing cart lodge. The materials proposed for the extension of the cart lodge would include blackened featheredge weatherboard, black timber framed windows, a new external oak door at first floor level, Redland Cambrian interlocking slates for the pitched roof together with two solar panels in between the skylights.

## CONSULTATIONS

Parish Council raised no comments or objection.

## REPRESENTATIONS

There were no representations received for the application.

## REPORT

### Principle of Development

The site lies beyond any defined settlement boundaries in an area where countryside policies apply.

Policy CS5 of the Braintree District Council Local Development Framework Core Strategy states that development outside town development boundaries and village envelopes will be strictly controlled to uses appropriate to the countryside in order to protect and enhance the landscape character and amenity of the countryside.

Policy CS9 of the Braintree District Council Local Development Framework Core Strategy states, inter-alia, that the council will promote and secure a good standard of design and layout in all new development.

Policy RLP 18 makes provision for extensions to dwellings in the countryside. It states that extensions to properties in the countryside will be required to be subordinate to the existing dwelling in terms of the siting, bulk, height, width and together with the materials proposed being in harmony with the countryside setting and compatible with the scale and character of the existing dwelling and the plot upon which it stands.

Policy RLP90 states inter-alia, that the Council seeks a good standard of layout and design in all developments, large and small, in the District. The scale, density, height and massing of buildings should reflect or enhance local distinctiveness together with the layout, height, mass and overall elevational design of buildings and developments shall be in harmony with the character and appearance of the surrounding area.

The proposed modification to the roof of the existing conservatory and the extension to the existing cart lodge would be acceptable in principle, subject to compliance with the above mentioned policies and all other considerations.

## Design, Appearance and Layout

The first part of the proposal is for the modification of the roof of the existing conservatory. The modification of the roof of the existing conservatory would involve the removal of the glazed panels that make up the roof, and them being replaced with a zinc finish. The style of the roof would be almost identical to the existing with the exception of the change in direction of the glazing bars from vertical to horizontal and the roof would be finished in zinc rather than glass panels. There is no objection to the proposed alterations to the conservatory.

The second part of the proposal is for the extension of the existing cart lodge. The existing cart lodge is situated 21.5m away from the main dwelling in the garden area of the site. The existing cart lodge consists of a double garage with large roller shutter doors on the front elevation and two windows on the rear elevation. There is also a smaller section on the side of the cart lodge that is currently used as a workshop with a door on the front elevation and a window on the rear. The cart lodge itself is 4.7m in height in the double garage section and 4.2m in height in the workshop section. The cart lodge is constructed using a brick plinth for the base, with black feather edged weatherboarding on all of the elevations, with red interlocking plain tiles for the roof. The siting, height and materials used in the existing cart lodge make it appear subordinate in the countryside setting and is barely visible from the road due to the hedges that run along the boundary of the site. At present the cart lodge is a well-designed building with appropriate proportions and of a scale which reflects its nature as an outbuilding.

The proposed extension to the cart lodge would be take place over the double garage area of the existing cart lodge. The roof of the proposed extension would be 5.89m in height, 1.19m higher than the existing cart lodge that would make the cart lodge visible from the road that runs beside the site and insubordinate in the countryside location. On the North Western elevation of the proposed cart lodge there would be the addition of a domestic looking door at first floor level, with two three paned windows either side of it, all of which would be visible from the road. On the South Western Elevation of the proposed cart lodge there would also be a small window inserted, this would also be visible from the road, due to the height of the extension. The North Eastern elevation would have no windows inserted into it. The South Eastern elevation would have two three paned windows inserted, that would match the existing windows.

All elevations of the proposed extension would be finished in blackened feather edge weatherboarding to match the existing cart lodge and the windows would match those of the existing on the cart lodge. The roof of the proposed extension would be a pitched roof with two roof lights inserted into the North Western elevation, with solar panels in the middle, and finished in Redlands Cambrian interlocking slates, which would introduce a new material to the limited palate of materials used in the construction of the existing cart lodge.

It is considered that the changes to the cart lodge would result in a building which would be of a large scale and bulk, with poor proportions and a poor relationship to the existing single storey element of the cart lodge. The resultant building, due to its disproportions, would result in the building appearing top heavy. The existing single storey element has a steep pitch and half hipped roof and the proposed roof of the extension would have a very slack pitch (15°) which would sit uncomfortably with the single storey element.

The alterations to the fenestration due to the number and design of the windows would result in the cart lodge appearing overly domestic and not in keeping with the nature of an outbuilding in the countryside setting.

The proposal would also result in the loss of character of the outbuilding and would fundamentally alter its appearance from a subordinate ancillary outbuilding to a prominent overly domestic looking building, which fails to draw on or respect the characteristics of the scale, form and appearance of the host property.

It is considered that whilst the modification of the roof of the existing conservatory would be acceptable. However, the extension of the existing cart lodge would result in an overly large, poorly designed, prominent building which would not be subordinate to the main dwelling and would be detrimental to the countryside setting, contrary to the aforementioned policies set out above. It is therefore recommended that planning permission is refused.

It is noted that the Case Officer did liaise with the agent during the course of this application to achieve a design that worked for both the applicant's requirements, together with the countryside setting, however this was unsuccessful.

#### Impact on Neighbour Amenity

In this case it is not considered that the proposal would have a detrimental impact upon neighbouring residential amenity in terms of loss of natural light, overshadowing, overbearing or in terms of overlooking.

#### Highway Issues

It is considered that there would not be any highway implications associated with this application, as the proposal would not have an impact on the level of parking on site and no changes to the existing accesses are proposed.

#### CONCLUSION

It is considered that the modification of the roof of the existing conservatory would be acceptable. However, the extension of the existing cart lodge would result in an overly large, poorly designed, prominent building which would not be subordinate to the main dwelling and would be detrimental to the countryside setting, contrary to the aforementioned policies set out above. It is therefore recommended that planning permission is refused.

## RECOMMENDATION

It is RECOMMENDED that the following decision be made:  
Application REFUSED for the following reasons:-

- 1 The site is located in an area where countryside policies apply. Policy CS5 of the Council's Core Strategy seeks to control new development in the countryside in order to protect and enhance the landscape character and amenity of the countryside. Policy CS9 also states that development must have regard to the character of the landscape and its sensitivity to change. Policies RLP 18 and RLP 90 of the Braintree District Local Plan Review state that the design of new development shall be compatible with the scale and character of the existing dwelling and be in harmony with the character and appearance of the surrounding area, including the countryside setting.

In this case it is considered that the proposed works to modify the roof of the existing cart lodge, by virtue of its height, design and materials proposed would result in an overly domestic appearance which would detract from the character of the outbuilding and its visual appearance as a subordinate ancillary outbuilding. Furthermore, as a result of the scale and siting, it would result in a large and prominent building which would be detrimental to the character and appearance of the countryside setting. For these reasons the proposal fails to accord with the abovementioned policies.

## SUBMITTED PLANS

General Plans & Elevations  
General Plans & Elevations

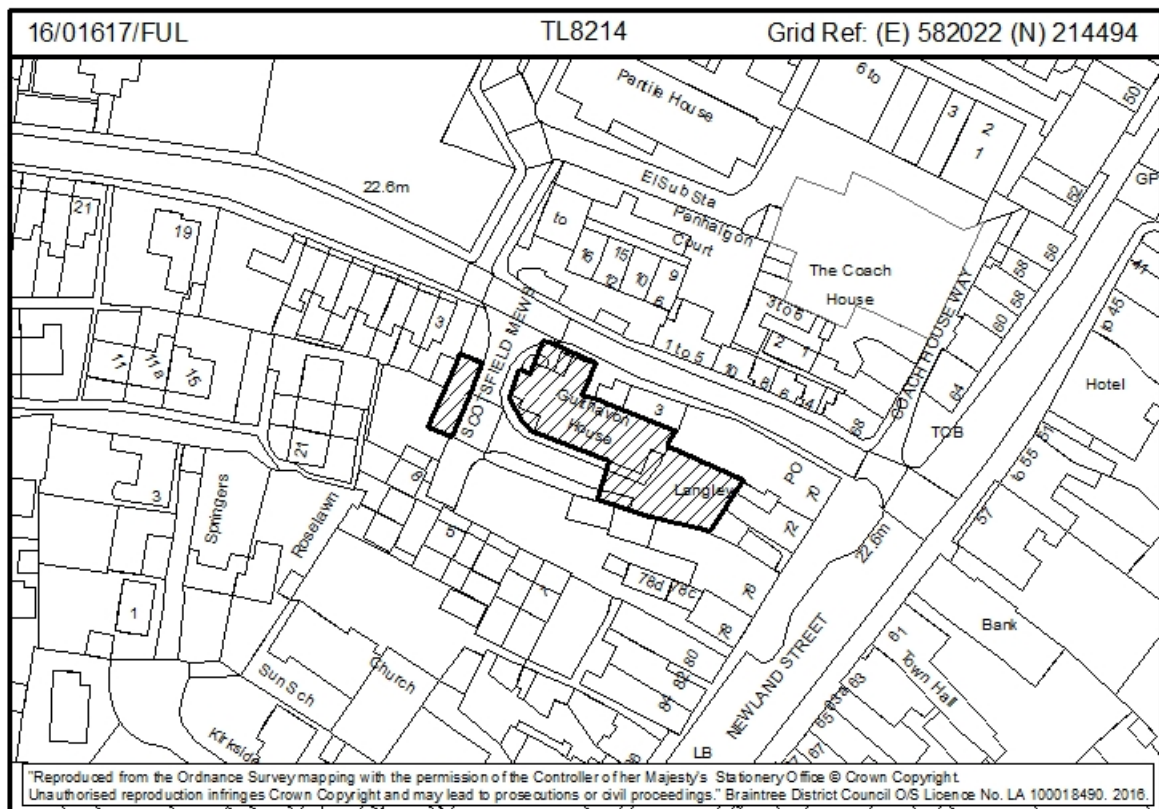
Plan Ref: 16-226-AS-1  
Plan Ref: 16-226-AS-2

TESSA LAMBERT  
DEVELOPMENT MANAGER

PART B

APPLICATION 16/01617/FUL DATE 22.09.16  
 NO: VALID:  
 APPLICANT: Hatton Garden Properties  
 Third Floor, 9 White Lion Street, London, N1 9PD  
 AGENT: Laurie Wood Associates Ltd  
 Mr Jonathan Green, The Studio, New Barn, Church Road,  
 Peldon, Colchester, Essex, CO5 7PS  
 DESCRIPTION: Proposed works to the building exterior and external works  
 necessary for the conversion of the existing offices into 9no.  
 flats (planning permission 16/00753/COUPA refers)  
 LOCATION: Guithavon House, Guithavon Street, Witham, Essex, CM8  
 1YB

For more information about this Application please contact:  
 Mathew Wilde on:- 01376 551414 Ext. 2512  
 or by e-mail to: [mathew.wilde@braintree.gov.uk](mailto:mathew.wilde@braintree.gov.uk)



## SITE HISTORY

16/00753/COUPA	Prior approval for change of use of office to flats	Prior Approval Required and Given	24.06.16
16/00753/COUPA	Prior approval for change of use of office to flats	Prior Approval Required and Given	24.06.16
91/00077/PFWS	Installation Of Three Internally Illuminated Signs And One Non Illuminated Sign	Refused	13.02.91
04/02499/FUL	Proposed new handrails to front elevation for disabled access	Granted	08.02.05
16/00753/COUPA	Prior approval for change of use of office to flats	Prior Approval Required and Given	24.06.16

## POLICY CONSIDERATIONS

Currently the Council's development plan consists of the Braintree District Local Plan Review (2005) and the Core Strategy (2011).

The Council is currently working on a Draft Local Plan, which was approved by the Council unanimously for consultation on the 20<sup>th</sup> June 2016 and was the subject of public consultation between the 27<sup>th</sup> June and 19<sup>th</sup> August 2016.

In accordance with paragraph 216 of the NPPF, from the day of publication the Council can give weight to the emerging Draft Local Plan and the weight that can be given is related to:

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

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

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

Accordingly the Council can currently afford some weight to the emerging Draft Local Plan 2016.

It should also be noted that the Council was previously working on a Site Allocation and Development Management Plan (the ADMP). This plan was subject to extensive public consultation in 2013 and 2014. The ADMP was not however submitted to the Planning Inspectorate, due to the decision to begin work on a new Local Plan, to take into account the most up to date Government guidance. However parts of the ADMP have been rolled forward into the Draft Local Plan.

It is therefore considered that it would be consistent with the provisions in paragraph 216 of the NPPF, to afford more weight in decision making to the parts of the Draft Local Plan which have been rolled forward from the ADMP, due to the more advanced stage reached by those elements.

#### National Planning Guidance

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

#### Braintree District Local Development Framework Core Strategy

CS9            Built and Historic Environment

#### Braintree District Local Plan Review

RLP3            Development within Town Development Boundaries and Village Envelopes  
RLP17          Extensions and Alterations to Dwellings in Towns and Villages  
RLP90          Layout and Design of Development  
RLP95          Preservation and Enhancement of Conservation Areas  
RLP100        Alterations and Extensions and Changes of Use to Listed Buildings and their settings

#### Braintree District Draft Local Plan

SP1            Presumption in Favour of Sustainable Development  
LPP29        Residential Alterations, Extensions and Outbuildings within Development Boundaries  
LPP42        Built and Historic Environment  
LPP46        Layout and Design of Development  
LPP47        Preservation and Enhancement of Conservation Areas, and Demolition within Conservation Areas  
LPP50        Alterations, Extensions and Changes of Use to Heritage Assets and their Settings

#### INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is brought before the Planning Committee as Witham Town Council objected to the application contrary to the officer recommendation.

## SITE DESCRIPTION

The site relates to a former office on Guithavon Street in Witham. It falls within the boundary of the Witham Newland Street Conservation Area and is in close vicinity of 1 Guithavon Street and 3-17 Guithavon Street that are late eighteenth or early nineteenth century construction and are both listed Grade II. The rear of the site is accessed off of Scotsfield Mews.

## PROPOSAL

The application seeks permission for works to the exterior of Guithavon House following a grant of prior approval for the change of use from offices to 9 residential flats (application 16/00753/COUPA). Changes include the erection of a single storey infill extension to the front projecting bay, a new flat roofed entrance canopy, replacement of all existing windows with timber framed windows, certain window openings to be enlarged, four of which to include Juliet balconies, and replacement of existing doors and creation of new doorways.

## CONSULTATIONS

### Braintree District Council Environmental Health

Recommends that the applicant considers air emissions from adjacent commercial premises when designing new openings and vents on the Guithavon Street side. Outlines that existing commercial premises could lead to odour nuisance with sensitive receptors in the flats.

### Braintree District Council Engineers

Not aware of any surface water issues affecting the site.

### Braintree Operations Team

Outline that bulk bins will need to be purchased by a management company and allocated for an area of storage.

### Essex County Council Historic Buildings Consultant

No objection. The Historic Buildings Consultant (HBC) notes that the building makes a neutral contribution to the Conservation Area. The HBC outlines that the conversion requires the reconfiguration of many of the external apertures of the building, particularly those fronting onto Guithavon Street and the service road, in order to allow for the reconfiguration of the spaced internally. The HBC does not however believe that the revised elevation would result in harm to the character and appearance of the Conservation Area or the setting of the Listed Buildings. A preference was outlined for timber windows. The application has subsequently been amended from aluminium windows to timber windows in accordance with the Historic Buildings Consultant recommendation.

## Witham Town Council

Objected to the application on the grounds of no allocated parking.

## REPRESENTATIONS

None received.

## REPORT

### Principle of Development

The core theme behind the National Planning Policy Framework (NPPF) is the presumption in favour of sustainable development. In Paragraph 56, the NPPF highlights that good design is a key aspect of sustainable development. Paragraph 57 highlights that it is important to achieve high quality and inclusive design for all land and buildings. If a proposal fails to achieve good design, Paragraph 64 stipulates that permission should be refused where the design fails to improve the character and quality of an area. Moreover, Paragraph 133 stipulates that where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent.

In this location, as set out in Policies RLP3 and RLP90 of the Braintree District Local Plan Review, development will only be permitted where it satisfies amenity, design, and highway criteria and where it can take place without detriment to the existing character of the area, provided that there is no over development of the plot, the siting, bulk, form and materials of the extension are compatible with the original dwellings and among other issues, there should be no unacceptable adverse impact on the amenities of adjoining residential properties, including on privacy, overshadowing and loss of light.

The site has already been subject to a prior approval application (reference 16/00753/COUPA) which sought to change the use of the building from offices to 9 residential flats. In accordance Class O, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended 2016 no. 332), the Local Planning Authority were required to determine whether:

- The proposal complied with the criteria outlined in the aforementioned legislation
- If it required prior approval for matters relating to transport and highways impacts of the development, contamination risks on the site, flooding risks on the site, and impacts of noise from commercial premises on the intended occupiers of the development

The Local Planning Authority determined that the proposal would comply with the aforementioned criteria and also not require prior approval. Consequently, the principle of the change of use from offices to residential has already been

accepted through application 16/00753/COUPA. As such, the only aspect for consideration in this case is the proposed physical alterations to the building. Consequently, matters of odour, bins and parking cannot be reasonably considered under the remit of this planning application. As such, in accordance with the above policies the principle of physical alterations to the building in this case is acceptable, subject to matters of design and impact upon heritage assets.

#### Design, Appearance, Impact upon Setting of Listed Buildings and Conservation Area

Policy CS9 of the Braintree District Core Strategy states that the Council will promote and secure the highest possible standards of design and layout in all new development and the protection and enhancement of the historic environment in order to respect and respond to the local context, especially in the District's historic villages, where development affects the setting of historic or important buildings, Conservation Areas, and areas of highest archaeological and landscape sensitivity.

In addition, Policy RLP95 of the Local Plan states that the Council will preserve, and encourage the enhancement of, the character and appearance of the designated Conservation Areas and their settings, including inter alia the buildings and historic features and views into and within the constituent parts of designated areas. Proposals within Conservation Areas will only be permitted where the proposal does not detract from the character, appearance and essential features of the Conservation Area.

Furthermore, Policy RLP100 of the Local Plan states that development involving internal or external alterations, extensions and partial demolitions to a listed building and changes of use will only be permitted if the proposed works or uses do not harm the setting, character, structural stability and fabric of the building (or structure); and do not result in the loss of, or significant damage to the building or structure's historic and architectural elements of special importance, and include the use of appropriate materials and finishes. The Council will seek to preserve and enhance the settings of listed buildings by appropriate control over the development, design and use of adjoining land.

The existing building is of concrete framed construction with a palette of materials including brick and render. As outlined in the Conservation Area Appraisal, the building provides a neutral contribution to the Conservation Area. The proposed works include the reconfiguration of many of the external apertures of the building in order to allow for the reconfiguration of the space internally. This includes changing three independent windows to one larger window with a Juliet balcony on the North East elevation. This is also similar on the South West elevation where two gable windows have been replaced by larger windows with Juliet balconies. There would not however be any additional windows proposed on the building.

A change that occurred during the application process was the removal of proposed double glazed aluminium windows to double glazed timber framed windows. It is considered this would respond more appropriately to the historic context of the area. As such, in conjunction with the other minor changes proposed, it is considered the alterations would be acceptable.

Furthermore, the Historic Buildings Consultant outlines that the proposed alterations would not result in harm to the character and appearance of the Conservation Area, or the setting of Listed Buildings. As such, the proposal is also considered acceptable in this regard.

#### Impact on Neighbour Amenity

Policy RLP90 states that there should be no undue or unacceptable impact upon neighbouring residential amenity.

The application does not propose any additional windows but simply enlarges existing fenestration. It also only proposes a small infill porch extension at the front of the building. As such, it is considered that the proposal would not give rise to detrimental overlooking, overshadowing or overbearing for any neighbours to the site. As such it is considered the proposal is acceptable in this regard.

#### Highway Issues

The proposed physical alterations would not have an impact on the existing parking provision on the site. As such the proposal is acceptable in this regard.

#### CONCLUSION

The physical works would be acceptable in principle, incur minimal exterior changes and not have a detrimental impact on neighbouring amenity. It is therefore considered the proposal is acceptable.

#### RECOMMENDATION

It is RECOMMENDED that the following decision be made:  
Application GRANTED subject to the following conditions and reasons and in accordance with approved plans:-

#### APPROVED PLANS

Location Plan	
Proposed Floor Plan	Plan Ref: 236-07 A
Proposed Floor Plan	Plan Ref: 236-08 A
Proposed Roof Plan	Plan Ref: 236-09 A
Proposed Elevations	Plan Ref: 236-10 B
Proposed Elevations	Plan Ref: 236-11 A

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

Reason

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

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

Reason

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

- 3 The external materials and finishes shall be as indicated on the approved plans and/or submitted application form.

Reason

To ensure the use of appropriate detailing within the wider Conservation Area.

- 4 No site clearance, demolition or construction work shall take place on the site, including starting of machinery and delivery of materials, outside the following times:-

Monday to Friday 0800 hours - 1800 hours

Saturday 0800 hours - 1300 hours

Sundays, Public and Bank Holidays - no work

Reason

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

TESSA LAMBERT  
DEVELOPMENT MANAGER