

# PLANNING COMMITTEE AGENDA

**Tuesday, 13 April 2021 at 7.15pm**

In accordance with the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020, this meeting will be held via Zoom and by the Council's YouTube channel – Braintree District Council Committees.

Members of the public will be able to view and listen to this meeting via YouTube.

To access the meeting please use the link below:

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

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

**Membership:-**

Councillor J Abbott	Councillor Mrs I Parker (Vice Chairman)
Councillor K Bowers	Councillor F Ricci
Councillor T Cunningham	Councillor Mrs W Scattergood (Chairman)
Councillor P Horner	Councillor Mrs G Spray
Councillor H Johnson	Councillor N Unsworth
Councillor D Mann	Councillor J Wrench
Councillor A Munday	

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.

A WRIGHT  
Chief Executive

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

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

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

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

In response to the Coronavirus the Council has implemented procedures for public question time for its virtual meetings which are hosted via Zoom.

The Agenda allows for a period of up to 30 minutes for public question time.

Participation will be via the submission of a written question or statement which will be read out by an Officer or the Registered Speaker during the meeting. All written questions or statements should be concise and should be able to be read **within 3 minutes** allotted for each question/statement.

Members of the public wishing to participate 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) by midday on the working day before the day of the Committee meeting. For example, if the Committee meeting is due to be held on a Tuesday, the registration deadline is midday on Monday, (where there is a bank holiday Monday you will need to register by midday on the previous Friday).

The Council reserves the right to decline any requests to register for public question time if they are received after the registration deadline.

Upon registration members of the public may indicate whether they wish to read their question/statement or to request an Officer to read their question/statement on their behalf during the virtual meeting. Members of the public who wish to read their question/statement will be provided with a link to attend the meeting to participate at the appropriate part of the Agenda.

All registered speakers are required to submit their written questions/statements to the Council by no later than 9am on the day of the meeting by emailing them to [governance@braintree.gov.uk](mailto:governance@braintree.gov.uk). In the event that a registered speaker is unable to connect to the virtual meeting their question/statement will be read by an Officer.

Questions/statements received by the Council will be published on the Council's website. The Council reserves the right to remove any defamatory comment in the submitted questions/statements.

For the Planning Committee only, the order in which questions and statements will be read 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 for public question time and to amend the order in which questions/statements are presented to the Committee.

**Documents:** Agendas, Reports, Minutes and public question time questions and statement can be accessed via [www.braintree.gov.uk](http://www.braintree.gov.uk)

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

For further information on how the Council processes data, please see the Council's Privacy Policy. [https://www.braintree.gov.uk/info/200136/access\\_to\\_information/376/privacy\\_policy](https://www.braintree.gov.uk/info/200136/access_to_information/376/privacy_policy)

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)

## **PUBLIC SESSION**

## **Page**

### **1 Apologies for Absence**

### **2 Declarations of Interest**

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

### **3 Minutes of the Previous Meeting**

To approve as a correct record the Minutes of the meeting of the Planning Committee held on 30th March 2021 (copy to follow).

### **4 Public Question Time**

(See paragraph above)

### **5 Planning Applications**

To consider the following planning applications and to agree whether any 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>App. No. 19 02207 FUL - Land adjacent to Fairacres, 76 Church Lane, BRAINTREE</b>	<b>6 - 26</b>
<b>5b</b>	<b>App. No. 20 00161 VAR - Great Warley Hall, Ranks Green Road, FAIRSTEAD</b>	<b>27 - 37</b>
<b>5c</b>	<b>App. No. 20 01486 FUL - 95 Newland Street, WITHAM</b>	<b>38 - 61</b>
<b>5d</b>	<b>App. No. 20 01897 OUT - Rectory Meadow, BRADWELL</b>	<b>62 - 98</b>
<b>5e</b>	<b>App. No. 20 02203 REM - Canine Cottage, Nether Hill, GESTINGTHORPE</b>	<b>99 - 109</b>
<b>5f</b>	<b>App. No. 20 02231 FUL - Co-Op, 1-2 St Johns Terrace, Brook Street, GREAT BARDFIELD</b>	<b>110 - 124</b>

## **PART B**

Minor Planning Applications:-

<b>5g</b>	<b>App. No. 19 02092 HH - Ovington Hall, Church Lane, OVINGTON</b>	<b>125 - 138</b>
<b>5h</b>	<b>App. No. 19 02093 LBC - Ovington Hall, Church, Lane, OVINGTON</b>	<b>139 - 146</b>
<b>5i</b>	<b>App. No. 20 01737 HH - 52 Valentine Way, SILVER END</b>	<b>147 - 153</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.

#### **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**

### **7 Urgent Business - Private Session**

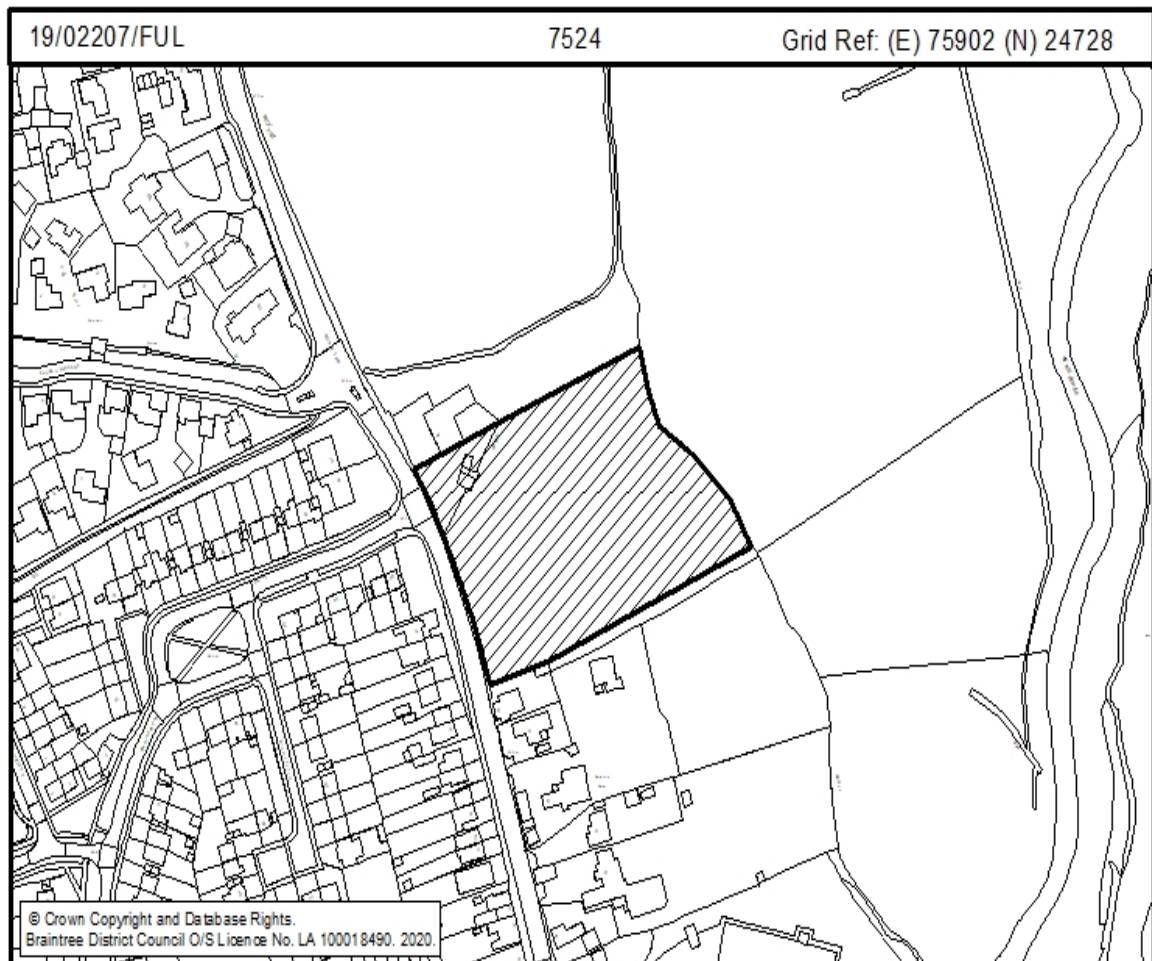
To consider any matter which, in the opinion of the Chairman, should be considered in private by reason of special circumstances (to be specified) as a matter of urgency.

PART A

AGENDA ITEM NUMBER 5a

APPLICATION NO: 19/02207/FUL      DATE: 17.12.19  
VALID:  
APPLICANT: 3 Conkers Ltd  
Land Adjacent To, 76 Church Lane, Braintree, CM7 5SD  
AGENT: Mr Richard Evans  
2 Grouts Farm Cottage, Kelvedon Road, Tolleshunt D'arcy,  
CM9 8EL  
DESCRIPTION: Erection of 14 No. residential dwelling houses.  
LOCATION: Land Adjacent To, Fairacres, 76 Church Lane, Braintree,  
Essex, CM7 5SD

For more information about this Application please contact:  
Sam Trafford on:- 01376 551414 Ext. 2520  
or by e-mail to: [sam.trafford@braintree.gov.uk](mailto:sam.trafford@braintree.gov.uk)



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=Q21RBKBFJQT00>

### SITE HISTORY

78/00977/P	Erection of three dwellings	Appeal Dismissed	22.08.79
78/01451/P	Demolition of existing house and erection of residential unit.	Appeal Dismissed	22.08.79
80/01572/P	Proposed extension	Granted	23.12.80
87/01048/P	Erection of single and two storey extension to side of dwelling.	Granted	16.07.87
88/00584/P	Residential Development (36 No 2 Bedroomed Flats - Two Storey)	Refused	18.05.88
07/01747/TPO	Notice of intent to carry out works to trees protected by Tree Preservation Order No. 2/78 A1 - Fell and lop 3 trees	Granted	02.10.07

### POLICY CONSIDERATIONS

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

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

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

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

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

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

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

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

#### National Planning Guidance

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

#### Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP9	Design and Layout of Housing and Mixed Use Areas
RLP10	Residential Density
RLP56	Vehicle Parking
RLP69	Sustainable Urban Drainage
RLP74	Provision of Space for Recycling
RLP80	Landscape Features and Habitats
RLP90	Layout and Design of Development
RLP95	Preservation and Enhancement of Conservation Areas
RLP105	Archaeological Evaluation
RLP106	Archaeological Excavation and Monitoring

#### Braintree District Local Development Framework Core Strategy 2011

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

#### Braintree District Shared Strategic Section 1 Local Plan (2021) & Draft Section 2 Local Plan (2017)

SP1	Presumption in Favour of Sustainable Development
SP6	Place Shaping Principles
LPP1	Development Boundaries
LPP17	Housing Provision and Delivery
LPP33	Affordable Housing
LPP37	Housing Type and Density
LPP45	Parking Provision
LPP50	Built and Historic Environment
LPP55	Layout and Design of Development
LPP60	Heritage Assets and their Settings



LPP63	Archaeological Evaluation, Excavation and Recording
LPP70	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP71	Landscape Character and Features
LPP80	Sustainable Urban Drainage Systems

#### Neighbourhood Plan

None

#### Other Material Considerations

Essex Design Guide

- Page 76 & 77 – Amenity Space
- Page 89 - 45° Rule & Overlooking
- Page 81 – 109 – Design

Essex Parking Standards

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

This application is being reported to Planning Committee in accordance with the transitional arrangements for the Council's new scheme of delegation at the request of the Chairman and Vice-Chairman of the Planning Committee.

#### DESCRIPTION OF THE SITE AND SITE CONTEXT

The application site consists an area of green space, between No.76 and No.58 Church Lane. The land is fronted by an area of protected trees, and provides views toward the open countryside to the rear from Church Lane. The application site is located outside of, but adjacent to, the designated settlement boundary of Braintree and Bocking.

The plot measures approximately 9148sq.m, and backs onto the River Blackwater and Flood Zone 3. The application site is situated between two residential properties on either side, and existing residential development to the opposite side of Church Lane.

#### PROPOSAL

The application seeks full planning permission for the development of the site for 14no. residential dwellinghouses, consisting 8 dwellings across the frontage of the site, and 6 dwellings to the rear, perpendicular to the highway.

The proposed dwellings would consist a mix of 6no. two bedroom dwellings, 6no. 4 bedroom dwellings, and 2no. 3 bedroom dwellings, including 4no. affordable units. There would be 6no. different house types throughout the development.

The dwellings would be served by two parking spaces per dwelling. The dwellings fronting Church Lane would have their parking spaces located perpendicular to Church Lane, in a parking court. The dwellings to the rear of the frontage would have their respective spaces set on driveways.

The proposal includes the provision of a new access onto Church Lane. The access would be located to the south side of the application site.

## SUMMARY OF CONSULTATION RESPONSES

### ECC SUDS

Following receipt of additional information relating to flooding, no objections are raised.

### ECC Highways

Requested further information related to visibility splays, which was subsequently submitted. Concern has since been raised that part of the visibility splay is within the front garden of No.58 Church Lane, which is not within the control of the applicants.

### BDC Ecology

No Objections subject to conditions related to securing ecological enhancements and a lighting strategy.

### BDC Landscapes

Notes the lack of the Tree Location Plan and Tree Protection Plan (Appendix 4 to the Preliminary Arboricultural Impact Assessment and Arboricultural Method Statement), however in any case raises concern in relation to pressures the development will cause to reduce the size of the retained trees for reasons of light, debris and concerns about safety.

### BDC Waste Services

Raises no Objections.

### Essex Police

Raises no Objections.

### Anglian Water

Raises no Objections subject to a condition.

### Natural England

Raises no Objections. Refers to HRA advice.

### ECC Historic Buildings Consultant

Identifies no harm to the significance or setting of nearby heritage assets.

### ECC Archaeology

No Objections subject to conditions.

### PARISH / TOWN COUNCIL

N/A

### REPRESENTATIONS

A site notice was displayed at the front of the site and neighbours were notified by letter. A total of 46 representations were received, raising objection to the application on the following grounds:

- Church Lane is a busy road and the proposal would contribute to traffic;
- Loss of views toward the rear of the site, including impacts to landscape value;
- Flooding issues due to proximity to River Blackwater;
- The site is outside the settlement boundary in the countryside;
- Development would harm the character, openness, and identity of the area;
- Reliance on the use of the private car, given no bus routes operate through Church Lane;
- Loss of wildlife;
- Impacts to protected trees to front of site;
- No pavements for pedestrians on the side of the road of the application site;
- Different to Polly's Field development, as this application proposes market housing with a small amount of affordable, which would not be as substantial a public benefit.

### REPORT

#### PRINCIPLE OF DEVELOPMENT

#### National Planning Policy Framework (NPPF) 2019

As set out in Paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 of the NPPF explains that achieving sustainable development means that the planning system has three overarching objectives: economic; social; and environmental; which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives).

Paragraph 9 of the NPPF outlines that planning decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area. In addition, paragraph 38 of the NPPF prescribes that local planning authorities should approach decisions on proposed development in a positive and creative way and that decision-makers at every level should seek to approve applications for sustainable development where possible.

Paragraph 12 of the NPPF sets out that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making. In addition, paragraph 47 of the NPPF states that planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

The NPPF underlines the Government's objective of significantly boosting the supply of homes. In this regard, paragraph 59 of the NPPF highlights the importance of ensuring that there is a sufficient amount and variety of land that can come forward where it is needed, that specific housing requirements are met, and that land with permission is developed without unnecessary delay. Paragraph 73 of the NPPF outlines that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against (in the case of Braintree District) our 'local housing need' plus the relevant buffer.

In this regard, and in considering the overall planning balance as to whether the proposed development subject to this application constitutes sustainable development, an important material consideration in this case is whether the Council can robustly demonstrate a 5 Year Housing Land Supply. This will affect whether Paragraph 11 of the NPPF is engaged and consequently the weight that can be attributed to the Development Plan.

### The Development Plan

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

The application site is located outside of a designated village envelope/town development boundary and as such is located on land designated as countryside in the Local Plan Review (2005) and the Core Strategy (2011).

Policy RLP2 of the Adopted Local Plan states that new development will be confined to areas within Town Development Boundaries and Village Envelopes. Outside these areas countryside policies will apply. Policy CS5 of the Core Strategy specifies that development outside Town Development Boundaries and Village Envelopes will be strictly controlled to uses appropriate within the countryside in order to protect and enhance the

landscape character and biodiversity, geodiversity and amenity of the countryside.

The application site is not proposed for allocation for development in the emerging Section 2 Plan. The proposed development is therefore contrary to the Section 2 Plan, in particular Policy LPP1 of the Section 2 Plan which states that outside development boundaries development will be strictly controlled to uses appropriate to the countryside.

The application site was put forward for inclusion in the revised development boundary as part of the call for sites in conjunction with the production of the new Local Plan, however the suggested inclusion of this site was rejected at the Local Plan Sub-Committee in May 2016, as it was considered that the application site would not represent a natural extension to the development boundary.

The proposed development is therefore considered to be contrary to the Development Plan and the emerging Draft Section 2 Plan.

#### 5 Year Housing Land Supply

The Council publishes a 5 year housing land trajectory as of 31st March each year, the most recent position therefore as of the 31st March 2020. Within this trajectory the Council considered that it had a 4.52 year supply of housing, based on a 20% buffer. However there have been a number of factors which the Council must now take into account since this trajectory was published which have an impact on the Council's 5 year housing land supply position.

At its full Council on the 22nd February 2021 Braintree District Council approved the adoption of the Section 1 Local Plan. On its adoption the Council must meet the housing target set out in the Local Plan. This is a minimum of 14,320 homes between 2013 - 2033 or an annual average of 716 new homes per year. This replaces the previous consideration of housing need based on the Standard Methodology.

The Housing Delivery Test (HDT) results were published in January 2021. Prior to the publication of this year's results, the Council was in the category of having to provide a 20% buffer to its Housing Land Supply. The new results (which include an allowance for the impact of the current pandemic) confirm that the Council no longer needs to apply a 20% buffer and can revert to the usual 5% buffer. This applies from the day of the publication of the results.

The housing land supply position has been considered in detail by several Planning Inspectors at recent public inquiries, most notably and in detail through a decision on a site in Rayne. In the conclusion to that appeal the Inspector notes that: *'In my judgement, based on the specific evidence before the Inquiry, the 4.52 years supply claimed by the Council appears to me to be optimistic and, although I do not consider it to be as low as the 3.72 years claimed by the appellants, it is somewhere between the two figures'*. Whilst

the Inspector therefore did not come to a firm conclusion on which the Council can base its current position, it is noted that she considered it somewhere between the two figures proposed. If we consider and accept the Inspector's finding within that inquiry in respect of four of the sites which the Council included within its trajectory, then this would remove 516 homes from the supply.

Given all of the evidence before it the Council considers that the current 5 year Housing Land Supply for the District is 3.73 years.

It should be noted, however, that it is approaching the end of the monitoring year and the Council will undertake a full review of the housing land supply position as at the 31st March 2021, which it will publish as soon as it is complete.

## SITE ASSESSMENT

### Location and Access to Services and Facilities

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

The application site is located outside of, but immediately adjacent to, the designated settlement boundary of Braintree and Bocking. The site is within walking distance to the Braintree College, a small parade of shops on Queens Road and several bus stops which connect the site to Great Notley, Braintree Town Centre, Halstead and Chelmsford. The town is nearby, approximately 1.65km from the site.

Although the site is located outside of the designated development boundary of Braintree and Bocking, the site is considered to be in a sustainable location in terms of its access to services and facilities and is thus capable of accommodating the number of units proposed in this regard.

### Design, Appearance and Layout

Paragraph 124 of the NPPF states that good design is a key aspect of sustainable development. Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Section 2 Plan require designs to recognise and reflect local distinctiveness in terms of scale, density, height and massing of buildings, and be sensitive to the need to conserve local features of architectural and historic importance, and also to ensure development affecting the public realm shall be of a high standard of design and materials, and use appropriate landscaping.

Policy CS5 of the Core Strategy states that outside development boundaries, development will be strictly controlled to uses appropriate in the countryside. Policy CS8 of the Core Strategy states that development must have regard to the character of the landscape and its sensitivity to change, and where development is permitted it will need to enhance the locally distinctive

character of the landscape in accordance with the Landscape Character Assessment.

Church Lane forms a key approach into Braintree, and towards the Conservation Area. The proposed development would result in the infilling of a key gap along Church Lane which provides visually prominent views toward the River Blackwater and to open landscape beyond the rear of the site, and which makes a significant positive contribution to the character and appearance of Church Lane.

Church Lane is strongly characterised by a single row of linear development which fronts the highway. To the western side of Church Lane a post war housing development is sited beyond, however to the eastern side, the location for the proposed development, the linear form provides a uniform character to the street, with the open countryside and river valley beyond to the east. The proposed development, which extends in depth in to the site and forming a small cul de sac would be in stark contrast to this defining character and would appear incongruous for this reason.

The proposed frontage to Church Lane, which would be particularly prominent in the street scene, proposes an expanse of car parking spaces which would create a poor relationship with the TPO group and the street scene. Some of the proposed dwellings are in close proximity to the protected trees and given their size and potential to cause overshadowing they may come under treat in the future for removal or extensive reduction.

The row of terraced dwellings, assumedly some of which would form the affordable units, do not form an appropriate response to the established character of Church Lane nor do they respect the character afforded to the site and wider street by the TPO group. The layout plan also indicates a bin collection point situated at the front of the site and amongst the TPO group. The bin store would be readily visible and an unattractive addition to the street scene. The siting of the communal bin store at the front of the site would not be necessary if the road and turning head were built to an adopted standard.

Further into the proposed layout, the dwellings would be set back to accommodate a large parking area for each house. This would not represent an efficient use of the space, and also pushes houses back to expose the rear gardens of plot 1, and the two plots labelled 13. The brick wall enclosures of these private gardens will exacerbate the poor quality public realm. In addition there is a poor ratio of hard to soft landscape with the front gardens set as leftover space around the car parking and turning spaces. The manoeuvring space could be accommodated on the street and provide much greater space for soft landscaping to mitigate or replace the excessive car parking. The current layout is dominated by car parking and the quality of the public realm lessened as a result.

In Officers view, the layout lacks coherence, and features a staggered rectilinear arrangement that lacks strong building lines. The arrangement has little sympathy to the character of the area and despite the very low density

appears overtly urban in appearance. The vista created through the site, between plots 5 and 6, terminates on an empty space and a double garage. The Essex Design Guide suggests that buildings should enclose space. The proposed layout fails to achieve this successfully which adds to both the inefficiency of the layout and the poor sense of place.

The architecture of the site, by way of the house type design is incoherent and incongruous to the character of Church Lane. The mix of styles creates an incoherent townscape, for example, squat black weatherboard terraces that feature unacceptably large dormer windows are juxtaposed with white render large houses, neither of which take cues from the wealth of architectural references available in the immediate vicinity. There is some attempt to add contemporary features into the design, however this has only exacerbated the incoherent appearance. It is neither modern nor traditional rather a poorly configured combination of both.

Officers consider that the design and layout of the proposed development is poorly considered, failing to relate to or integrate in its surroundings in a sympathetic manner, giving rise to an unacceptable level of harm to the character and appearance of the street scene and to the wider countryside. The proposal fails to comply with Policies RLP2, RLP9, RLP10 and RLP90 of the Adopted Local Plan, Policies CS5 of the Core Strategy, Policies SP6 of the Section 1 Plan, and Policies LPP1, LPP37, LPP50 and LPP55 of the Section 2 Plan, as well as the aims and objectives for a high quality design set out by the NPPF.

Paragraph 127 of the National Planning Policy Framework states that new development shall promote a high quality of amenity for future users, taking into consideration the Nationally Described Space Standards (NDSS).

The two bedroom dwellings would be of identical design and layout, and would have an internal floorspace of 88.8sq.m, which would exceed the NDSS' requirement for 79sq.m. Each habitable room would benefit from at least one window providing natural light, and the dwellings would be dual aspect. Each dwelling would have an external amenity space ranging in size from 58sq.m to 135sq.m; all of which would exceed the requirements as set out in the Essex Design Guide.

The proposed three bedroom dwellings would be identical in terms of layout, and would have an internal floorspace of approximately 133.45sq.m, which would exceed the NDSS' requirement for 93sq.m. Each habitable room would benefit from at least one window providing natural light, and the dwellings would be dual aspect. The two dwellings would have external amenity spaces of 370sq.m and 375sq.m, which would exceed the Essex Design Guide's requirement for a minimum of 100sq.m.

The proposed four bedroom dwellings would consist 3 different house types. Each house type would have an internal floorspace of approximately 150sq.m, which is more than the 115sq.m required by the NDSS. Each habitable room would benefit from at least one window providing natural light, and the



dwelling would be dual aspect. Each dwelling would have an external amenity space ranging in size from 200sq.m to 940sq.m; all of which would exceed the requirement for a minimum of 100sq.m, as set out in the Essex Design Guide.

The proposed development would provide an acceptable level of amenity for its future occupiers.

### Heritage

When considering the impact of development on a historical asset the National Planning Policy Framework (NPPF) specifically states in paragraph 196 that; "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use".

Policy RLP100 of the Adopted Local Plan and Policy LPP60 of the Section 2 Plan states that works will only be permitted where they do not harm the setting, character, structural stability and fabric of the building (or structure); and will 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.

Church Lane consists a range of house types, some of which are historic in nature, and some which are Grade II Listed.

The Historic Buildings Consultant has stated in their consultation that they are satisfied the development would not have a negative impact upon the significance of the heritage assets along Church Lane, and therefore, in principle, they raise no objection to the proposed development.

However, they note that some of the buildings proposed as fronting the street (Plots 9-14) do not respect the character of Church Lane, which is partly established by the listed buildings and other non-designated buildings. In addition, they note the route forms an approach into the Braintree and Bocking Conservation Area, and they are not satisfied that the development would make a positive contribution to local character and distinctiveness.

Notwithstanding this, in the absence of harm being identified, the application is considered acceptable in relation to heritage impacts.

### Highways, Transport and Parking

The Essex Parking Standards Design and Good Practice (2009) Supplementary Planning Guidance requires new residential dwellinghouses of two or more bedrooms to benefit from a minimum of two car parking spaces. The standards specify that parking spaces shall measure at least 5.5 metres x 2.9 metres.

The proposed masterplan illustrates that each plot would be provided with two spaces on site, and that these spaces would measure 2.9m x 5.5m, in accordance with the Adopted Parking Standards.

The proposed development would be accessed via a new vehicular access off Church Lane. Church Lane has a 30mph restriction, the standard visibility splays for which are required to measure 2.4m x 43m. A visibility splay drawing was submitted during the course of the application, which shows the required visibility splays in either direction with a 2.4m setback. However, the visibility splay to the south would cross into the front garden of 58 Church Lane, which is private land and which the applicants do not have control over. Furthermore presently there is a close boarded fence to the front of 58 Church Lane, which would inhibit visibility in this direction.

The lack of an acceptable visibility splay is considered to be grounds for refusal based on highway safety.

### Landscape and Ecology

Policy RLP80 of the Adopted Local Plan states that new development should not prejudice existing landscape features, such as trees and hedges, which make a positive contribution to the locality. Policy CS8 of the Core Strategy states that landscape features and biodiversity should be preserved and/or enhanced. Policies LPP70 and LPP71 of the Section 2 Plan require development to take into account existing landscape features, preserve them where appropriate, and be sensitive to the need to preserve and enhance biodiversity.

The application site currently makes a positive contribution to the character and appearance of the street scene at Church Lane, due to the presence of landscape views toward the rear of the site. The proposed development would result in the loss of these views.

There is a TPO group to the front of the site (12/78 - A1). An area of hardstanding for parking and an access road off of Church Lane are also proposed to the front.

The application is supported by a Preliminary Arboricultural Impact Assessment and Arboricultural Method Statement which acknowledges that the TPO group have great amenity value and are visible throughout the surrounding area.

The Arboricultural Assessment numbers trees on the site T1 – T4, and groups of trees G1 – G4. Areas are numbered A1-A2, and a boundary hedge numbered H1.

The Assessment found that the location of the proposed dwellings would not interrupt the root protection areas (RPA) of the trees. The proposed hardstanding areas could interfere with these RPAs, however the assessment

sets out that ground protection during construction will provide adequate protection.

Tree groups G1 and G2 would be felled as they conflict with proposed garden space, and conflict with the future relationship of the adjacent buildings. A section of A2 would be removed as it conflicts with the proposed access. A section of the hedge at H1 would be removed as it conflicts with garden space. The report identifies the vegetation to be removed as being either a Classification C (low quality with 10 years life expectancy remaining) or a Category U (unsuitable for retention, not realistically retained for more than 10 years; can serve as conservation value in some cases).

Although the Assessment refers to a Tree Location Plan and Tree Protection Plan as being included at Appendix 4 to the Preliminary Arboricultural Impact Assessment and Arboricultural Method Statement, these were not submitted with the application, and therefore BDC Landscape Services considers there is insufficient information to fully assess impacts resulting from the proposed development.

Notwithstanding this, they note that individually, the trees on the road frontage are of varying quality but collectively they do contribute to the amenity within the local setting and character of the street scene. The requirements for the visibility splay suggest a limited amount of removal and overall impact on the amenity which could arguably be mitigated by additional planting; however there is also the perennial concern when developments are allowed in proximity to mature trees protected by tree preservation orders that the future residents become anxious about the size of the trees and make applications to have the trees reduced. Even if only some of these applications to reduce or manage the canopies of the trees are given consent, then the amenity of the tree belt would be diminished, and the risk of disease and infection to the tree stock is increased from the cycles of tree surgery that follow through the years. The pressure to reduce the size of the trees for reasons of light, debris and overall concerns about safety, whether justified or not, are a separate consideration to the physical impact of the construction on the rooting areas of the trees but in many ways can have more damaging long term consequences.

As such, the application is considered to be contrary to Policy SP1 of the Adopted Section 1 of the New Local Plan, Policies RLP80 of the Adopted Local Plan, Policy CS8 of the Core Strategy and Policy LPP70 and LPP71 of Section 2 of the Draft Local Plan.

A Preliminary Ecological Appraisal (PEA) was submitted with the application. This found that there is no potential for impacts to Great Crested Newts, bats (provided a suitable artificial lighting scheme is utilised), water voles, reptiles, white clawed crayfish. There is some potential for nesting birds in the hedges at the site. The report states that badgers and hedgehogs could become trapped in open trenches during the construction phase of development. Any trenches to be left open overnight should incorporate a shallow ramp to allow animals an easy exit. With appropriate conditions, these impacts could be

minimised. The Council's Ecologist is satisfied with the information submitted, and subject to conditions securing a biodiversity net gain, the application is acceptable in respect of ecology.

### Impacts Upon Neighbouring Residential Amenities

Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Section 2 Plan state that development shall not cause undue or unacceptable impacts on the amenities of nearby residential properties. Unacceptable impacts are considered as any factors that can carry the potential to degrade the enjoyment of neighbouring properties in terms of overlooking, overshadowing, loss of light or loss of privacy. The National Planning Policy Framework also seeks a high quality amenity for existing and future occupiers of neighbouring dwellings.

The application site is situated between two existing residential properties. There are also residential properties on the opposite side of Church Road. To the south is No. 58 Church Lane, a two storey detached dwelling. To the rear of this dwelling is a non-residential building, which is accessed via Boleyn's Farm.

The proposed development would see no residential dwellings about this boundary. Space not to be developed upon and shown to be outside of the site boundary would be retained between No.58 and the application site. The closest dwelling to No.58 Church Lane would be at Plot 2, which would be 22 metres away. Given this distance it is not considered that the proposed development would result in unacceptable impacts to the amenities of this neighbouring property.

No.76 Church Lane (Fairacres) is located to the north of the application site, and is currently occupied by the applicants; however the NPPF states the residential amenities of future occupiers should also be protected.

Abutting the boundary with No.76 would be a parking court and a row of terraced houses at Plots 9-11. No.76 itself is close to the boundary. The use of the parking court, provided it consists a sealed surface, would not create noise which would have unacceptable impacts to their residential amenities. The distance between Plot 9 and No.76 would be 6.5 metres, which would a sufficient distance to avoid unacceptable impacts.

Opposite the application site, at 87-99 Church Lane, and at 140 Boleyns Avenue, impacts would consist construction sounds and inconvenience. Planning conditions could be used in the event of an approval to limit these impacts, for example restricting working hours, dust and mud control to prevent it reaching the highway, and relating to the use of piled foundations. These impacts would not be unacceptable and would not justify withholding planning permission.

### Sustainable Urban Drainage

Policy RLP71 of the Adopted Local Plan states planning permission will not be given where there is inadequate water supply, sewerage or land drainage systems (including water sources, water and sewage treatment works) available to meet the anticipated demands of the development.

Policy LPP80 of Section 2 Plan states that all new development of 10 dwellings or more will incorporate Sustainable Drainage Systems (SuDs) appropriate to the nature of the site. Such systems shall provide optimum water runoff rates and volumes taking into account relevant local or national standards and the impact of the Water Framework Directive on flood risk issues, unless it can be clearly demonstrated that they are impracticable.

The application site is located close to the Flood Zone 3 of the River Blackwater, and due to the size of the site, a sustainable urban drainage (SUDS) scheme is required. The Council consults with ECC SUDS for their advice in this respect.

When the application was first made ECC SUDS raised a holding objection due to a lack of information. Additional information has been submitted in response to the objections raised by ECC SUDS, and they are satisfied that the latest set of details overcome their concerns, and subsequently raise no objections to the application's approval, subject to conditions requiring a surface water drainage scheme, a scheme to minimise the risk of offsite flooding, a maintenance plan, and requiring yearly logs of maintenance to be kept. The application is considered acceptable in this regard.

### Archaeological Considerations

Policies RLP105 and RLP106 of the Adopted Local Plan and LPP63 of the Section 2 Plan state that where granting planning permission could affect archaeological deposits, an archaeological evaluation will be required and conditions utilised to ensure archaeological remains are excavated and recorded prior to the development commencing.

The application site is situated along the historic route between the medieval settlements at Bocking and Bradford Street and adjacent to the River Blackwater. The ECC Archaeology Officer states that cropmark features along the valley slopes behind the site reveal evidence of drainage channels being cut, the date of which is unknown. They also state that there is potential for the preservation of paleo-environmental evidence within the floodplain deposits closer to the river.

Recent excavation in the adjacent field has uncovered significant prehistoric remains including evidence for Early Neolithic occupation. The nature of the evidence is suggestive of settlement in the immediate vicinity. The site has remained undeveloped and has the potential for the survival of below-ground

archaeological features and deposits related to the historic settlement along Church Lane or earlier activity.

The ECC Archaeology Officer recommends conditions to require a Written Scheme of Investigation (WSI) for archaeological trial trenching, and a mitigation strategy, and subject to these, raises no objections.

#### Habitat Regulations Assessment (HRA / RAMS)

The application site is situated within the Zone of Influence (ZOI) for the Blackwater Estuary SPA & Ramsar site, and the Dengie SPA & Ramsar site. As such, the developer is required to pay a financial contribution towards off site visitor management measures for the Blackwater Estuary SPA & Ramsar site, and the Dengie SPA & Ramsar site (£125.58 per dwelling). In the absence of a S.106 Legal Agreement securing this requirement, the proposed development would not mitigate against its impact upon the Blackwater Estuary SPA & Ramsar site, and the Dengie SPA & Ramsar site. This constitutes an additional reason for refusal.

#### PLANNING OBLIGATIONS

##### Affordable Housing

Policy CS2 of the Core Strategy and Policy LPP33 of the Section 2 Plan state that where the area of an application site exceeds 0.5 of a hectare, then 30% of the total dwellings shall be affordable, which in this case would be 4 units. The application submission indicates that 4 affordable units would be provided, and would be shared ownership. In the event of an approval, these would be secured by a Section 106 agreement.

##### Public Open Space

As an application for more than 10 dwellings, an open spaces contribution would be sought. The contributions for a two bedroom dwelling would be £1657.09, for a three bedroom dwelling £2267.62, and for a four bedroom dwelling £2616.46. The total contribution which would be sought would equal £30,176.54. This would be secured by a Section 106 agreement in the event of an approval.

#### PLANNING BALANCE AND CONCLUSION

The presumption in favour of sustainable development sits at the heart of the NPPF. The Framework is clear in its instruction at Paragraph 11d, that for decision-taking this means where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in Paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than

75% of) the housing requirement over the previous three years), granting permission unless:

- (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Such an assessment must take account of the economic, social and environmental impact of the proposed development and these matters must be considered in the overall planning balance.

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

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

The proposal will result in some economic benefits, for example the short term construction jobs whilst the new dwellings are being developed, and the contribution that their future occupiers would make to the local economy. However, these would be limited by the relatively small scale of the development.

There would be a social benefit, through the provision of an additional 14no. dwellings, 4no. of which would be affordable housing units and the contribution that these would make to the Council's shortfall of five year housing land supply.

There would be a negative environmental impact, due to the proposed design and layout of the proposed development, which would fail to secure a high standard of design and a layout that responds to the local character or which is visually attractive, and through the long-term pressure to reduce/remove the retained trees at the site, resulting in an overtly conspicuous harm to the character and appearance of the street scene. Furthermore, the proposal would result in the loss of key views from Church Lane toward the landscape to the rear of the site toward the River Blackwater, which would result in harm to the character of the countryside.

When considering the planning balance and having regard to the Braintree District Development Plan, and having regard to the requirements of the NPPF as a whole, Officers have concluded that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Consequently it is recommended that planning permission is refused for the proposed development.

### RECOMMENDATION

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

- 1        The proposed development, by virtue of its layout, scale, and design, would fail to secure a high standard of design and layout that responds to the local character or which is visually attractive, resulting in an overtly conspicuous harm to the character and appearance of the street scene. The proposal is at stark odds with the strong linear form of Church Lane, failing to integrate and incongruous for this reason. Furthermore, the proposal would result in the loss of key views from Church Lane toward the landscape to the rear of the site toward the River Blackwater, which would result in harm to the character and appearance of the countryside.

The application would cause an unacceptable level of harm to the character and appearance of the street scene and to the countryside and wider area, and fails to comply with Policies RLP2, RLP9, RLP10 and RLP90 of the Adopted Local Plan, Policies CS5 and CS8 of the Adopted Core Strategy, Policies SP6 of Part 1 of the New Local Plan, and Policies LPP1, LPP37, LPP50 and LPP55 of Part 2 of the Draft Local Plan, as well as the aims and objectives for a high quality design set out by the National Planning Policy Framework.

- 2        Insufficient evidence has been provided to adequately determine that the site can achieve safe access to and from the site. The visibility splay to the south of the proposed access would include land not within the applicants' control. The development does not



demonstrate adequate access of harm to highway safety and contrary to Essex County Highways Development Management Policies (2011).

- 3 A Tree Location Plan and Tree Protection Plan has not been submitted with the application. As such insufficient information has been submitted in order to allow full consideration of the application with regard to the potential impact to existing trees and vegetation at the site, some of which is subject to a Group Tree Preservation Order.

Notwithstanding this, due to the proximity to proposed dwellings and the risk of lack of natural light, tree debris and safety, the proposed development would result in pressure to remove some of the trees at the site which have great amenity value and some of which are protected. This would result in harm to the amenity within the local setting and character of the street scene.

As such, the application is considered to be contrary to the NPPF, Policy SP1 of the Adopted Section 1 of the New Local Plan, Policy RLP80 of the Adopted Local Plan, Policy CS8 of the Adopted Core Strategy and Policies LPP70 and LPP71 of Section 2 of the Draft Local Plan.

- 4 The proposed development would trigger the requirement for:

- The delivery of 30% affordable housing on site;
- A financial contribution towards Public Open Space.

These requirements would need to be secured through a S106 Agreement. At the time of issuing this decision a S106 Agreement had not been prepared or completed. As such the proposal is contrary to Policies CS2 and CS10 of the Adopted Core Strategy and the Open Space Supplementary Planning Document (SPD).

- 5 Policy RLP84 of the Braintree District Local Plan Review 2005 states that the Council will where necessary impose planning obligations to ensure that new development will not have an adverse effect on protected species by reducing disturbance of habitats to a minimum. Braintree District Council has adopted the Essex Recreational disturbance Avoidance and Mitigation Strategy Supplementary Planning Document (SPD) which sets out the process and mechanisms for securing the delivery of management and mitigation at the Protected Sites. This requirement would need to be secured through a S106 Legal Agreement. In the absence of an obligation the proposal would conflict with the Development Plan by failing to secure the following:

- Financial contribution of £125.58 per dwelling to fund off-site Visitor Management at the Blackwater Special Protection Area and

Ramsar site, and at the Dengie Special Protection Area and Ramsar site.

As such the proposal is contrary to the above policy and adopted SPD and the Council would not be able to confirm that the development would not have an adverse impact upon protected sites in accordance with the Habitats Regulations.

### SUBMITTED PLANS

Drainage Details	Plan Ref: 0080_MP05_I1
House Types	Plan Ref: 0080_GA_01_I1
House Types	Plan Ref: 0080_GA_06_I1
House Types	Plan Ref: 0080_GA02_IF
House Types	Plan Ref: 0080_GA03_I1
House Types	Plan Ref: 0080_GA04_I1
House Types	Plan Ref: 0080_GA05_I1
Elevations	Plan Ref: 0080_GE01_I1
Elevations	Plan Ref: 0080_GE02_I1
Site Masterplan	Plan Ref: 0080_MP00_I1
Site Masterplan	Plan Ref: 0080_MP01_I1
Site Masterplan	Plan Ref: 0080_MP02_I1
General	Plan Ref: 0080_MP03_I1
Landscape Masterplan	Plan Ref: 0080_MP04_I1
Location Plan	Plan Ref: 0080_SO1
Existing Site Plan	Plan Ref: 0080_SOO_I1

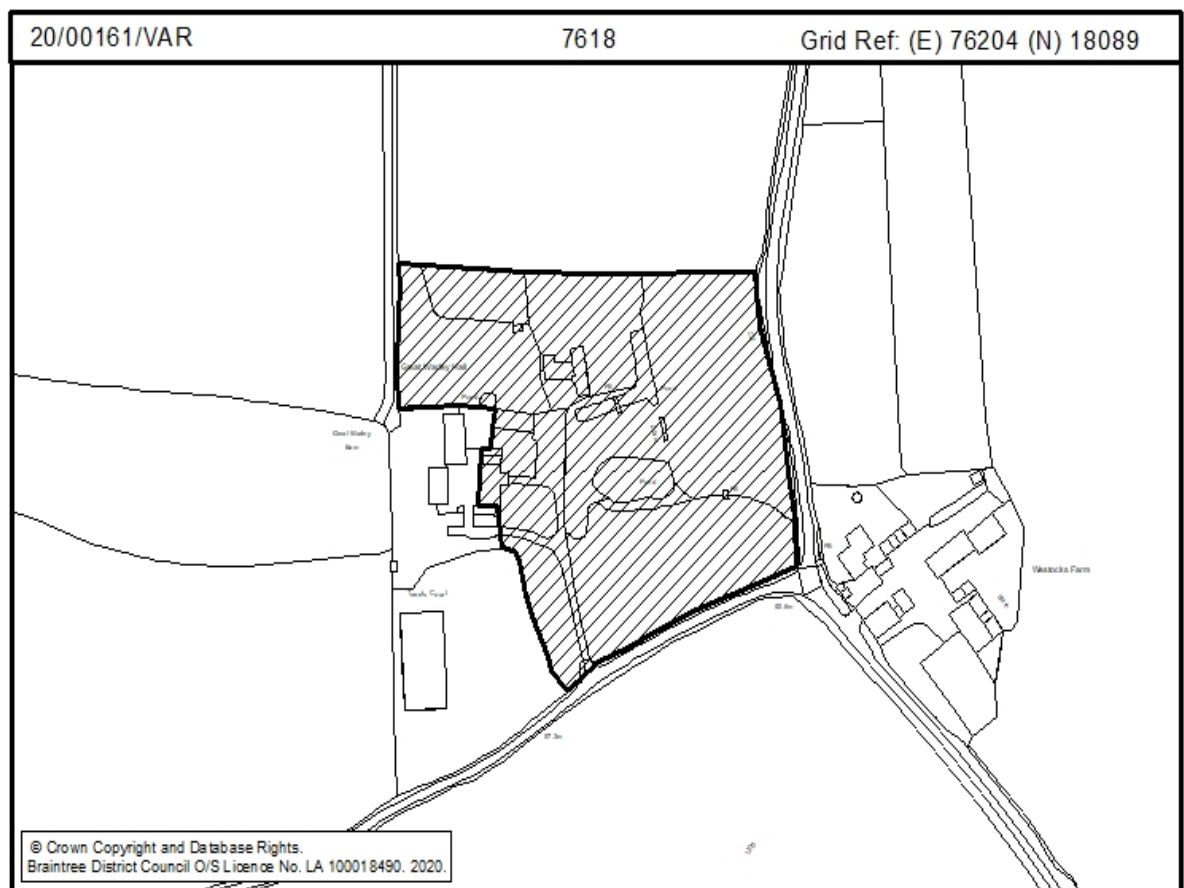
CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

PART A

AGENDA ITEM NUMBER 5b

APPLICATION NO: 20/00161/VAR  
DATE: 03.02.20  
VALID:  
APPLICANT: Mr Richard Lines  
Great Warley Hall, Ranks Green Road, Fairstead, Essex,  
CM3 2BJ  
DESCRIPTION: Amendment of Condition 2 'Annex Occupancy Condition' of  
07/02375/FUL to allow the annex to be used by those other  
than dependent relatives  
LOCATION: Great Warley Hall, Ranks Green Road, Fairstead, Essex,  
CM3 2BJ

For more information about this Application please contact:  
Natalie Banks on:- 01376 551414 Ext. 2545  
or by e-mail to: [natalie.banks@braintree.gov.uk](mailto:natalie.banks@braintree.gov.uk)



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=Q4RH2RBF0EC00>

## SITE HISTORY

04/00463/FUL	Conversion of existing barn into a residential annex	Granted with S106 Agreement	17.09.04
04/02016/LBC	Conversion of an existing barn into a residential annex to the main house	Granted	18.11.04
88/00053/P	Change Of Use Of Barn To Dwelling	Granted with S52 Agreement	06.09.88
88/00054/P	Alterations And Repair Of Barn And Conversion To Dwelling	Granted with S52 Agreement	06.09.88
89/02026/P	Erection Of Extensions	Refused	08.12.89
89/02030/P	Erection Of Extensions	Refused	08.12.89
90/00245/PFWS	Proposed Extensions To Form Lobby, Kitchen And Porch And Internal Alterations	Granted	22.03.90
90/00246/PFWS	Proposed Extensions To Form Lobby, Kitchen And Porch And Internal Alterations	Granted	22.03.90
06/00349/FUL	Conversion of an existing barn into a residential annex to the main house, including external alterations	Withdrawn	24.11.06
06/00350/LBC	Conversion of an existing barn into a residential annex to the main house, including external alterations	Withdrawn	24.11.06
06/01863/FUL	Rebuild of existing barn into 2 bed annex	Granted	09.11.06
06/01908/LBC	Rebuild of existing barn into 2 bed annex	Granted	09.11.06
07/02375/FUL	Amendment to existing approved plans (06/01863/FUL) - Repositioning of barn	Granted	25.01.08

## POLICY CONSIDERATIONS

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

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

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

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

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

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

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

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

#### National Planning Guidance

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

#### Braintree District Local Plan Review 2005

RLP18	Extensions to Existing Dwellings in the Countryside
RLP56	Vehicle Parking
RLP90	Layout and Design of Development
RLP100	Alterations and Extensions and Changes of Use to Listed Buildings and their settings

#### Braintree District Local Development Framework Core Strategy 2011

CS5	The Countryside
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#### Braintree District Shared Strategic Section 1 Local Plan (2021) & Draft Section 2 Local Plan (2017)

SP1	Presumption in Favour of Sustainable Development
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LPP45	Parking Provision
LPP50	Built and Historic Environment
LPP55	Layout and Design of Development
LPP60	Heritage Assets and their Settings

## INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is being reported to Planning Committee in accordance with the transitional arrangements for the Council's new Scheme of Delegation as Terling and Fairstead Parish Council has objected to the proposal contrary to Officer recommendation.

## DESCRIPTION OF THE SITE AND SITE CONTEXT

Great Warley Hall is a Grade II listed former farmhouse set within a large plot, originally part of a larger farmstead. There are two barns to the south-west of the site, one of which is listed Grade II in its own right. There is also a listed building to the rear of the site, which although in separate ownership, shares access from the highway with Great Warley Hall. The barn, which is the subject of this application is nearest to the Hall.

## PROPOSAL

This application seeks permission to amend Condition 2 (Annex Occupancy Condition) of 07/02375/FUL to allow the annex to be used by those other than dependent relatives. Planning permission and listed building consent were granted, subject to a S106 Agreement for the conversion of the barn into a residential annex (Application References 04/00463/FUL and 04/02016/LBC). Further permission was sought to rebuild the barn when it was found to be structurally unsound (Application References 06/01863/FUL and 06/01908/LBC). An amendment to the approved plans (Application Reference 06/01863/FUL) was granted allowing the repositioning of the barn (Application Reference 07/02375/FUL). This application is being made as the barn referred to in application reference 07/02375/FUL is no longer required to house the applicants' relatives. No physical development is proposed.

The application has been revised and re-advertised during the process as the applicant implied in the unrevised description of the development that the proposal was to change the use of the annex into a separate dwelling. The applicant had also quoted an earlier application which had been superseded by application reference 07/02375/FUL, which is the lawful consent. The description has been revised quoting the correct application and to reflect that the applicant has no intention to sell the annex as a separate dwelling but merely to let it on a short-term basis only.

## SUMMARY OF CONSULTATION RESPONSES

### ECC Historic Buildings Consultant

No objection. Comments that were the application to have proposed the sale of the annexe and the division and separation of the historic plot of Great Warley Hall it would have been possible to identify a level of harm to the historic building and its setting. However, the proposed removal of the restriction on the occupancy of the annexe would allow its rental by the applicant and owner of Great Warley Hall to tenants and there is no objection to the proposal on this basis. The Historic Buildings Consultant also commented that should any landscaping or boundaries or other amenities be required in due course, as a result of the rental of the building, further consents may be required.

### PARISH / TOWN COUNCIL

#### Terling and Fairstead Parish Council

The Parish Council objects to the proposal, commenting that to relax or vary occupancy, Condition 2 of the existing permission would set a dangerous precedent for other consents in the Parish, and indeed the wider BDC area as the policy clearly stated as RLP18 of the Local Plan document is:- “Proposals for self-contained annexes...to meet the needs of dependent relatives, will be permitted, ensuring a condition or obligation that it will remain ancillary accommodation occupied in association with the main dwelling.....” The Parish Council would be prepared to reconsider its stated position if a personal and time limited (say 3 years maximum) relaxation of this BDC policy RLP18 is brought forward.

## REPRESENTATIONS

Representations have been received from the occupier of Warley Barn objecting to the proposal, summarised below:

- There is no justification for relaxing the condition which was imposed to protect the listed building and the countryside. It was originally allowed to enable an extension of the use of Great Warley Hall and not as a separate and additional property – hence the reason for the condition.
- The relaxation is required as a result of the property owner’s change in personal circumstances and is not justified.
- The proposal is not acceptable in principle as it circumvents the planning process potentially setting a precedent for further development and independent development of the listed building.
- The proposed use will increase traffic using the access which is shared.
- The properties do not benefit from mains drainage.
- The application has been changed during the process.
- The application has been revised and fails to mitigate any of his previously expressed concerns.

## REPORT

### PRINCIPLE OF DEVELOPMENT

Great Warley Hall is an existing residential dwelling in the countryside with an associated annex and other buildings, therefore, the proposal to amend Condition 2 of 07/02375/FUL is acceptable in principle, subject to other relevant policy or material considerations. As referred to above, the applicant does not intend to sever the ownership of the annex but wants to be allowed some flexibility in terms of who can occupy the annex.

### Planning Law / Policy Issues

The NPPF reaffirms the primacy of planning law when determining applications for planning permission coupled with the fact that they must also be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF must also be taken into account and is a material consideration in planning decisions.

Since the granting of application reference 07/02075/FUL, the National Planning Policy Framework has been published and amended which, amongst other things, sets out the Government's approach in terms of imposing conditions. It states that when used properly, conditions can enhance the quality of development and enable development to proceed where it would otherwise have been necessary to refuse planning permission, by seeking to mitigate any adverse effects. The objectives of planning are best served when the power to attach conditions to a planning permission is exercised in a way that is clearly seen to be fair, reasonable and practicable. Paragraph 54 of the NPPF indicates that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 55 states that planning conditions should be kept to a minimum and only imposed where they are:

- necessary,
- relevant to planning and to the development to be permitted,
- enforceable,
- precise, and
- reasonable in all other respects.

The PPG states that Planning permission usually runs with the land and it is rarely appropriate to provide otherwise. There may be exceptional occasions where development that would not normally be permitted may be justified on planning grounds because of who would benefit from the permission. For example, conditions limiting benefits to a particular class of people, such as new residential accommodation in the open countryside for agricultural or forestry workers. In the case of application reference 07/02075/FUL the ancillary use of the annex was found to be acceptable in the circumstances appertaining at the time and a condition limiting its use was not unreasonable.



The wording of Policy RLP18 used to assess planning application 07/02375/FUL is as follows:

‘Planning permission will be granted for the extension of a habitable, permanent dwelling in the countryside, subject to the siting, design, and materials of the extension 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. Extensions will be required to be subordinate to the existing dwelling in terms of bulk, height, width, and position.

Proposals for self-contained annexes, or the conversion of outbuildings, to existing dwellings, to meet the needs of dependent relatives, will be permitted subject to meeting the above criteria and, *ensuring a condition or obligation to ensure that it will remain solely as ancillary accommodation, to be occupied in association with the main dwelling....*’

It is also relevant to note the wording of Condition 2 of planning permission reference 07/02375/FUL when it was granted by Planning Committee on 22nd January 2008, which states the following:

‘The development hereby permitted shall only be used as an annexe to house dependent relatives of Great Warley Hall and not split for use as two or more separate dwelling units’.

The reason for attaching that condition was that the site lies in a rural area where residential development is not normally permitted. It goes on to state that the local planning authority would not be prepared to permit the erection of a dwelling on this site unless essentially required with the use of the land or neighbouring land for agricultural purposes or unless a dwelling is required to meet the needs of dependent relatives.

Whilst Policy RLP18 applied when the application was determined, now that the an annex is no longer required for the applicant’s dependent relatives, a reasonable planning judgement has to be made in the light of all other relevant policies and criteria and the NPPF. Each case is judged on its merits, therefore, the issue of precedent is not relevant. In this case, the applicant wishes to continue to use the annex as such, however, because circumstances have changed it is no longer required for dependant relatives. It is therefore necessary to consider how this building can be used in the current circumstances. Whilst the annex is self-contained and has not been reliant on Warley Hall in terms of the day-to-day needs of the occupiers, it is never-the-less necessary to safeguard the setting of the historic assets, to ensure that it is not be physically separated, as to do otherwise would result in harm to the historic asset.

It is therefore proposed to amend the condition to state the following:

*'The annex shall not be separated from its historic relationship to Warley Hall for use as a separate dwelling unit and shall therefore not be sold, transferred or otherwise disposed of except by way of a disposal comprising the whole of the site edged in red as identified on the submitted Location Plan.'*

The fact that the annex is such that it can be used without the occupants having to enter the Hall for any or their day-to-day requirements would not change as no physical alterations are required for its continued use. Planning permission would also be required if any physical alterations were proposed to the building or if boundary treatments were altered in any way.

It is relevant to note the wording of the replacement policy for extensions and annexes in the Section 2 Plan, namely [Policy LPP38 \(Residential Alterations, Extensions and Outbuildings\)](#) which states that:

*Residential alterations, extensions and outbuildings will be permitted, provided they meet all the following criteria;*

- a. There should be no over-development of the plot when taking into account the footprint of the existing dwelling and the relationship to plot boundaries. The Council will have regard to the cumulative impact of extensions and outbuildings on the original character of the property and its surroundings*
- b. The property design, siting, bulk, form and materials of the alteration, extension or outbuilding should be compatible with the original dwelling and character of the area*
- c. Extensions and outbuildings will be required to be subordinate to the original dwelling in terms of bulk, height and position*
- d. There should be no unacceptable adverse impact on the amenities of adjoining residential properties, including on privacy, overshadowing of light or an overbearing impact*
- e. There should be no adverse material impact on the identity of the street scene and/or the appearance of the countryside*
- f. There should be no unacceptable adverse impact on any heritage asset or their setting*
- g. In the countryside, new outbuildings should be well related to the existing development on the site and within the curtilage of the dwelling.*

This draft policy sets out the direction of travel in terms of policy constraints in the countryside and is less restrictive than the adopted policy. Whilst it can only be given limited weight, in terms of assessing the impact of the proposal to amend the condition, it provides comfort that the proposal to amend the condition is not so unacceptable that it should be refused. It is reiterated that no physical development is proposed here, nor is the character of the use changing. The building would be used for residential purposes, as it has been up until recent times. Whether the building is used by relatives, or other people outside the household will make no difference to how the building is used. As long as the annex retains its historical and physical affiliation to Warley Hall, it is not unreasonable therefore to reach the conclusion that no

environmental harm would arise if the annex was to be used by other than dependent relatives.

### Heritage Balance

Paragraph 190 of the NPPF requires the local planning authority to take into account the impact of a proposal on the heritage asset to avoid or minimise any conflict between conservation and any aspect of the proposal, taking account of the desirability of sustaining and enhancing the asset and the contribution the proposal would make to sustainable communities (Paragraph 192). Where a proposal will lead to substantial harm, consent should be refused (Paragraph 195). However, in accordance with Paragraph 196, if it is deemed that a proposal will result in less than substantial harm, this should be weighed against the public benefits.

In terms of the impact to the listed buildings, the Historic Buildings Consultant has commented that were the application to have proposed the sale of the annexe and the division and separation of the historic plot of Great Warley Hall, it would have been possible to identify a level of harm to the historic building and its setting. However, the proposed removal of the restriction on the occupancy of the annex to allow its rental to tenants is not objectionable. In terms of weighing the 'less than substantial' harm against the likely benefits, it is considered that the impact of the amended condition will have a neutral impact as the use remains as residential, ancillary to the host building.

### Other Issues

As referred to above, the Parish Council has indicated that it would be prepared to reconsider its stated position if a personal and time limited (say 3 years maximum) relaxation of this BDC Policy RLP18 was brought forward.

Under section 72 of the Town and Country Planning Act 1990 the local planning authority may grant planning permission for a specified temporary period only. The NPPF PPG indicates that circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period. It will rarely be justifiable to grant a second temporary permission. Further permissions can normally be granted permanently or refused if there is clear justification for doing so.

In this case, planning permission reference 07/0275/FUL was granted on a permanent basis and has been implemented. The use of the building as an annex has been taken place without any identified planning issues. To amend the condition as suggested would mean that the applicant may need to renew that consent in three years' time, when the local planning authority would be in the same position as it was before, i.e. is the use of the building as an annex acceptable or not? Clearly, the use has been found to be acceptable in the absence of any evidence to the contrary. In terms of seeking to make the condition personal to the applicant would not meet the tests as it is not

relevant as a planning permission almost always runs with the land, rather than an individual.

Therefore, to amend the condition in the way suggested by the Parish Council would be unreasonable and would not serve a planning purpose.

Notwithstanding the above, in accordance with the PPG, the original planning permission will continue to exist whatever the outcome of the application under Section 73. The conditions imposed on the original permission still have effect unless they have been discharged. In granting permission under Section 73 the local planning authority may also impose new conditions – provided the conditions do not materially alter the development that was subject to the original permission and are conditions which could have been imposed on the earlier planning permission. For the purpose of clarity, decision notices for the grant of planning permission under Section 73 should set out all of the conditions imposed on the new permission, and restate the conditions imposed on earlier permissions that continue to have effect.

### PLANNING BALANCE AND CONCLUSION

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

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

As set out within Paragraph 47 of the NPPF, planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In this case the application relates to a self-contained annex attached to an existing dwelling in the countryside.

Whilst some weight can be afforded to the contribution the use of the annex would make in terms of socio-economic gains in terms of the spending power of the users, only very limited weight can be afforded in terms of housing supply, as whilst the annex could provide a home for someone in the short-term, this would only be as part of the wider planning unit and as such would be a neutral factor in the overall balance. Significant weight, however, can be attributed to the environmental gain of this proposal which would enable the continued use of the building as an annex in association with the dwelling which could take place without material harm to the appearance of the area or the listed building as no physical development is proposed.

When considering the planning balance and having regard to the requirements of the NPPF as a whole, Officers have concluded that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Consequently it is recommended that planning permission is granted for the proposed development.

### 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	Plan Ref: 0601/3	Version: A
Elevations	Plan Ref: 0601/06	
Floor Plan	Plan Ref: 0601/01	Version: inc boiler room

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

#### Reason

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

- 2 The annex shall not be separated from its historic relationship to Warley Hall for use as a separate dwelling unit and shall therefore not be sold, transferred or otherwise disposed of except by way of a disposal comprising the whole of the site edged in red as identified on the submitted Location Plan.

#### Reason

The annex should remain as such in the interests of the historical integrity of Great Warley Hall and the associated Grade II Listed Barn.

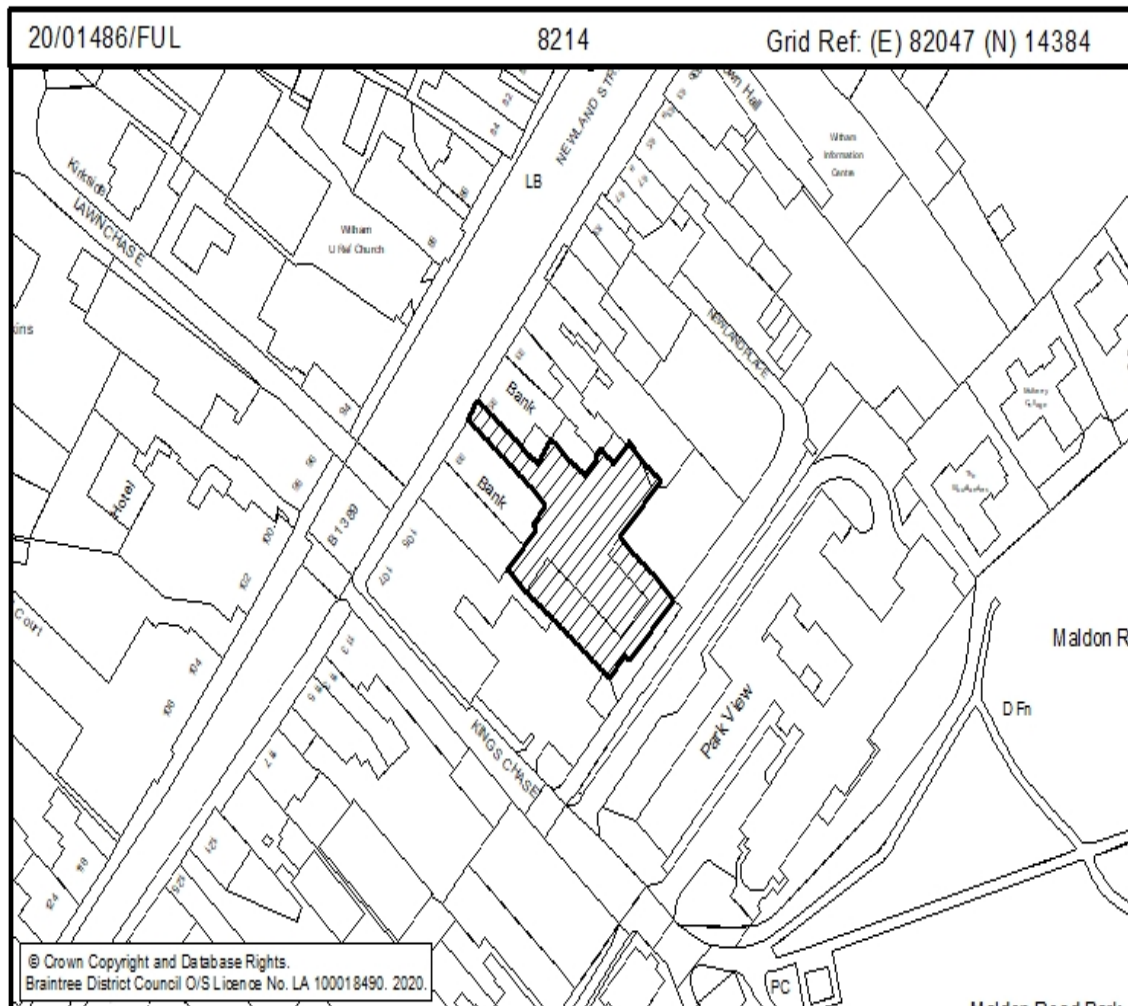
CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

PART A

AGENDA ITEM NUMBER 5c

APPLICATION NO: 20/01486/FUL  
 DATE: 06.10.20  
 VALID:  
 APPLICANT: QZ contractors ltd  
 1 Eastlands Court, Trimly St Mary, Felixstowe, IP1 10QZ  
 AGENT: T H Architects  
 Mr Rob Marsh-Feiley, Rosemount, Abbey Hill, Hoxne, Eye,  
 IP21 5AL, Suffolk  
 DESCRIPTION: Residential development for 10 town houses  
 LOCATION: 95 Newland Street, Witham, Essex, CM8 1YZ

For more information about this Application please contact:  
 Andrew Martin on:- 01376 551414 Ext. 2591  
 or by e-mail to: [andrew.martin@braintree.gov.uk](mailto:andrew.martin@braintree.gov.uk)



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QGCHX5BF GJW00>

## SITE HISTORY

02/01626/ADV	Proposed siting of new corporate signage for bank	Granted	10.12.02
04/01200/FUL	Proposed external task lighting above ATM, nightsafe, entrance and letter plate	Granted	23.07.04
73/00013/W1T/A	Illuminated double sided projecting box sign.	Refused	28.03.74
74/00005/A	Double-sided projecting box.	Refused	02.07.74
74/00005/ADV	Double sided projecting box sign	Refused	02.07.74
84/00030/ADV	Illuminated projecting box sign	Refused	04.04.84
84/00048/A	Double sided projecting sign with top illumination.	Granted	29.01.85
84/00048/ADV	Double sided projecting sign with top illumination	Granted	29.01.85
93/00363/ADV	Proposed internally illuminated projecting sign	Refused	14.05.93
93/00842/ADV	Proposed externally illuminated projecting sign	Refused	23.08.93
93/01350/ADV	Display of externally illuminated hanging sign	Granted	15.12.93
74/00005P	A double sided projecting box sign.	Refused	
84/00030P	Illuminated project box sign.	Refused	
84/00048P	Double sided projecting sign with top illumination.	Granted	
15/01017/ADV	Erection of new signage to include 1 no. fascia sign, 1 no. hanging sign, 1 no. ATM surround, 2 no. A1 light pockets, 1 no. new name plate and 1 no. chevron sign	Granted	16.11.15
19/00067/PLD	Proposed change of use of the existing building from Financial and Professional Services (Use Class A2) to a shop (Use Class A1)	Granted	19.02.19
19/01533/FUL	Ground floor alterations and proposed single storey rear extension	Granted	15.05.20

## POLICY CONSIDERATIONS

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

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

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

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

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

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

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

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

### National Planning Guidance

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

### Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP9	Design and Layout of Housing and Mixed Use Areas
RLP10	Residential Density
RLP51	Cycle Parking
RLP56	Vehicle Parking
RLP64	Contaminated Land
RLP69	Sustainable Urban Drainage
RLP74	Provision of Space for Recycling
RLP80	Landscape Features and Habitats



RLP81	Trees, Woodland Grasslands and Hedgerows
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
RLP138	Provision of Open Space in New Housing Developments

#### Braintree District Local Development Framework Core Strategy 2011

CS8	Natural Environment and Biodiversity
CS10	Provision for Open Space, Sport and Recreation

#### Braintree District Shared Strategic Section 1 Local Plan (2021) & Draft Section 2 Local Plan (2017)

SP1	Presumption in Favour of Sustainable Development
SP3	Meeting Housing Needs
SP5	Infrastructure & Connectivity
SP6	Place Shaping Principles
LPP1	Development Boundaries
LPP17	Housing Provision and Delivery
LPP37	Housing Type and Density
LPP44	Sustainable Transport
LPP45	Parking Provision
LPP50	Built and Historic Environment
LPP51	An Inclusive Environment
LPP55	Layout and Design of Development
LPP60	Heritage Assets and their Settings
LPP68	Protected Species, Priority Spaces and Priority Habitat
LPP70	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP73	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP78	Flooding Risk and Surface Water Drainage
LPP79	Surface Water Management Plan
LPP80	Sustainable Urban Drainage Systems
LPP81	External Lighting
LPP82	Infrastructure Delivery and Impact Mitigation

#### Other Material Considerations

Essex Design Guide – Design and Good Practice  
Essex Parking Standards

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

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

## DESCRIPTION OF THE SITE AND SITE CONTEXT

The application site is a parcel of land situated to the rear of the high-street frontage within Newland Street and the Witham Conservation Area. It is a brownfield site that previously hosted a number of small-scale buildings used for light industrial and commercial purposes. These buildings were demolished at some point between 2000 and 2005.

There is a pre-existing access to the site, located off of Newland Street, which is shared with the adjacent commercial premises at Nos. 95 and 99 Newland Street. These adjacent buildings have rear access points which face into the application site. A gate is also present to the rear of the site and provides access onto Newlands Place, a private track.

Aside from the Conservation Area location, the site is also in close proximity to a number of listed buildings, most pertinently the Grade II Listed Buildings at Nos. 89 and 91 Newland Street which are situated in close proximity to the north.

## PROPOSAL

The application seeks full planning permission for the construction of 10 dwellings of a three-storey scale, comprising of one and two-bedroom properties, with access provided via both Newland Street and Newlands Place.

## SUMMARY OF CONSULTATION RESPONSES

### Anglian Water

No objections subject to a condition.

### BDC Environmental Health

Insufficient information submitted with regards to contamination and noise.

### BDC Ecology

No objections raised subject to conditions.

### ECC Archaeology

Recommended conditions for archaeological evaluation given the probability of archaeological deposits and features surviving within the application site.

### ECC Highways

No objections to the application subject to conditions securing parking spaces in accordance with required dimensions and Travel Information Packs.

In response to the above, Officers would comment that a condition requiring parking spaces to be provided in accordance with certain dimensions, in this case 2.9 metres by 5.5 metres, would not meet the relevant tests for a lawful condition if the site layout submitted does not demonstrate how this can be achieved.

#### Essex Fire and Rescue

No objections raised.

#### Essex Police

Noted that there are no security considerations detailed within the Design and Access Statement. Also noted the incorporation of 'living walls' into the proposal and highlighted that these should not provide climbing aids.

Lastly, acknowledged that in order to provide further comments additional details, such as the proposed lighting, boundary treatments, and physical security measures, would need to be provided.

Opportunity to assist the Applicant with achieving a Secured by Design award would be welcomed.

#### Historic Buildings Consultant

Identified that the application site relates to a number of designated heritage assets, namely the Witham Conservation Area and the Grade II Listed Buildings at Nos. 89 and 91 Newland Street.

No objections raised in principle to backland development within the context of the application site, however, concern raised with respect to the number of dwellings sought, alongside their massing and design, which is not considered to be appropriate for the Conservation Area.

Less than substantial harm identified to the Witham Conservation Area and the setting of the Grade II Listed Building at 91 Newland Street.

#### ECC Lead Local Flood Authority

Initially imposed a holding objection, however, following further clarification and the submission of additional details the holding objection was removed and the Lead Local Flood Authority confirmed that they have no objections to the proposed development, subject to conditions.

#### Natural England

Acknowledged that the application site falls within the 'Zone of Influence' of one or more of the European designated sites scoped into the emerging

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

Advised that the Local Planning Authority must undertake a Habitats Regulation Assessment to secure any necessary mitigation prior to granting planning permission.

## PARISH / TOWN COUNCIL

### Witham Town Council

No objections raised subject to the Local Planning Authority being satisfied with the refuse collection arrangements and the completion of an archaeological survey.

## REPRESENTATIONS

The application was publicised by way of an advertisement in the Braintree & Witham Times. A site notice was also displayed to the front of the application site and neighbour notification letters were sent to properties immediately adjacent to the site.

One letter of objection has been received which is summarised as follows:

- Access to the front four dwellings proposed, off of Newland Street, will make the very narrow egress more difficult to navigate for existing users due to their being no room for two vehicles to pass one another.
- May result in vehicles having to reverse out onto Newland Street.
- 24 hour access required to rear of No. 95 Newland Street.
- All of the proposed dwellings should be served by the access to the rear of the site.

## REPORT

### PRINCIPLE OF DEVELOPMENT

#### National Planning Policy Framework (NPPF) 2019

As set out in Paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 of the NPPF explains that achieving sustainable development means that the planning system has three overarching objectives: economic; social; and environmental; which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives).

Paragraph 9 of the NPPF outlines that planning decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area. In addition, paragraph 38 of the NPPF

prescribes that local planning authorities should approach decisions on proposed development in a positive and creative way and that decision-makers at every level should seek to approve applications for sustainable development where possible.

Paragraph 12 of the NPPF sets out that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making. In addition, paragraph 47 of the NPPF states that planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

The NPPF underlines the Government's objective of significantly boosting the supply of homes. In this regard, paragraph 59 of the NPPF highlights the importance of ensuring that there is a sufficient amount and variety of land that can come forward where it is needed, that specific housing requirements are met, and that land with permission is developed without unnecessary delay. Paragraph 73 of the NPPF outlines that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against (in the case of Braintree District) our 'local housing need' plus the relevant buffer.

In this regard, and in considering the overall planning balance as to whether the proposed development subject to this application constitutes sustainable development, an important material consideration in this case is whether the Council can robustly demonstrate a 5 Year Housing Land Supply. This will affect whether Paragraph 11 of the NPPF is engaged and consequently the weight that can be attributed to the Development Plan.

### The Development Plan

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

The application site is previously developed land located within the Town Development Boundary of Witham. Subsequently, the principle of development is considered to be acceptable in accordance with Policy SP6 of the Section 1 Plan, Policy RLP3 of the Adopted Local Plan, and Policy LPP1 of the Section 2 Plan.

The principle of the proposed development is not therefore considered to be contrary to the Development Plan or the emerging Section 2 Plan.

### 5 Year Land Supply

The Council publishes a 5 year housing land trajectory as of 31st March each year, the most recent position therefore is that of 31st March 2020. Within this trajectory the Council considered that it had a 4.52 year supply of housing, based on a 20% buffer. However there have been a number of factors which

the Council must now take into account since this trajectory was published which have an impact on the Council's 5 year housing land supply position.

At its full Council on the 22nd February 2021 Braintree District Council approved the adoption of the Section 1 Plan. On its adoption the Council must meet the housing requirement set out in that Plan. This is a minimum of 14,320 homes between 2013 - 2033 or an annual average of 716 new homes per year. This replaces the previous consideration of housing need based on the Standard Methodology.

The latest Housing Delivery Test (HDT) results were published in January 2021. Prior to the publication of this year's results, the Council was in the category of having to provide a 20% buffer to its Housing Land Supply. The new results (which include an allowance for the impact of the current pandemic) confirm that the Council no longer needs to apply a 20% buffer and can revert to the usual 5% buffer. This applies from the day of the publication of the results.

The housing land supply position has been considered in detail by several Planning Inspectors at recent public inquiries, most notably and in detail through a decision on a site in Rayne. In the conclusion to that appeal the Inspector notes that: *'In my judgement, based on the specific evidence before the Inquiry, the 4.52 years supply claimed by the Council appears to me to be optimistic and, although I do not consider it to be as low as the 3.72 years claimed by the appellants, it is somewhere between the two figures'*. Whilst the Inspector therefore did not come to a firm conclusion on which the Council can base its current position, it is noted that she considered it somewhere between the two figures proposed. That decision was made at a time before the adoption of the Section 1 Plan (and thus calculations of housing need were based on the Standard Method), and before the publication of the latest HDT results.

Nonetheless, focusing on her conclusions on the Council's claimed supply, the Council accepts the Inspector's finding within that inquiry in respect of four of the sites which the Council had previously included within its trajectory. The expected supply from those four sites should be removed from the claimed supply, which has the effect of removing 516 homes from the supply.

Given all of the evidence before it – including the use of the new housing requirement from the Section 1 Plan, the use of a 5% buffer, and the adjustment to supply, the Council considers that the current 5 year Housing Land Supply for the District is 3.73 years.

It should be noted, however, that it is approaching the end of the monitoring year and the Council will undertake a full review of the housing land supply position as at the 31st March 2021, which it will publish as soon as it is complete.

As the Council cannot demonstrate the required five Year Housing Land Supply the 'tilted balance' of Paragraph 11d) of the NPPF is engaged. It also

means that the most important Development Plan policies for determining this application, those relevant to the provision of housing, are out of date.

## SITE ASSESSMENT

### Location and Access to Services and Facilities

The NPPF encourages homes with accessible services which limit the need to travel, especially by car, although it is acknowledged that the NPPF also recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas (Paragraph 103). Policy CS7 of the Core Strategy states that future development will be provided in accessible locations to reduce the need to travel.

As identified above, the application site comprises previously developed land located within the Town Development Boundary of Witham. Witham is identified as one of the main towns within the Settlement Hierarchy. The main towns are the locations which are most sustainable in the District and have good access to day-to-day services and facilities. It is therefore considered that the site is in an accessible and sustainable location for new residential development which is a benefit that weighs in favour of the application.

### Heritage Impact

The Council has a statutory duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA) to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest they possesses. Likewise, under Section 72(1) of the LBCA, the Council has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of Conservation Areas.

Paragraph 184 of the NPPF states that heritage assets range from sites and buildings of local historic value, to those of the highest significance, such as World Heritage Sites. Heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

Paragraph 192 of the NPPF details that in determining planning applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets, alongside recognising the positive contribution that the conservation of heritage assets can make to sustainable communities including their economic vitality. It concludes by emphasising the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 193 of the NPPF indicates that when considering the impact of a proposed development on the significance of a heritage asset great weight

should be given to the asset's conservation irrespective of whether any potential harm is considered to be substantial or less than substantial.

Policy SP6 of the Section 1 Plan, Policies RLP90, RLP95, and RLP100 of the Adopted Local Plan, and Policies LPP50, LPP55, LPP56, and LPP60 of the Section 2 Plan, all reflect the above statutory duties and national planning policy objectives by seeking to ensure that developments preserve the significance of heritage assets and their settings.

The application site is located within the Witham Conservation Area and is also in close proximity to two Grade II Listed Buildings at Nos. 89 and 91 Newland Street. There are no heritage objections in principle to the re-development of the application site, however, by virtue of their number, massing, and design, the proposed dwellings would disrupt the building hierarchy of the Conservation Area, creating a frontage and scale of development which would be jarring, overly dominant, and prominent from public views when looking into the site from Newland Street and Kings Chase. Similarly, the attempt to provide a hybrid design of contemporary and traditional architecture fails to strike an appropriate balance, leading to a confused identity which does not relate well to either a modern or historic context. In short the appearance of the dwellings would appear contrived and out of character with the historic environment.

Furthermore, irrespective of the likely prominence from public vantages, which exacerbate the impact of the proposed development, it is also noted that the consideration around harm to heritage assets is not limited to what is tangible or what can be seen within the public realm. The assessment of heritage harm needs to take a holistic approach which considers the experience of the site within its particular context, which also takes account of the private realm and intangible values. Subsequently, it is noteworthy that the proposed development would represent an incongruous addition to the Conservation Area which would detract from the way in which it is experienced, this detrimental impact would be appreciable from the public and private realm, as well as from within the development site itself, if planning permission were to be granted.

In terms of qualifying the level of harm, the proposed development would result in less than substantial harm to the significance of the Witham Conservation Area. Additionally, there would be less than substantial harm to the setting of No.91 Newland Street, due to the closeness of the relationship between the application site and this Grade II Listed Building in particular, albeit the less than substantial harm in that regard would be towards the lower end of the scale.

Turning to the heritage balance, Paragraph 196 of the NPPF explains that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. Public benefits would materialise from the redevelopment of previously developed land to provide 10 dwellings, however,



as will be discussed in the below section on design, the incompatibility of the proposed development with the constraints of the site significantly reduce the weight that can be attributed to this public benefit. It is also recognised that in its current format the application site does not contribute positively to the significance of the identified heritage assets, but in this instance the proposed development fails to achieve a more positive relationship.

Therefore, to summarise, the proposed development would result in less than substantial harm to the Witham Conservation Area and the setting the Grade II Listed Building at No.91 Newland Street, with insufficient public benefits advanced to outweigh the identified harm, contrary to paragraph 196 of the NPPF, Policy SP6 of the Section 1 Plan, Policies RLP90, RLP95, and RLP100 of the Adopted Local Plan, and Policies LPP50, LPP55, LPP56, and LPP60 of the Section 2 Plan. The development further fails to comply with Section 66(1) and Section 72(1) of the LBCA.

Subsequently, whilst the Council cannot currently demonstrate a five-year housing land supply, the tilted balance under paragraph 11(d) is disengaged. This is because footnote 6 in relation to paragraph 11(d)(i) sets out that the tilted balance does not apply where, inter alia, the application of heritage policies contained within the NPPF provide a clear reason for refusing the development. In this case the outcome of the heritage balance completed provides a clear reason for refusing the proposed development. This has been taken into account within the overall planning balance which concludes this report.

On a separate matter, it is acknowledged that the consultation response from ECC Archaeology has identified the potential for archaeological deposits to be present beneath the site. No objection has been raised by ECC Archaeology, however, conditions have been recommended in order to ensure that any potential archaeology is satisfactorily investigated and recorded in the event that planning permission is granted.

### Design and Layout

Paragraph 124 of the National Planning Policy Framework (NPPF) sets out that 'the creation of high quality buildings and places is fundamental to what the planning and development process should achieve'. It then goes on to cite good design as a 'key aspect of sustainable development'.

Paragraph 127 of the NPPF details that planning policies and decisions should ensure that developments function well and add to the overall quality of the area. To achieve this developments must be visually attractive as a result of good architecture, layout, and effective landscaping. Moreover, developments must establish a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit.

It subsequently follows that, in accordance with Paragraph 130 of the NPPF, permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area.

The above principles have more recently been elaborated upon within the National Design Guide (NDG) with a shift in emphasis towards the promotion of beauty. Paragraph 1 of the NDG explains that well-designed places influence the quality of our experiences as occupants or users but also as passers-by and visitors. Paragraph 4 of the NDG establishes that the long-standing, fundamental principles of good design are that it is; fit for purpose; durable; and brings delight.

Policy SP6 of the Section 1 Plan, Policies RLP3, RLP10, and RLP90 of the Adopted Local Plan, and Policies LPP37, LPP50 and LPP55 of the Section 2 Plan all reflect the NPPF and NDG by seeking the highest possible standards of design and layout in all new development, including the need for the overall design of buildings to reflect or enhance the area's local distinctiveness.

The 10 dwellings proposed would represent gross overdevelopment of the application site, equating to an approximate density of just under 100 dwellings per hectare, resulting in an unacceptable design and layout which does not respond to the constraints of the site or its surroundings. Notably, given the limited space available, the ten dwellings would be crammed to the edges of the site whilst incorporating a three-storey scale that is untenable for the sensitive backland site, where it is expected that any new development would maintain a subordinate relationship to the existing two-storey buildings that defines its immediate environment and frontage.

As aforementioned in the above section on heritage, the elevation appearance of the proposed dwellings can be described as contrived and out of character with their environment, with the attempt to bridge contemporary and traditional design resulting in an overall identity that fails to address either context. To take an example, the overhanging jetties proposed to Plots 4, 8, 9 and 10 would be arbitrary and inconsistent with the vernacular of the locality and the design rationale for the remainder of the proposed development. The appearance of Plots 4, 8, 9 and 10 would in effect create a secondary frontage to the rear of Newland Street. Moreover, the outward facing northern and southern elevations would be poor in composition with their elongated, unbroken extents lacking an appropriate solid to void ratio and detailing.

There are numerous references within the submitted documentation to the proposed development representing 10 small mews houses. This is considered to be a rather loose interpretation of a traditional mews block which would ordinarily be interpreted as subordinate accommodation to the rear of large houses arranged in a row or courtyard fashion. In this case the massing of the proposed dwellings could not be in anyway be described as small or subordinate to the existing built-form within Newland Street. Meanwhile, the opposing row of dwellings proposed to the rear of Plots 4, 8, 9, and 10 are so close to one another that they would give rise to residential amenity concerns and an oppressive degree of enclosure to the central

thoroughfare, which would have very limited natural surveillance at the street-level.

In addition, whilst it is in many respects admirable that the proposed development seeks to incorporate floating first-floor gardens and green walls, without specific landscaping details it is difficult to envisage how practical it would be for an appropriate planting scheme to be delivered and maintained in the long-term. As such, there is doubt about the resulting quality of the proposed gardens and green walls in terms of their appearance and function. This is particularly pertinent in the context of the very limited amount of daylight that would be available to these enclosed spaces, meaning they could potentially become void, harsh, dark spaces used for the storage of residential paraphernalia which would further erode the ability to create an attractive sense of place. The gardens would also be unacceptable in terms of their residential amenity value which is discussed further in the below section on residential amenity.

The proposed parking strategy is also of a poor quality with no visual mitigation proposed for parked cars contrary to the guidance provided within the NDG. Specifically, a parking space would frame the ground-floor aspect of the development when viewing the site from within Newland Street, as shown on the submitted 'perspectives' drawing. Parked cars would also define the street level experience within the site for future occupants, visitors, and also passers-by given the degree of pedestrian permeability which would be facilitated by the two accesses at either end of the site. As the parking spaces proposed do not meet the adopted standard of 2.9 metres by 5.5 metres, it is likely the visual intrusion of parking cars would be greater than that currently illustrated, particularly with cars projecting forward of the building line.

To summarise, the proposed development would represent significant overdevelopment of the application site, with the scale, massing, layout and appearance of the proposed dwellings lacking an acceptable response to the constraints of the site and the character of the area, to the detriment of good design and place making. Ultimately, the proposed development represents poor design that fails to take the opportunities available for improving the character and quality of the area and the way it functions, contrary the objectives set out under Policy SP6 of the Section 1 Plan, Policies RLP3, RLP10, and RLP90 of the Adopted Local Plan, and Policies LPP37, LPP50 and LPP5 of the Section 2 Plan. In addition, the proposed development would be contrary to the design policies contained within the NPPF, and the supplementary design guidance contained within the NDG.

### Residential Amenity

Paragraph 27(f) of the NPPF states that planning policies and decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

The NDG explains that well-designed homes and buildings are functional, accessible and sustainable, elaborating that ‘they provide internal environments and associated external spaces that support the health and well-being of their users and all who experience them’. It also details that well-designed homes and buildings relate positively to the private, shared and public spaces around them, contributing towards social interaction and inclusion. Fundamentally, it emphasises that good design includes comfort, safety, security, amenity, accessibility and adaptability.

In relation to higher-density developments, the NDG specifically directs that the quality of internal space needs careful consideration, alongside the important considerations of access, privacy, daylight and external amenity space.

Similarly, Policy SP6 of the Section 1 Plan, Policies RLP3 and RLP90 of the Adopted Local Plan, and Policies LPP37 and LPP55 of the Section 2 Plan all emphasise the need to secure a high standard of residential amenity, both for the occupiers of existing neighbouring properties and the future occupants of new developments. The Council has also adopted the Essex Design Guide (EDG) as a supplementary planning document, which sets out a number of design requirements, including in relation to amenity space.

The proposed development by virtue of its density, scale, and massing gives rise to a number of residential amenity concerns. Firstly, whilst the Nationally Described Space Standards (NDDS) do not include a minimum floorspace for one and two-bedroom, three-storey dwellings, the quality of the internal living environment proposed is poor in many ways. Notably, through a combination of the existing built-form in Newland Street, the orientation of the site, and the proposed layout; enjoyment of daylight would be lacking throughout the entirety of the proposed development. This is most acutely evident for Plots 1, 2, 5 and 6 which are to all intents and purposes proposed to be single-aspect and either north-facing or, in the case of the south-facing plots, overshadowed by the opposing, north-facing dwellings. The remaining dwellings on Plots 3, 4, 7, 8, 9 and 10 would also experience limited daylight when taking into account the overshadowing they would experience. An inadequate provision of daylight would also be experienced within the proposed private amenity areas and balconies.

Privacy would also be comprised as a result of the cramped arrangement of the proposed dwellings and their close proximity to one another. For instance, there are first-floor windows within the rear elevations of Nos. 93, 95 and 99 Newland Street which have the potential to overlook Plots 4, 8, 9 and 10, with the ground-floor window proposed to serve the kitchen/dining room of Plot 4 situated directly adjacent to the bin store for the adjacent commercial premises. The latter point represents poor privacy and poor outlook. Similarly, due to a separation distance of approximately 6 metres between them, the opposing dwellings proposed to the rear of site would severely overlook one another’s external amenity spaces and in some instances bedrooms, as would be the case between Plots 2 and 6, and Plots 1 and 5.

Furthermore, the irregular shapes and minimal floor spaces proposed for the second bedrooms on Plots 4 and 7 mean that these second bedrooms cannot be considered acceptable or legitimate, with even the main bedroom for Plot 7 falling below the minimum bedroom size suggested within the NDSS.

Turning to the gardens proposed, it is immediately apparent that they would not meet the lesser requirement of 50sq.m prescribed by the EDG, but at the same time it is acknowledged that in a high-density urban environment a reasonable judgement needs to be made on what can be achieved and what is acceptable, taking into account access to local open space, as well as the benefits of living in a town centre location. As such, the quality of the garden space to be provided is as important a consideration as the amount of garden space proposed. Here it is very clear that, on the whole, the quality of the proposed first-floor gardens would not be acceptable. They would be constrained, overshadowed, and overlooked spaces squeezed between the proposed dwellings. The balconies would also experience the same shortfalls. This is contrary to the EDG and totally at odds with the NDG which emphasises that private amenity spaces must be of a high-quality; fit for purpose; offer privacy; and take into account environmental factors that may affect its usability, such as sunlight and shade. It is extremely difficult to envisage the future occupants of the dwellings sitting outside and enjoying their respective private amenity spaces in comfort.

Added to the above, a lack of ground-floor surveillance in many parts of the oppressively enclosed site would not foster a feeling of safety and security, instead it would create an environment which would feel uninviting, dark, uncomfortable, unsafe, and susceptible to anti-social behaviour. This is particular pertinent given the backland location of the proposed development.

When viewed both individually and cumulatively, the harms identified in relation to the residential amenity of future occupiers would be so severe that it would be wholly at odds and in direct conflict with the entitlement of future occupiers to a high standard of amenity, as bestowed by national and local policy, to the detriment of their well-being, health and quality of life.

It is acknowledged that the proposed dwellings would be in close proximity to existing commercial premises. This means there is a prospect that future occupants could at times be exposed to odour or noise resulting from the operation of nearby businesses. However, in compact urban environments such relationships are not entirely uncommon, and in any event typical hours of use would mean that any disturbances are unlikely to be so harmful as to warrant a refusal on that basis.

No harm has been identified with regards to neighbour amenity.

Therefore, to summarise, the proposed development would fail to secure a high standard of amenity for future residents. This by virtue of the fact that proposed dwellings would provide for a wholly unacceptable level of internal and external amenity, as a result of overshadowing, overlooking, poor outlook, in addition to cramped living environments and amenity spaces. Furthermore,

the lack of natural surveillance proposed at street-level would lead to safety and security issues, contrary to the need to deter anti-social behaviour and ensure that people feel safe and secure at all times. The proposed development would therefore be contrary to Policy SP6 of the Section 1 Plan, Policies RLP3 and RLP90 of the Adopted Local Plan, and Policies LPP37 and LPP55 of the Section 2 Plan. In addition, the proposed development would be contrary to the policies contained within the NPPF, alongside the supplementary guidance provided within the NDG.

### Highways

Paragraph 108 of the NPPF explains that, when assessing specific applications for development, it is important to consider whether safe and suitable access to the site can be achieved for all users. Paragraph 109 of the NPPF states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact upon highway safety, or the residual cumulative impacts on the road network would be severe.

Similarly, amongst other matters, Policy RLP10 of the Adopted Local Plan, in addition to Policies LPP37 and Policy LPP55 of the Section 2 Plan, require new developments to be provided with a safe and suitable access, without detriment to the local road network, in order to maintain highway safety for all highway users.

Moreover, Policy RLP56 of the Adopted Local Plan and Policy LPP45 of the Section 2 Plan require that all new development is provided with sufficient vehicle parking spaces in accordance with Essex County Council's Vehicle Parking Standards (VPS). For a one bedroom dwelling the standards prescribe one parking space measuring 2.9 metres by 5.5 metres, whereas for two bedroom dwellings the standard prescribe two parking spaces to the same dimensions.

The Highway Authority, Essex County Council Highways, have been consulted on the application and returned no objections to the proposed development on highway grounds. It is therefore considered that the existing access to the site off of Newland Street is acceptable. With regard to the rear access proposed, the red line does not extend to the public highway at Kings Chase, but instead highlights access onto Newlands Place, a private track. Insufficient information has therefore been submitted to demonstrate a connection to the adopted public highway and as such the proposed development fails to comply with Policy RLP10 of the Adopted Local Plan, Policies LPP37 and LPP55 of the Section 2 Plan, and the NPPF.

In terms of parking, one parking space is proposed for each dwelling representing a shortfall of one space for each of the two-bedroom dwellings proposed on Plots 4 and 7. The parking spaces would also fall below the preferred space size dimensions of 5.5 metres by 2.9 metres, albeit they would just meet the minimum bay size, only to be used in exceptional circumstances, of 5 metres by 2.5 metres. On balance, given the town centre

location of the application site, where there is excellent provision for and access to sustainable modes of transport, the limited shortfall against the adopted VPS is not considered to be harmful enough to warrant a reason for refusal. This conclusion also factors in the proposed cycle parking provision which would meet the requirements of the adopted VPS. Notwithstanding this conclusion, as has already been outlined in the discussion of the proposed development's design, the way in which the car parking is integrated into the proposed development is not considered to be acceptable, but this is a design issue rather than a highways matter.

### Ecology & Trees

Paragraph 170 of the NPPF is explicit that planning decisions should contribute to and enhance the local environment by minimising impacts on, and providing net gains for, biodiversity, whilst also recognising more generally the benefits of trees.

Policy CS8 of the Core Strategy establishes that all development proposals will, amongst other matters, ensure the protection and enhancement of the natural environment, habitats and biodiversity, and geodiversity of the District. Additionally, Policy RLP81 of the Adopted Local Plan sets out that the Council will seek to protect established trees of local amenity value, whilst Policy RLP84 of the Adopted Local Plan states that planning permission will be refused for developments that would have an adverse impact on protected species. Furthermore, where a proposed development may have an impact on protected species, Policy RL84 goes on to explain that the developer will be required to undertake and submit an ecological survey, to demonstrate that an adequate mitigation plan is in place to ensure there is no harm to protected species and no net loss of priority species. These objectives are reflected under Policies LPP68 and LPP69 of the Section 2 Plan.

The application site is covered in hardstanding and is currently being used for car parking. Some vegetation has grown around the peripheries of the site, particularly towards the rear boundary, where the site has been left unmaintained. A Biodiversity Validation Checklist has been submitted with the application and outlines that the site contains negligible ecological value. The Council's Ecologist agrees with the conclusion of the Biodiversity Validation Checklist and is satisfied that sufficient ecological information has been made available for the determination of the application.

Therefore, in the event that planning permission were to be granted, the on-site ecological matters could be readily addressed through the imposition of suitably worded condition for a Biodiversity Enhancement Strategy.

### Contamination

Paragraph 178 of the NPPF states that planning policies and decisions should ensure that a site is suitable for the proposed use taking account of ground conditions and any risks arising from land instability and contamination. It then goes on to explain that adequate site investigation information, prepared

by a competent person, should be made available to inform these assessments.

Policy RLP64 of the Adopted Local Plan requires that an applicant proposing development on, or near, where contamination may exist should carry out a thorough investigation, so as to establish the nature and extent of any contamination. This same objective is reflected in Policy LPP75 of the Section 2 Plan.

The application site has previously been used for commercial purposes with the Design and Access statement explaining that the buildings which formerly occupied the rear portion of the site were in light industrial and garage uses. Subsequently, there is considered to be a risk of contamination, yet no contamination investigation has been completed or submitted for consideration. In cases such as this we would expect to be in receipt of at least a Phase 1 Land Contamination Assessment.

Therefore, in the absence of sufficient information, the nature and extent of any contamination on the site has not been established and it cannot as a consequence be ensured that site is suitable for the proposed use. The proposed development is subsequently contrary to Policy RLP64 of the Adopted Local Plan, Policy LPP75 of the Section 2 Plan, and the NPPF.

#### Flood Risk and Sustainable Drainage

The application site is located with Flood Zone 1 (low probability risk of flooding).

Notwithstanding the above, Paragraph 165 of the NPPF states that major developments should incorporate sustainable drainage systems (SUDS) unless there is clear evidence that this would be inappropriate. It goes on to cite that when considering the SUDS used, regard should be given to the advice received from the lead local flood authority (LLFA).

Policy RLP69 of the Adopted Local Plan, Policy CS8 of the Core Strategy, and Policies LPP78, LPP79 and LPP80 of the Section 2 Plan reflect the above objective of the NPPF and require new major developments to incorporate SUDS as appropriate to the nature of the site.

Essex County Council, as the LLFA, initially raised a holding objection, but following the receipt of additional information the LLFA confirmed that they have no objection to the proposed development, subject to the imposition of conditions. Therefore, in the event that planning permission were to be granted, the matters related to sustainable urban drainage could be satisfactorily addressed through the imposition of suitably worded conditions.

#### Habitat Regulations Assessment (HRA / RAMS)

The application site is situated within the Zone of Influence (ZOI) for the Blackwater Estuary SPA & Ramsar site, and the Dengie SPA & Ramsar site.



As such, the developer is required to pay a financial contribution towards off site visitor management measures for the Blackwater Estuary SPA & Ramsar site, and the Dengie SPA & Ramsar site (£125.58 per dwelling). In the absence of a S.106 Legal Agreement securing this requirement, the proposed development would not mitigate against its impact upon the Blackwater Estuary SPA & Ramsar site, and the Dengie SPA & Ramsar site. This constitutes an additional reason for refusal.

### Open Space

Policies CS10 of the Core Strategy, Policy RLP138 of the Adopted Local Plan, Policy SP5 of the Section 1 Plan, and Policies LPP53 and LPP82 of the Section 2 Plan, all require new residential developments to provide, or contribute towards the cost of, improvements to community facilities and infrastructure appropriate to the type and scale of development proposed. The Council has adopted an Open Space Supplementary Planning Document (SPD) which sets out the process and mechanisms for the delivery and improvement of open space in the District. These requirements would need to be secured through a Section 106 Agreement.

In the absence of a completed S.106 Legal Agreement, the proposed development fails mitigate against its direct impacts with regards to open space. The proposed development is therefore contrary to Policies CS10 of the Core Strategy, Policy SP5 of the Section 1 Plan, Policies RLP138 of the Adopted Local Plan, Policies LPP52 and LPP82 of the Section 2 Plan, and the NPPF.

### Other Matters

The Design and Access Statement refers to the dwellings being constructed to achieve Passivhaus standards. However, very limited information is submitted to demonstrate or provide a firm commitment as to how this will be achieved, a point which is particularly pertinent in the context of the limited passive solar gain that would materialise when taking into account the orientation of the dwellings proposed and the overshadowing that would occur between them. As such, in the absence of further information and certainty that Passivhaus standards could be achieved, the sustainable construction of the dwellings cannot be ensured.

### PLANNING BALANCE AND CONCLUSION

The presumption in favour of sustainable development sits at the heart of the NPPF. The Framework is clear in its instruction at Paragraph 11d, that for decision-taking this means where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in Paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than

75% of) the housing requirement over the previous three years), granting permission unless:

- (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Such an assessment must take account of the economic, social and environmental impact of the proposed development and these matters must be considered in the overall planning balance.

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

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

In terms of the benefits of the scheme, the proposed development would provide a modest economic benefit during construction and post occupation, as residents will consume goods and services from local businesses, and a social and environmental benefit through the creation of ten dwellings in a sustainable location, through the redevelopment of previously developed land. An environmental benefit would also arise from the proposed commitment to achieve Passivhaus standards in the construction of the dwellings. The contribution towards the District's 5 year housing land supply, albeit limited to ten dwellings, would also be a benefit weighing in favour of the proposed development. These benefits are collectively given modest weight.

With regards to the identified harms, the proposed development would result in less than substantial harm to the Witham Conservation Area and the setting

of the Grade II Listed Building at No. 91 Newland Street, with insufficient public benefits advanced to outweigh the identified harm, thus resulting in the tilted balance under paragraph 11(d) of the NPPF being disengaged. The proposed development would also fail to achieve an acceptable standard of design, constituting overdevelopment of the application site, to the detriment of securing a high standard of residential amenity for the future occupants of the proposed dwellings. Additionally, a suitable access to the public highway, to the rear of the application site, has not been demonstrated as part of the planning application. Moreover, in the absence of sufficient information regarding contamination, it has not been demonstrated that the site is suitable for the residential use proposed. The identified harms are attributed substantial weight.

In the absence of a S.106 Agreement, the proposed development would also fail to mitigate against its impacts with regards to public open space and recreational disturbance of the Blackwater Estuary SPA & Ramsar site, and the Dengie SPA & Ramsar site. However, it is acknowledged that planning obligations could potentially be secured in agreement with the Applicant, if it were resolved to grant planning permission.

When considering the planning balance and having regard to the identified benefits and harms, and having regard to the requirements of the NPPF as a whole, Officers have concluded that the adverse impacts of the proposed development would outweigh the public benefits of the proposal. However, and notwithstanding the above, even if the tilted balance was engaged, having regard to the requirements of the NPPF as a whole, Officers have concluded that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits. Consequently, it is recommended that planning permission is refused for the proposed development.

## RECOMMENDATION

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

- 1           The proposed development would result in less than substantial harm to the Witham Conservation Area and the setting the Grade II Listed Building at No. 91 Newland Street, with insufficient public benefits advanced to outweigh the identified harm, contrary to Paragraph 196 of the National Planning Policy Framework, Policy SP6 of the Shared Strategic Section 1 Local Plan 2021, Policies RLP90, RLP95, and RLP100 of the Braintree District Local Plan Review 2005, and Policies LPP50, LPP55, LPP56, and LPP60 of the Braintree District Publication Draft Section 2 Local Plan 2017. The development further fails to comply with Section 66(1) and Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

- 2 The proposed development would be represent significant overdevelopment of the application site, with the scale, massing, layout and appearance of the proposed dwellings lacking an acceptable response to the constraints of the site and the character of the area, to the detriment of good design and place making. Ultimately, the proposed development represents poor design that fails to take the opportunities available for improving the character and quality of the area and the way it functions, contrary the objectives set out under Policy SP6 of the Shared Strategic Section 1 Local Plan 2021, Policies RLP3, RLP10, and RLP90 of the Braintree District Local Plan Review 2005, and Policies LPP37, LPP50 and LPP5 of the Braintree District Publication Draft Section 2 Local Plan. In addition, the proposed development would be contrary to the design policies contained within the National Planning Policy Framework, and the supplementary design guidance contained within the National Design Guide.
- 3 The proposed development would fail to secure a high standard of amenity for existing neighbours and future residents. This by virtue of the fact that proposed dwellings would provide for a wholly unacceptable level of internal and external amenity, as a result of overshadowing, overlooking, poor outlook, in addition to cramped living environments and amenity spaces. Furthermore, the lack of natural surveillance proposed at street-level would lead to safety and security issues, contrary to the need to deter anti-social behaviour and ensure that people feel safe and secure at all times. The proposed development would therefore be contrary to Policy SP6 of the Shared Strategic Section 1 Local Plan, Policies RLP3 and RLP90 of the Braintree District Local Plan Review 2005, and Policies LPP37 and LPP55 of the Braintree District Publication Draft Section 2 Local Plan 2017. In addition, the proposed development would be contrary to the policies contained within the National Planning Policy Framework, alongside the supplementary guidance provided within the National Design Guide.
- 4 The application does not demonstrate that the proposed access to the rear of the site would be connected to an adopted public highway and subsequently the proposed development fails to comply with Policy RLP10 of Braintree District Local Plan Review 2005, Policies LPP37 and LPP55 of the Braintree District Publication Draft Section 2 Local Plan 2017, and the National Planning Policy Framework.
- 5 Insufficient information has been submitted to determine the nature and extent of any contamination on the site and as a consequence it cannot be ensured that site is suitable for the proposed residential use. The proposed development is therefore contrary to Policy RLP64 of the Braintree District Local Plan Review 2005, Policy LPP75 of the Braintree District Publication Draft Section 2 Local Plan 2017, and the National Planning Policy Framework.

6 Policy RLP84 of the Braintree District Local Plan Review 2005 states that the Council will where necessary impose planning obligations to ensure that new development will not have an adverse effect on protected species by reducing disturbance of habitats to a minimum. Braintree District Council has adopted the Essex Recreational disturbance Avoidance and Mitigation Strategy Supplementary Planning Document (SPD) which sets out the process and mechanisms for securing the delivery of management and mitigation at the Protected Sites. This requirement would need to be secured through a S106 Legal Agreement. In the absence of an obligation the proposal would conflict with the Development Plan by failing to secure the following:

- Financial contribution of £125.58 per dwelling to fund off-site Visitor Management at the Blackwater Special Protection Area and Ramsar site, and at the Dengie Special Protection Area and Ramsar site.

As such the proposal is contrary to the above policy and adopted SPD and the Council would not be able to confirm that the development would not have an adverse impact upon protected sites in accordance with the Habitats Regulations.

7 In the absence of a completed S106 Legal Agreement, the proposed development fails to mitigate against its direct impacts with regards to open space, contrary to Policy CS10 of the Braintree District Core Strategy 2011, Policy RLP138 of the Braintree District Local Plan Review 2005, Policy SP5 of the Shared Strategic Section 1 Local Plan 2021, Policies LPP52 and LPP82 of the Braintree District Publication Draft Section 2 Local Plan 2017, and the National Planning Policy Framework.

#### SUBMITTED PLANS

Location Plan	Plan Ref: 001-B
Existing Block Plan	Plan Ref: 002-A
Other	Plan Ref: 004
Block Plan	Plan Ref: 200-A
Ground Floor Plan	Plan Ref: 201-A
First Floor Plan	Plan Ref: 202-A
Elevations	Plan Ref: 205-A
Elevations	Plan Ref: 206-A
Perspective	Plan Ref: 208
Concept Plan	Plan Ref: 209

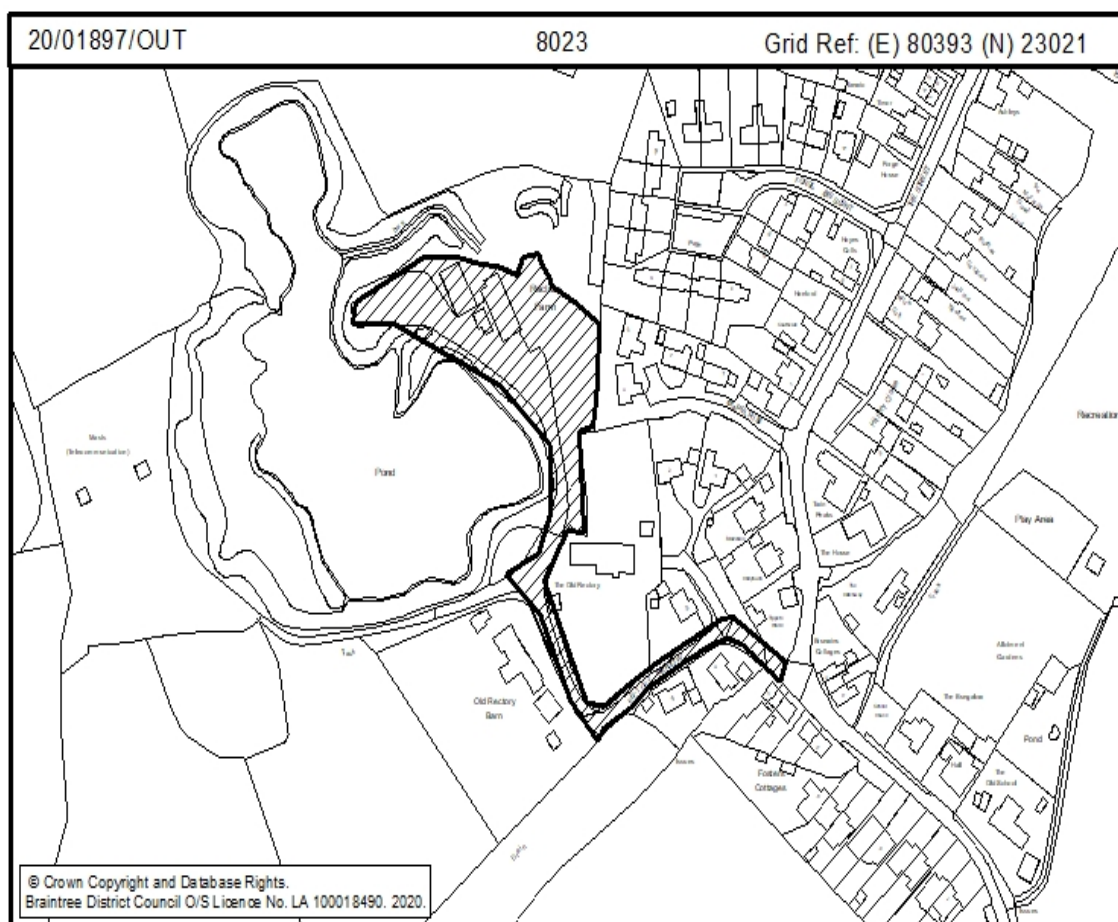
CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

PART A

AGENDA ITEM NUMBER 5d

APPLICATION NO: 20/01897/OUT DATE: 16.11.20  
 VALID:  
 APPLICANT: McDonnell Mohan Ltd  
 C/O Mark Jackson Planning  
 AGENT: Mark Jackson Planning  
 Mr Mark Jackson, Gateway House, 19 Great Notley  
 Avenue, Great Notley Garden Village, Braintree, CM77  
 7UW  
 DESCRIPTION: Outline application with all matters reserved, except access  
 and scale, for demolition of existing commercial buildings  
 and erection of 3 two-storey dwellinghouses.  
 LOCATION: Rectory Meadow, Bradwell, Essex, CM77 8EX

For more information about this Application please contact:  
 Andrew Martin on:- 01376 551414 Ext. 2591  
 or by e-mail to: [andrew.martin@braintree.gov.uk](mailto:andrew.martin@braintree.gov.uk)



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QJVVUEBFHQ000>

## SITE HISTORY

00/00070/TPO	Notice of intent to carry out works to trees protected by Tree Preservation Order No. 25/73 - Crown cleaning and thinning of 1 beech and 1 oak	Granted	24.02.00
16/00100/TPO	Notice of intent to carry out works to tree protected by Tree Preservation Order 19/09 - Reduce an Oak tree by 2-3 metres	Granted	27.05.16

## POLICY CONSIDERATIONS

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

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

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

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

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

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

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

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

### National Planning Guidance

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

### Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP8	House Types
RLP10	Residential Density
RLP51	Cycle Parking
RLP56	Vehicle Parking
RLP64	Contaminated Land
RLP80	Landscape Features and Habitats
RLP81	Trees, Woodland Grasslands and Hedgerows
RLP84	Protected Species
RLP90	Layout and Design of Development
RLP100	Alterations and Extensions and Changes of Use to Listed Buildings and their settings

### Braintree District Local Development Framework Core Strategy 2011

CS5	The Countryside
CS8	Natural Environment and Biodiversity

### Braintree District Shared Strategic Section 1 Local Plan (2021) & Draft Section 2 Local Plan (2017)

SP1	Presumption in Favour of Sustainable Development
SP3	Meeting Housing Needs
SP6	Place Shaping Principles
LPP1	Development Boundaries
LPP17	Housing Provision and Delivery
LPP37	Housing Type and Density
LPP44	Sustainable Transport
LPP45	Parking Provision
LPP50	Built and Historic Environment
LPP55	Layout and Design of Development
LPP60	Heritage Assets and their Settings
LPP68	Protected Species, Priority Spaces and Priority Habitat
LPP69	Tree Protection
LPP70	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP73	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards



## Bradwell with Pattiswick Neighbourhood Plan 2017 - 2033

- Policy 1 Protecting and Enhancing the Natural Environment and Green Infrastructure
- Policy 2 Protection of a Special and Sensitive Landscapes
- Policy 6 Drainage and Flood Management
- Policy 7 Housing
- Policy 8 Economy
- Policy 9 Transport
- Policy 10 Design

### Other Material Considerations

Essex Design Guide – Design and Good Practice  
Essex Parking Standards

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

This application is being reported to Planning Committee in accordance with the transitional arrangements for the Council's new Scheme of Delegation, as Bradwell with Pattiswick Parish Council have objected to the proposal contrary to Officer recommendation.

### DESCRIPTION OF THE SITE AND SITE CONTEXT

The application site is a 0.36 hectare parcel of land which abuts the western boundary of the Bradwell Village Envelope. It is a brownfield site, occupied by four redundant buildings and a concrete structure, situated within a clearing surrounded by woodland, identified as a Priority Habitat within the Bradwell with Pattiswick Neighbourhood Plan, and a fishing pond formerly used as a gravel pit. The site is identified as constituting contaminated land.

Approximately 150 metres to the north of the site, beyond the woodland, a shallow extent of agricultural land, and existing dwellings, is Coggeshall Road (A120). The wider context beyond the site's boundaries is defined by agricultural fields as part of the open countryside.

Access to the site is gained by a private track which connects to Rectory Meadow, a private road which connects to the public highway network via Church Road at its junction with The Street. Public Footpath 51 follows the egress route into the site but continues northwards, tracking the western boundary of the Village Envelope, before turning west and following the northern extent of the Priority Habitat woodland. Public Footpath 37 also runs through the site, however, rather than continuing along the egress route, it simply continues south-west from the formal termination of Rectory Meadow.

There is a Grade II Listed Building at Tippet's Wade which is adjacent to the existing junction of Church Road and The Street.

## PROPOSAL

The application seeks outline planning permission, with all matters reserved except access and scale, for the demolition of the existing buildings on the site and the construction of three dwellings. It follows the refusal of an identical development on the site in 2017, (Application Reference 17/00649/OUT), which was then allowed on appeal in 2018, (Appeal Reference APP/Z1510/W/17/3185814). A copy of this appeal decision is appended to this report for information.

Condition 2 of the aforementioned appeal decision required that an application for the approval of the reserved matters be submitted to the Local Planning Authority no later than 3 years from the 15th February 2018. As such, whilst the planning permission was extant at the time when this planning application was submitted, the planning permission lapsed on the 15th February 2021. Notwithstanding this, the Applicant seeks to renew the previous planning permission in order to facilitate its delivery.

A revised site location plan has been received and re-consulted upon during the course of the application. This revision extended the red line boundary of the site so that it incorporates Rectory Meadow and demonstrates access to the adopted public highway which begins at the junction of Church Road and The Street.

## SUMMARY OF CONSULTATION RESPONSES

### BDC Ecology

Advised that sufficient information has been submitted to enable the Local Planning Authority to demonstrate compliance with its statutory duties, including its biodiversity duty under s. 40 of the NERC Act 2006. It has also been advised that sufficient information has been provided to enable the Local Planning Authority to demonstrate that biodiversity net gains have been secured.

Recommended conditions include securing a Wildlife Friendly Light Strategy; mitigation measures in accordance with the submitted Preliminary Ecological Appraisal; and reasonable biodiversity enhancement measures through the submission and approval of a Biodiversity Enhancement Layout.

An informative for general good practice is also recommended.

### BDC Environmental Health

No objections raised subject to the recommended condition with respect to contaminated land. Also gave recognition to the content of the Environment Agency's response to the application.

## ECC Highways

Requested that the Local Planning Authority refer to the Highway Authority's consultation response to application 17/00649/OUT.

A further response was received to a second consultation explaining that the Highway Authority has no further comments to make following a review of the revised site location plan and red line.

## Ramblers Association

Observed that Footpaths 37 and 51 are mentioned in the planning statement, but they are not shown on the submitted plans. Requested that the plans be updated to show the Public Rights of Way.

Further commented that the eastern end of Footpath 37 and the southern part of Footpath 51 are contiguous with the vehicular access route to the site. In addition, it is noted that the eastern end of Footpath 37 is the developed, private road of Rectory Meadow and that Footpath 51 has a natural, stony surface which it is hoped will be capable of accommodating vehicular and pedestrian traffic.

Noted that the submitted arboricultural report does not include any of the trees in the area of Footpath 51 and it is therefore assumed there will be no impact on these trees.

Concluded that the natural feel of Footpath 51 should be retained and that the surface of it must remain walkable.

## PARISH / TOWN COUNCIL

### Bradwell with Pattiswick Parish Council

Objects to the planning application. A summary of the main issues raised within the consultation response are as follows:

- Applicant has not recognised that the Bradwell with Pattiswick Neighbourhood Plan has been formally adopted since the previous grant of planning permission.
- Noted that the Inspector for the Neighbourhood Plan recommended an amendment to the wording of Policy 7b so that it would read:

“Development proposals for small scale residential development and extensions and conversions for residential use outside the Bradwell village settlement boundary shall be supported as an exception to planning policies where they:

- Can demonstrate a significant contribution towards maintaining the future viability and sustainability of the adjacent settlement;
- Are adjacent to an existing settlement or hamlet [footnote];

- And do not provide a linear extension to Bradwell village along Coggeshall Road, Church Road, Rectory Meadow or Hollies Road.”
- Proposal directly conflicts with the Bradwell with Pattiswck Neighbourhood Plan, as it does not demonstrate a significant contribution towards maintaining the future viability and sustainability of Bradwell, and it would provide a linear extension to Bradwell village along Rectory Meadow.
- The site is surrounded by a Priority Habitat, as recognised by Policy 1 of the Neighbourhood Plan, which is not recognised within the submission.

## REPRESENTATIONS

The application was publicised by way of an advertisement in the Braintree & Witham Times. A site notice has also been displayed in close proximity to the application site and neighbour notification letters have been sent to the properties immediately adjacent to the site.

A further period of public consultation, in the form of an additional round of neighbour notification letters, including for 10 additional neighbouring properties, alongside the display of a further site notice, was completed in response to the aforementioned revision to the red line on the site location plan.

A total of 7 representations have been received from 5 local households. Below is a summary of the concerns raised:

- Requested that the Council refer to previous objections to application 17/00649/OUT, seeing as the proposal is unchanged.
- Regard should be given to the site's full planning history, including the previous considerations surrounding the continued use of the site as a scaffolders' yard, particularly the requirement for an agreement with existing residents relating to the use of the road.
- Increase in vehicular traffic generated by the proposal would set a very dangerous precedent for highway users including school children.
- Increase in vehicular traffic generated by the proposal would lead to expensive, additional highway maintenance costs for existing residents.
- Increase in vehicular traffic generated by the proposal would lead to congestion within the locality.
- Referring to the gravel pit as a lake is misleading.
- The dwellings proposed would not be in accordance with the Bradwell with Pattiswick Neighbourhood Plan which was informed by consultation within the village.
- Access to Rectory Meadow from The Street/Church Lane is dangerous for highway users due to poor visibility.
- Width of the existing highway is insufficient for passing vehicles.
- The safety of users of Footpath 37 justifies refusing the planning application.
- Site does not benefit from use of the access road under the original deeds for its usage.

- Submission refers to “Phase 1” which implies that further applications are to come and as such granting planning permission would set a precedent.
- Description of site as a previously developed commercial site is misleading, it is a toxic and contaminated site with a few derelict sheds.
- Siting of housing adjacent to the gravel pit is unsafe.
- Site is unsafe for housing.
- Red line has been updated to include the entirety of Rectory Meadow, a private road owned entirely by the residents of Rectory Meadow.
- Rectory Meadow was constructed in 1973 to service the houses built at that time.
- Historic access to the now closed scaffolding business was arranged on an informal basis and any arrangements in place at that time ceased to exist when the business closed.
- Increase of activity on the site in recent weeks including landscaping works.
- Application originally had access as a reserved matter.
- Concern that the Applicant is seeking to subversively adopt access to the site.
- Construction vehicles using access will damage Grade II Listed Building at Tippet’s Wade.
- Properties in The Street are located on blind bends.
- There are no footpaths close to the site within The Street.

Given the representations received refer to previous objections to application 17/00649/OUT, which is identical to the current application, a summary of the representations received in respect of that application are provided below:

- Issues with local water table levels, leading to surface water issues.
- Issues with contamination at the site.
- Rectory Meadow is a private road maintained by existing residents, leading to concerns about its use by construction vehicles and additional residents.
- No previous impact from commercial development at the site and there has been no commercial use of the site for some time.
- Proposed allocation for 46 homes near the site rejected for allocation in the emerging Section 2 Plan.
- Detrimental impact upon bats and ecology.
- Site located outside of the Bradwell Village Envelopment with no exceptional circumstances present to justify the proposal.

## REPORT

### PRINCIPLE OF DEVELOPMENT

#### National Planning Policy Framework (NPPF) 2019

As set out in Paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 of the NPPF explains that achieving sustainable development means that the planning system has three overarching objectives: economic; social; and

environmental; which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives).

Paragraph 9 of the NPPF outlines that planning decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area. In addition, paragraph 38 of the NPPF prescribes that local planning authorities should approach decisions on proposed development in a positive and creative way and that decision-makers at every level should seek to approve applications for sustainable development where possible.

Paragraph 12 of the NPPF sets out that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making. In addition, paragraph 47 of the NPPF states that planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

The NPPF underlines the Government's objective of significantly boosting the supply of homes. In this regard, paragraph 59 of the NPPF highlights the importance of ensuring that there is a sufficient amount and variety of land that can come forward where it is needed, that specific housing requirements are met, and that land with permission is developed without unnecessary delay. Paragraph 73 of the NPPF outlines that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against (in the case of Braintree District) our 'local housing need' plus the relevant buffer.

In this regard, and in considering the overall planning balance as to whether the proposed development subject to this application constitutes sustainable development, an important material consideration in this case is whether the Council can robustly demonstrate a 5 Year Housing Land Supply. This will affect whether Paragraph 11 of the NPPF is engaged and consequently the weight that can be attributed to the Development Plan.

### The Development Plan

Currently the Council's statutory Development Plan consists of the Braintree District Local Plan Review (2005), the Braintree District Core Strategy (2011), the Shared Strategic Section 1 Plan (2021), and, relevant to this application, the Bradwell with Pattiswick Neighbourhood Plan (2019).

The application site is located outside of a designated development boundary and as such is located on land designated as countryside in the Local Plan Review (2005), the Core Strategy (2011), and the Bradwell with Pattiswick Neighbourhood Plan (2019).

Policy RLP2 of the Adopted Local Plan states that new development will be confined to areas within Town Development Boundaries and Village Envelopes. Outside these areas countryside policies will apply. Policy CS5 of the Core Strategy specifies that development outside Town Development Boundaries and Village Envelopes will be strictly controlled to uses appropriate within the countryside in order to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside.

In addition, the application site is not proposed for allocation as a development site within the emerging Section 2 Plan, meaning it would be contrary to Policy LPP1 of the Section 2 Plan which states that outside of development boundaries, development will be strictly controlled to uses appropriate to the countryside.

Notwithstanding the above, in terms of the Bradwell with Pattiswick Neighbourhood Plan (from herein referred to as 'the Neighbourhood Plan'), whilst the site is not allocated for residential development within it, when it comes to assessing proposals for residential development outside of the Village Envelope, Policy 7 states the following:

*b) Development proposals for small scale residential development and extensions and conversions for residential use outside the Bradwell village settlement boundary shall be supported as an exception to planning policies where they:*

- *Can demonstrate a significant contribution towards maintaining the future viability and sustainability of the adjacent settlement*
- *Are adjacent to an existing settlement or hamlet and*
- *Do not provide a linear extension to Bradwell village along Coggeshall Road, Church Road, Rectory Meadow or Hollies Road.*

The above extract from Policy 7 does not detract from the fact that the clear spatial preference provided by the first arm of the same policy is for new residential development to be contained within defined settlement boundaries. Nonetheless, the above exception criteria taken from the second arm Policy 7 require attention, given the explicit reference to the principle of development being supported subject to compliance with the exception criteria. A detailed discussion of the proposed development in that respect, alongside all the other usual material considerations, is provided within the remainder of the report under the general site assessment section.

To summarise, whether or not the proposed development would be in conflict with the Council's Development Plan as a whole is dependent on a number of detailed considerations, as whilst on the face of it there would be a direct conflict with Policy RLP2 of the Adopted Local Plan, in addition Policy LPP1 of the Section 2 Plan, determining the extent of conflict, if any, with Policy CS5 of the Adopted Core Strategy and Policy 7 of the Neighbourhood Plan is a more nuanced matter of planning judgement which requires a detailed assessment. A detailed policy assessment of the proposed development and its merits is

therefore provided within the remainder of this report and will ultimately inform the overall planning balance.

### 5 Year Land Supply

The Council publishes a 5 year housing land trajectory as of 31st March each year, the most recent position therefore is that of 31st March 2020. Within this trajectory the Council considered that it had a 4.52 year supply of housing, based on a 20% buffer. However there have been a number of factors which the Council must now take into account since this trajectory was published which have an impact on the Council's 5 year housing land supply position.

At its full Council on the 22nd February 2021 Braintree District Council approved the adoption of the Section 1 Plan. On its adoption the Council must meet the housing requirement set out in that Plan. This is a minimum of 14,320 homes between 2013 - 2033 or an annual average of 716 new homes per year. This replaces the previous consideration of housing need based on the Standard Methodology.

The latest Housing Delivery Test (HDT) results were published in January 2021. Prior to the publication of this year's results, the Council was in the category of having to provide a 20% buffer to its Housing Land Supply. The new results (which include an allowance for the impact of the current pandemic) confirm that the Council no longer needs to apply a 20% buffer and can revert to the usual 5% buffer. This applies from the day of the publication of the results.

The housing land supply position has been considered in detail by several Planning Inspectors at recent public inquiries, most notably and in detail through a decision on a site in Rayne. In the conclusion to that appeal the Inspector notes that: *'In my judgement, based on the specific evidence before the Inquiry, the 4.52 years supply claimed by the Council appears to me to be optimistic and, although I do not consider it to be as low as the 3.72 years claimed by the appellants, it is somewhere between the two figures'*. Whilst the Inspector therefore did not come to a firm conclusion on which the Council can base its current position, it is noted that she considered it somewhere between the two figures proposed. That decision was made at a time before the adoption of the Section 1 Plan (and thus calculations of housing need were based on the Standard Method), and before the publication of the latest HDT results.

Nonetheless, focusing on her conclusions on the Council's claimed supply, the Council accepts the Inspector's finding within that inquiry in respect of four of the sites which the Council had previously included within its trajectory. The expected supply from those four sites should be removed from the claimed supply, which has the effect of removing 516 homes from the supply.

Given all of the evidence before it – including the use of the new housing requirement from the Section 1 Plan, the use of a 5% buffer, and the



adjustment to supply, the Council considers that the current 5 year Housing Land Supply for the District is 3.73 years.

It should be noted, however, that it is approaching the end of the monitoring year and the Council will undertake a full review of the housing land supply position as at the 31st March 2021, which it will publish as soon as it is complete.

As the Council cannot demonstrate the required five Year Housing Land Supply the 'tilted balance' of Paragraph 11d) of the NPPF is engaged. It also means that the most important Development Plan policies for determining this application, those relevant to the provision of housing, are out of date.

## SITE ASSESSMENT

### Planning History and Consistency in Decision-making

The application site has previously operated under various commercial uses, including as a HGV depot, a haulage yard, and storage for a scaffolding company, but the latter and most recent use had ceased by 2009. Therefore, whilst the lawful use of the site remains a commercial use, the site has actually been redundant for an extended period of time and constitutes previously developed land.

The application site was also unsuccessfully promoted as part of a wider proposed residential allocation under the 'call for sites' process for the Section 2 Plan.

In 2017, planning permission was sought and refused, under application 17/00649/OUT, for an identical proposal to that sought under this planning application. The reason for refusal broadly related to the application site being in an unsustainable location for residential development. It is though highly material that this decision was subsequently appealed, (Appeal Reference APP/Z1510/W/17/3185814), with the Inspector taking a contrary view and granting planning permission on the 15th February 2018. However, in the absence of an application for the approval of the reserved matters by the 15th February 2021, the planning permission has recently lapsed.

Within the above context, it is important to note that planning history and previous decisions are capable of being a material consideration, albeit such material considerations do not preclude the ability of the Local Planning Authority to exercise its statutory function in determining planning applications by applying planning judgement. Nevertheless, as well-established by the judgement of Lord Justice Mann in *North Wiltshire District Council v Secretary of State for the Environment* *Clover* [1993], consistency is an important consideration for development control. Despite the fact that Lord Justice Mann was grappling with the consistency of decision-making by planning inspectors, the principles established by the case remain sound and can be viewed in the context of decision-making more generally, with the following extract being of particular relevance:

*“One important reason why previous decisions are capable being material is that like cases should be decided in a like manner so that there is consistency in the appellate process. Consistency is self-evidently important to both developers and development control authorities. But it is also important for the purpose of securing public confidence in the operation of the development control system. I do not suggest and it would be wrong to do so, that like cases must be decided alike. An inspector must always exercise his own judgement. He is therefore free upon consideration to disagree with the judgement of another but before doing so he ought to have regard to the importance of consistency and to give his reasons for departure from the previous decision.*

*[...] A practical test for the inspector is to ask himself whether, if I decide this case in a particular way am I necessarily agreeing or disagreeing with some critical aspect of the decision in the previous case? The areas for possible agreement or disagreement cannot be defined but they would include interpretations of policies, aesthetic judgements and assessment of need. Where there is a disagreement then the inspector must weigh the previous decision and give his reasons for departure from it. These can on occasion be short, for example in the case of disagreement on aesthetics. On other occasions they may have to be elaborate.”*

The Planning Practice Guidance (PPG) provides some further clarity on this matter, where at paragraph 49 of the section on appeals it provides the following examples of unreasonable behaviour:

- Not determining similar cases in a consistent manner.
- Failing to grant a further planning permission for a scheme that is the subject of an extant or recently expired permission where there has been no material change in circumstances.

Therefore, it is evident that consistency in decision-making is an important consideration, but so too is the need to have regard to any material change in circumstances. In the case of this application, there is a previous Inspector’s decision to grant planning permission for an identical development, which recently lapsed. But, equally, since the grant of the expired planning permission there have been two notable changes in circumstance. Firstly, the Neighbourhood Plan was made on the 22nd July 2019, and secondly, the Council adopted the Section 1 Plan on the 22nd February 2021.

The main change in circumstances, relevant to this application, brought forward by the adoption of the Section 1 Plan would be the replacement of superseded Policies CS1, CS4, CS9 and CS11 of the Core Strategy by Policies SP3, SP4, SP5 and SP6 of the Section 1 Plan. Furthermore, as set out in the above heading ‘5 Year Land Supply’, the adoption of the Section 1 Plan has resulted in a reduction to the Council’s five year housing land supply.

As elaborated upon in the detailed discussion of the proposed development within this report, these changes do not lead to a different conclusion than that reached by the Inspector of the allowed appeal.

Turning to the change in circumstance arising from the adoption of the Neighbourhood Plan, this is more specific to the current application in terms of its implications, with Policy 7 in particular providing a basis for how housing proposals inside and outside of development boundaries should be considered and determined within the Neighbourhood Plan Area. Again, however, this change in circumstance is not found to warrant deviation from the decision previously reached by the Inspector for the reasons which are set out in the section immediately below, specifically addressing Policy 7, and within the remainder of the report.

### Policy 7 of the Neighbourhood Plan

The entirety of Policy 7 reads as follows:

*a) Proposals for residential development will be supported where the proposed development:*

- i. Is located within defined settlement boundaries;*
- ii. Includes housing types and tenures which meet the current and future housing needs of the Parish taking into account the existing housing stock. Proposals should ensure an appropriate housing mix.*
- iii. Contributes positively to the existing rural character and appearance of the area;*
- iv. Reflects and responds positively to the scale, design, density, and layout of existing development in the surrounding area, and will not result in significant harm to neighbouring residential amenity;*
- v. Will not result in significant harm to heritage assets (both designated and non-designated) in the surrounding area;*
- vi. Protects and enhances important features of the natural environment and biodiversity of the site and its surrounds.*

*b) Development proposals for small scale residential development and extensions and conversions for residential use outside the Bradwell village settlement boundary shall be supported as an exception to planning policies where they:*

- Can demonstrate a significant contribution towards maintaining the future viability and sustainability of the adjacent settlement*
- Are adjacent to an existing settlement or hamlet and*
- Do not provide a linear extension to Bradwell village along Coggeshall Road, Church Road, Rectory Meadow or Hollies Road.*

Evidently, the proposed development does not accord with paragraph (a)(i), given the proposed dwellings would be located outside of the defined

settlement boundary, meaning that the starting point for assessing the application against Policy 7 should be that the application will not be supported, unless as an exception to planning policies it meets the requirements of the second arm under paragraph (b). Fundamentally, paragraph (b) allows for a situation whereby residential development outside of the Village Envelope of Bradwell will be supported, subject to compliance with three exception criterion.

With regards to the first compliance criterion of paragraph (b), the meaning of 'a significant contribution' is not clearly defined, inferring a judgement is required to as to whether or not the development would make a significant contribution towards maintaining the viability and sustainability of the adjacent village. It is also evident that the judgement should be made relative to the 'small scale' nature of the residential development permitted by paragraph (b). Taking these factors into account it is concluded that the proposed development can demonstrate a significant contribution towards maintaining the future viability and sustainability of the adjacent settlement, on the basis that it would re-purpose previously developed land, something which is recognised as an important means of making effective use of land within the NPPF, in order to provide three new family homes, the occupants of which would increase household expenditure and demand for local services and businesses.

The application site is clearly adjacent to the existing settlement of Bradwell and therefore the proposed development complies with the second compliance criterion under paragraph (b).

Lastly, it has to be determined whether the proposed development provides a linear extension to Bradwell village along Rectory Meadow. The proposed development would certainly be accessed via Rectory Meadow, however, whether it would constitute a 'linear extension' to Bradwell village along Rectory Meadow requires further deliberation. The term 'linear extension' is essentially comprised of two parts, the first part relating to an arrangement representing a straight or fairly straight line, and the second part referring to an extension which in this context can be viewed as meaning prolonging or enlarging the Village. An objective interpretation of the two parts together establishes a clear intent of resisting linear urban sprawl, beyond existing development boundaries, along key highway networks within the locality.

Notably, whilst it is acknowledged that the formal extent of Rectory Meadow as a private highway terminates prior to location of the existing buildings and the proposed dwellings, the private track and hardstanding area serving the site already exist and as such the proposal would not provide a linear extension to Bradwell village along Rectory Meadow when assessed against Policy 7. The proposal would change the use of the existing site from a commercial use to a residential use by removing and replacing existing built form with three new dwellings.

Consultation responses to the application have referred to the evolution of Policy 7 from the submission of the Neighbourhood Plan for examination

through to its subsequent adoption, however, as has been well-established by the Court of Appeal, in the case of *TW Logistics v Tendring District Council* [2013], forensic archaeology, such as referring to earlier drafts of policy or an Inspector's report, is generally inappropriate. Essentially, the evolution of a policy does not fetter its meaning, as development plan policies are to be interpreted objectively in accordance with the language used and in its proper context. To quote from the aforementioned Court of Appeal judgement: "The public is in principle entitled to rely on the public document as it stands, without having to investigate its provenance and evolution."

Furthermore, despite the Neighbourhood Plan, like the overall Development Plan, setting out a spatial strategy which strongly favours development within established development boundaries, it does not meet criteria (b) of Paragraph 14 of the NPPF, on the basis that it does not contain policies and allocations to meet its identified housing requirement. This means that, when viewed in combination with the Council's shortfall against its five year housing land supply, the 'tilted balance' applies in the ordinary way under Paragraph 11(d) of the NPPF. Subsequently, the adverse impacts arising from the provision of the three proposed dwellings outside of the Bradwell village envelope are tempered by the proposed developments compliance with the exception criterion of Policy 7(b) of the Neighbourhood Plan, in addition to the application of the presumption in favour of sustainable development through the tilted balance.

To summarise the proposed development is considered to accord with the provisions of Policy 7(b) of the Neighbourhood Plan.

#### Location and Access to Services and Facilities

As has already been highlighted above, with respect to the Development Plan, the site is located outside of development boundaries, contrary to Policy RLP2 of the Adopted Local Plan and Policy LPP1 of the Section 2 Plan, where Policy CS5 of the Core Strategy seeks, amongst other matters, to restrict development to uses appropriate to the countryside. Moreover, Policy CS7 of the Core Strategy and Policy LPP44 of the Section 1 Plan both seek to promote development in accessible locations in order to reduce the need for travel, particularly private car use. Furthermore, whilst not explicitly related to rural locations, Policy SP2 of the Section 1 Plan explains that the re-use of previously development land within settlements is an important objective, although this is to be assessed within the broader context of sustainable development principles, particularly to ensure that development locations are accessible by a choice of means of travel.

Paragraph 79 of the NPPF is also material and explains that planning policies should avoid the development of isolated homes in the countryside, albeit subject to certain exemptions. Nonetheless, in this case the application site constitutes previously developed land adjacent to the Village Envelope of Bradwell and existing residential development. As such, whilst the application site is located outside of the Village Envelope of Bradwell, the proposed development would not materialise in new isolated dwellings when taking into

account the High Court judgement of *Braintree District Council vs Secretary of State for Communities and Local Government & Ors* [2018].

Notwithstanding the above, it follows that consideration should be given to Paragraphs 102 and 103 of the NPPF, both of which emphasise that growth should be actively managed to make optimal use of sustainable modes of transport which includes public transport, walking and cycling. To achieve this objective it is critical that significant development should be focussed on locations which are or can be made sustainable. Paragraph 103 of the NPPF also recognised that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision-making.

Additionally, Paragraph 117 of the NPPF re-enforces the role planning policies and decisions have in promoting the effective use of land and in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. It then goes on to reference the important contribution that re-using previously developed can make towards achieving this objective. Paragraph 118 also details that planning policies and decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land.

Under application reference 17/00649/OUT, the application site was found to be unsustainably located for residential development by Officers, due to the limited facilities, amenities, public transport links, and employment opportunities within the locality. However, when the refusal of planning permission was appealed, the Inspector reached a different conclusion. Notably, whilst the Inspector recognised that there are limited facilities within Bradwell and that future occupants would need to access larger centres, weight was given to the fact that the site constitutes previously developed land with footpath linkages through to nearby bus stops where onward connections are provided to a number of larger settlements. Moreover, the Inspector identified that whilst the dwellings would be located outside of the Village Envelope they would be as close to the services that exist in Bradwell, in addition to the onward connections, as existing dwellings within the Village Envelope. Overall the Inspector found that there would be private car journeys generated by the residential development of the site, resulting in a minor conflict with the objectives of the Development Plan and NPPF, but that it would not result in isolated dwellings and future occupants would not be wholly reliant upon the use of the car, with other modes of sustainable transport available within an acceptable distance of the application site.

Officers have reviewed the proposed development under the current application and accept that the application site is located adjacent to the Village Envelope of Bradwell, where there are some facilities, albeit limited, and importantly bus stops offering onward connections via frequent services to the larger centres of Braintree, Colchester and Chelmsford where there are greater opportunities for key services and opportunities, such as healthcare,

education, and employment. There would of course remain a degree of reliance on private car use, however, the resulting harm is not considered to be unacceptable when having regard to the rural context of the application site, including the provisions of Paragraph 103 of the NPPF, and also the fact that it constitutes previously developed land in a suitably accessible location.

It is therefore concluded that the proposed development would make effective use of previously developed land, with the future occupants able to benefit from acceptable access to services, facilities and employment by means other than private car use. Consequently, the private car journeys likely to be generated by the proposed development would only result in a limited amount of harm when assessed against the policies of the Development Plan and the NPPF as a whole, yet benefits would simultaneously arise from the proposed development, including amongst other matters the effective use of previously developed land and the provision of new homes, which will be factored into the overall planning balance at the end of this report.

### Access

Paragraph 108 of the NPPF explains that, when assessing specific applications for development, it is important to consider whether safe and suitable access to the site can be achieved for all users. Paragraph 109 of the NPPF states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact upon highway safety, or the residual cumulative impacts on the road network would be severe.

Similarly, amongst other matters, Policies RLP3 and RLP10 of the Adopted Local Plan, in addition to Policies LPP37 and Policy LPP55 of the Section 2 Plan, require new developments to be provided with a safe and suitable access, without detriment to the local road network, in order to maintain highway safety for all highway users. Policy 9 of the Neighbourhood Plan sets out that, amongst other matters, new developments should protect public rights of way, including footpaths, cycle routes and bridleways, and not create a significant potential risk or be detrimental to the safety of the highway network.

The proposed development would be accessed via Rectory Meadow, a private road, which connects to the adopted public highway network via Church Road at its junction with The Street. There are a number of existing residential properties served by the private road which is also contiguous with Public Footpaths 37 and 51.

Essex County Council Highways (ECC Highways) have been consulted on the application and have returned no objections to the application on highway safety grounds or otherwise. The access arrangement has also previously been found to be acceptable when assessing the previous application (Application Reference 17/00649/OUT). It is therefore concluded that the proposed access would be acceptable.

Notwithstanding the above, it is noteworthy that the Public Right of Way network is protected by the Highways Act 1980. An informative is recommended explaining that any unauthorised interference with the route would be a breach of separate highways legislation, and as such the public's rights and ease of passage over the public footpath should be maintained free and unobstructed at all times.

### Scale, Design and Layout

Paragraph 124 of the National Planning Policy Framework (NPPF) sets out that 'the creation of high quality buildings and places is fundamental to what the planning and development process should achieve'. It then goes on to cite good design as a 'key aspect of sustainable development'.

Paragraph 127 of the NPPF details that planning policies and decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting. Paragraph 170 of the NPPF, amongst other matters, explains that when making decisions local planning authorities should recognise the intrinsic character and beauty of the countryside. The emphasis on local responsiveness and high-quality design is also reaffirmed within the National Design Guide (NDG).

Policy 10 of the Neighbourhood Plan, Policy SP6 of the Section 1 Plan, Policy RLP90 of the Adopted Local Plan, and Policies LPP50 and LPP55 of the Section 2 Plan reflect the NPPF and NDG by seeking the highest possible standards of design and layout in all new development, including the need for the overall design of buildings to reflect or enhance the area's local distinctiveness. Additionally, Policy 10 of the Neighbourhood Plan requires new developments to be delivered in accordance with the Bradwell with Pattiswick Parish Village Design Statement (VDS), which sets out a number of guiding principles in relation to landscaping, parking, energy efficiency, front-gardens, and ecological enhancement. Pertinently, the VDS also states that 'building height should be in keeping with the character of the village (e.g. no more than two storeys within the Village)'. In short, new developments should respond to their context, maintaining harmony with the character and appearance of the surrounding area.

Also, given the countryside location of the application site, regard must be given to Policies CS5 and CS8 of the Core Strategy, and Policy RLP80 of the Adopted Local Plan. Amongst other matters, these policies seek to strictly control new developments within rural locations, in order to ensure that they do not have an adverse impact upon the landscape character, amenity, and intrinsic value of the countryside. Policy 2 of the Neighbourhood Plan requires that development proposals protect and enhance the special features and the overall character of the Landscape Character Area, which for this site is the Silver End Farmland Plateau, and where possible improve access to the open countryside within the Landscape Character Area for recreation.



This application seeks outline planning permission with details pursuant to the matters of access and scale also submitted for consideration. The matters of appearance, landscaping, and layout are therefore reserved and are not subject to detailed consideration under this application. However, in the interest of completeness, a high-level consideration is given to the indicative design and layout material submitted in support of the application, as they provide some general parameters in an attempt to illustrate one way in which the development could be satisfactorily achieved on the site.

Subsequently, what follows is a discussion of the proposed scale of the development, before briefly considering the general design and layout, so as to inform a reasonable conclusion on whether the three dwellings could be satisfactorily achieved on the site in alignment with policy expectations and requirements.

## **Scale**

In terms of scale, the proposed dwellings would be two-storey in form, with a 'height parameter plan' submitted to demonstrate that the dwellings would be no more than 7.2 metres at their highest point. This is considered to be an appropriate scale for the site's context and, given the site is enclosed by existing vegetation and a woodland, the dwellings would assimilate into the wider landscape context without any harm to the intrinsic character and beauty of the countryside. Indicative landscape sections have been provided to demonstrate this, by comparing the existing built-form on the site to the scale of residential development proposed under this application, all within the context of the existing woodland and vegetation that define the site's boundaries.

As this is in application for outline planning permission with scale as a matter for consideration, it is also appropriate to consider the housing mix. In this case the application form indicates that the three dwellings proposed would be larger family homes of 4 bedrooms or more. It is noted that supporting text of Policy 7 of the Neighbourhood Plan sets out a need for a greater proportion of smaller dwellings in the Parish of Bradwell with Pattiswick, however, for a proposal of this size on a windfall site which constitutes previously developed land, it is accepted that larger homes would still make a positive contribution towards the local housing stock when having regard the Council's shortfall against its five year housing land supply requirement. It is also material that mix was not a matter of dispute when planning application 17/00649/OUT, for an identical proposal on the site, was refused and subsequently allowed at appeal.

To conclude the scale of the proposed development is considered to be acceptable.

## **Design and Layout**

The indicative layout submitted illustrates how three dwellings could be arranged within the site in a manner that would meet with the garden size and

parking standards established by the Essex Design Guide (EDG) and the adopted Essex County Council Vehicle Parking Standards (VPS) respectively. It is clear from an appraisal of the indicative material that three dwellings could be comfortably accommodated on the site with sufficient space to ensure that a high-quality strategy for design, internal and external amenity, and landscaping can be secured at the reserved matters stage.

To conclude the amount of development proposed would be appropriate, when having regard to the site's characteristics and constraints, and the detailed considerations surrounding design could be positively resolved through an application for reserved matters.

### Impact on Neighbour Amenity

The NPPF seeks to secure a good standard of amenity for all existing and future occupants of land and buildings. Similarly, Policy 7 and Policy 10 of the Neighbourhood Plan, Policy SP6 of the Section 1 Plan, Policy RLP90 of the Adopted Local Plan, and Policies LPP37 and LPP55 of the Section 2 Plan all emphasise the need to protect the amenity of nearby properties, by preventing any loss of privacy, increase in overshadowing, loss of light, or overbearing impact.

Whilst the precise location of the proposed dwellings within the site is a reserved matter, the developable area of the site is suitably distanced from existing residential properties within Rectory Meadow, Chapel Rise, and Forge Crescent to allow for the proposed dwellings to be orientated, designed, and positioned in an arrangement which respects the residential amenity enjoyed by neighbours. It would essentially be possible at the reserved matters stage to prevent any loss of privacy, increase in overshadowing, loss of light, or overbearing impact.

### Heritage

Both the Development Plan and the NPPF seek to ensure that new developments preserved the significance of heritage assets and their settings. The Council also has a statutory duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA) to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest they possesses.

There is a Grade II Listed Building, Tippet's Wade, adjacent to the junction of Church Road and The Street, meaning it abuts the red line boundary of the site due to the inclusion of Rectory Meadow and Church Road within the red line for the purposes of demonstrating access to the adopted public highway. Having regard to the separation distance between the proposed dwellings and the identified heritage asset, in addition to the existing nature of the access route from Rectory Meadow through to the junction of The Street and Church Road, no harm has been identified to the significance of the Grade II Listed Building at Tippet's Wade.

## Trees & Ecology

Paragraph 170 of the NPPF is explicit that planning decisions should contribute to and enhance the local environment by minimising impacts on, and providing net gains for, biodiversity, whilst also recognising more generally the benefits of trees.

Policy CS8 of the Core Strategy establishes that all development proposals will, amongst other matters, ensure the protection and enhancement of the natural environment, habitats and biodiversity, and geodiversity of the District. Additionally, Policy RLP81 of the Adopted Local Plan sets out that the Council will seek to protect established trees of local amenity value, whilst Policy RLP84 of the Adopted Local Plan states that planning permission will be refused for developments that would have an adverse impact on protected species. Furthermore, where a proposed development may have an impact on protected species, Policy RL84 goes on to explain that the developer will be required to undertake and submit an ecological survey, to demonstrate that an adequate mitigation plan is in place to ensure there is no harm to protected species and no net loss of priority species. These objectives are reflected under Policies LPP68 and LPP69 of the Section 2 Plan.

The above objectives are also reflected in Policy 1 of the Neighbourhood Plan which is explicit that all development proposals should seek to deliver net biodiversity gain, in addition to protecting existing habitats and species. Policy 1 also explains that development proposals should protect and where possible enhance natural environment features identified within the Neighbourhood Plan including Rectory Meadow, Priority Habitat, which wraps around the application site. Policy 1 concludes that development proposals which are likely to have a negative impact upon natural environment features should demonstrate where the benefits of the development clearly outweigh any negative impacts to the nature conservation value of the feature or to its contributions to wider biodiversity objectives.

Additionally, Policy 10 of the Neighbourhood Plan details that development proposals should, where appropriate, respond sensitively to the existing, natural environment in part by ensuring that their proposed layout protects and enhances important features of the natural environment and biodiversity of the site and its surroundings. It also highlights the importance of retaining and protecting existing trees and hedges in and around the Parish wherever possible.

With regards to ecology, the application is supported by an Extended Phase 1 Survey, prepared by Hillier Ecology and dated October 2020, relating to the likely impacts of the development on Protected and Priority Habitats and species, as well the identification of proportionate mitigation measures. The Council's ecologist has reviewed the ecological information and is satisfied that sufficient ecological information has been submitted with the application for determination. They have also raised no objections to the application, subject to the imposition of conditions securing the proposed mitigation

measures, a wildlife sensitive lighting design scheme, and the proposed biodiversity enhancements which would deliver net gains for biodiversity.

In terms of the relationship between the proposed development and existing trees, an Arboricultural Impact Assessment, prepared by Hallwood Associates and dated March 2017, has been submitted for consideration as part of the application and outlines the impact the proposed development may have on the site's existing trees, as well as the impact the site's trees may have on the proposed development. A total of 12 trees, 1 hedge and 2 groups of trees, mostly falling under Category B with the exception of 1 Category U tree, have been identified within the site. The same information was assessed under application reference 17/00649/OUT, with the Landscape Officer having raised no objections subject to a condition securing an Arboricultural Method Statement. Whilst it is acknowledged that the detailed layout of the proposed development would be subject to consideration at the reserved matters stage, the demolition of the existing buildings on the site could impact upon existing trees and vegetation, so it is considered appropriate to follow the approach previously recommended by the Council's Landscape Officer and accordingly a pre-commencement condition is recommended for an Arboricultural Method Statement.

#### Contamination

Policy RLP64 of the Adopted Local Plan requires that an applicant proposing development on, or near, where contamination may exist should carry out a thorough investigation, so as to establish the nature and extent of any contamination. This same objective is reflected in Policy LPP75 of the Section 2 Plan and within the NPPF.

A Phase 1 Land Contamination Assessment has been submitted in support of the application, with the conclusions of it found to be acceptable by the Council's Environment Health Officer and the Environment Agency, subject to the imposition of suitably worded conditions. The same conclusion was reached in assessing application reference 17/00649/OUT and conditions are therefore recommended in accordance with the wording of those secured on the recently lapsed planning permission which reflect the specialist consultation responses received on the matter.

#### Habitat Regulations Assessment (HRA / RAMS)

The Ecology Officer identifies that the site is situated within the Zone of Influence (ZOI) for the Blackwater Estuary SPA/Ramsar site. New development of this type is likely to have a direct effect on areas of the Essex Coastline which are protected by International, European and National wildlife designations through increased visitor pressure on these sites. It is therefore necessary, in accordance with Natural England's standard guidance on this matter for the Council to secure mitigation measures to prevent the development causing a likely significant adverse effect upon the integrity of these sites if planning permission is granted. The mitigation measure consists of securing of a financial contribution of £125.58 per new dwelling erected

towards offsite visitor management measures at the above protected sites. This financial contribution has been secured by way of an upfront card payment made under S111 of the 1972 Local Government Act.

### Surface Water Drainage

The application site is located within Flood Zone 1 where there is a low probability of flooding. However, identical to application reference 17/00649/OUT, a Surface Water Drainage/Sustainable Urban Drainage Scheme has been submitted for consideration with the application which concludes that there will be a low risk of groundwater flooding from artificial sources across the site and a very low risk from surface water flooding. It is therefore considered that the on-site flood risk would be acceptable and that there would be a negligible flood risk impact on neighbouring areas as a result of the proposed development.

### Conditions

Upon review of appeal decision (Appeal Reference APP/Z1510/W/17/3185814) and the conditions imposed by the Inspector, it has been noted that not all of the conditions are necessary or related to the matters for consideration under this planning application. In particular, Condition 7 of the decision relates to detailed layout considerations, as well as landscaping, both of which are reserved matters. Meanwhile, Condition 8 of the decision again relates in part to the reserved matter of layout, but also it requires the provision of the access in accordance with approved details, which is unnecessary as the proposed development would utilise an existing access onto the public highway with no changes proposed to its detail. It is not therefore recommended to secure Conditions 7 and 8 of the previous appeal decision for this current planning application.

### PLANNING BALANCE AND CONCLUSION

The presumption in favour of sustainable development sits at the heart of the NPPF. The Framework is clear in its instruction at Paragraph 11d, that for decision-taking this means where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in Paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years), granting permission unless:

- (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

(ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Such an assessment must take account of the economic, social and environmental impact of the proposed development and these matters must be considered in the overall planning balance.

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

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

In terms of benefits, the proposed development would provide a social and environmental benefit through the creation of three dwellings on previously developed land, thereby making effective use of land, in an accessible location for a rural context. The proposed development would also provide an economic benefit during construction and post occupation, as future residents will consume goods and services. The contribution towards the District's five year housing land supply would also be a benefit weighing in favour of the proposed development, although this benefit is only afforded limited weight given the scale of the development proposed. Collectively, these benefits are afforded significant weight.

With regards to the identified harm, it is recognised there would be a degree of dependency on private car use amongst future occupants. Additionally, the proposed development seeks to introduce new residential development on land located outside of the Village Envelope of Bradwell, contrary to Policy RLP2 of the Adopted Local Plan, Policy LPP1 of the Section 2 Plan, and Policy CS5 of the Core Strategy. However, whilst the location of the application site outside of the Bradwell Village Envelope would also represent a departure from the preferred spatial strategy set out under Policy 7 of the

Bradwell with Pattiswick Neighbourhood Plan, this conflict is neutralised in the overall planning balance by the compliance of the proposed development with the exception criteria established under Policy 7 of the Bradwell with Pattiswick Neighbourhood Plan. The identified harm is therefore afforded limited weight.

When considering the planning balance and having regard to the identified benefits and harms, and having regard to the requirements of the NPPF as a whole, Officers have concluded that the benefits of the proposed development would significant and demonstrably outweigh the harms. Consequently it is recommended that planning permission is granted for the proposed development

### 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 / Block Plan  
Parameter Drawing

Plan Ref: 20/064-PL02  
Plan Ref: A-1627-PL-05

Version: b

- 1 Details of the:-
  - (a) appearance
  - (b) layout; and the
  - (d) landscaping of the site

(hereinafter referred to as "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.

Application for approval of the reserved matters shall be made to the local planning authority not later than 18 months from the date of this permission. The development hereby permitted shall take place not later than 3 years from the date of approval of the last of the reserved matters to be approved.

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

To ensure that the development is in character with the surrounding area

and does not prejudice the appearance of the locality.

- 3 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:

- i) the parking of vehicles of site operatives and visitors;
- ii) loading and unloading of plant and materials;
- iii) storage of plant and materials used in constructing the development;
- iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- v) wheel washing facilities;
- vi) measures to control the emission of dust and dirt during construction;
- vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
- viii) a scheme for any piling on site together with details of any associated noise and vibration levels;
- ix) delivery, demolition and construction working hours.

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. The Statement is required prior to the commencement of development to ensure that measures are in place to safeguard the amenity of the area prior to any works starting on site.

- 4 Development shall not be commenced until an investigation and risk assessment, in addition to any assessment provided with the planning application, have been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme shall be submitted to and approved in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (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'.

#### 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.

- 5 Development shall not be commenced 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 and approved in writing by the Local Planning Authority. 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.

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and submitted to and approved in writing by the Local Planning Authority.

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. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared which is subject to the approval in writing of the Local Planning Authority. Following completion of these measures a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

#### Reason

To ensure that risks from land contamination to the future users of the

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

- 6 Development shall not be commenced until an Arboricultural Method Statement (AMS) has been submitted and approved in writing by the Local Planning Authority. The AMS will include a Detailed Tree Protection Plan (DTPP) indicating retained trees, trees to be removed, the precise location and design of protective barriers and ground protection, service routing and specifications, areas designated for structural landscaping to be protected and suitable space for access, site storage and other construction related facilities. The AMS and DTPP shall include details of the appointment of a suitably qualified Project Arboricultural Consultant who will be responsible for monitoring the implementation of the approved DTPP, along with details of how they propose to monitor the site (frequency of visits; key works which will need to be monitored, etc.) and how they will record their monitoring and supervision of the site.

The development shall be carried out in accordance with the approved details. The approved means of protection shall be installed prior to the commencement of any building, engineering works or other activities on the site and shall remain in place until after the completion of the development to the complete satisfaction of the local planning authority.

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

Reason

To ensure the protection and retention of existing/remaining trees, shrubs and hedges.

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

Monday to Friday	0800 hours - 1800 hours
Saturday	0800 hours - 1300 hours
Sundays, Public and Bank Holidays	- no work

Reason

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

- 8 No drainage systems for the infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approved details.

Reason

Infiltration through contaminated land has the potential to impact on groundwater quality.

- 9 The development shall not be occupied unless and until the developer provides a Residential Travel Information Pack for each dwelling, for sustainable transport purposes, to be submitted to and approved in writing by the Local Planning Authority (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.

- 10 A Biodiversity Enhancement Layout, providing the finalised details and locations of the proposed enhancement measures, as detailed in the Extended Phase 1 Survey report (Hillier Ecology October 2020) shall be submitted to and approved in writing by the local planning authority. The enhancement measures shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason

To enhance Protected and Priority Species and allow the Local Planning Authority to discharge its duties under s.40 of the NERC Act 2006 (Priority habitats & species).

- 11 Prior to the installation of any external lighting at the site, a lighting design scheme to protect biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on, or immediately adjoining the site, that are particularly sensitive for bats including those areas where lighting could cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas of the development that are to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the approved scheme and retained thereafter in accordance with the scheme.

Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

Reason

To allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s.40 of the NERC

Act 2006 (Priority habitats & species).

- 12 All mitigation measures and/or works shall be carried out in accordance with the details contained in the Extended Phase 1 Survey report (Hillier Ecology October 2020) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW,) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

Reason

To conserve and enhance Protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s.40 of the NERC Act 2006 (Priority habitats & species).

#### INFORMATION TO APPLICANT

- 1 This permission shall not be deemed to confer any rights to obstruct the public footpaths crossing the site, which shall be kept open and unobstructed at all times unless legally stopped up or diverted.
- 2 To avoid killing or injuring small animals which may pass through the site during the construction phase, it is best practice to ensure the following measures are implemented:
  - a) Trenches, pits or holes dug on site should be covered over at night. Alternatively, ramps (consisting of a rough wooden plank) or sloped/stepped trenches could be provided to allow animals to climb out unharmed;
  - b) materials brought to the site for the construction works should be kept off the ground on pallets to prevent small animals seeking refuge;
  - c) rubbish and waste should be removed off site immediately or placed in a skip, to prevent small animals using the waste as a refuge.

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER



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## Appeal Decision

Site visit made on 15 January 2018

**by D J Board BSc (Hons) MA MRTPI**

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

**Decision date: 15 February 2018**

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### **Appeal Ref: APP/Z1510/W/17/3185814 Rectory Meadow, Bradwell, Braintree**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by McDonnell Mohan Ltd against the decision of Braintree District Council.
  - The application Ref 17/00649/OUT, dated 8 April 2017, was refused by notice dated 14 June 2017.
  - The development proposed is demolition of existing commercial buildings and structures and erection of three houses.
- 

### **Decision**

1. The appeal is allowed and planning permission is granted for demolition of existing commercial buildings and structures and erection of three houses at Rectory Meadow, Bradwell, Braintree in accordance with the terms of the application, Ref 17/00649/OUT, dated 8 April 2017, subject to the conditions in Annex A.

### **Procedural Matters**

2. The application was made in outline form with matters of access and scale submitted for consideration at this stage. The appeal is considered on this basis.
3. I have been provided with policies from the Braintree Local Plan Publication Draft June 2017. This plan has not yet been found sound. For this reason I am unable to accord any significant weight to these policies.

### **Main Issue**

4. The main issue is the whether the site, is suitable for housing, having particular regard to its location.

### **Reasons**

5. Policy RLP2 of the Braintree District Local Plan Review (LP) and policy CS5 of the Core Strategy (CS) seek to direct new development to areas within town boundaries and village envelopes. The site lies outside but adjacent to the defined settlement boundary of the village of Bradwell and therefore is in open countryside where new development is strictly controlled. The appellants have referred me to CS policy CS1 which relates to housing provision and delivery. This allows for the provision of housing '*...on previously developed land and infill sites in Key Service Villages and other villages*'. I understand that the site

has previously been used as a scaffolder's yard<sup>1</sup> and that this use has now ceased. Nevertheless, the site contains a number of existing buildings of varying size and some areas of hard standing. In this case there is no dispute that the site could be considered as 'previously developed'.

6. The Council's decision notice focuses on the reliance of new dwellings on the use of the car. In particular that Bradwell itself is low in the settlement hierarchy as an 'other village' and has limited facilities. It is likely that to meet day to day needs that future occupiers of the dwellings would need to access larger centres. There are footpath linkages through to nearby bus stops. The appellants have provided information regarding the frequency of the services which provide onward connection to a number of other higher order settlements.
7. The location of the site close to existing dwellings within the settlement of Bradwell is such that it would not be isolated from other dwellings. Therefore, whilst outside of a settlement boundary the dwellings would be as close to the services that exist in Bradwell and the onward connections as existing dwellings within the settlement boundary. In this regard it would not be functionally isolated and not wholly reliant upon the use of the car. I appreciate that there would be journeys generated by the future occupiers of three dwellings. There would be some minor conflict with the objectives of the National Planning Policy Framework (the Framework) and the policies of the LP and CS.
8. The Council has confirmed that it is currently unable to demonstrate a five year supply of housing. I have no reason to disagree. Therefore paragraphs 49 and 14 of the Framework are engaged and the relevant policies for the supply of housing should not be considered up to date. Within this context the provision of additional dwellings would weigh in favour of the proposal. Furthermore there is no dispute that provision of three dwellings would not lead to significant or demonstrable harm to character and appearance. I have identified that there would be some minor harm resulting from the sites location. In light of this, and the benefits of the proposal in providing additional dwellings to offset the Council's lack of a five year housing land supply, I consider that the conflict with LP policy RLP2 and CS policy CS5, due to the sites location, would be outweighed by other considerations. I therefore conclude that overall the site would be suitable for housing. Therefore in this case the totality of the other material considerations outweighs the limited conflict with the development plan.

## Conditions

9. The Council has suggested a number of conditions. I have considered these against paragraph 206 of the Framework. I have attached the standard implementation conditions and those for reserved matters and a condition specifying the approved plans.
10. In the interests of the living conditions of existing and future occupants conditions are necessary regarding contamination investigation, construction hours and management. In the interest of highway safety a condition is reasonable and necessary that secures the access works and pedestrian visibility.

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<sup>1</sup> LPA ref 06/0723/COU

11. At this stage it is not necessary to secure the details of material finish, hard and soft landscaping (including a scheme to protect existing hedgerows), and boundary treatments as these are specifically linked to matters reserved for future consideration and should be dealt with at that point. Further, suggested condition 5 appears to repeat the requirements of other legislation. Therefore I cannot be satisfied that this condition is necessary or relevant to planning.

**Conclusion**

12. For the above reasons and having had regard to all other matters raised I therefore conclude that the appeal should be allowed.

*D J Board*

INSPECTOR

## **Annex A – Conditions**

- 1) Details of the appearance, landscaping and layout (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: A-1627-PL-01 E; A-1627-PL-02 D; A-1627-PL-04 B; A-1627-PL-05.
- 5) Demolition or construction works shall take place only between 0800-1800 Monday to Friday, 0800-1300 on Saturday and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 6) 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:
  - i) the parking of vehicles of site operatives and visitors;
  - ii) loading and unloading of plant and materials;
  - iii) storage of plant and materials used in constructing the development;
  - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - v) wheel washing facilities;
  - vi) measures to control the emission of dust and dirt during construction;
  - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
  - viii) a scheme for any piling on site together with details of any associated noise and vibration levels;
  - ix) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 7) No development shall take place until full details of the dimensions and surface finish of the parking spaces and the surface finish of the access routes have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 8) No dwelling shall be occupied until the access to the site, visibility splays and vehicle parking and turning areas shown on the approved plans have been laid out and that the access, visibility and parking and turning space shall thereafter be kept available at all times for those purposes.



- 9) Development shall not be commenced 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 and approved in writing by the Local Planning Authority. 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.

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and submitted to and approved in writing by the Local Planning Authority.

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. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared which is subject to the approval in writing of the Local Planning Authority. Following completion of these measures a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

- 10) Development shall not be commenced until an investigation and risk assessment, in addition to any assessment provided with the planning application, have been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme shall be submitted to and approved in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:
- (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).

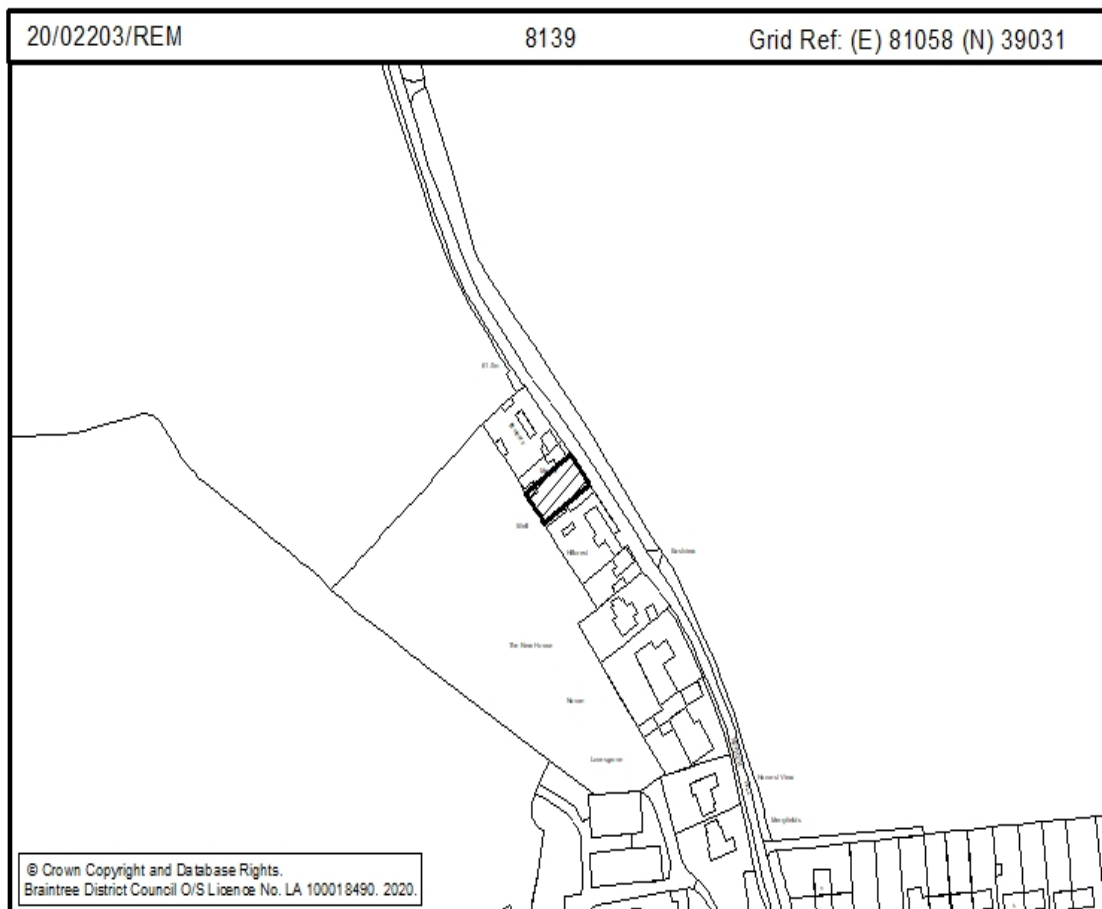
This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'

## PART A

## AGENDA ITEM NUMBER 5e

APPLICATION NO: 20/02203/REM      DATE: 13.01.21  
VALID:  
APPLICANT: Mr Keith Thorogood  
The Thatched Cottage, Church Street, Gestingthorpe,  
Halstead, CO9 3AZ  
AGENT: Mr John Rainer  
101 Hawkwood Road, Sible Hedingham, Halstead, CO9  
3JS, UK  
DESCRIPTION: Application for approval of reserved matters (access, layout,  
appearance, scale and landscaping) of outline planning  
consent 20/00483/OUT - Erection of one dwelling and  
garage  
LOCATION: Canine Cottage, Nether Hill, Gestingthorpe, Essex, CO9  
3BD

For more information about this Application please contact:  
Sam Trafford on:- 01376 551414 Ext. 2520  
or by e-mail to: [sam.trafford@braintree.gov.uk](mailto:sam.trafford@braintree.gov.uk)



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QLP34PBFIF500>

### SITE HISTORY

14/00929/FUL	Erection of first floor side extension	Granted	17.10.14
20/00483/OUT	Outline application with all matters reserved for Erection of 1 no. dwelling and garage	Granted	17.08.20

### POLICY CONSIDERATIONS

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

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

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

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

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

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

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

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

### National Planning Guidance

National Planning Policy Framework (NPPF)

## National Planning Practice Guidance (NPPG)

### Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP9	Design and Layout of Housing and Mixed Use Areas
RLP10	Residential Density
RLP56	Vehicle Parking
RLP74	Provision of Space for Recycling
RLP80	Landscape Features and Habitats
RLP81	Trees, Woodland Grasslands and Hedgerows
RLP90	Layout and Design of Development

### Braintree District Local Development Framework Core Strategy 2011

CS5	The Countryside
CS7	Promoting Accessibility for All
CS8	Natural Environment and Biodiversity

### Braintree District Shared Strategic Section 1 Local Plan (2021) & Draft Section 2 Local Plan (2017)

SP1	Presumption in Favour of Sustainable Development
SP6	Place Shaping Principles
LPP1	Development Boundaries
LPP37	Housing Type and Density
LPP45	Parking Provision
LPP50	Built and Historic Environment
LPP55	Layout and Design of Development
LPP71	Landscape Character and Features

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

This application is being reported to Planning Committee in accordance with the transitional arrangements for the Council's new Scheme of Delegation as Gestingthorpe Parish Council has objected to the proposal, contrary to Officer recommendation.

### DESCRIPTION OF THE SITE AND SITE CONTEXT

Canine Cottage consists a semi-detached residential dwellinghouse, located outside of the designated settlement boundary of Gestingthorpe as set out in the Adopted Local Plan, and within the settlement boundary as set out in the Draft Section 2 Local Plan.

The site is located on Nether Hill which leads out of Gestingthorpe, toward Belchamp Walter. The site is presently used as domestic garden for the dwelling at Canine Cottage, and is enclosed by hedges on all sides.

In 2020, outline planning permission was granted under application reference 20/00483/OUT for the erection of a single dwellinghouse in the plot, with all matters reserved.

## PROPOSAL

This application seeks approval for reserved matters, namely the scale, appearance and layout of the building, access to the site, and landscaping of the site.

The proposed dwelling would be detached house, with a width of 7 metres, a maximum depth of 10.5m metres to an 'L' shaped design, and an overall height to the ridge of 6.8 metres.

The proposal would utilise the existing access to the site used, to be shared with Canine Cottage. A double car port to be erected to the rear of the site will provide off street car parking for both the existing and proposed dwellings.

## SUMMARY OF CONSULTATION RESPONSES

### BDC Environmental Health

No Objections; recommends a condition relating to hours of construction.

### PARISH / TOWN COUNCIL

#### Gestingthorpe Parish Council

Raises an objection on grounds of overdevelopment, suburban design, and the height of the proposed building.

## REPRESENTATIONS

A site notice was displayed at the site and neighbours were notified by letter. At the time of writing the report, a total of two representations had been received, one of which raises an objection to the application, and one which makes 'general comments'.

The concerns raised include the height of the ridge and eaves of the proposed dwelling; potential for overlooking caused by the proposed window in the side elevation; burning taking place at the site; nuisance caused by working hours; restricting construction vehicles parking on the highway.

## REPORT

The application site benefits from outline planning permission (application reference 20/00483/OUT) for the erection of 1no. dwelling. The residential use of the site has therefore been established.

This application seeks approval for the matters reserved by the outline planning permission, which includes details of the scale, appearance and layout of the building, access to the site, and landscaping of the site.

These matters will be discussed in turn below.

### Scale, Appearance and Layout

Paragraph 124 of the NPPF states that good design is a key aspect of sustainable development. Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Section 2 Plan require designs to recognise and reflect local distinctiveness in terms of scale, density, height and massing of buildings, and be sensitive to the need to conserve local features of architectural and historic importance, and also to ensure development affecting the public realm shall be of a high standard of design and materials, and use appropriate landscaping. Policy SP6 of the Section 1 Plan similarly seeks a high standard of design and layout in all new developments.

Policy CS5 of the Core Strategy states that outside development boundaries, development will be strictly controlled to uses appropriate in the countryside.

In terms of scale, the proposal dwelling would extend to a width of 7m, a maximum depth of 10.5m and reach a ridge height of 6.8m. These dimensions are considered reasonable for a two storey dwelling. It is noted that the proposed dwelling would be slightly greater in height to the ridge than the existing dwellings on either side. This has been raised as a specific concern of the Parish Council, which is acknowledged.

The difference in the height between the proposed dwelling and the immediate neighbouring properties is relatively slight at approximately 0.6m compared with Hillcrest and 0.7m compared with Canine Cottage. The proposed property is of the same height as the new dwelling being constructed adjacent to the property Boulders, which is just north of the application site. Officers are satisfied that the height of the proposed dwelling would not appear incongruous or unduly dominant in the street scene and thus would be an acceptable addition.

The maximum depth of the dwelling, at 10.5 metres, is much deeper than the immediate neighbours, however, this depth would be mostly concealed from the street by the adjacent barn building at Hillcrest and thus would not overly dominate in views. The elevation facing towards Canine Cottage is to a lesser depth.

The proposed dwelling, which would take the form of a detached building of red brick construction, would be traditional and simple in terms of its design, reflective of the properties in the immediate vicinity. The dwelling is considered to be acceptable in terms of its appearance.

The proposed development would retain the established building line shared with the neighbouring dwellings. The siting of the dwelling, which would be

closer to the boundary shared with Hillcrest than the boundary shared with Canine Cottage, would maintain a sense of separation between dwellings, given Hillcrest is located away from the shared boundary. Although there would be a gap maintained to the boundary of 1 metre, there is a barn building (within the site of Hillcrest) sited on the shared boundary and thus with the proposed dwelling in situ it will appear a little cramped. However given the barn is single storey and the 1m separation, its relationship with the proposed dwelling is not considered to give rise to a detrimental impact on the street scene.

The proposal includes the erection of a double car port to the rear of the site, which has the benefit of outline planning permission. When this application was first made, no details were provided of the proposed elevations of the double garage. However, these together with a street scene elevation were requested and have since been submitted. The proposed location of the car port, to the rear of the plot, would be readily accessible and would be less prominent than if it were located further forward in the site.

The application indicates solar PV panels attached to the rear and side elevations of the proposed dwelling. These solar panels would have limited visibility to the street and thus would not harm the countryside setting.

Paragraph 127 of the National Planning Policy Framework states that new development shall promote a high quality of amenity for future users, taking into consideration the Nationally Described Space Standards (NDSS).

The proposed dwelling would consist three bedrooms set over two floors, and has a requirement set out in the Nationally Described Space Standards (NDSS) of at least 93sq.m of internal floor space. The dwelling would have an internal floorspace of approximately 129sq.m, which would exceed the minimum requirement. Each habitable room would have a window providing natural light and an outlook. The dwelling would be dual aspect.

To the rear of the site, an external amenity space of approximately 115sq.m, which would exceed the 100sq.m required by the Essex Design Guide for this size of dwelling. The existing dwelling would retain an external amenity space of approximately 125sq.m.

The proposal would provide an acceptable quality of amenity for its future occupiers.

Officers are satisfied that the proposed development is acceptable in regards to scale, appearance, and layout, satisfying the policies referred to above.

#### Access to the Site and Parking

The application proposes to utilise the existing access off Nether Hill and for this to be shared between Canine Cottage and the proposed dwelling.



ECC Highways have been consulted on the application, and raise no objections subject to conditions requiring visibility splays to be kept clear in either direction, and requiring the developer to provide a travel pack for the occupants of the new dwelling.

The recommended condition relating to maintaining the visibility splays is already present on the outline consent and thus there is no need to replicate the condition. The condition relating to a Travel Pack, given the location, is considered reasonable in this case.

The application includes the provision of a cartlodge to the rear of the site, which would be large enough to accommodate two parking spaces (one each for the existing and proposed dwelling). There would be space in front of the cartlodge to accommodate a second car for both the proposed dwelling and the existing dwelling. The proposal therefore accords with the Adopted Car Parking Standards.

### Landscaping

Policies RLP80 and RLP81 of the Adopted Local Plan and Policy LPP71 of the Section 2 Plan state that additional landscaping can be used to restore and enhance landscape character and features.

The application proposes a low hedge to the front of the site. The hedge would be maintained at 600mm, to ensure visibility splays will be achieved and this will be secured by condition.

The proposed driveway would consist a grey block paving. The Parish Council raised concern that the block paving would appear somewhat suburban, largely due to the amount of block paving that was proposed. In response to this, the proposals have been revised to reduce the amount of hardstanding at the site, removing the hardstanding immediately in front of the building, and incorporating grass and a hedge. Officers are satisfied that this amendment has reduced the suburban appearance of the site to an extent which is considered acceptable.

To the rear of the dwelling there would be a grassed garden with a close boarded fence separating the new dwelling from Canine Cottage. The wall between the application site and Hillcrest would be retained.

The application proposes the removal of two trees to the rear of the site, however it is evident on site that these have already been removed. The trees were not protected and thus could be removed without permission. The trees screened the application site from the agricultural field to the rear. However, neighbouring properties are relatively open along the rear boundaries, and visible in views across this field toward Nether Hill. Therefore, the loss of the trees has not resulted in an uncharacteristic gap, and would not result in a prominent or visually intrusive dwelling in the landscape. Their removal is not therefore objectionable.

## Impacts to Neighbouring Residential Amenities

Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Section 2 Plan state that development shall not cause undue or unacceptable impacts on the amenities of nearby residential properties. Unacceptable impacts are considered as any factors that can carry the potential to degrade the enjoyment of neighbouring properties in terms of overlooking, overshadowing, loss of light or loss of privacy. The National Planning Policy Framework also seeks a high quality amenity for existing and future occupiers of neighbouring dwellings.

There are two properties neighbouring the application site, which could be impacted upon by the proposed dwelling. These are Hillcrest and Canine Cottage.

At its closest, the proposed dwelling shown on the plans is approximately 1 metre from the site boundary of Hillcrest and 9.1 metres from the nearest side elevation of the property. The proposed dwelling would be sited 2.4 metres from the site boundary of Canine Cottage and 5.4 metres from its side elevation.

The proposed dwelling is sited adequate distances away from the neighbouring properties such it would not be overbearing nor give rise to any loss of light/overshadowing.

The windows in the side elevation facing toward Hillcrest would be obscure glazed, thus preventing overlooking. These windows would serve non-habitable rooms, which do not require an outlook. A condition is recommended to require the obscure glazing to be implemented and thereafter retained. There are no windows proposed at first floor level windows on the elevation which faces towards Canine Cottage.

The development may give rise to some short term noise impacts during construction, however the Environmental Health Officer has not raised an objection in this regard, subject to a condition restricting working hours at the site. Following objections raised by neighbouring dwellings concerning burning at the site, a condition is also recommended to prevent any burning of construction/waste materials.

The application is considered acceptable in relation to impacts to neighbouring residential amenities, in conformity with the policies referred to above.

## CONCLUSION

The principle of a residential dwelling house at this site has been established through the granting of outline planning permission. This application seeks the approval of the matters reserved by the outline permission, which are the scale, appearance and layout of the building, access to the site, and landscaping.

Officers consider that the details submitted in relation to scale, appearance, layout, access and landscaping are acceptable, according with relevant Development Plan Policies. It is therefore recommended that the application is approved.

### 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

Block Plan

Plan Ref: P20\_23R1

Proposed Elevations

Plan Ref: P20\_23R1

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

Reason

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

- 2 The first floor windows serving an en-suite W/C and internal stairwell on the South-East facing elevation shall be glazed with obscure glass to a minimum of level 3, and fixed shut below a height of 1.7m above first floor finished floor level and shall be so retained at all times.

Reason

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

- 3 Prior to first occupation of the dwelling hereby approved, the proposed new landscaping at the site, as shown on drawing P20\_23 R1, shall be fully implemented. The hedge planting shall be carried out in the first planting season after the commencement of the development.

Any 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 the appearance of the development and in the interests of amenity and privacy.

- 4 The carport hereby approved and as shown on drawing P20\_23 R1 shall

be kept available for the parking of motor vehicles at all times. The carport shall be used solely for the benefit of the occupants of the dwellings of which it forms part, and their visitors, and for no other purpose and permanently retained as such thereafter.

**Reason**

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

- 5 No above ground development shall commence 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 details.

**Reason**

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

- 6 Prior to first occupation of the proposed new dwelling, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, as approved by Essex County Council. The pack is to be provided by the Developer free of charge.

**Reason**

In the interests of reducing the need to travel by car and promoting sustainable development and transport.

- 7 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.

- 8 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.

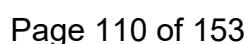
## INFORMATION TO APPLICANT

- 1 In respect of Condition 2, the applicant is advised that glazing to provide privacy is normally rated on a scale of 1-5, with 5 providing the most privacy.

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

## AGENDA ITEM NUMBER 5f

For more information about this Application please contact:  
Lisa Page on:- 01376 551414 Ext. 2516  
or by e-mail to: [lisa.page@braintree.gov.uk](mailto:lisa.page@braintree.gov.uk)



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QLSV81BFIH800>

## SITE HISTORY

03/01448/FUL	Alterations to shopfront	Granted	27.11.03
03/02026/ADV	Display of illuminated fascia sign and projecting sign	Refused	05.12.03
03/02108/FUL	Installation of 1 metre satellite dish for connection to ATM	Granted	06.01.04
81/00316/P	Conversion of and alterations to existing shop to two terraced cottages and one self contained shop unit	Refused	02.07.81
89/01815/P	Demolition Of Outbuildings And Extension To Shop	Granted	04.01.90
96/00259/FUL	Erection of 1.2 metre satellite dish for National Lottery	Granted	11.04.96
98/01394/ADV	Display of one projecting illuminated sign	Withdrawn	09.02.99
98/01395/FUL	Installation of an Automated Teller Machine	Withdrawn	09.02.99
06/01831/FUL	Replacement of existing windows with double glazed upvc sealed units	Refused	18.12.06
07/02543/FUL	Proposed new timber shopfront and entrance doors	Granted	29.01.08
07/02544/CON	Proposed new timber shopfront and entrance doors	Granted	29.01.08
08/00032/FUL	Proposed new external refrigeration plant to rear yard area	Granted	22.02.08
08/00033/CON	Proposed new external refrigeration plant to rear yard area	Permission not Required	14.02.08
08/00225/ADV	Display of 2 no. non-illuminated fascia signs	Permission not Required	03.03.08
13/00609/ADV	Display of non illuminated signage	Granted	17.07.13
18/00612/ADV	Application for consent to display an advertisement - 2no. non-illuminated signs	Granted	11.06.18

	(Item 1a & 3) and 3no. non illuminated signs (Item 1b, 2 & 4)		
20/00387/TPOCON	Notice of intent to carry out works to trees in a Conservation Area - Oak and Sycamore -Cut back and clear tree branches encroaching over into the service yard. The team will cut back the branches from ground level up to a height of 5 metres, this is due to a pest issue	Pending Consideration	
13/00609/ADV	Display of non illuminated signage	Granted	17.07.13

### POLICY CONSIDERATIONS

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

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

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

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

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

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

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

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



## National Planning Guidance

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

## Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP3	Development within Town Development Boundaries and Village Envelopes
RLP11	Changes of Use Affecting Residential Areas
RLP27	Location of Employment Land
RLP31	Design and Layout of Business Parks
RLP35	Non-Conforming and Un-Neighbourly Industry
RLP36	Industrial and Environmental Standards
RLP37	New Commercial and Industrial Activities within existing Residential Areas
RLP56	Vehicle Parking
RLP65	External Lighting
RLP74	Provision of Space for Recycling
RLP84	Protected Species
RLP91	Site Appraisal
RLP95	Preservation and Enhancement of Conservation Areas
RLP97	Changes of Use in Conservation Areas
RLP100	Alterations and Extensions and Changes of Use to Listed Buildings and their settings
RLP117	Shopfronts in Conservation Areas
RLP127	Additional Village Shopping
RLP128	Maintenance of Rural Services and Facilities

## Braintree District Local Development Framework Core Strategy 2011

CS6	Retailing and Town Centre Regeneration
CS7	Promoting Accessibility for All
CS8	Natural Environment and Biodiversity

## Braintree District Shared Strategic Section 1 Local Plan (2021) & Draft Section 2 Local Plan (2017)

SP1	Presumption in Favour of Sustainable Development
SP4	Providing for Employment and Retail
SP6	Place Shaping Principles
LPP1	Development Boundaries
LPP45	Parking Provision
LPP50	Built and Historic Environment
LPP51	An Inclusive Environment
LPP55	Layout and Design of Development
LPP56	Conservation Areas
LPP60	Heritage Assets and their Settings
LPP65	Local Community Services and Facilities

LPP68        Protected Species, Priority Spaces and Priority Habitat  
LPP81        External Lighting

### Neighbourhood Plan

The Great Bardfield Neighbourhood Area application was approved on the 15th April 2019. The Parish Council are now working on a draft Neighbourhood Plan.

### Other Material Considerations

Site Allocations and Development Management Plan  
Essex Design Guide  
Essex Parking Standards/Urban Space Supplement

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

This application is being reported to Planning Committee in accordance with the transitional arrangements for the Council's new Scheme of Delegation as Great Bardfield Parish Council object to some elements of the proposal, contrary to Officer recommendation.

### DESCRIPTION OF THE SITE AND SITE CONTEXT

The site is located centrally within the village of Great Bardfield. It lies on the northern side of Brook Street within the defined settlement boundary of the village.

The application site comprises of No.1 St Johns Terrace, which is used presently as local convenience store operated by The Co-op at ground floor and a flat to the first floor and No. 2 St Johns Terrace, a 2 storey dwellinghouse.

The wider surrounding area, and those adjoining the site comprise of residential dwellings.

The properties are not listed but listed buildings are located to the west and south of the site. The site is located within the Conservation Area.

### PROPOSAL

The reasoning behind the application relates to the constraints of the existing store which is considered too small, with physical constraints and poor circulation within the store itself, and a back of house arrangement which is unsuitable to meet current requirements.

The application seeks an internal reconfiguration at ground floor area with a new single storey rear extension provided, (following the demolition of an outbuilding in the rear yard).

It is proposed to change the use of the first floor flat above The Co-op to provide a reconfigured 'back of house' area. Further, it is proposed to change the use of the dwelling of No. 2 St Johns Terrace to provide additional retail floorspace at ground floor level and extend across the back of house area at first floor level.

The development will enable the ground floor area to increase from 153sq.m to 258sq.m in total.

Additionally, the existing shop front and door are to be replaced with new aluminium frames in dark grey. The shop front will be altered from a single auto swing door to a single auto slide door. The remainder of the existing shopfront is proposed to be refurbished and repainted.

## SUMMARY OF CONSULTATION RESPONSES

### ECC Highways

Comment that given the scale of the proposed development and the existing use of the unit, the proposal is acceptable.

### ECC Historic Buildings Consultant

Comment that the proposals have taken into consideration the Conservation Area and neighbouring listed buildings in a positive manner. Retaining the door and window of No.2 St Johns Terrace will allow for the terrace to remain legible as a run of five, despite the change of use and the part conversion of the terrace to commercial use.

The proposed flat roof is not in keeping with the form of the building, however on balance it is considered to have a neutral impact upon the significance of the Conservation Area. No objection to the removal of the existing outbuilding, proposed plant area and associated works to the rear.

Comment that the existing shop front is not of any architectural value. In regards to the revised plans for the shopfront, raise no objection and comment that it is an improvement on the previous version. The door is more prominent than existing, but overall the attached proposed door design should have a neutral impact upon the Conservation Area.

### BDC Environmental Health

Comment that in regards to noise, the noise impact assessment has demonstrated that the effect of noise arising from the refrigeration plant operated as part of the existing use is significant enough to cause disturbance. (However it is notable that historically the Council have not received any noise complaints regarding the operation of the store in its current configuration). The proposed development, whilst increasing the size and capacity of the retail operation, presents an opportunity to upgrade and

relocate existing air handling and refrigeration equipment so as to reduce the overall noise impact of the retail operation on the adjacent residential occupiers. The submitted Environmental Noise Assessment report (Dec 2020) accurately models the noise impact and demonstrates that the proposed expansion of the retail use can be achieved without causing additional harm. Recommend a number of conditions be imposed on any approval relating to noise and hours for deliveries and refuse collections.

In regards to waste, note the applicant's comments that separate waste collections are not required as waste packaging is returned with empty cages. Note that the applicant considers that the quantity of waste produced is so minimal that it can be accommodated inside the building. There is no need for a dedicated external bin store but recommend a condition that no commercial waste be stored outside on any land within the site curtilage without the prior written consent of the planning authority.

They also question the future use of the external space to the rear of the site (formerly the garden of No.2). This area shares a boundary with a residential occupier (No.3 St Johns Terrace). This external space could potentially be used for a wide range of uses that could adversely affect the residential amenity of the neighbours.

## PARISH / TOWN COUNCIL

### Great Bardfield Parish Council

Great Bardfield Parish Council have made the following representation:

Support comments:

- Will improve the layout and look of the rear of the property.
- Is 'sympathetic to the situation of the Store in the Conservation area and approve of the intention to retain the shop front as currently, clearly retaining the original first storey features of the original row of cottages', with no objections to the change to a sliding front door for ease of access.
- Expect the structure will have been assessed and the proposals sufficient to ensure the building remains safe and that the proposed changes will not adversely impact the historic building.
- Note the comments of BDC's Environmental Health Officer and concur with all aspects.

Objection comments: -

- Note *'the excellent service provided by our village stores and acknowledging the restrictions the current shop space and layout imposes we OBJECT to the change of use of No 2 St John's Terrace, a historic two-bedroom cottage adjacent to the exiting shop. With pressure on housing, and our own housing need assessments highlighting the need for smaller properties in the village, we feel it would be contrary to planning policy to lose such a property in the village. In fact, this proposal results in the loss of two such properties,*

*with both the existing cottage and the first floor flat above the shop being lost'*

- Extending the retail space into the cottage will cause a negative impact on the neighbouring cottage at No.3 St John's Terrace.
- Agree with the EHO's concerns about the proposed use of the garden space to No.2 St John's Terrace and the impact this too may have on No.3's enjoyment of their own property if it were to be used for storage, staff recreation space or other use ancillary to the main retail space.

## REPRESENTATIONS

The application was advertised by way of site notice; neighbour letters; and a press notice.

No letters of representation have been received.

## REPORT

### National Planning Policy Framework (NPPF) 2019

As set out in Paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 of the NPPF explains that achieving sustainable development means that the planning system has three overarching objectives: economic; social; and environmental; which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives).

Paragraph 9 of the NPPF outlines that planning decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area. In addition, Paragraph 38 of the NPPF prescribes that local planning authorities should approach decisions on proposed development in a positive and creative way and that decision-makers at every level should seek to approve applications for sustainable development where possible.

Paragraph 12 of the NPPF sets out that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making. In addition, Paragraph 47 of the NPPF states that planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

## SITE ASSESSMENT

### Principle of development

The application site is located within the identified village boundary of Great Bardfield. The general principle of development is therefore supported by

Policy RLP2 of the Adopted Local Plan which outlines that new development will be confined to the areas within Town Development Boundaries and Village Envelopes.

The application seeks to expand the existing business and policy support is attributed to Policies RLP127 and RLP128 which give favourable consideration to the provision of additional shopping facilities in villages, including the expansion, or redevelopment of existing shops in order to maintain community life. The Planning Statement has outlined the existing constraints of the site and the existing shop which is considered too small, with physical constraints and poor circulation within the store, and a back of house arrangement which is unsuitable. Officers are understanding of these constraints and note that the expansion of the shop will increase the opportunity for the shop to provide a fuller convenience offer and other essential daily items. Such an enhanced offer will assist in improved day-to-day convenience shopping with a reducing reliance on the car as residents are encourage and able to shop locally.

Such policy support for the expansion of the shop is also demonstrated within the NPPF. Chapter 6, entitled 'building a strong competitive economy', states that planning decisions should help create the conditions in which business can invest, expand and adapt, and that significant weight should be placed on economic growth and productivity. Paragraph 83 of the NPPF states that planning decisions should enable the retention and development of accessible local services and community facilities such as local shops.

The application does result in the loss of dwellings (1no. 2 storey, 2 bed dwelling and 1no. first floor 3 bed flat), and the concerns raised by the Parish Council regarding the loss of these units are noted. Although the Local Planning Authority are currently in a position that they cannot demonstrate required housing land supply, there is no policy within local or national policy that would support resisting such loss of existing residential units. Furthermore, these existing units are not considered to provide high quality amenity for occupiers. The 2 bed dwellinghouse does not comply with Nationally Described Space Standards and the first floor flat had a poor access shared with the service yard for the Co-Op. These matters weigh in favour of them being converted to commercial use.

#### Layout, Design and Appearance / Heritage Impacts

The NPPF seeks a high quality design as a key aspect to achieving sustainable development. Policy RLP90 of the Adopted Local Plan and Policy CS9 of the Core Strategy seek to ensure a high quality design and layout in all developments. Furthermore, Policy LPP55 of the Section 2 Plan seeks to secure the highest possible standards of design and layout in all new development.

There is no objection to the demolition of the outbuilding in the rear yard which is of poor appearance and fails to positively contribute to the character and appearance of the locality, including the Conservation Area.

A relatively modest single storey extension is proposed at the rear (21.5sq.m) to extend the sales area. Although the proposed flat roof is not in keeping with the form of the building, it is on balance considered appropriate as it is subservient and discreet and would have a neutral impact upon the significance of the Conservation Area. Matching materials for the external walls would assist in the extension assimilating with the existing rear projection.

The extension would reduce the size of the service yard, but this would have no implications for the operations being carried out on the site. Following initial comments by BDC Environmental Health Officers in regards to waste storage provision, the agent has confirmed that there is no requirement for an external waste store. The Co-op operate a very strict waste management system and do not require separate refuse collections as any waste generated at the store is recycled and packed within empty cages and removed at the same time as the goods delivery is made. However, a condition is imposed to ensure that no commercial waste is stored outside on any land within the site curtilage without the prior written consent of the planning authority.

The internal reconfiguration results in the loss of the residential dwelling of No.2 St Johns Terrace in its entirety, with it being incorporated into the retail and associated use at both ground and first floor. However, the application retains the front door and window of No.2 St Johns Terrace that fronts the street scene, which allows for the terrace to remain legible as a run of five, despite the change of use and the part conversion of the terrace to commercial use. This is a positive aspect that would ensure there is no adverse impact upon the street scene or the character and appearance of the Conservation Area.

The change of use of the first floor flat (and 1st floor of No.2) provides a reconfigured 'back of house' area. A lift has now also been proposed to address concerns expressed by the Environmental Health Officer in terms of manual handling risk. The use of the first floor has no implications for the consideration of layout and design.

The application also seeks changes to the shop front which is not of any architectural value. The existing shop front windows are to be refurbished and repainted in a dark grey, whereas the central aluminium shop front entrance area will be altered from a single auto swing door, to an auto-slide. Benefits in terms of improvement to access for all is assigned to the increase in the width of the entrance doors. The proposed changes to the shopfront entrance now retains the stall risers, and furthermore it will be constructed in timber which is an improvement on the previous submitted proposal. Although the door is more prominent than existing, overall the proposed door design would have a neutral impact upon the character and appearance of the host building, the street scene and the Conservation Area.

### Impact on Neighbouring Residential Amenities

One of the core principles set out in the NPPF is that planning should 'always seek to secure a high quality of design and a good standard of amenity for all existing and future occupants'. This is supported by Policy RLP90 of the Adopted Local Plan which states that 'there shall be no undue or unacceptable impact upon the amenity of any nearby residential properties'. The emerging plan has similar objectives.

The application has been submitted with an Environmental Noise Assessment. This has demonstrated that the effect of noise arising from the refrigeration plant operated as part of the existing use is significant enough to cause disturbance to nearby residential properties. (However it is notable that historically the Council have not received any noise complaints regarding the operation of the store in its current configuration). Although the proposed development increases the size and capacity of the retail operation, the applicants have taken the opportunity to upgrade and relocate existing air handling and refrigeration equipment so as to reduce the overall noise impact of the retail operation on the adjacent residential occupiers. The Environmental Noise Assessment report accurately models the noise impact and demonstrates that the proposed expansion of the retail use can be achieved without causing additional harm.

Turning to the impact to the residential dwelling of No.3 which would now adjoin the development. The plans indicate that an external parcel of land to the rear of the development annotated as 'garden' on plan 110-00 Rev H (The former garden of No.2) would remain. A condition is imposed to restrict the use of this land which would have the potential to adversely impact neighbour amenity from noise, and general disturbance were this to be used for outside storage, workings or similar. Further in regards to this neighbour, it is noted that a 'right of access route' for occupiers of No.3 to access the rear of their property, through the service yard would remain.

A number of other conditions are imposed in the interests of neighbouring amenity. These relate to noise and well as external waste storage provision and hours of deliveries.

### Highway Considerations

The existing property does not benefit from any existing car park provision for either the dwellinghouse, the flat, customers of the shop or employees. No change is proposed to this arrangement, nor indeed to servicing and delivery arrangements. (Goods are currently unloaded outside at the front of the store and then transported through the gate at the side of the property into the service yard area, where it is taken into the store).

However, the site lies central within the village, wherein many customers will be visiting the shop on foot and making use of the on-street parking within the immediate locality. It is not considered that the scale of development would



give rise to harmful highway impacts. The Highway Authority have raised no objections to the application.

### Ecology

The application was submitted with an accompanying Bat Survey. The report confirms that the proposal will have minimal disruption to the external fabric of the buildings. Although the survey detected two species of bat passing the site, no bats were recorded emerging from any feature on-site. The survey concludes that there are no bat roosts present within the existing buildings and, as such, the proposal will not be expected to impact on roosting bats.

### PLANNING BALANCE AND CONCLUSION

The presumption in favour of sustainable development sits at the heart of the NPPF. Such an assessment must take account of the economic, social and environmental impact of the proposed development and these matters must be considered in the overall planning balance.

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

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

The site lies within an identified village boundary where the principle of the proposed development is supported by Policies within the Adopted Local Plan. The development would retain and enhance this existing and well used local shop, allowing an expansion to increase the opportunity for the shop to provide a fuller convenience offer and other essential daily items. Such an enhanced offer will assist in improved day-to-day convenience shopping with a reducing reliance on the car as residents are encouraged and able to shop

locally. Positive weight is assigned to the social and economic sustainability of the development.

The shopfront changes will have a neutral impact upon the character and appearance of the host building, the street scene and the Conservation Area. Overall, there is no harm in terms of heritage impacts.

Other planning considerations in regards to ecology, amenity of neighbouring properties, and highways matters are acceptable.

The loss of the 2 residential units raises no objection in policy terms.

As such, when considering the planning balance and having regard to the above, and having regard to the requirements of the NPPF as a whole, Officers have concluded that there are no adverse impacts that would significantly or demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. Consequently it is recommended that planning permission is granted for the proposed development.

### 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

Proposed 1st Floor Plan	Plan Ref: 6765 (P) 110-01 REV 6
Elevations	Plan Ref: 6765(P)200 Version: G
Proposed Ground Floor Plan	Plan Ref: 6765(P)110-00 Version: H
Location Plan	Plan Ref: 6765 (P) 010 REV A
Block Plan	Plan Ref: 6765 (P) 011 REV A
Existing and Proposed Elevations	Plan Ref: 6765 (P) 201 REV D
Existing and Proposed Elevations	Plan Ref: 6765 (P) 202 REV E
Existing Elevations	Plan Ref: 6765 (P) 203 REV D

- 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 No ground construction for the rear extension shall be commenced until a schedule of the types and colour of the materials to be used in the external finishes of the extension hereby permitted has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details and permanently retained as such.

Reason

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

- 4 Refuse collections from the store shall not take place between the hours of 23:00 and 06:00.

Reason

In the interests of neighbouring amenity.

- 5 Any fixed mechanical plant operated within the curtilage of the premises shall be designed and installed so as to achieve a Rating Noise level of not more than 42dB LAeq(15Mins), and not to exceed that level thereafter.

Reason

In the interests of neighbouring amenity.

- 6 Prior to the first use of the extended area of the premises, and after all mechanical plant has been installed, a noise impact assessment shall be undertaken, using the methodology of BS4142:2014+A1:2019 to demonstrate compliance with Condition 5 above. A copy of the noise impact assessment report shall be forwarded to the Council.

Reason

In the interests of neighbouring amenity.

- 7 Deliveries to the store shall not take place between the hours of 23:00 and 06:00 with the exception of newspapers and magazines.

Reason

In the interest of neighbouring amenity.

- 8 The external parcel of land to the rear of the development annotated as 'garden' on plan 110-00 Rev H shall be used exclusively for the purposes of landscaping only. No other use of his land shall be permitted.

Reason

In the interests of neighbouring amenity.

- 9 No external commercial waste shall be stored on any land within the site curtilage.

Reason

In the interests of neighbouring amenity.

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

PART B

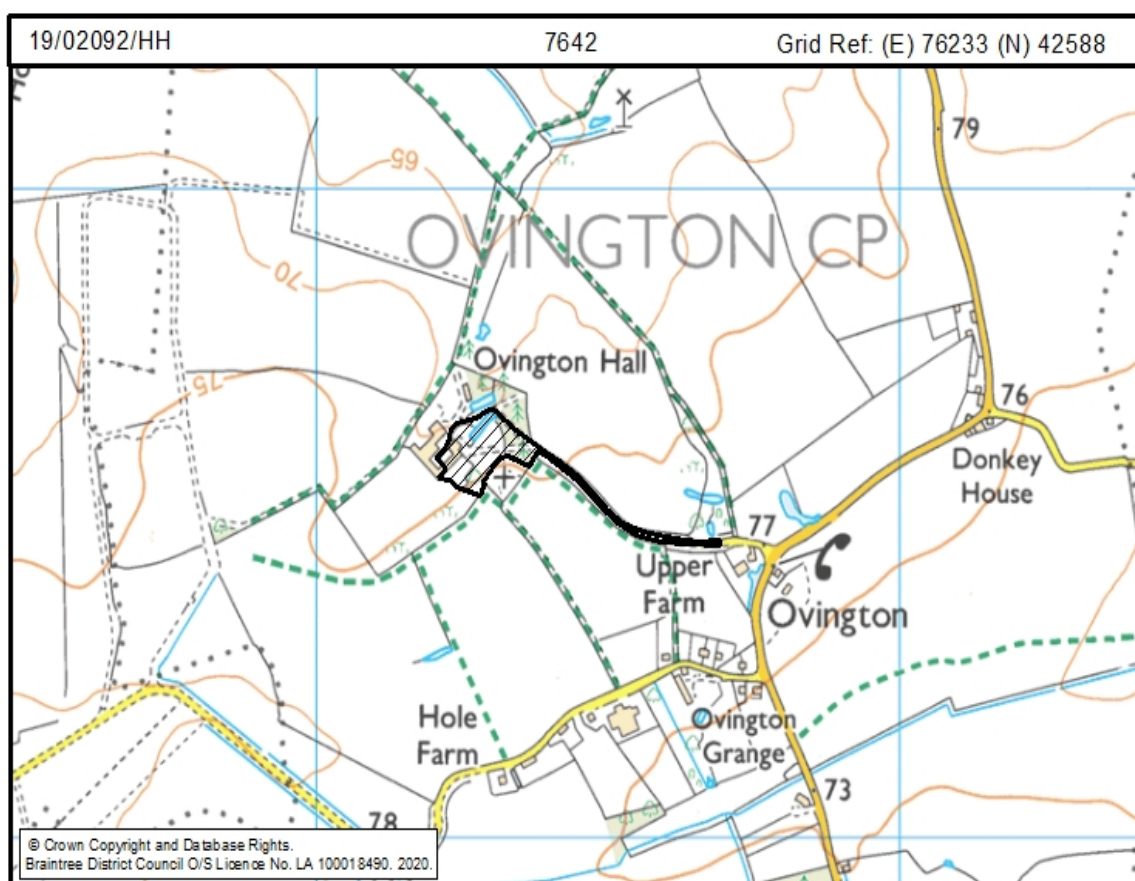
AGENDA ITEM NUMBER 5g

APPLICATION NO: 19/02092/HH  
DATE: 20.11.19  
VALID:  
APPLICANT: Nott  
Ovington Hall, Church Lane, Ovington, Essex, CO10 8LD  
AGENT: Mr Nick Peasland  
2 Hall Cottages, Assington Park, Assington, CO10 5LQ  
DESCRIPTION: Proposed Extension and Alterations to farmhouse and ancillary outbuilding to provide additional/reconfigured accommodation and replacement of the existing cement render on the farmhouse with lime render on chestnut laths.  
LOCATION: Ovington Hall, Church Lane, Ovington, Essex, CO10 8LD

For more information about this Application please contact:

Sam Trafford on:- 01376 551414 Ext. 2520

or by e-mail to: [sam.trafford@braintree.gov.uk](mailto:sam.trafford@braintree.gov.uk)



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=Q19LEHBFJHF00>

## SITE HISTORY

20/00048/REFLBC	Extension and alterations to farmhouse and ancillary outbuilding to provide additional accommodation		
88/00358/P	Internal Alterations, New Windows To Match Existing And Removal Of Back Porch	Granted	27.05.88
98/00838/LBC	Replacement of existing rear windows	Granted	18.08.98
98/00839/COU	Change of use of stable to farm office and garage	Granted	18.08.98
98/00840/LBC	Change of use of stable to farm office and garage	Granted	18.08.98
12/01144/AGR	Application for prior notification of agricultural development - Erection of a steel portal farm building	Permission not Required	06.09.12
15/01065/AGR	Application for prior notification of agricultural or forestry development - Construction of a storage reservoir (15,000 cubic metres) to store PAS110 accredited bio-fertilizer for application on the agricultural holding.	Planning Permission Required	11.09.15
15/01183/AGR	Application for prior notification of agricultural or forestry development - Construction of a storage reservoir (15,000 cubic metres) to store PAS110 accredited bio-fertilizer for application on the agricultural holding	Permission not Required	12.10.15
18/01508/AGR	Part clad/part open sided steel framed portal frame building comprising a grain store, workshop and agricultural machinery store	Permission not Required	27.09.18
18/01730/FUL	Proposed conversion of existing bakehouse,	Granted	03.01.19

	stables/coach house outbuilding, including re-building existing chimney stack, to provide a self contained 2 bedroom annex.		
18/01731/LBC	Proposed conversion of existing bakehouse, stables/coach house outbuilding, including re-building existing chimney stack, to provide a self contained 2 bedroom annex.	Granted	03.01.19
19/01188/FUL	Conversion of granary to farm office and demolition of lean-to to the front of granary	Granted	28.08.19
19/01189/LBC	Conversion of granary to farm office and demolition of lean-to to the front of granary	Granted	28.08.19
19/01369/HH	Extension and alterations to farmhouse and ancillary outbuilding to provide additional accommodation	Refused	17.10.19
19/01370/LBC	Extension and alterations to farmhouse and ancillary outbuilding to provide additional accommodation	Refused	17.10.19
19/02093/LBC	Proposed Extension and Alterations to farmhouse and ancillary outbuilding to provide additional/reconfigured accommodation and replacement of the existing cement render on the farmhouse with lime render on chestnut laths.	Pending Decision	
20/00708/DAC	Application for approval of details reserved by conditions 3, 4, 5, 6 and 7 of approval 19/01189/LBC	Granted	17.08.20
20/01556/FUL	Proposed conversion of existing barn and yard buildings to provide a holiday let complex and associated facilities.	Pending Consideration	
20/01557/LBC	Proposed conversion of	Pending	

existing barn and yard  
buildings to provide a  
holiday let complex and  
associated facilities.

Considerati  
on

## POLICY CONSIDERATIONS

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

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

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

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

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

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

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

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

## National Planning Guidance

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

## Braintree District Local Plan Review 2005

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



RLP100      Alterations and Extensions and Changes of Use to Listed Buildings and their settings

Braintree District Local Development Framework Core Strategy 2011

CS5            The Countryside

Braintree District Shared Strategic Section 1 Local Plan (2021) & Draft Section 2 Local Plan (2017)

SP1            Presumption in Favour of Sustainable Development  
SP6            Place Shaping Principles  
LPP1           Development Boundaries  
LPP38          Residential Alterations, Extensions and Outbuildings  
LPP45          Parking Provision  
LPP50          Built and Historic Environment  
LPP55          Layout and Design of Development  
LPP60          Heritage Assets and their Settings

INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is being reported to Planning Committee in accordance with the transitional arrangements for the Council's new Scheme of Delegation as the application was Called In by Cllr Parker for the following reasons:

- The application conforms to our policies in that the works will enhance the fabric of the existing building and the proposed extension will not harm the character of the building.

DESCRIPTION OF THE SITE AND SITE CONTEXT

The application site consists several Grade II Listed buildings, including Ovington Hall, Ovington Hall Stables, and Ovington Hall Granary.

The application site is situated outside of any settlement boundary. The closest defined settlement is located at Ashen, which is approximately 1.4km to the west.

The site has been subject to a number of recent planning applications, including an application to utilise a Grade II Listed Stables as annexe accommodation ancillary to the house which was approved, the conversion and restoration of a Grade II Listed Granary into offices to support the farm business which was approved, and an application in 2019 for the erection of a single storey link extension between the Grade II Listed farmhouse and an ancillary building adjacent which is currently used as a pool-house. This application was refused by the Local Planning Authority but has subsequently been allowed at appeal (A copy of the Appeal Decision is appended to this report). This is discussed in more detail below.

## PROPOSAL

The application proposes the erection of a single storey link extension to connect the residential dwelling at Ovington Hall to an ancillary outbuilding which is currently used to accommodate a pool-house, and alterations to the farmhouse and ancillary outbuilding to provide additional/reconfigured accommodation, and replacement of the existing cement render on the farmhouse with lime render on chestnut laths.

The proposed single storey link extension is exactly the same as considered within the appeal aforementioned and now has the benefit of permission.

A linked application for listed building consent (Application Reference 19/02093/LBC) has also been submitted for consideration, and is on the Planning Committee Agenda for 13th April 2021.

## SUMMARY OF CONSULTATION RESPONSES

### Historic Buildings Consultant

Raises an objection to the application, due to the harm caused to the significance of the Listed Building not being outweighed by the re-rendering.

### PARISH / TOWN COUNCIL

No response received.

## REPRESENTATIONS

A site notice was displayed at the site and neighbours were notified by letter. No representations have been received.

## REPORT

### Principle of Development

The application site is situated outside of any designated settlement boundary. For sites located outside of designated village envelopes and development boundaries, Policy RLP2 of the Adopted Local Plan states that countryside policies apply.

Policy CS5 of the Core Strategy states that development, outside town development boundaries, village envelopes and industrial development limits, will be strictly controlled to uses appropriate to the countryside, in order to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside.

Policy RLP18 of the Adopted Local Plan and Policy LPP38 of the Section 2 Plan allow the extension of residential properties in the countryside subject to meeting the criteria set out within the Policy. Policy RLP100 of the Adopted

Local Plan and Policy LPP60 of the Section 2 Plan seeks to protect the character, setting and fabric of listed buildings.

The proposal is considered acceptable in principle, subject to compliance with the abovementioned policies and all other material considerations which will be addressed below.

It is noted that an application for similar works at the site has recently been allowed on appeal and this forms a material consideration in the determination of this application. The single storey link extension proposed is the same as that considered within the appeal and now has the benefit of permission. This application includes additional works consisting of the replacement of the cement render with a more traditional line render.

#### Design and Appearance & Impact to Grade II Listed Building

Policy RLP18 of the Adopted Local Plan and Policy LPP38 of the Section 2 Plan allow the extension of existing habitable dwellings within the countryside provided that the extension is “in harmony with the countryside setting and compatible with the scale and character of the existing dwelling and the plot upon which it stands”. “Extensions will be required to be subordinate to the existing dwelling in terms of bulk, height, width and position.”

Paragraph 124 of the NPPF states that good design is a key aspect of sustainable development. Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Section 2 Plan require designs to recognise and reflect local distinctiveness in terms of scale, density, height and massing of buildings, and be sensitive to the need to conserve local features of architectural and historic importance, and also to ensure development affecting the public realm shall be of a high standard of design and materials, and use appropriate landscaping. Policy SP6 of the Section 1 Plan similarly seeks a high standard of design and layout in all new developments.

The proposed link extension would result in the joining together of two independent buildings. In considering the abovementioned appeal and the link extension the Inspector commented that:

*‘The single-storey scale and substantial proportion of glazing within the extension would limit its bulk and solidity of appearance. Its pitched roof profile would echo the gable roof profiles at the rear of the building, while the modernity of the zinc roof material and proportion of glazing would differentiate it from the farmhouse...consequently, the proposed rear extension would be a subordinate addition that would modestly reinforce the perimeter of the evolved domestic zone, while allowing some visual permeability through the glazing between farmstead zones. It would strike an acceptable balance between being subordinate to and differentiated from the listed building. As such, the extension would represent an honest addition that would not visually compete with the pre-eminence of the historic farmhouse’.*

The link extension itself would read as subordinate to the host dwelling, as would the building to be linked, and is considered acceptable from a planning perspective, in relation to design and appearance.

When considering the impact of development on a historical asset the National Planning Policy Framework (NPPF) specifically states in paragraph 196 that; "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use".

Policy RLP100 of the Adopted Local Plan and Policy LPP60 of the Section 2 Plan states that works will only be permitted where they do not harm the setting, character, structural stability and fabric of the building (or structure); and will 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's Historic Buildings Consultant has objected to this current application on the grounds that the extent of harm caused to the significance of the listed building would not be outweighed by public benefits.

*In considering the appeal the Inspector concluded that 'the proposed works would fit in acceptably with the listed building and its evolved farmstead. The proposal would read as part of the historically layered evolution of the building. The sixteenth century core of the building, including its authoritative front elevation and front rooms, would remain dominant. Furthermore, the legibility of main phases of the building's architectural evolution - in the form of 'polite' Georgian and nineteenth century model farmstead remodelling, and twentieth century outdoor domestic adaptation - would endure. I conclude that the proposal would preserve the special interest of the Grade II listed building. This would satisfy the requirements of the Act and the Framework. Also it would accord with saved Policy RLP100 of the Braintree District Local Plan Review (2005) and Policy CS9 of the Braintree District Core Strategy (2011) which seek to ensure that proposals conserve designated heritage assets and the historic environment.*

Notwithstanding the comments of the Historic Buildings Consultant, the proposed link extension was found acceptable by the Planning Inspector and now has the benefit of planning permission and listed building consent. It would not now therefore be reasonable to refuse this application on the grounds of the impact of the link extension.

Furthermore, it is noted that this current application proposes an additional public benefit which was not included in the previous application, which is the removal of existing cement render attached to Ovington Hall, and its replacement with a more suitable lime render, to which the Historic Buildings Consultant has not objected.

Given the weight which must be attached to the appeal decision, which has granted permission for the proposed link development, together with the additional works to replace the render which are of benefit to the listed building, Officers consider that the application is acceptable in regards to design, appearance and its impact on the heritage asset, conforming with the above mentioned policies.

#### Impact to Neighbouring Residential Amenities

Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Section 2 Plan state that development shall not cause undue or unacceptable impacts on the amenities of nearby residential properties. Unacceptable impacts are considered as any factors that can carry the potential to degrade the enjoyment of neighbouring properties in terms of overlooking, overshadowing, loss of light or loss of privacy. The National Planning Policy Framework also seeks a high quality amenity for existing and future occupiers of neighbouring dwellings.

The application site is located in a remote location, where there are no other residential dwellings which could be affected by the proposed development. Furthermore, the scale of the development proposed is such that impacts would not be unacceptable in any case.

The proposal complies with the aforementioned policies.

#### Highway Considerations

Existing parking and access alterations at the site would not be affected by the proposed development.

#### CONCLUSION

Officers recommend that, given the appeal decision to allow the link extension, together with the replacement of the render which is of benefit to the listed building, this application should be approved.

#### 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	
Existing Floor Plan	Plan Ref: 2560/08
Existing Elevations	Plan Ref: 2560/09
Existing Site Plan	Plan Ref: 2560/14
Proposed Floor Plan	Plan Ref: 2560/15

Proposed Elevations  
Site Plan

Plan Ref: 2560/16  
Plan Ref: 2560/17

- 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.

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER



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## Appeal Decision

Site visit made on 10 November 2020

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 8 March 2021

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Appeal Ref: APP/Z1510/Y/20/3247177

Ovington Hall, Church Lane, Ovington CO10 8LD

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
  - The appeal is made by JR & EH Nott against the decision of Braintree District Council.
  - The application Ref: 19/01370/LBC, dated 29 July 2019, was refused by notice dated 17 October 2019.
  - The works proposed are extension and alterations to farmhouse and ancillary outbuilding to provide additional/reconfigured accommodation.
- 

### Decision

1. The appeal is allowed and listed building consent is granted for extension and alterations to farmhouse and ancillary outbuilding to provide additional/reconfigured accommodation at Ovington Hall, Church Lane, Ovington CO10 8LD in accordance with the terms of the application, Ref: 19/01370/LBC, dated 29 July 2019, and the plans submitted with it, subject to the following conditions:
  - 1) The works hereby consented shall begin not later than 3 years from the date of this decision.
  - 2) The works hereby consented relate solely to the plans, drawings, notes and written details submitted with the application or as subsequently amended and approved in writing by the following conditions.
  - 3) No works shall commence until section and elevation drawings of details of proposed new windows, doors, eaves, verges and cills have been submitted to and approved in writing by the local planning authority. The works shall be implemented in accordance with the approved plans and maintained thereafter.
  - 4) No works shall commence until details and samples of the materials to be used in the construction of external surfaces hereby permitted have been submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details and samples.
  - 5) The materials to be used for making good disturbed internal or external surfaces shall be of matching composition, form and finish to those of any adjoining, original fabric.

## Preliminary Matter

2. As the proposal relates to a listed building, I have had special regard to section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

## Main Issue

3. The main issue is whether the proposed works would preserve the Grade II listed building, '**Ovington Hall**' (Ref: 1232241), or any features of special architectural or historic interest that it possesses.

## Reasons

4. The building is a large two-storey farmhouse. At its core is a timber-framed three-cell hall with mullion windows, which dates from the sixteenth century. Though much plastered over, visible parts of the frame inside the building point to these older origins.
5. The building sits at the head of an entrance driveway, on the front corner of an **approximately square shaped 'main frame'** of farm buildings. This location, in combination **with the length of the farmhouse, gives the building's** main facade particular prominence. Variation in window spacing and chimney profiles adds a subtly eye-catching eclecticism to this elevation. These elements combine to **give the building's front facade a gently authoritative presence.**
6. A range of additions and alterations illustrates the **building's evolution** between the seventeenth and twentieth centuries. There is a seventeenth century two-storey timber framed extension on one of the rear corners of the building. Late Georgian intervention is indicated by the prominent staircase which ascends from the front entrance hall.
7. The frame of farm buildings illustrates a late nineteenth century '**model farmstead**' redevelopment phase after a fire. This phase is evident in two substantial Grade II listed nineteenth century farm buildings<sup>1</sup> located approximately 35m south-west of the farmhouse. One is a timber framed and weatherboarded barn with crosswing granary. The other is a red brick building with timber boarded doors and louvres, comprising stable/cattle outbuildings that are attached to a barn and granary. The '**model farmstead**' redevelopment phase also included a two-storey extension of the rear of the farmhouse.
8. Twentieth century elements of the appeal building include a four window range of leaded casements with transoms, a clay pantile re-roof and replacement studwork in part of the seventeenth century rear corner extension.
9. Furthermore, during the later part of the twentieth century a noticeable outdoor domestic zone has evolved and established to the rear of the farmhouse. This zone is visually contained by the following combination of elements: a high courtyard brick wall; agricultural outbuildings to the south and south-west of the farmhouse, one of which has been converted to a residential annexe; and the farmhouse. The high perimeter wall and lower inner wall of the zone date from the '**model farmstead**' redevelopment phase and possibly demarcated livestock shelter or kitchen garden areas. However, this zone now contains rear courtyard space for the farmhouse and residential

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<sup>1</sup> List entry numbers 1232242 and 1232242.



- annexe, and an open air swimming pool. The outbuilding to which the proposed rear extension would link has been converted from a farm office to ancillary accommodation for the farmhouse and its swimming pool.
10. The larger farmyard gap to the north-west of the farmhouse contrasts with the proximity of the appeal building and the outbuilding to which it would be linked. This accentuates the distinction between the evolved outdoor domestic zone and the functioning agricultural zone of the farmstead.
  11. As such, the building has evidential and historical value as an example of a large Essex farmhouse that has evolved from vernacular origins, through **phases of 'polite' Georgian architectural intervention, late nineteenth century** remodelling and twentieth century adaptation. Given the above, I consider the special interest of the listed building, insofar as it relates to this appeal, to be primarily associated with the legibility of its sixteenth century core and its historically layered architectural evolution.
  12. The proposal would entail removal of some internal walling in the rear nineteenth century part of the building to enlarge and open up access to the **'snug'** and a larger, repositioned rear hall. Also, the gable wall of the seventeenth century extension would be breached to open up a relocated and enlarged **'kitchen/breakfast'** area that would include the new link extension.
  13. Nevertheless, as indicated by the heritage assessment submitted by the appellant, the opening in the gable wall would result in removal of modern fabric. The internal walling to be removed in the rear part of the building is of uncertain age and authenticity. Some of the partition wall between the proposed study and enlarged snug would be retained to inform of the earlier layout of the ground floor. Furthermore, the sense of a relationship between the main front hall and a rear hall would endure. So would the prevailing impression of eclectic variety of room shape and size, and the dominance of the front rooms and front hallway. There is no substantive evidence to indicate that the proposal would harm the structural stability of the building.
  14. The replacement of twentieth century leaded glass windows with tripartite vertical sliding sash windows **in the building's front elevation** would reflect the late Georgian phase of the house, subject to appropriate detailing to be secured by condition. **The outbuilding's remaining Georgian sash window would be retained.** Furthermore, the **reconfiguration of the outbuilding's** fenestration would appear as suitable functional alterations to a subordinate structure to the main core of the farmhouse, within the evolved domestic zone to the rear of the farmhouse.
  15. I observe from the plans and my site visit that the following combination of proposed elements would help the link extension to assimilate into the evolved domestic zone of the farmstead. The single-storey scale and substantial proportion of glazing within the extension would limit its bulk and solidity of appearance. Its pitched roof profile would echo the gable roof profiles at the rear of the building, while the modernity of the zinc roof material and proportion of glazing would differentiate it from the farmhouse. Significant historic exterior detailing would not be obscured by the proposal. Moreover, an appreciation of key character elements in the form of the **building's** chimneys, rustic hipped tiled roofing, fenestration pattern and authoritative front elevation would not be diminished by the proposal.

16. **'On the ground'**, the configuration of the main frame of farm buildings would limit the prominence of the rear extension. This would prevent the latter competing with the authoritative front elevation of the farmhouse, viewed on the main approach along the front driveway.
17. Consequently, the proposed rear extension would be a subordinate addition that would modestly reinforce the perimeter of the evolved domestic zone, while allowing some visual permeability through the glazing between farmstead zones. It would strike an acceptable balance between being subordinate to and differentiated from the listed building. As such, the extension would represent an honest addition that would not visually compete with the pre-eminence of the historic farmhouse.
18. It is proposed to remove a stretch of approximately elbow height, late nineteenth century yard wall that is located south-west of the farmhouse. The more dominant, high perimeter red brick wall around the rear courtyard space would be retained, thus preserving the separation of the evolved domestic zone from the farming function beyond. Furthermore, the main frame of remodelled farmstead buildings would continue **to 'hold its own'** in terms of architectural presence and legibility of historical layering.
19. Given the above, this leads me to find that the proposed works would fit in acceptably with the listed building and its evolved farmstead. The proposal would read as part of the historically layered evolution of the building. The sixteenth century core of the building, including its authoritative front elevation and front rooms, would remain dominant. Furthermore, the legibility of main **phases of the building's architectural evolution - in the form of 'polite' Georgian and nineteenth century model farmstead remodelling, and twentieth century outdoor domestic adaptation - would endure.**
20. Given the above, I conclude that the proposal would preserve the special interest of the Grade II listed building. This would satisfy the requirements of the Act and the Framework. Also, while of limited relevance to an appeal made under section 20 of the Act, it would accord with saved Policy RLP100 of the Braintree District Local Plan Review (2005) and Policy CS9 of the Braintree District Core Strategy (2011) which seek to ensure that proposals conserve designated heritage assets and the historic environment.

#### Conclusion and Conditions

21. For the reasons given above I conclude that, subject to conditions, the appeal should be allowed. The attached conditions are reasonable and necessary in the circumstances of this case, in accordance with the tests set out in paragraph 56 of the Framework.
22. In addition to the standard time limit condition, a condition requiring the works to be carried out in accordance with the submitted details is necessary to ensure that they are implemented as approved. Conditions covering architectural detailing, submission of samples and the use of specified materials are necessary to ensure that the appearance and construction of the extension is of a suitably high standard. In order to preserve historic architectural detail a condition requiring the making good of any disturbed surfaces is also necessary.

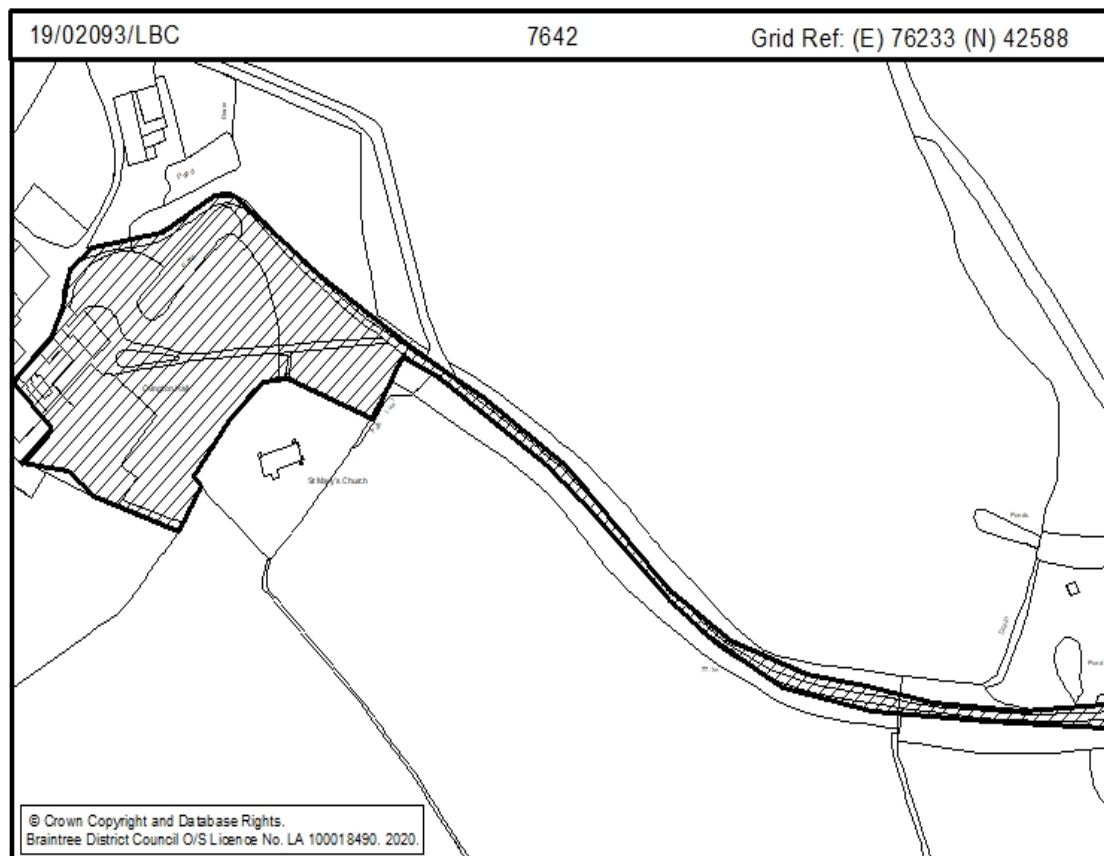
*William Cooper*    INSPECTOR

PART B

AGENDA ITEM NUMBER 5h

APPLICATION NO: 19/02093/LBC  
DATE: 20.11.19  
VALID:  
APPLICANT: JR & EH Nott  
Ovington Hall, , Church Lane, Ovington, CO10 8LD  
AGENT: Mr Nick Peasland  
2 Hall Cottages, Assington Park, Assington, Assington, CO10 5LQ  
DESCRIPTION: Proposed Extension and Alterations to farmhouse and ancillary outbuilding to provide additional/reconfigured accommodation and replacement of the existing cement render on the farmhouse with lime render on chestnut laths.  
LOCATION: Ovington Hall, Church Lane, Ovington, Essex, CO10 8LD

For more information about this Application please contact:  
Sam Trafford on:- 01376 551414 Ext. 2520  
or by e-mail to: [sam.trafford@braintree.gov.uk](mailto:sam.trafford@braintree.gov.uk)



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=Q19LELBFJHG00>

## SITE HISTORY

20/00048/REFLBC	Extension and alterations to farmhouse and ancillary outbuilding to provide additional accommodation		
88/00358/P	Internal Alterations, New Windows To Match Existing And Removal Of Back Porch	Granted	27.05.88
98/00838/LBC	Replacement of existing rear windows	Granted	18.08.98
98/00839/COU	Change of use of stable to farm office and garage	Granted	18.08.98
98/00840/LBC	Change of use of stable to farm office and garage	Granted	18.08.98
12/01144/AGR	Application for prior notification of agricultural development - Erection of a steel portal farm building	Permission not Required	06.09.12
15/01065/AGR	Application for prior notification of agricultural or forestry development - Construction of a storage reservoir (15,000 cubic metres) to store PAS110 accredited bio-fertilizer for application on the agricultural holding.	Planning Permission Required	11.09.15
15/01183/AGR	Application for prior notification of agricultural or forestry development - Construction of a storage reservoir (15,000 cubic metres) to store PAS110 accredited bio-fertilizer for application on the agricultural holding	Permission not Required	12.10.15
18/01508/AGR	Part clad/part open sided steel framed portal frame building comprising a grain store, workshop and agricultural machinery store	Permission not Required	27.09.18
18/01730/FUL	Proposed conversion of existing bakehouse,	Granted	03.01.19

	stables/coach house outbuilding, including re-building existing chimney stack, to provide a self contained 2 bedroom annex.		
18/01731/LBC	Proposed conversion of existing bakehouse, stables/coach house outbuilding, including re-building existing chimney stack, to provide a self contained 2 bedroom annex.	Granted	03.01.19
19/01188/FUL	Conversion of granary to farm office and demolition of lean-to to the front of granary	Granted	28.08.19
19/01189/LBC	Conversion of granary to farm office and demolition of lean-to to the front of granary	Granted	28.08.19
19/01369/HH	Extension and alterations to farmhouse and ancillary outbuilding to provide additional accommodation	Refused	17.10.19
19/01370/LBC	Extension and alterations to farmhouse and ancillary outbuilding to provide additional accommodation	Refused	17.10.19
19/02092/HH	Proposed Extension and Alterations to farmhouse and ancillary outbuilding to provide additional/reconfigured accommodation and replacement of the existing cement render on the farmhouse with lime render on chestnut laths.	Pending Decision	
20/00708/DAC	Application for approval of details reserved by conditions 3, 4, 5, 6 and 7 of approval 19/01189/LBC	Granted	17.08.20
20/01556/FUL	Proposed conversion of existing barn and yard buildings to provide a holiday let complex and associated facilities.	Pending Consideration	
20/01557/LBC	Proposed conversion of	Pending	

existing barn and yard  
buildings to provide a  
holiday let complex and  
associated facilities.

Considerati  
on

## POLICY CONSIDERATIONS

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

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

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

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

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

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

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

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

## National Planning Guidance

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

## Braintree District Local Plan Review 2005

RLP100      Alterations and Extensions and Changes of Use to Listed  
Buildings and their settings

## Braintree District Local Development Framework Core Strategy 2011

### Braintree District Shared Strategic Section 1 Local Plan (2021) & Draft Section 2 Local Plan (2017)

LPP60          Heritage Assets and their Settings

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

This application is being reported to Planning Committee in accordance with the transitional arrangements for the Council's new Scheme of Delegation as the application was Called In by Cllr Parker for the following reasons:

- The application conforms to our policies in that the works will enhance the fabric of the existing building and the proposed extension will not harm the character of the building.

#### DESCRIPTION OF THE SITE AND SITE CONTEXT

The application site consists several Grade II Listed buildings, including Ovington Hall, Ovington Hall Stables, and Ovington Hall Granary.

The application site is situated outside of any settlement boundary. The closest defined settlement is located at Ashen, which is approximately 1.4km to the west.

The site has been subject to a number of recent planning applications, including an application to utilise a Grade II Listed Stables as annexe accommodation ancillary to the house which was approved, the conversion and restoration of a Grade II Listed Granary into offices to support the farm business which was approved, and an application in 2019 for the erection of a single storey link extension between the Grade II Listed farmhouse and an ancillary building adjacent which is currently used as a pool-house. This application was refused by the Local Planning Authority but has subsequently been allowed at appeal (A copy of the Appeal Decision is appended to this report). This is discussed in more detail below.

#### PROPOSAL

The application proposes the erection of a single storey link extension to connect the residential dwelling at Ovington Hall to an ancillary outbuilding which is currently used to accommodate a pool-house, and alterations to the farmhouse and ancillary outbuilding to provide additional/reconfigured accommodation, and replacement of the existing cement render on the farmhouse with lime render on chestnut laths.

The proposed single storey link extension is exactly the same as considered within the appeal aforementioned and now has the benefit of permission.

A linked application for planning permission (Application Reference 19/02092/FUL) has also been submitted for consideration, and is on the Planning Committee Agenda for 13th April 2021.

## SUMMARY OF CONSULTATION RESPONSES

### Historic Buildings Consultant

Raises an objection to the application, due to the harm caused to the significance of the Listed Building not being outweighed by the re-rendering.

### PARISH / TOWN COUNCIL

No response received.

## REPRESENTATIONS

A site notice was displayed at the site and neighbours were notified by letter. No representations were received at the time of writing the report.

## REPORT

### Impact on the Grade II Listed Building

When considering the impact of development on a historical asset the National Planning Policy Framework (NPPF) specifically states in paragraph 196 that; "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use".

Policy RLP100 of the Adopted Local Plan and Policy LPP60 of the Section 2 Plan states that works will only be permitted where they do not harm the setting, character, structural stability and fabric of the building (or structure); and will 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's Historic Buildings Consultant has objected to this current application on the grounds that the extent of harm caused to the significance of the listed building would not be outweighed by public benefits.

In considering the appeal the Inspector concluded that *'the proposed works would fit in acceptably with the listed building and its evolved farmstead. The proposal would read as part of the historically layered evolution of the building. The sixteenth century core of the building, including its authoritative front elevation and front rooms, would remain dominant. Furthermore, the*



*legibility of main phases of the building's architectural evolution - in the form of 'polite' Georgian and nineteenth century model farmstead remodelling, and twentieth century outdoor domestic adaptation - would endure. I conclude that the proposal would preserve the special interest of the Grade II listed building. This would satisfy the requirements of the Act and the Framework. Also it would accord with saved Policy RLP100 of the Braintree District Local Plan Review (2005) and Policy CS9 of the Braintree District Core Strategy (2011) which seek to ensure that proposals conserve designated heritage assets and the historic environment.*

Notwithstanding the comments of the Historic Buildings Consultant, the proposed link extension was found acceptable by the Planning Inspector and now has the benefit of planning permission and listed building consent. It would not now therefore be reasonable to refuse this application on the grounds of the impact of the link extension.

Furthermore, it is noted that this current application proposes an additional public benefit which was not included in the previous application, which is the removal of existing cement render attached to Ovington Hall, and its replacement with a more suitable lime render, to which the Historic Buildings Consultant has not objected.

Given the weight which must be attached to the appeal decision, which has granted permission for the proposed link development, together with the additional works to replace the render which are of benefit to the listed building, Officers consider that the application is acceptable in regards to its impact on the heritage asset and satisfies the policies mentioned above.

## CONCLUSION

Officers recommend that, given the appeal decision to allow the link extension, together with the replacement of the render which is of benefit to the listed building, this application should be approved.

## 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

Existing Floor Plan	Plan Ref: 2560/08
Existing Elevations	Plan Ref: 2560/09
Existing Site Plan	Plan Ref: 2560/14
Proposed Floor Plan	Plan Ref: 2560/15
Proposed Elevations	Plan Ref: 2560/16
Location Plan	Plan Ref: 2560/17

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

Reason

This Condition is imposed pursuant to Section 18 of the Planning (Listed Building & Conservation Areas) Act 1990.

- 2 The works 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 Prior to their installation, section and elevation drawings of details of proposed new windows, doors, eaves, verges and cills shall be submitted to and approved in writing by the local planning authority. The works shall be implemented in accordance with the approved plans and retained thereafter.

Reason

To ensure the proposed works do not prejudice the architectural or historic merits of the listed building.

- 4 No works shall commence until details and samples of the materials to be used in the construction of external surfaces hereby permitted, including but not limited to the link extension and the replacement render, have been submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the details approved and retained thereafter.

Reason

To ensure the proposed works do not prejudice the architectural or historic merits of the listed building.

- 5 The materials to be used for making good disturbed internal or external surfaces shall be of matching composition, form and finish to those of any adjoining, original fabric.

Reason

To ensure the proposed works do not prejudice the architectural or historic merits of the listed building.

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

PART B

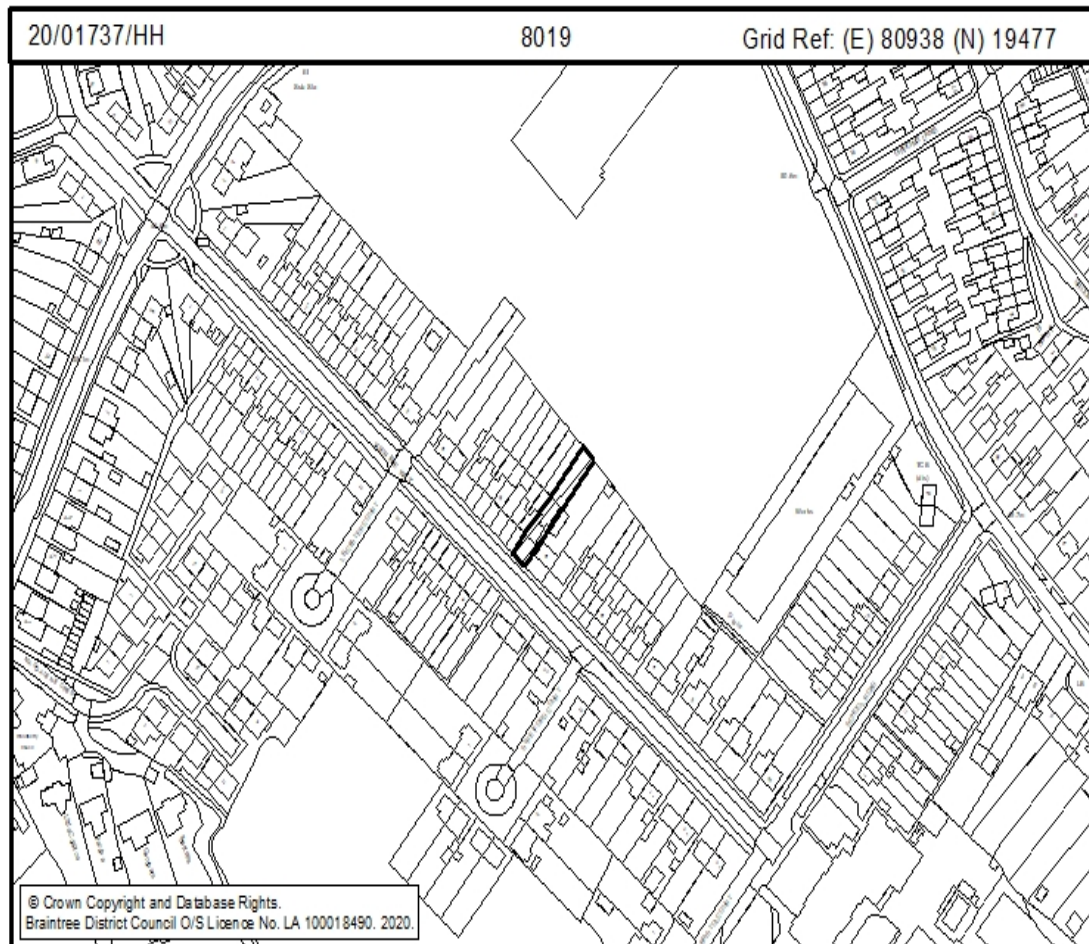
AGENDA ITEM NUMBER 5i

APPLICATION NO: 20/01737/HH  
DATE: 30.10.20  
VALID:  
APPLICANT: Mrs Carol Anne Bennett  
52 Valentine Way, Silver End, Essex, CM8 3RX  
DESCRIPTION: Replacement front door  
LOCATION: 52 Valentine Way, Silver End, Essex, CM8 3RX

For more information about this Application please contact:

Fiona Hunter on:- 01376 551414 Ext. 2521

or by e-mail to: [fiona.hunter@braintree.gov.uk](mailto:fiona.hunter@braintree.gov.uk)



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QII7BUBF0H500>

### SITE HISTORY

00/01299/FUL	Installation of new gas central heating boiler	Granted	07.03.01
93/00834/FUL	Creation of hardstanding for occasional off road parking	Refused	09.08.93
09/01615/FUL	Replacement of 2 front windows and one side window	Granted	20.01.10
10/00220/DAC	Application for approval of details reserved by condition no. 1 & 2 of approval 09/01615/FUL	Granted	22.09.10
19/01796/HH	Replacement front door	Refused	02.01.20

### POLICY CONSIDERATIONS

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

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

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

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

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

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

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

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

#### National Planning Guidance

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

#### Braintree District Local Plan Review 2005

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

#### Braintree District Local Development Framework Core Strategy 2011

CS9	Built and Historic Environment
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#### Braintree District Shared Strategic Section 1 Local Plan (2021) & Draft Section 2 Local Plan (2017)

SP1	Presumption in Favour of Sustainable Development
SP6	Place Shaping Principles
LPP1	Development Boundaries
LPP38	Residential Alterations, Extensions and Outbuildings
LPP50	Built and Historic Environment
LPP55	Layout and Design of Development
LPP56	Conservation Areas

#### Other Material Considerations

Silver End Conservation Area Guide 1999

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

This application is being reported to Planning Committee in accordance with the transitional arrangements for the Council's new Scheme of Delegation as Silver End Parish Council has objected to the proposal contrary to Officer recommendation.

#### DESCRIPTION OF THE SITE AND SITE CONTEXT

52 Valentine Way is a semi-detached property located in the village boundary of Silver End. The property is located within the Silver End Conservation Area and is situated within the area which is subject to an Article 4 Direction. Amongst other things, the Article 4 Direction requires that planning permission is required for the replacement of doors.

## PROPOSAL

The application seeks planning permission for the replacement of the front door to dwellinghouse which is located to the side of the property.

## SUMMARY OF CONSULTATION RESPONSES

### Historic Building Consultant

Raises an objection to the proposal as set out below:

*“The proportions of the proposed replacement fail to replicate the design of the existing door, whilst the use of a composite material has an aesthetic quality that differs from timber. Together these aspects will add to a further diminishment of the Conservation Areas significance, which at present is in a precarious position, featuring on Historic England’s Heritage at Risk register. I am unable to support the application, which will cause a low level of harm to the significance of the Conservation Area, removing an element that contributes to its significance and failing to replicate the dimensions of the existing door. This should be considered against section 196 of the NPPF and Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.*

*I appreciate that there are many unsympathetic doors and windows in Silver End, yet this is part of the reason the Conservation Area is at risk of losing its special interest. The presence of such unsympathetic alterations does not set a precedent for the loss of the door on this property, moreover, it only emphasises how the surviving original doors need to be maintained or properly replicated, if they are decayed to the point of being irreparable.”*

## PARISH / TOWN COUNCIL

### Silver End Parish Council

Silver End Parish Council have stated that they object to the application as the proposals are in contravention of current Conservation Guidelines, as published.

## REPRESENTATIONS

Adjoining neighbouring properties were consulted and a site notice was displayed outside No.52 Valentine Way for a period of 21 days. No neighbour representations have been received.

## REPORT

Policy RLP17 of the Adopted Local Plan and Policy LPP38 of the Section 2 Plan allow for the extension of an existing dwelling provided that there is no over-development of the plot, the siting, bulk, form and materials of the

extension are compatible with the original dwelling, and providing there is no unacceptable material impact on the identity of the street scene, scale and character of the area.

The NPPF states that new development should function well and add to the overall quality of the area, be sympathetic to local character and history, and maintain a strong sense of place. In addition to this, Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Section 2 Plan require designs to recognise and reflect local distinctiveness in terms of scale, density, height and massing of buildings, and be sensitive to the need to conserve local features of architectural and historic importance, and also to ensure development affecting the public realm shall be of a high standard of design and materials, and use appropriate landscaping. Policy LPP50 of the Section 2 Plan seeks to secure the highest possible standards of design and layout in all new development and the protection and enhancement of the historic environment.

No.52 Valentine Way is located within the Conservation Area of Silver End where an Article 4 Direction is in place. Silver End was designed as a “garden village” with different sections designed by different architects. The original layout and much of the landscaping survives, however, many of the buildings are in poor condition cosmetically. The houses in this part of the village were designed by C Murray Hennell. They are predominantly arranged in terraces, with some semi-detached pairs, and are constructed in a yellow gault brick.

The style of front doors varied with the house types. This property has a side entrance door set within a deep recess and with a glazed fanlight panel above. The original door is likely to have featured a glazed panel to the top set out in panes of 3, with timber below. The existing door at the property is timber with a panel of twelve panes, and is in a poor state of repair.

This application seeks to replace the existing door with a composite door, this would have a wooden appearance and a glazed nine pane window arrangement. Revisions were sought to the application, changing the specification of the proposed door to better mimic the proportions of what would have been the original door and to provide consistency with other recent approvals. The existing fanlight would be maintained.

The Historic Buildings Consultant has concerns with regard to the proposed replacement composite door. Furthermore as referred to above, the Parish Council has objected as the proposal does not accord with the Silver End Design Guide.

One of the main reasons the core of the Village was designated as a Conservation Area, was due in part to the erosion of its uniformity by owner/occupiers as a result of the ‘right to buy’ legislation. The Silver End Garden Village Article 4 (No.2) Direction 1985 introduced greater controls to certain forms of development within the Conservation Area that would normally not require planning permission. These controls are:

- *The enlargement of a dwelling house where such enlargement is carried out on the front or side elevation of the dwelling house. The erection of any garages or outbuildings to the front or side of a dwellinghouse.*
- *Alterations of a dwellinghouse affecting windows, doors or other openings to the front and side elevations including the insertion of new windows and doors. Alterations to roofs including the insertion of dormer or other windows into roofs and the change of roof materials on pitched roof properties. The alteration of porches and porch canopies. The application of any form of cladding or rendering to the external walls of the front and side elevations.*
- *The erection or construction of a porch outside the front or side door of a dwellinghouse.*
- *The erection or construction of any fences, walls, gates or other forms of enclosure to the front or sides of a dwellinghouse. Alteration of fences, walls or other means of enclosure if the development is adjoining the highway or in front of the building.*
- *The construction within the curtilage of a dwellinghouse of a vehicle hard standing incidental to the dwellinghouse.*
- *The formation of an access to a dwelling house from an unclassified road.*
- *The painting of the exterior of any wall of a dwellinghouse.*

The Article 4 Direction restricts the scope of permitted development rights. Where an Article 4 Direction is in effect, a planning application is required for development that would otherwise have been permitted development. However, it does not set out how the development should be undertaken. To this end, the first Silver End Conservation Guide was published. The most recent Silver End Conservation Guide published in 1999 is now out-of-date and is in need of revision. Therefore, to consider every application in Silver End on its merits on a case by case basis is a reasonable way forward as a means of ensuring that residents are able to replace their old windows and doors, whilst mitigating the impact on the individual dwellings and the wider Conservation Area.

Whilst metal doors were available and produced by Crittall during the 1920s/30s when the Village was built, these were for French-window type doors. Standard timber doors were used when the Village was constructed and many have been replaced over the years. Whilst it is acknowledged that the proposed door will not look exactly the same as a traditional wooden door, it is of a high quality and attempts to replicate the pattern of what is believed to have been the original door. It is also on the side of the dwelling set into a deep reveal which will mean it will not be readily obvious in street views. On this basis, it is considered that its impact on the Conservation Area will be mitigated and refusal would be difficult to justify.



In applying Paragraph 196 of the NPPF, harm to the significance of the heritage asset (Silver End Conservation Area) must be weighed against any public benefits. In this regard, it is considered that the proposal would have little public benefit. The proposal would generate employment at the installation stage although it would be of limited significance due to the small scale nature of the work involved, which weighs against the proposal in the planning balance. However, the 'less than substantial harm' identified would be mitigated as far as possible by the fact that the design of the replacement door is a reasonable modern facsimile of the original features and is not readily visible from the streetscene. As such the proposal is considered acceptable in this instance.

### CONCLUSION

It is concluded that the proposal, on balance, is acceptable from a design, appearance and heritage perspective. The proposals seeks to minimise the harm to the Silver End Conservation Area as far as possible.

### 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

Door Details  
Location Plan

- 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

To ensure that the development does not prejudice the appearance of the Conservation Area.

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER