

# **PLANNING COMMITTEE AGENDA**

**Tuesday, 27 September 2016 at 07:15 PM**

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

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

**Membership:-**

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

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

N BEACH  
Chief Executive

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

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

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

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

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

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

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

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

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

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

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

**Webcast and Audio Recording:** Please note that this meeting will be webcast and audio recorded. You can view webcasts for up to 6 months after the meeting using this link: <http://braintree.public-i.tv/core/portal/home>

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

**1 Apologies for Absence****2 Declarations of Interest**

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

**3 Minutes of the Previous Meeting**

To approve as a correct record the Minutes of the meeting of the Planning Committee held on 13th September 2016 (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**

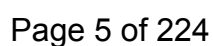
Planning Applications:-

<b>5a</b>	<b>Application No. 15 00391 FUL - Land at Avenue West, Skyline 120, GREAT NOTLEY</b>	<b>5 - 40</b>
<b>5b</b>	<b>Application No. 15 01138 FUL - EMD Ltd, Kings Road, HALSTEAD</b>	<b>41 - 66</b>
<b>5c</b>	<b>Application No 15 01580 OUT - Land South of Halstead Road, EARLS COLNE</b>	<b>67 - 102</b>
<b>5d</b>	<b>Application No. 16 00605 FUL - Land adjacent to Bakers Lane, BLACK NOTLEY</b>	<b>103 - 153</b>
<b>5e</b>	<b>Application No. 16 00879 VAR - 41 Colchester Road, WHITE COLNE</b>	<b>154 - 165</b>

<b>5f</b>	<b>Application No. 16 01007 FUL - 28-30 Bardfield Centre, Braintree Road, GREAT BARDFIELD</b>	<b>166 - 173</b>
<b>5g</b>	<b>Application No. 16 01008 LBC - 28-30 Bardfield Centre, Braintree Road, GREAT BARDFIELD</b>	<b>174 - 179</b>
 <b>PART B</b> Minor Planning Applications:-		
<b>5h</b>	<b>Application No. 16 01055 FUL - 1 Elm Rise, WITHAM</b>	<b>180 - 185</b>
<b>5i</b>	<b>Application No. 16 01216 FUL - Mill Lane Stores, Mill Lane, WITHAM</b>	<b>186 - 193</b>
<b>5j</b>	<b>Application No. 16 01217 ADV - Foremost House, Waterside Business Park, Eastways, WITHAM</b>	<b>194 - 200</b>
<b>5k</b>	<b>Application No. 16 01229 FUL - 63A Chelmer Road, WITHAM</b>	<b>201 - 206</b>
<b>5l</b>	<b>Application No. 16 01330 FUL - 3 Whiteways Court, WITHAM</b>	<b>207 - 213</b>
<b>6</b>	<b>Planning and Enforcement Appeal Decisions - August 2016</b>	<b>214 - 224</b>
<b>7</b>	<b>Urgent Business - Public Session</b> 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.	
<b>8</b>	<b>Exclusion of the Public and Press</b> 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.	
	<i>At the time of compiling this Agenda there were none.</i>	
<b>PRIVATE SESSION</b>		<b>Page</b>
<b>9</b>	<b>Urgent Business - Private Session</b> 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

Terry Hardwick on:- 01376 551414 Ext. 2547  
or by e-mail to: [terry.hardwick@braintree.gov.uk](mailto:terry.hardwick@braintree.gov.uk)



## SITE HISTORY

15/00005/SCR	Town & Country Planning Act 1990 (as amended), Town & Country Planning (Environmental Impact Assessment) Regulations 2011 - Screening Opinion Request - Proposed new foodstore	Screening/ Scoping Opinion Adopted	16.04.15
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## POLICY CONSIDERATIONS

### Status of Local Policy Documents

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

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

In accordance with paragraph 216 of the NPPF, from the day of publication the Council can give weight to the emerging Local Plans 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 currently affords some limited weight to the emerging Draft Local Plan 2016.

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

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

#### National Planning Guidance

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

#### Braintree District Local Development Framework Core Strategy

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

#### Braintree District Local Plan Review

RLP2	Town Development Boundaries and Village Envelopes
RLP3	Development within Town Development Boundaries and Village Envelopes
RLP27	Location of Employment Land
RLP28	Employment Land Provision
RLP33	Employment Policy Areas
RLP49	Pedestrian Networks
RLP51	Cycle Parking
RLP56	Vehicle Parking
RLP62	Development Likely to Give Rise to Pollution or the Risk of Pollution
RLP63	Air Quality
RLP65	External Lighting
RLP77	Energy Efficiency
RLP80	Landscape Features and Habitats
RLP90	Layout and Design of Development
RLP92	Accessibility
RLP112	Town Centre Uses
RLP113	Shopping Areas
RLP118	Retail Warehouse Development
RLP126	Local Shopping Facilities
RLP127	Additional Village Shopping

#### Draft Local Plan (2016)

SP1	Presumption in Favour of Sustainable Development
SP3	Providing for Employment
SP4	Infrastructure & Connectivity

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

#### Other Material Considerations

Site Allocations and Development Management Plan

Essex Design Guide

Essex Parking Standards

The Braintree Retail Study Update 2012 (Nathaniel Lichfield & Partners)

Braintree District Council Retail Study 2015 by Nathaniel Lichfield & Partners

Braintree District Employment Land Needs Assessment (2015)

Report by Joscelyne Chase - "Braintree Region - Industrial/Warehouse Market Overview", Feb 2016

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

This application is brought before the Planning Committee due to the significant level of public interest, the support locally for the proposal and the recommendation for refusal being made by the officers.

#### SITE DESCRIPTION & BACKGROUND

The plot to which this application relates is located on the Skyline 120 employment site, which is located on the northern side of the A131, off Avenue West in Great Notley. Plot 100 (the plot to which this application relates) is the most easterly plot on this part of the estate and is located at the roundabout into the estate opposite the Branocs Tree Pub/Restaurant. It is flanked on three sides by public roads - the A131, the estate road serving the development and the Branocs Tree roundabout, to which it has a frontage.



The site measures approximately 0.5ha in area, is slightly elevated relative to the roads and is currently vacant and undeveloped. It is basically flat, albeit with a gentle slope down towards the Branocs Tree roundabout. It is located within the Great Notley village envelope and is allocated as employment land (Use Classes B1, B2 and B8) on the Braintree District Local Plan Review Proposals Map. There are no statutory designations of note within the vicinity of the site.

The current Skyline 120 Business Park Masterplan Layout was approved as part of outline planning permission ref 07/00437/OUT. That permission sought an increase in the total floor-space for Class B use, over and above what the previous conceptual layout for the site provided for, and reserved all matters of detail for subsequent determination. Outline planning permission was granted, subject to conditions, in June 2007. Since then various reserved matter applications have been made over the years, which have allowed a number of individual and multiple plots on the estate to be developed. Most recently, planning permission has been granted for the land to the north of this part of the estate (north of the Branocs Tree roundabout and running-up the boundary with the A120) to be developed for a total of almost 35,000 square metres of Classes B1c, B2 and B8 uses in the form of 18 units (15/00582/FUL).

## PROPOSAL

The application seeks planning permission for a 1533m<sup>2</sup> (gross internal area) building which would be utilised by ALDI as a food-store (A1 Use Class). Of this internal area 1140m<sup>2</sup> would be utilised for sales, with 80% of the floor-space being devoted to convenience goods, and the remaining 20% devoted to comparison goods. Access into the site would be from the internal Skyline estate road by means of the existing access.

The building would have a rectangular footprint and would be a split-roof design, with the two roof-slopes sloping down to a valley - which, because the two slopes would be of different lengths and pitches, would give the roof an unusual asymmetric appearance. The applicant states that their choice of a contemporary split-roof design, front and rear colonnades, feature entrance in substantial glazing and feature brickwork seek to ensure that the development will relate well to the modern character of existing development on the estate. The building, which would have a roof ridge of 10m at its highest point, has been designed to be fully compliant with the requirements of the Disability Discrimination Act.

The building would be erected towards the south-western corner of the plot, with the existing access point on the north-western side of the site being used. Car-parking facilities (78 spaces) are proposed to the north and east of the building with an area for servicing and deliveries proposed on the western side. Landscape screening is proposed sporadically along Avenue West, with a more significant tree belt proposed along the A131.

It is proposed that the store would be open 7am to either 10 or 11pm Monday-Saturday; six hours on a Sunday in line with current trading restrictions (10am to 4pm or 11am to 5pm); and 9am to 6pm on Public Holidays.

The applicant has suggested that this is the only available and suitable location to enable a new ALDI store to serve Great Notley and it is not considered that the store would detract from the viability or vitality of the Village or Braintree town centre. It is furthermore considered that the store would enhance the Village, offering more choice for local people and supporting local prosperity in the development of a vacant site and the creation of new jobs.

As part of the application, a new “toucan” traffic-light controlled pedestrian crossing point of the A131, beyond the boundaries of the site, has also been proposed. This crossing would allow safe passage to and from the site, across the trunk road, from Great Notley.

### CONSULTATION RESPONSES

Highways England: No objection. It is not considered that this application would have a severe impact upon the A120.

Highway Authority (Essex County Council): No objections subject to planning permission being granted with conditions relating to the following:

- provision of a toucan crossing across the A131;
- provision of two sets of pram crossings across Avenue West (between the A131 and the Avenue West roundabout);
- provision of a 2 metre footway from the site access continuing north to meet the pram crossings on Avenue West;
- submission of and agreement to by the Local Planning Authority of a Service Development Plan to include, but not limited to, delivery times, the size of delivery vehicles and the procedure for safe deliveries within the site, all deliveries to be made in accordance with the approved plan;
- no work to be undertaken until a Construction Management Plan covering specified matters has been submitted to and agreed by the LPA, the approved plan to then be strictly adhered to;
- details of provision for cycle parking facilities;
- implementation of an agreed Travel Plan, including the payment of a Travel Plan monitoring fee to the Highway Authority.

In addition, informatives are requested, relating to (A) the carrying-out of work within or affecting the highway and (B) making it clear that the two zebra crossings shown on the plans are not accepted and, instead, two pram-ramps are required, in accordance with the condition suggested above.

Essex County Council Flood & Water Management (Lead Flood Authority) - Comments are only currently being provided on sites over 1ha. No response will, therefore, be issued in respect of this proposal.

BDC Planning Policy: Objects to the proposal on the following grounds:

- the proposal does not give sufficient consideration to the impact on already committed retail development, in particular the impacts on the Local Centre proposal at North West Braintree;
- the proposal would also result in the loss of a plot of employment land on an established employment site and would, therefore, be contrary to Core Strategy policy CS4.

Braintree District Council's Retail Consultant (GVA):

- there would be higher level of trade diversion from existing convenience and comparison goods stores in Braintree than suggested by the applicant but this should only be classified as adverse impact, not significant adverse impact, which is the test that applies under paragraph 27 of the NPPF if refusal of planning permission is to be justified in terms of the impact on investment in affected centres and on their viability and vitality;
- the sequential test needs to include the planned new local centre at Panfield Lane, which will include, inter alia, a food-store of up to 2,000 square metres gross (1,250 square net sales area);
- the Panfield Lane local centre is a suitable and available sequentially preferable alternative to the Great Notley application site that is within the likely catchment area of the Aldi proposal at Great Notley;
- the Panfield Lane local centre can also be regarded as available insofar as the site is vacant, is ready for development, is being actively promoted through a development plan allocation and a current planning application and is a site with no current uses to relocate;
- the planned Panfield Lane local centre will be delivered as an early phase. The Transport Assessment for Panfield Lane includes a detailed design for the spine road, which is being provided to deliver phase 1 of the development (residential), the first part of which goes past the planned local centre, thus enabling a very early start to be made on the delivery of the new centre (effectively, at the same time, or shortly after, the first phase of residential development commences);
- the proposal is likely to be in conflict with policy CS6 of the Core Strategy and paragraph 24 of the NPPF;
- the Panfield Lane food-store and the Aldi Great Notley proposals would both compete for the same market opportunity, given that both sites would have substantially overlapping catchments, which suggests there should be cause for concern that the Great Notley proposal may adversely impact on the Panfield Lane local centre investment. However, the promoter of the Panfield Lane local centre investment has not lodged an objection to the Aldi proposals, suggesting they are not concerned. It is nonetheless still considered possible that a significant adverse impact on the delivery of the Panfield Lane investment could occur or the successful delivery of the Panfield Lane could be made harder. The test in paragraph 27 of the NPPF is *"...whether significant adverse impact is likely."* The absence of an

objection from the promoter of the Panfield development means that the term “likely” cannot be used at the present time. *“However, it remains a negative impact of the proposed development and, as advised by the NPPG, should be a factor that the Local Planning Authority should take into account in the overall planning balance.”*

#### BDC Environmental Services:

##### *Noise:*

The submitted noise assessment confirms that the plant noise would be below existing background noise levels. The applicant’s acoustic report, nonetheless, uses an average noise level over the night time period, which whilst being a legitimate way of summarising background noise level, is not considered overly accurate. In respect of this, the monitoring, for example, was undertaken in May and given daylight savings it may be that an elevated noise rating was therefore recorded in comparison to a yearly average of the same time period. The report, however, is considered sufficient to form an opinion as to the likely impact of the development and indeed recommend conditions, in the event that planning permission is granted.

With regard to the above conditions in respect of a maximum noise levels are suggested and it is recommended that night time deliveries be restricted.

##### *Air Quality:*

The air quality report concludes that the impact of the development would not be significant as air quality objective levels are not exceeded. Concerns are nevertheless raised about this as it noted, in reaching this conclusion, that it is suggested the operational phase of the development would unlikely generate or increase traffic congestion.

Whilst it is accepted that sensitive receptors are suitably distant from the site to ensure that air quality objectives levels are not exceeded, the aim should be for the development to offset adverse effects.

##### *Lighting:*

The lighting plan demonstrates that there would be limited light spillage beyond the site. The lighting assessment however provided no details as to the proposed lighting columns or proposed lamps. Without prejudice, should planning permission be granted, an adequate condition requiring the submission of such details is recommended.

##### *General Comments:*

To ensure the development does not give rise to significant amenity impacts, conditions are recommended in respect of permitted hours of construction; the submission of a dust and mud control scheme; and the submission of an update to the noise assessment should piling be proposed.

BDC Landscaping: No objections. No mature trees would be affected by the proposal and due to the nature of the site, and its land use designation, no objection is raised on ecology grounds. The submitted landscape plans are considered sufficient, including good sized trees which would add to local amenity.

BDC Economic Development: Objects. The site in question is a gateway site to one of District's premier employment and business locations. The development of a retail outlet would reduce the amount of employment space available in the District, particularly impacting on the provision of "value-added" employment as found elsewhere on Skyline 120. A retail development on this site is also likely to act as a deterrent to attracting "value-added" employers and may discourage further investment by existing businesses. The site is one of a few currently available in the District adjacent to the strategic highway network. The proposal is not, therefore, supported from an economic development perspective.

ECC Economic Growth & Development: No objections. There is no requirement for a Section 106 education contribution.

BDC Community Safety: No comments received.

BDC Licensing: No comments received.

Essex Police: No comments received.

Anglian Water: No comments received.

## PUBLIC CONSULTATIONS

*Great Notley Parish Council:* Objects to the proposal as the proposed use is not compliant with the designation within the Local Plan; the application refers to regeneration benefits but the Parish Council contends that this is in fact a degraded area. It is furthermore not considered that appropriate demonstration and compliance with the sequential test has been shown; and it is not considered that sufficient parking has been proposed. The store is considered out-of-keeping with the village setting and it is considered would detract from the future development of Phase 2 of Skyline.

### *Neighbour Consultations:*

27 properties were notified of the application by letter and two site notices were displayed in the vicinity of the site.

61 letters of representation have been received. 4 of these letters object to the proposal, the remaining 57 letters are broadly in favour of the development (or the provision of an Aldi store, subject to some conditions).

Comments in support of the application include:

- the new store would provide additional choice and would be welcomed by local people;
- existing Braintree residents are travelling to nearby towns to get more varied choice and the proposal Aldi would help broaden choice locally;
- the new store would bring additional employment opportunities for local people;
- no problems are foreseen with traffic and it is not considered the use would particularly conflict with the rest of Skyline 120;
- the uses on Skyline development have already diversified with the building of the pub/restaurant and more of a mix is needed;
- the site is currently vacant and needs an active use to maximise local prosperity;
- the proposed building design is in-keeping with Skyline and the planned landscaping looks good; and
- the intention to build a designated crossing on the A131 is long overdue and applauded.

Comments made against the application cite the following main points:

- noise nuisance;
- traffic;
- insufficient parking provision;
- diversion of business away from the town centre;
- inappropriate development in consideration of Great Notley's rural village character and landscape;
- Skyline 120 is not designated for such use and such a use would be completely out-of-character with the site;
- there are enough supermarkets in this area to support the local community;
- if there is no interest in this site for employment uses then there has to be doubt if Skyline 2 will coming forward;
- confusion over the proposed hours of operation and concern that the store would be open 24 hours a day, seven days a week;
- the proposed visualisations are misleading and fail to capture the actual scale of adjacent development;
- the supporting documents make differing statements as to the number of jobs that would be created (that suggested ranges from 20 to 50); and
- local engagement by the applicant about the proposal has been poor.

One letter of representation received asks if a financial contribution towards a youth project could be sought should planning permission be granted, another suggests that, to prevent more vehicles using London Road, consideration should be given to closing the westbound A120 slip road onto the King William roundabout, forcing traffic coming from Galleys Corner onto the second slip-road and onto the A131. Some of the representations received raise concern about pedestrian access and the importance of a suitable crossing from Great Notley village being secured as part of any permission granted. Some of the

representations have also raised concerns that the Parish Council's comments are not representative of local people.

## REPORT

Issues arising include the following:

- the principle of retail development, including: (i) the loss of employment land that would result; (ii) the acceptability of the proposal in terms of the sequential test that applies under the National Planning Policy Framework (NPPF); (iii) the investment implications of allowing retail development at this site for the delivery of the retail element of the Panfield Lane major mixed development at North-West Braintree and the performance of other convenience and comparison goods operators in the town-centre and in Great Notley, in turn, the impact on the viability and vitality of the affected centres;
- design, appearance and layout;
- highway-related issues;
- impact on residential amenity;
- planning obligations and developer contributions.

### **National & Local Policy**

The Planning and Compensation Act 2004 requires applications for planning permission to be determined in accordance with the Development Plan unless material considerations suggest otherwise.

#### *National Policy:*

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

#### *Employment:*

The NPPF states, inter alia, at paragraph 17 that planning should

*“proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and response to wider opportunities for growth.”*

It then goes on at paragraph 22 to say:

*“Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose...Where there is no prospect of a site being used for the allocated use, applications for alternative uses of land or buildings should be*

*treated on their merits having regard to market signals and the relative need for different land uses to support sustainable communities.”*

*Retail Development:*

Paragraph 24:

*“Local Planning Authorities should apply a sequential test to planning applications for main town-centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town-centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out-of-centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well-connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.” It is also clear that LPAs are able to assess applications for the impact on proposed existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal.”*

Paragraph 26:

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

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

Paragraph 27:

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

In this case, the proposal would be less than the default 2,500 square metre threshold set under national policy in the NPPF.

However, local thresholds apply in this. These are discussed below under **Local Policy**. Suffice to say here that the proposed threshold (in the Draft



Local Plan) for developments that potentially impact on Local Centres is 500 square metres and on District Centres 1,000 square metres.

Core Strategy policy CS6 is consistent with the approach of the NPPF.

*National Planning Policy Guidance (NPPG) (2013 on)*

The NPPG states that

*“Local planning authorities should plan positively, to support town-centres to generate local employment, promote beneficial competition within and between town-centres, and create attractive, diverse places where people want to live, visit and work.*

*Local planning authorities should assess and plan to meet the need of main town centre uses in full, in broadly the same way as for their housing and economic needs, adopting a “town centre first” approach...”*

*Local Policy:*

In the Local Plan Review 2005 the site is located in the development boundary for Great Notley. It is also identified on Inset Map 1 of the Plan as an Employment Site for B1, B2 and B8 uses.

Policy RLP28 “Employment Land Provision” applies and allows for a range of uses on the main industrial estates and business parks identified on the RLP Proposals Map including:

- business (B1), general industrial (B2), storage and distribution (B8);
- the display repair and sale of vehicles, vehicle parts, boats and caravans;
- indoor sport and recreational uses;
- a limited element of retailing where this is ancillary to another permitted main use;
- services specifically provided for the benefit of businesses based on, or workers employed within, the Employment Zone.

*Core Strategy (2011)*

In the Core Strategy, the following policies are directly relevant:

CS4 - Provision of Employment

Under this policy, land for employment sites in current or recent use in sustainable locations will be retained for employment purposes. Whilst the application site has not yet been developed for employment uses, it is contained within a wider employment area that has been partially developed. Development of the site for retail purposes would be a loss of employment land on an existing employment site and contrary to this policy. The NPPF states that employment sites should not be kept if they have no realistic

prospect of development. However, this site is part of a larger employment site, and the information submitted with the application is not sufficient to determine whether the site has been marketed for a reasonable market rate. Moreover, planning permission has recently been granted (21 03 2016, ref 15/00582/FUL) for the development of the Skyline 120 site to the north-east of the site for almost 35,000 square metres of Class B1, B2 and B3 employment use is a clear expression of confidence in the demand for such use in this location.

## CS6 - Retailing and Town Centre Regeneration

This policy outlines the Council's approach to retail development. Under this policy any proposals for retailing and town centre uses will be based on the sequential approach in accordance with NPPF guidance. District and local centres will also be protected and enhanced.

In addition, the *North West Braintree Growth Location Master Plan 2013* is relevant.

The North-West Braintree Growth site (Panfield Lane) is based on the redevelopment of land identified in the Core Strategy (2011) as a mixed use growth location, which is expected to include a minimum of 600 new dwellings, together with 15ha of employment and other uses. The allocation includes a Local Centre which is shown on the 2014 proposals map. A Master Plan for the site was adopted in 2013, which gave more detail on the composition of the local centre, which is to include a supermarket with a maximum net floor area of 1,250 square metres (2,000m gross).

This site is more suitable in policy terms as it is included within the Development Plan and is subject to an Adopted Master Plan. Moreover, the site is now the subject of a planning application (15/01391/OUT) based on the Adopted Master Plan.

### *Draft Local Plan (June 2016)*

The Local Plan Review allocation has now been carried through, with modification, into the Draft Local Plan (2014), policy LPP2 of which now applies and extends its scope to cover designated Employment Policy Areas, which the Skyline 120 estate is designated (previously it was not).

Draft Local Plan policy LPP2 sets-out the up-to-date range of employment uses that are considered appropriate on allocated sites and will be permitted and retained - that is:

- (i) business (B1), general industrial (B2) and storage and distribution (B8);
- (ii) the repair of vehicles, and vehicle parts;
- (iii) services provided specifically for the benefit of businesses based on the employment area;

- (iv) waste management facilities as appropriate, taking into account neighbouring uses.

The provision of indoor sports and recreational uses, the display, repair and sale of boats and caravans, ancillary retailing and services for the benefit of business are now excluded, but the provision of waste management facilities, taking into account neighbouring uses, is added.

In addition, Draft Local Plan policy LPP7 “Retailing & Regeneration” applies. This states, inter alia, that:

“Proposals for Main Town Centre Uses will be permitted when a Sequential Test and, if required, an Impact Assessment, demonstrates that there are no sequentially preferable sites which could accommodate the development”

It goes on set the locally defined floor-space thresholds that will trigger the requirement for an Impact Assessment:

- 2,500 sq m (gross) - affecting Braintree Town Centre;
- 1,500 sq m (gross) - affecting Halstead and Witham town-centres;
- 1,000 sq m (gross) - for development potentially affecting Great Notley District Centre;
- 500 sq m (gross) - for development potentially affecting a Local Centre.

The policy specifically mentions Great Notley as being a District Centre and the North-West Braintree Growth Location as being a Local Centre

### ***Assessment (Principle)***

#### ***Loss of Employment Land - The Council's Position***

Although the site is undeveloped and unused for any purpose, it is within a larger allocated employment site that is currently substantially developed for employment purposes. Its development for a food-store as proposed would amount to a loss of employment land on an allocated employment site. The proposal would, therefore, be contrary to both Local Plan Review and Core Strategy employment policies.

In addition, there are economic development arguments against the loss of the application site, as suggested by the Council's Economic Development Officer, who objects to the development and comments as follows:

- Loss of the site for non-employment purposes would have a “substantial negative impact” on the District's ability to deliver sustainable growth. There are two main reasons for this:
  - (A) firstly, the proposal would result in direct loss of valuable industrial and commercial land that will impact on the Council's ability to bring forward industrial and commercial development;

(B) precedent - the loss of the application site to non-employment development would make it more difficult to resist similar proposals for non-industrial/commercial development on other designated employment land, which will further impact on the District's ability to secure such development and generate sustainable growth.

- More specifically, Skyline Business Park is the District's premier employment site in terms of location, accessibility and attractiveness, providing current opportunities for new development for employment purposes. Its prominent location, easy accessibility and the fact it is modern, high-quality and purpose-designed all contribute to its attractiveness for employment use. It is adjacent to the A120, which is a strategic route linking to Stansted Airport and the M11 (and the national road-network beyond) to the west and to the ports of Harwich and Felixstowe to the east, whilst the A131 gives easy access to Chelmsford and south-Essex. Its importance as a strategic employment location is also recognised by its inclusion as a key site within the Haven Gateway Partnership's A120 Economic Growth Corridor;
- More locally, Skyline 120's importance for employment purposes is also recognised by the Employment Land Needs Assessment for Braintree District, produced by AECOM in August 2015, which was prepared as part of the evidence base to support the new Local Plan. Recommendation R4 of the Assessment recommends the Council

*"To support the requirement for a net additional 9.2 ha of land for industrial uses over the Plan period to 2033, the Council should support development of clusters which are currently functioning well as employment areas which have vacant land, land with derelict buildings or have underutilised land and premises."*

These locations include, (inter alia), Skyline 120.

- The grant of planning permission for retail use of the site would increase the likelihood that other land in the District designated for employment use (either existing or proposed or yet to be proposed) could be lost to non-employment use because, in the absence of exceptional justification, a precedent will have been set.

The key findings of the AECOM report referred to above are:

- the Council should look to position itself in the best possible way to maximise its share of additional demand for industrial occupancy across the area;
- it is forecast that the District will need to identify 9.2 ha of new employment land over the Plan period to 2033 to accommodate anticipated demand;

- vacancy rates at existing employment sites are low.

Against such a background, Officers take the view that existing employment sites do need to be protected for the future and should only be allowed to be lost for employment purposes in exceptional circumstances.

#### *Loss of Employment Land - The Case for the Applicant*

The applicant argues that there are, indeed, exceptional circumstances that justify release of the site for non-employment purposes.

Firstly, they say that, despite extensive marketing, the site has been vacant for more than 8 years and the proposals will help secure the immediate development of a prominent site, together with the creation of 40-50 new local jobs. It is Aldi's intention that any planning permission should be subject of a local labour agreement, which would aim to recruit from the local area, both to staff the shop and at the construction phase. The site is also available and deliverable.

Regarding the marketing - it is stated by one of the 3 agent firms appointed to market the Skyline site as a whole, that the application site has been extensively marketed over the years, by numerous means, including:

- dedicated website marketing [www.skyline120.com](http://www.skyline120.com);
- prominent boards and hoardings facing both the A120 and the A131;
- marketing brochures, direct marketing campaigns (both electronic and printed brochures), covering the North-Essex, Herts, Cambridgeshire and Suffolk regions;
- direct mailing and marketing campaigns, both nationally and more locally, covering the North-Essex, Herts, Cambridgeshire and Suffolk regions, using both printed and electronic brochures, to potential commercial occupiers, targeting the manufacturing and logistics sectors, office occupiers, trade counter users, roadside occupiers, the leisure sector, nursery operators and hotels
- regular national and local property press advertising, including Property Week and the Estates Gazette, the Braintree Times, the Herts & Essex Observer & the Essex Chronicle;
- breakfast events targeting local businesses and the property agency community;
- e-mail campaigns and newsletter updates to local Braintree businesses and residents;
- sponsorship of local events, such as the Skyline 120 5km Road Race.

Despite all these initiatives, no occupier for the site has emerged, which the applicant cites as evidence of lack of demand for employment use.

They then go on to make a number of points that they regard as further illustrating the lack of demand for employment use (B1, B2, B8) at the site:

- existing and proposed premises at the Skyline development have been marketed at levels reflecting new build values appropriate for the Braintree market, which shows a discount to the levels for similar opportunities through the north-east quadrant of the M25/M11 region, including more accessible locations such as Chelmsford, Bishop's Stortford and Stansted;
- even during 3 years of marketing undertaken in the 2005 – 2008 boom period the scheme has failed to let/sell completely;
- the main “hub” element of Skyline 120 (the 7 unit speculative phase of the development amounting to 180,000 square feet) has at no time achieved 100% occupancy;
- one of the most prominent units (unit 660, 27,756 sq ft), which faces the A120 with significant profile, has only recently been let after 8 years of marketing;
- there are even now two warehouse buildings on the main “hub” of the Skyline development, with a combined floor area of approximately 50,000 square feet, that are vacant;
- 10% of the 47,000 sq ft speculative development of industrial/warehouse buildings on the Braintree Business Park (built in 2007) are still vacant almost 8 years after completion;
- throughout the extensive marketing period demand for offices above 5,000 sq ft has been virtually non-existent at Skyline 120;
- local office demand has been limited to requirements for premises of between 2,000 and 3,000 sq ft and has not been at a sustained level or capable of supporting sufficiently high rents or capital values to make office development economically viable at Skyline 120;
- the proximity to Stansted Airport has not enticed specialist airport-related users to locate to Skyline 120 in preference to the Stansted industrial estates. Larger warehouse requirements have generally focused on the M11 and A12 corridors;
- prominent and high profile sites at or near the entrance to the estate have failed to attract interest from restaurant/health and fitness/hotel/leisure operators prepared to commit to the sites;

- over the last 8 years (2008) only one leasehold occupier has come even close to fruition at Skyline 120. That proposal failed, partly because the landowner was unhappy with the level of risk presented by that occupier in the recessionary environment that prevailed in 2008, post the financial crisis, and partly because it was not possible to secure forward funding for the development;
- the last two sales at Skyline 120 (both owner-occupier forward sales transactions) were in 2010 (Coopers of Stortford for a 6,250 sq m distribution warehouse) and in 2012 (East of England Ambulance Service, Hazardous Area Response Team) for a 2,115 sq m bespoke building;
- at the current time there is a cautious improvement in the commercial property market. However, this is biased towards the industrial/warehouse sector and is focused on specific regions inside the M25 and along the M11 corridor. Skyline 120 and Braintree do not yet share in this upturn and demand for industrial/warehouse/office property at this employment site continues to be scarce.

The applicant also makes the point that they would be creating 40 to 50 new jobs and would be willing to enter a labour agreement that would give priority to recruiting staff from the local area. There does, however, seem to be some discrepancy over the precise number, as evidenced by the fact that application form suggests 30 jobs would be created, whereas elsewhere 40 to 50 jobs is mentioned.

### Discussion

In response, Officers would, firstly, emphasise that Skyline 120 is the District's premier employment site, offering purpose-designed, well-serviced premises at an accessible location at the junction between two major roads, the A120 and A131 that offer easy access to the east coast ports, Stansted Airport and the national road network.

The marketing difficulties alleged by the applicant are noted. The Council nonetheless has information that suggests that the demand for premises for B1, B2 and B8 use is very much more buoyant than the evidence submitted by the applicant suggests. Earlier this year it commissioned a market assessment by a respected local agent, Joscelyne Chase - who as it happens is one of the joint agents appointed to also market the Skyline site - to test the viability of a proposed development of 5 industrial units at the rear of the Braintree Enterprise Centre and their report suggests a very different position across the District.

In summary, its advice to the Council was, inter alia, as follows:

- in Braintree and along the A120 corridor between Braintree and Bishops Stortford there is currently a shortage of industrial/warehouse

buildings, irrespective of size or age. Springwood Industrial Estate is the largest industrial area in Braintree and at the present time there is almost no space available;

- the only available industrial premises then were the former Carrillion Unit on Skyline 120 (approx. 34,000 sq ft) and one unit on the Braintree Business Park (3,614 sq ft);
- numerous companies are currently looking for additional warehouse and industrial space with requirements ranging from 5,000 sq ft upwards. The demand is such that larger companies in the area are being spoken to to see if they have surplus space they wish to sub-let;
- there is, in addition, pent-up demand for units ranging from 1,000 sq ft up to 2,000 sq ft.

Officers regard this as an up-to-date indication (February 2016) of the level of demand for employment premises in the District relative to supply, to which it is necessary to attach some weight; in short, it suggests that vacancy rates on employment sites are low and demand out-strips supply.

Clearly, this is at variance with the evidence supplied by the applicant. At the very least, the evidence provided in the Joscelyne Chase report commissioned by the Council casts doubt on the evidence that is supplied by the applicant in this respect. It is for an applicant to demonstrate that there are exceptional circumstances that justify release of the site for non-employment purposes.

Given that the evidence available to the Council does not support what the applicant is suggesting - that there is only limited or poor demand for B1, B2 and B8 use in Braintree and, if there was demand, the site would have been developed as such in the more than 8 years that it has been marketed - it is considered that the applicant has not shown satisfactorily that there are, indeed, exceptional circumstances to justify release of the site and, therefore, the Council is right to object to the loss of employment land that would result.

Officers would also raise the following further points:

Firstly, the Braintree District Employment Land Needs Assessment (2015) - which may also be regarded as an up-to-date assessment of the position in regard to the supply of land for employment - is clear that the Council needs to provide a net additional 9.2 ha of land for industrial uses over the period of the new Local Plan to 2033. Achievement of such a target would be undermined by the loss of existing allocated sites such as this;

Secondly, vacancy rates on the existing Skyline 120 development are not inordinately high. Two warehouse units remain unlet amounting to a combined area of about 50,000 sq ft and 3 plots remain undeveloped. It often takes a long period for employment sites of this sort to achieve 100% build-out and occupancy. The fact that the site has been marketed for at least 8 years



does not in itself mean that there is no demand for its development for recognised employment purposes.

Thirdly, planning permission has recently been granted (21 03 2016, ref 15/00582/FUL) for the development of the Skyline 120 site to the north-east of the site for almost 35,000 square metres of B1, B2 and B3 employment use is a clear expression of confidence in the demand for such use in this location.

Officers, therefore, consider that an in-principle objection to the proposal is justified on grounds that it would result in the unacceptable loss of an allocated employment site, contrary to the policies of the adopted Local Plan (2005), the Core Strategy (2011) and the Draft Local Plan (2016).

### Retail Policy and The Sequential Test

The Local Planning Authority has commissioned a firm of Retail Consultants (GVA) to advise it in relation to this application.

The applicant states that their starting point for their Sequential Test Assessment is that the search for alternative sites should be concentrated on Great Notley, as this is anticipated to be the catchment for the store.

GVA does not accept this and officers agree. Because of the size of the store, its retail offer and the fact that this will be the first Aldi in Braintree, this is likely to mean that its primary catchment will cover the whole of the Braintree urban area and the store is also likely to draw trade from the surrounding rural area and other settlements such as Halstead, though probably not from Witham because Witham has its own recently-opened Aldi store. The evidence that supports the Council taking this view is the Nathaniel Lichfield Study 2012, Volume 3, which was commissioned by the Council and found that the only other limited-assortment deep-discount food retailer in the town, Lidl (located on Rayne Road), draws its custom from across the whole town and also from further afield. The likelihood is the same will apply to the proposed store, given that Aldi is a similar limited-assortment discount food retailer.

However, notwithstanding their belief that their catchment is principally Great Notley, the applicant has for the purposes of the Sequential Test looked at a number of locations across Braintree, including George Yard, Tesco in Market Place, the Sainsbury's store and car-park at Toft's Walk, land south of Manor Street, Great Notley District Centre and the proposed local centre that is part of the Panfield Lane development, plus Halstead and Witham.

All the central Braintree sites - George Yard (including the former Morrison's site), Tesco's, Sainsbury's, land south of Manor Street - are discounted as unavailable or unsuitable for Aldi's purposes. Officers and the Council's retail consultant accept those conclusions.

Regarding the *Great Notley District Centre*, which is close to the application site, the applicant concludes there are no suitable vacant premises or new allocations for retail development in or immediately around the centre that

could accommodate Aldi or a new development by Aldi. New development could only be achieved through redevelopment (partial or total) of existing development or on parking areas. However, these options are not available at the present time. Those conclusions are accepted too.

This, then, leaves the *North-West Braintree* mixed-use development proposals at Panfield Lane, for which there is a current planning application (15/01319/OUT). This includes, inter alia, the provision of a Neighbourhood Centre (classified as a Local Centre for the purpose of planning policy), a key element of which will be an A1 convenience food-store of up to 2,000 sq m gross (1,250 sq m net sales floor-space, 750 sq m ancillary floor-space).

The applicant does consider this proposed development in their Sequential Assessment but comments that

*“...a store in this location would not secure the aim of immediately improving convenience shopping choice for Great Notley residents.”*

They also comment that the North-West Braintree proposals would be a major urban extension to Braintree, which would in many ways be similar to the Great Notley urban extension to the town and would, in effect, create a new catchment and population centre with services specific to it. Their conclusion is

*“...the site does not have the benefit of planning permission, let alone have any development agreements in place to enable it to proceed and as such it is not available. Nevertheless, given this urban extension will form its own separate catchment, so the reality is both Aldi and this can come forward together (should North-West Braintree materialise).”*

The Council's retail consultant's views on this issue are as follows:

- it is right that the Panfield Lane proposal should be subject to detailed consideration as part of the Sequential test;
- the applicant's Planning & Retail Statement suggests that the primary catchment is based on a 5-minute drive-time and sites outside of Great Notley area are, therefore, unlikely to be suitable (as the purpose of the store is to serve the resident and working population of Great Notley). It is, however, their view that, rather than using a generic (5 minute) drive time, regard should be had to the characteristics of the likely catchment of the proposed store as an operational entity. Moreover, the evidence collected by the Council's survey conducted in the context of the evidence produced to defend the Sainsbury's appeal in 2014 suggests that the only other limited-assortment deep discount food-store in Braintree, Lidl at Rayne Road, has a wide-catchment that covers the whole of Braintree/Great Notley and the surrounding rural hinterland. In turn, they consider the catchment for the proposed Aldi store, which is also a limited-assortment deep discount food retailer, is likely to be similar;

- whilst many of the residents of the Great Notley area will, no doubt, visit the proposed Aldi store, they will only be one element of its core catchment and the store will also likely attract many people across the Braintree urban area generally and also from the surrounding rural hinterland;
- the applicant's Assessment suggests that the Panfield Lane development and the proposed development at Great Notley will both have separate distinct catchments, which is not accepted;
- the proposed Panfield Lane neighbourhood centre is considered suitable to accommodate the proposed development by Aldi;
- as to availability, the Panfield Lane site can be regarded as available for the purpose of considering this application. The site is being actively promoted through a Development Plan allocation and there is a planning application for development, which is currently under consideration. Both the Panfield Lane site and the application site are subject of current applications. There will need to be a reserved matters application with the Panfield Lane development but that is unlikely to lead to a significant delay in delivery. The planned neighbourhood centre at Panfield Lane is also to be delivered at an early stage. The first part of the spine road serving that development is the stretch that goes past the planned centre, thus enabling a very early start on it.

Officers agree with the GVA assessment.

The applicant, however, clearly does not see the new anchor food-store that is part of the Panfield Lane development as available and suitable. They also consider Panfield Lane to be the wrong location for their store because they see their catchment as being Great Notley only and, therefore, see the need to be located in Great Notley.

Officers do not share that view. The catchment will be Braintree-wide and beyond and that is likely to be the case wherever the store is provided; in turn, the location of the store at Great Notley is not crucial because Great Notley residents are likely to travel to an Aldi supermarket at Panfield Lane in the same way as both local residents and residents across the entire urban area are likely to. Moreover, the size of store proposed at Panfield Lane is roughly the same as that sought on the employment site at Great Notley, it could be available within a reasonable time-frame and, contrary to the applicant's view, officers take the view it is an available site that needs to be accorded proper weight in terms of the sequential test that the NPPF applies.

The proposal is, therefore, considered to fail the sequential test because there is another planned, sequentially preferable and available premises that would provide the applicant with much the same trading opportunity as would the Great Notley site, without any loss of employment land, and is so located to

sustainably support planned growth in residential and employment development in that location. This development is statutorily approved as part of the adopted Core Strategy and has been proposed in support of the planned growth of the town. It is true that the promotor of the Panfield Lane development has not lodged objection, which could suggest they do not consider the proposal will compromise the delivery of their own convenience store. There could, however, be many reasons for them taking that position. Whatever their reasons, it is the view of officers, as it is GVA, that another similar-sized convenience food-store at Great Notley, with a catchment overlapping that of the proposed Panfield Lane store, would present a risk that could, at the very least, make it more difficult to deliver a store there, which would undermine the planned objective of delivering a growth location with its own neighbourhood shopping provision.

The advice in paragraph 27 of the NPPF is that planning permission should be refused if a proposal fails the sequential test. Simply failing the test, however, is not what matters, it is the consequence of failure that is important. It is a fact that the proposed development by Aldi presents a risk to the delivery of the retail element of a major, statutorily approved growth proposal for the town that is critical. Whilst GVA takes the view that “significant adverse impact” cannot be shown, (reference the paragraph 27 of the NPPF), this largely reflects the fact that the promoter of the Panfield Lane development has not lodged objection and, as has already been stated, there could be many reasons for that. Officers take the view that, notwithstanding the absence of an objection from that party, the proposal could well have an adverse impact on the delivery of the project. This presents a risk to which the Council is entitled to have regard in weighing-up the impact of the development. This is discussed further under “Impact Assessment” below.

The applicant makes much of the fact that Tesco is dominant in Great Notley, is apparently “over-trading” against projections and there is a need to introduce more choice, which their development of the Skyline site would allow. However, because Great Notley and other residents elsewhere are likely to travel to an Aldi store to shop wherever it is provided in the town, it is the view of officers that the provision of an Aldi in Great Notley is not crucial, even in terms of enhancing choice for Great Notley residents. Neither is providing enhanced choice, whether it be for residents in Great Notley or for others across and beyond the town, an argument to allow an allocated employment site to be developed against a background of there being unsatisfied demand for B1, B2 and B8 premises and a need to provide another 9.2 ha of employment land, over and above what has already been allocated in the Core Strategy. Nor is it a reason to allow development when there is another preferable allocated site nearby for a convenience retailer.

#### Retail Policy – Impact Assessment

Paragraph 26 of the NPPF is key here because it sets out the circumstances when an Impact Assessment is required and what it needs to cover. Its full wording is quoted above under National Policy; suffice to re-iterate here that an Impact Assessment needs to look at two key areas: the impact on affected

centres in terms of existing, committed and planned investment; and the impact on town centre vitality and viability including local consumer choice and trade in the town centre and wider area.

Because the development proposed would be less than the defined threshold, the NPPF does not itself require the application to be supported by an Impact Assessment. However, it should also be noted that, regardless of what is required under the NPPF generally, paragraph 26 allows local authorities to apply proportionate local thresholds above which a development will be required to be supported by an Impact Assessment that assesses impact on particular centres. It is also clear from paragraph 27 that the Local Planning Authority is expected to assess such impacts in order to judge whether or not they are significantly adverse.

The Council proposes local thresholds under its Draft Local Plan. The proposed threshold under Draft Local Plan policy LPP7 for town centre retail uses that potentially impact on Local Centres is 500 square metres, which includes the North-West Braintree (Panfield Lane) development; and for those that impact on District Centres (which includes Great Notley) 1,000 square metres. Impact Assessments are, therefore, required for both North-West Braintree and Great Notley.

No Impact Assessment is required for Braintree Town Centre because the proposed development is below the applicable national and local policy threshold of 2,500 sq m for Braintree; the Local Planning Authority, in reaching its decision, is nonetheless still required to consider impact on the town-centre.

The applicant has nonetheless submitted an Impact Assessment covering not only the impact on both the Panfield Lane development and Great Notley but also sites potentially affected in the town centre too, all updated by e-mail dated 22 June 2016.

As with the Sequential Test, it should be noted that paragraph 27 of the NPPF states that, if there is significant adverse impact on relevant centres in relation to either of the above impact tests, planning permission should be refused.

There are 3 centres impact on which needs to be considered: Braintree town centre; Great Notley District Centre; and North-West Braintree Growth Location Local Centre (Panfield Lane).

#### *The Applicant's position on Impact Assessment*

##### *Braintree Town Centre*

The main points made by the applicant include:

- £0.6 million of convenience goods expenditure will be diverted from existing convenience goods stores in Braintree town centre, split

equally between Sainsbury, Tesco and Iceland (though not Morrison's, which is now closed);

- the worst case impact arising from an Aldi convenience goods store at Great Notley would be a trade diversion of just 1.2% (or 5% when commitments are taken into account) for all convenience goods outlets in the town centre. It is estimated that trade diversion from Lidl in Rayne Road, which is seen as the main "town centre" store affected, would be 7%;
- regarding comparison goods, no detailed assessment has been undertaken because the nature of Aldi's comparison offer will change significantly from week-to-week, with each store allocated a limited amount of stock which is sold on a "when they're gone, they're gone basis". This means that, notwithstanding the limited comparison sales area, Aldi does not trade as a specialist comparison destination, further offsetting potential impacts in regard to comparison goods.

#### *Great Notley District Centre*

There are no committed or planned investments within the Great Notley District Centre.

The proposal would result in a trade diversion from Tesco Great Notley of about 17%, which would be within acceptable tolerances and would still leave the store trading in excess of company projections.

#### *North-West Braintree (Panfield Lane)*

The applicants advise: "At the time of writing, the site does not have benefit from planning permission, let alone have any development agreements in place to enable it to proceed and as such is not available. Nevertheless, given this urban extension it will form its own separate catchment, so the reality is that both ALDI and this can come forward together (should North-West Braintree materialise)."

Overall, the applicants conclude that the development will divert trade largely from Tesco (Great Notley) and from Lidl (Rayne Road) but both stores trade exceptionally strongly and would continue to trade in excess of their respective company averages. They mention that the trade impact of the 9,000 sq m Sainsbury's supermarket proposed at the Broomhills Industrial Estate on the operation of Tesco (Great Notley) and Lidl (Rayne Road, Braintree) would have been 27% and 7% respectively, which contrasts with a 17% and 7% trade impact arising from the Aldi proposal, which is considerably less. In summary, their position is that the impact of the proposals will be a redistribution of existing trade, which will predominantly be from Tesco (Great Notley) and Lidl (Rayne Road, Braintree), but these potential worst case impacts would still be acceptable.

### The Council's Position on Impact Assessment

GVA, advising the Council, concludes that the financial impact on Braintree and Great Notley would be within acceptable tolerances, notwithstanding the fact that they disagree with the applicant's estimates for trade diversion and its distribution between the different convenience goods operators in the town. More specifically, they comment in respect of Braintree town-centre that:

"...whilst the Aldi proposal will divert retail expenditure away from Braintree town-centre and, thus, potentially continue the decline in the centre's turnover, we consider that it will be a materially different level of impact to that forecast in relation to the Sainsbury's proposals. As a consequence, we consider it appropriate to classify the impact as an adverse impact rather than a significant adverse one. As a consequence, we do not consider that the proposed Aldi store conflicts with paragraphs 26 and 27 of the NPPF..."

Regarding Great Notley they comment that:

"The impact on the Tesco store at Great Notley is a material planning consideration as it lies within a defined (district) centre in the Braintree retail hierarchy. The applicant's assessment that the Tesco Great Notley will receive a 7% impact from the proposed Aldi store, rising to 9% when the cumulative impact of commitments is taken into account, would be a material reduction in the Tesco convenience goods turnover. Nonetheless, whilst this is material reduction, it should be noted that this Tesco store is trading well-above company average levels and, therefore, this level of impact is unlikely to have any impact of the future viability of the store."

That then leaves comparison goods, in respect of which the applicant has not undertaken an assessment, because of the small amount of the store's proposed comparison goods offer and its ever changing nature. Given the changing range of comparison goods that will be sold from the store, it is the view of GVA that the impact of this will be spread across both in-centre and out-of-centre stores and the level of impact will not be felt on an even and consistent basis. Based on the information provided by the applicant, the Aldi comparison goods turnover would be £1.5m, of which about £0.4m is likely to be diverted from comparison goods stores in Braintree town-centre. Whilst the proposed Aldi store at Great Notley will have a trading overlap with Braintree town-centre, it will be much less intense than would have arisen with the Sainsbury's proposal and is unlikely to be a significant cause for concern.

Regarding the impact on the North-West Braintree (Panfield Lane) development, they comment as follows:

- given that the proposals for both the Great Notley and the Panfield Lane sites will have substantially overlapping catchments and in effect will be competing for the same market opportunity, there should be concern over the potential for the Great Notley proposal to adversely impact upon the Panfield Lane local centre investment;

- however, in the absence of an objection from the promoter of the Panfield Lane, it is inappropriate to conclude that the Great Notley proposal would be *likely* to impact on the Panfield Lane local centre investment;
- notwithstanding that, it is certainly possible that the Aldi proposal would make it harder to achieve the successful delivery of a local centre with a food-store as a key component part;
- the test in paragraph 27 of the NPPF is whether significant adverse impact is *likely*. Without evidence from the Panfield Lane developer, the term *likely* is not one that can be used at the present time. Nonetheless, the proposed development remains a negative impact on delivery of the Panfield Lane local centre, which is something the Local Planning Authority needs to take into account in the overall planning balance.

### *Discussion*

A key consideration is whether, in the light of the above, the proposal would be *likely* to have, in the words of paragraph 27 of the NPPF, “*significant adverse impact*” on planned existing, committed or planned investment in affected centres or on their viability and vitality.

The view of GVA - shared by officers - is that there would be no significant impact on investment generally in either Braintree or in Great Notley District Centre. There are no new convenience or comparison goods developments proposed in either centre, so delivery of these is not an issue either.

There would clearly be some diversion of trade from existing convenience and comparison goods outlets but this would not be to an extent that would likely result in “significant adverse impact” on trading, such as to threaten the viability and continued operation of existing outlets. The NPPF does not protect existing businesses per se, rather the viability and vitality of centres as a whole.

The position with the Panfield Lane development is less clear-cut. The GVA view is that the *likely* impact on the delivery of the planned local centre could not, at the present time, be said to be *significantly adverse* (the test under the NPPF), mainly because of the absence of an objection from the promoter of the Panfield Lane development. Because of that, their view is that the most that could be said is that the proposal would have a negative impact on the delivery of the Panfield Lane scheme.

However, as stated elsewhere in this report, there could be many reasons that the promoter of the Panfield Lane development has not objected. Notwithstanding the GVA view, the Council is entitled to take a view on this matter itself, having regard to all the factors. Moreover, it is reasonable for it to take the view that the combination of factors arising from the Aldi proposals



does, indeed, justify concluding that there could potentially be a significant adverse impact on the prospects for the successful delivery of the Local Centre within the Panfield Lane development. In view of the fact that this is a planned and sustainably located development that has statutory status as part of the part of the Development Plan and lies within the catchment area of the proposed new store at Great Notley, the potential impact has to be given weight in the balance of material considerations.

Regarding vitality - there may be some loss, reflecting the fact that a diversion of any trade, however small, could result in some nominal reduction in "footfall" in the town-centre generally and, in turn, visits to convenience and comparison goods outlets across the town-centre as a whole. However, given that the amount of trade diversion would be small, it is equally likely that impact on "footfall" and vitality would be similarly small. People visit centres for many different reasons and the likelihood is they will continue to do so in sufficient numbers that vitality would not be significantly affected.

#### *Conclusion (Impact - Investment Impact, Viability & Vitality)*

It is necessary for the Council to reach a balanced view, having regard to all the factors. To some extent, this has already been done above in the context of the discussion under "Sequential Test", where it is explained what the consequences could be for the delivery of the North West Braintree growth proposals.

Officers conclude that the application by Aldi could, indeed, present a real risk to the delivery of the North-West Braintree proposals, in particular the convenience goods store part of the proposals, which is an "anchor element" in the scheme, and would argue that the absence of an objection from the promoter of the North-West Braintree is not necessarily a determining factor in whether an objection on the grounds of "significant adverse impact" can reasonably be cited. In the absence of evidence to the contrary, officers consider refusal of permission for the development on the grounds that it could result in "significant adverse effect" on planned investment in the catchment area of the proposed store is justified. Refusal of planning permission on these grounds too is, therefore, considered to be justified.

#### *Design, Appearance & Layout*

The proposals raise no concern in this regard.

The building itself would be a striking modern design that would sit comfortably in its surroundings that are dominated by the modern, contemporary design of buildings on the rest of the Skyline development. It would be finished in a range of contemporary materials, including aluminium composite cladding, broken up by brick cladding and substantial areas of aluminium-framed glazing.

It would be sited adjacent to the A131 frontage of the site, from which it would be clearly visible, though not more so than existing units on the Skyline 120

estate. Some screening would be afforded by the existing established highway planting that runs along the A131, strengthened by additional planting within the application site itself, including on the north-west frontage to the internal estate road, which will serve the purpose of providing screening of the parking from this direction and an attractive appearance to the estate road.

On the northern side of the building, largely out-of-sight from the A131, the store's 80 space car-park would be provided and overall, an attractive appearance would be result.

### *Highway Related Matters*

The Highway Authority raises no objections to the proposal, including its use of the existing access into the site from the Skyline 120 internal estate road and the number of parking spaces to be provided, which is based on evidence that the applicant has provided from other of its sites, which the Highway Authority accepts.

As summarised above under "Consultation Responses", the Highway Authority would require a number of conditions to be applied to any planning permission, critical of which would be a requirement for the provision of a "toucan" pedestrian crossing of the A131 so that residents at Great Notley would be able to safely cross the trunk road by foot. This would be a traffic-light controlled crossing. In addition, allied to this, other measures are required, including the provision of footways and pram crossings in the vicinity of the crossing, also required to be secured by condition.

There would also be requirements for (i) cycle-storage provision within the development, the agreement and implementation of a Service Delivery Plan relating to the times for deliveries to the site, (ii) the size of vehicle to be used and the procedure for safe deliveries within the site and (iii) implementation of an agreed Travel Plan, including the payment of a Travel Plan monitoring fee to the Highway Authority.

### *Residential Amenity*

The site lies on the opposite side of the A131 from residential development in Great Notley, certain of which would have views to the development across the trunk road.

The development would present an acceptable appearance and, given that the A131 carries significant volumes of traffic throughout the day, which clearly has significant noise impact, noise from the development would not be easily discernible against high ambient noise levels generally.

Nonetheless, to safeguard the situation, Braintree Environmental Services has suggested that, if planning permission was to be granted, conditions should be applied that set maximum noise levels and limit night-time deliveries.

Regarding air-quality, sensitive receptors, such as residential properties, are sufficiently removed from the site to ensure that defined air-quality levels are not exceeded.

It is also suggested that a condition be applied that requires submission of full-details of the proposed lighting of the site.

Finally, conditions would also need to be applied controlling hours of construction, controls over dust emissions and the dispersal of mud onto the highway and the submission of an update to the noise assessment should piling be proposed.

Subject to controls being applied as described, there would be no material impact on residential amenity.

### *Planning Obligations & Developer Contributions*

Two main areas arise:

- the provision of the off-site highway works; and
- payment of an open-space contribution, as required under the Open-Space SPD and Core Strategy Policy CS11

The off-site highway works can all be achieved by planning condition.

The open-space contribution would, however, need to be secured by means of an Unilateral Undertaking offered by the developer, which the applicant does not offer.

The sum likely to be due will be in the region of £5,066 at 2016 prices.

As the application does not offer any contribution or any device by which this can be secured, nor does it offer any viability argument that demonstrates why the contribution cannot be provided, this constitutes further grounds to refuse planning permission.

### SUMMARY/OVERALL CONCLUSION

The application seeks to develop an Aldi supermarket on a prominent site that is within a larger development that is allocated for employment purposes under the Review Local Plan, the Core Strategy and the Draft Local Plan.

The applicant argues that there is no demand for employment use and, that being the case, the Council needs to look sympathetically at releasing the site for retail purposes as required by Aldi. It cites evidence of what it sees as a lack of demand and makes the point that, after more than 8 years of active marketing of the site for employment use without success, it is time to consider alternative uses outside the limited range of employment uses advocated under Review Local Plan policy RLP28 and policy LPP2 of the Draft Local Plan.

However, the Council has evidence that, far from there being no demand for employment use, there is, in fact, buoyant demand. The applicant's case that there is no demand for employment use is not, therefore, accepted and accordingly Officers take the view that there is a case to refuse permission on grounds of loss of employment land, on what is the District's premier employment site, particularly so when the evidence available suggests that there is unmet demand for B1, B2 and B8 units and the Council has been advised to increase the amount of land allocated for employment use by 9.2 hectares in the period up to 2033.

Even if the Council did accept the case for releasing the site for non-employment use, the proposal fails the Sequential Test that applies under paragraph 24 of the NPPF and is used to assess proposals for town centre uses that are proposed on non-town centre locations. Indeed, paragraph 27 of the NPPF goes on to advise that, where an application fails the sequential test, it should be refused. In this case, the "anchor" convenience store that is proposed as part of the North-West Braintree Growth Centre proposals would comfortably accommodate a supermarket development of the size sought in Great Notley. If there is demand for a new convenience store, this should be its location, where it would support planned and sustainable growth. Given that, based on the evidence available to the Council, the provision of a new Aldi store anywhere in the town is likely to have a catchment that extends across the whole town and beyond, a store in North-West Braintree would serve Great Notley just as adequately as one located in Great Notley. There is certainly no imperative for it to be located in Great Notley as the applicant suggests, which they argue would be its prime catchment, and is, therefore, justification for their choice of Great Notley as the location of their store.

Officers do not accept the applicant's analysis, neither does the Council's retail consultant. Refusal of planning permission on grounds of failing to pass the sequential test is, therefore, also considered to be justified. In this case, it clearly demonstrates that there is another sustainably preferable location for a similar-sized convenience goods store that lies in the catchment of the proposed store at Great Notley and, given that both stores would draw their custom from across the town and beyond, this is the preferable and planned location for a new store.

Regarding the Impact Assessment that is required under paragraph 26 of the NPPF, Officers take the view that the proposal would present a real threat to the delivery of at least the retail element of the North-West Braintree proposals, which is considered to be crucial to the sustainability credentials of that development by providing an essential facility that would be within walking distance of the large amount of housing and employment-related development around it, both existing and proposed. At the very least the Aldi proposal could make it harder to deliver the new store and, as a consequence, undermine the objective of delivering a self-sustaining growth location with its own neighbourhood shopping provision.

There is clearly widespread support for the provision of an Aldi store in Great Notley, based on the large number of letters of support that have been received for the proposal. That is understandable. This cannot, however, be a determining factor in the decision to be taken. There is no objection to the provision of a deep-discount convenience store in the town; the issue arising is that this is not the right location for it.

In this case, the proposal would result in the loss of a high profile employment site, for which there is no justification. Moreover, it fails the Sequential Test, the significance of which is that there is the very real potential that the proposal would result, in the opinion of officers, in “significant adverse impact” in the delivery of the retail element of the North-West Braintree Growth proposals, which are planned, sustainable, sequentially preferable proposals that are statutorily approved in principle as part of the Core Strategy, adopted in 2011.

In terms of matters of detail, no objections arise, subject to any planning permission, if it was to be granted, being subject to conditions to make the development acceptable.

Finally, there is the matter of the Open Space contribution that is required under the Open Space SPD and policy CS11 of the Core Strategy. The application does not provide any device by which payment of this can be secured or even offer to make the payment that falls due. Refusal of planning permission on these grounds too is, therefore, considered justified.

It is, accordingly, recommended that planning permission be refused on the grounds set out below.

### RECOMMENDATION

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

- 1 The proposed development would result in the loss of a site that is identified for employment purposes on Inset Map 1 of the Braintree District Local Plan Review, 2005, which, in combination with the Braintree District Council Local Development Framework Core Strategy (2011), forms the adopted Development Plan for the District. Policy RLP28 of the Local Plan Review states the range of use that are acceptable on employment sites such as this, whilst Core Strategy policy CS4 presumes in favour of the retention of sites in employment use in sustainable locations. No exceptional circumstances have been shown that would warrant release of the site for non-employment use. Moreover, the evidence available to the Council is that there is unsatisfied demand for premises for employment use.

The Skyline Business Park is the District's premier employment site in terms of its prominent and strategic location at the junction of two trunk roads (the A131 and the A120), its easy accessibility and its

attractiveness as a modern, high-quality, purpose-designed employment-related development. The absence of exceptional circumstances to justify non-employment use of the site means that, if planning permission was to be granted, the Local Planning Authority will be compromised in its ability to resist similar proposals for non-industrial/commercial development on other designated employment land which will impact negatively on the District Council's ability to secure such development and to generate sustainable growth into the future. Moreover, there is unsatisfied demand for employment premises in the District generally and the advice to the Council is that over the period up to 2033 it needs to allocate 9.2 hectares of land for new employment uses to satisfy demand.

The proposal would, therefore, be contrary to policies RLP28 of the Braintree District Local Plan Review and CS4 of the Braintree District Council Local Development Framework Core Strategy (2011). It would also be contrary to policy LPP2 of the Council's emerging Draft Local Plan (2016), which seeks to retain defined employment uses referred to in the policy.

- 2 Policy CS6 of the Braintree District Council Local Development Framework Core Strategy (adopted in 2011) is concerned with maintaining the vitality and viability of the District's town centres. The National Planning Policy Framework (NPPF) states that local authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. Such uses should preferably be located in town centres, then in edge-of-town centre locations and only if suitable sites are not available in either location should out-of-town locations be considered.

When assessing applications for large scale retail proposals outside of town centres, which are not in accordance with an up-to-date Local Plan, the Local Planning Authority should require an Impact Assessment which considers (i) the impact on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal and (ii) the impact of the proposal on town-centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to 5 years from the time the application is made, 10 years in the case of major proposals where the full impact will not be realised in 5 years.

Where an application fails to satisfy the Sequential Test, or is likely to have a significant adverse impact on one or more of these two factors, the NPPF states that it should be refused.

The application is for a convenience foodstore (1,533 square metres gross) on an out-of-centre site allocated for employment purposes, which would not accord with the adopted Local Plan or Core Strategy or the Council's

It is the view of the Council that there is a sequentially preferable and "available" site within the catchment of the proposed development and this should be the preferred location for another convenience food store in the District. A Class A1 food store is a key part of the adopted North-West Braintree Growth proposals and a current application for that Growth Location includes, in outline, a food retail element within a mixed use neighbourhood core. The Council takes the view that the applicant's proposal could have a significant adverse impact on the delivery of a sequentially preferable, planned convenience store sited in a location where it would complement the planned development of a mixed use growth location.

The application would, therefore, be contrary to Core Strategy policy CS6 and paragraphs 24, 26 and 27 of the NPPF and policy LPP7 of the Draft Consultation Local Plan (2016).

- 3 Policies CS10 and CS11 of the Braintree District Local Development Core Strategy (2011) and Policy 138 of the Braintree District Local Plan Review (2005) require, inter alia, developers to provide or contribute towards the cost of providing open-space (and its maintenance). In addition Braintree District Council has adopted an Open Space Supplementary Planning Document (SPD), which sets out its requirements in this regard, including the process and mechanisms for the delivery and improvement of public open space.

In this case, a Unilateral Undertaking is required to be provided by the developer, towards the provision and maintenance of off-site open space for the benefit of the community.

The applicant has not provided any such undertaking. Accordingly, the proposal would not satisfy the requirements of the above policies and the adopted SPD.

### SUBMITTED PLANS

Lighting Plan	Plan Ref: MJA-P105-4046
Highway Plan	Plan Ref: A1-13099-010
Highway Plan	Plan Ref: A1-13099-011
Proposed Elevations	Plan Ref: 1026-104
Location Plan	Plan Ref: PP1
Landscaping	Plan Ref: V1026-L01
Proposed Site Plan	Plan Ref: 1026 CHE-SITE PLAN - V02B
Location Plan	Plan Ref: 1026-100
Existing Site Plan	Plan Ref: 1026-101
Proposed Floor Plan	Plan Ref: 1026-103
Proposed Roof Plan	Plan Ref: 1026-105
Drainage Plan	Plan Ref: 3787/115/300
Highway Plan	Plan Ref: A1-13099-SK150811.1

Highway Plan  
Planning Layout

Plan Ref: A1-13099-TR001  
Plan Ref: 1026-102

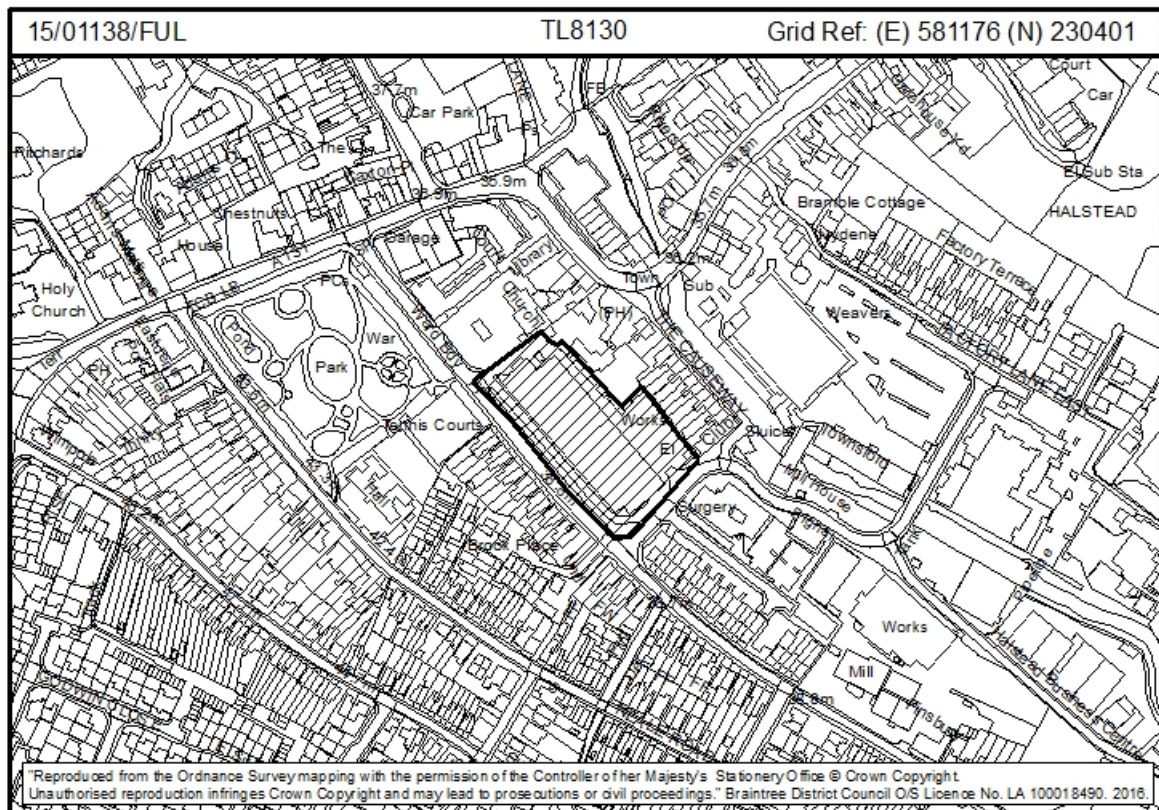
TESSA LAMBERT  
DEVELOPMENT MANAGER



PART A

APPLICATION NO: 15/01138/FUL  
 DATE: 10.09.15  
 VALID:  
 APPLICANT: Lidl Uk GmbH  
 C/o Agent  
 AGENT: Bilfinger GVA  
 Mr Miles Drew, 3 Brindley Place, Birmingham, West Midlands, B1 2JB  
 DESCRIPTION: Demolition of existing buildings and construction of a Lidl foodstore and formation of car parking  
 LOCATION: EMD Ltd, Kings Road, Halstead, Essex, CO9 1HL

For more information about this Application please contact:  
 Katie Towner on:- 01376 551414 Ext.  
 or by e-mail to:



## SITE HISTORY

12/00725/FUL	Demolition of existing redundant factory and sheds and erection of A1 retail store and associated parking	Granted with S106 Agreement	23.11.12
12/00004/SCR	Town & Country Planning Act 1990 (as amended), Town & Country Planning (Environmental Impact Assessment) Regulations 2011 - Screening Opinion Request - Demolition of existing redundant factory and sheds and erection of A1 retail store and associated parking		16.07.12
15/00191/DAC	Application for approval of details reserved by condition nos. 12, 17, 18, 19, 20, 21, 22, 23, 24 and 25 of approved application 12/00725/FUL	Granted	08.10.15
15/00201/DAC	Application to discharge condition 11, 26 and 33 of approved application 12/00725/FUL - Demolition of existing redundant factory and sheds and erection of A1 retail store and associated parking	Granted	20.10.15
15/00206/DAC	Application to discharge condition no. 10 relating to approved application 12/00725/FUL - Demolition of existing redundant factory and sheds and erection of A1 retail store and associated parking	Granted	08.10.15

## POLICY CONSIDERATIONS

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

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

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

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

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

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

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

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

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

#### National Planning Guidance

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

#### Braintree District Local Development Framework Core Strategy

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

## Braintree District Local Plan Review

RLP2	Town Development Boundaries and Village Envelopes
RLP11	Changes of Use Affecting Residential Areas
RLP33	Employment Policy Areas
RLP54	Transport Assessments
RLP55	Travel Plans
RLP56	Vehicle Parking
RLP62	Development Likely to Give Rise to Pollution or the Risk of Pollution
RLP65	External Lighting
RLP69	Sustainable Urban Drainage
RLP84	Protected Species
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
RLP113	Shopping Areas

## Draft Local Plan

SP1	Presumption in Favour of Sustainable Development
LPP7	Retailing and Regeneration
LPP13	Retail Site Allocations
LPP36	Sustainable Access for All
LPP37	Parking Provision
LPP42	Built and Historic Environment
LPP46	Layout and design and development
LPP47	Preservation and enhancement of Conservation Areas and demolition within Conservation Areas
LPP50	Alterations, extensions and changes of use to Heritage Assets and their setting
LPP53	Archaeological Evaluation and recording
LPP65	Surface Water Management Plans
LPP66	Sustainable Urban Drainage Systems
LPP67	Runoff Rates
LPP68	External Lighting

## INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is being presented at Planning Committee as the effects of the development are considered to be potentially significant and the Town Council has raised objection contrary to Officer recommendation.

## SITE DESCRIPTION

The application site is located to the northern side of Kings Road and is currently vacant. The site is allocated as an employment policy area within the

adopted Local Plan. The site is located within the Town Development Boundary of Halstead and although outside, immediately abuts the Town Centre boundary. The site is located just outside of the Conservation Area.

In the Draft Local Plan the site is allocated for Retail and Town Centre Uses.

Until recently the site comprised a large single storey factory building which consumed the majority of the site. This building has recently been demolished and the site left vacant and enclosed with fencing. The site currently has vehicular access off Factory Lane West and Kings Road.

The site is at a lower level than Kings Road by some 1.4m. The land within and outside of the site falls away gently to the east.

To the south of the site along Kings Road there are residential properties which face towards the site. These properties comprise of semi-detached pairs of houses, constructed of red brick and are Victorian in origin. Immediately to the west of these properties is the Halstead Public Gardens. To the south east of the site is Factory Lane West. The Elizabeth Courtauld Surgery fronts on to this road.

To the north of the application site is the United Reform, Church of Halstead and beyond this the Halstead Library. Immediately abutting the site to the east is a terrace of residential properties fronting The Causeway which are Grade II listed buildings. To the southern end of this row of residential properties is the Royal British Legion Club which is also a Grade II listed building.

## PROPOSAL

This application seeks planning permission for the demolition of the existing buildings and the construction of a Lidl foodstore and associated car park.

The proposed development comprises a single building located to the north western corner of the site and associated car parking on the remainder of the site. The building spans to a depth of 70m along the Kings Road frontage by a width of 32.5m and reaches a maximum height of 7.6m. The car park contains 108 spaces including disabled and “parent and child” spaces, a cycle stand and a trolley bay. There is a single point of access for vehicles (customers, staff and deliveries) into the site from Factory Lane West, a pedestrian access from Kings Road and pedestrian service access (staff and emergency) also from Kings Road.

Soft landscaping, including tree planting, is to be introduced on all boundaries of the site and a 2m high brick wall between the site and the residential properties within The Causeway to the north east.

## CONSULTATIONS

The consultation responses are summarised below:

Environment Agency – No objections

Essex Police – The developer should consider Secured By Design

Essex County Highways – No objections, subject to conditions

BDC Environmental Health – No objections

Historic England – Advice should be sought from the local specialist (ECC)

Essex County Council Heritage Advisor – Concerned with the roof design

Essex County Council Development and Flood Risk – No objections, subject to conditions

## REPRESENTATIONS

Halstead Town Council – Object as consider the entrance and egress by trucks to the site will put added pressure on movement of traffic in this area.

### First round of consultation:

4 letters of objection (the 3 separate letters from the Co-op is counted as 1 objection) were received the contents of which are summarised below:

- No objections in principle but concerns with regards to the operation of the scheme. The site is currently derelict and has almost no traffic associated with it and no lighting
- Concerns with disturbance of construction traffic
- Is there a contamination discovery strategy in place?
- How will the Council monitor that planning conditions are not being breached?
- Greater amount of traffic on to the roads
- Increase in noise
- The car park will be a place for local youth to hang out and cause disturbance
- How will the lighting be managed?
- When will deliveries occur?
- What will be the impact on existing supermarkets in the town?
- Will SUDS be used?
- Have the listed properties adjacent been taken in to consideration?
- The marketing report is out of date
- Will have a detrimental effect on the town centre – diversion of trade
- More appropriate sites could be found within the town centre which would not lead to a loss of sustainable employment land
- The design will have an impact on the setting of the heritage assets
- Kings Road is not suitable for increases in traffic
- Additional parking on Kings Road

- It is important that the design fits well in its environment and complements local architecture
- The design is very standard and monotonous
- The store has the potential to increase footfall to the town centre and past the town's industrial heritage. This could produce social, economic and cultural contributions which the developer should consider

#### Second round of consultation (as a result of revised drawings):

5 letters have been received, which are summarised below:

- Lidl have gone a long way to improve the design, especially with the delivery bays away from local residents
- How will the impacts on the Kings Road junction be mitigated?
- Object to the change to the vehicular access as a safety hazard
- New access will affect the privacy to no. 154 Kings Road
- Concerned with artwork along Kings Road and would like to see an indication of what is proposed
- Emerging Local Plan requires a Retail Impact Assessment for developments over 1500m<sup>2</sup>.
- No attempt to seek characteristics from the local area
- Fails to provide a travel plan
- If approved the surplus in retail floor space would cause independent retailers in the town to suffer
- No sequential test has been undertaken

### REPORT

#### Principle of Development

Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Currently the Council's development plan consists of the Braintree District Local Plan Review (2005) and the Core Strategy (2011). In addition the development management policies and allocations of the Pre Submission Site Allocations and Development Management Plan (ADMP) and the Draft Local Plan are also relevant in the determination of planning applications. However in accordance with the NPPF (paragraph 216) the weight that can be attached to such plans will be dependent on the stage of preparation of the plan, the extent to which there are unresolved objections to the relevant policies/allocations and the degree to which such policy allocations are consistent with the policies in the NPPF.

The application site located within an area designated for employment uses within the current adopted Local Plan. Policy RLP33 of the Local Plan Review states that in such locations proposals for uses other than those within Use Classes B1, B2 and B8 will be refused.

Notwithstanding this, planning permission was granted in 2012 (12/00725/FUL) for the demolition of the existing buildings and construction of an A1 retail store. There was no end user specified within this application and the site has since been acquired by Lidl. This 2012 planning permission, which has been commenced and thus remains extant in perpetuity, forms a material consideration in the determination of this application. The principle of a retail use at the site has therefore already been established.

In 2014 the site was proposed to be allocated for Retail and Town Centre Uses within the Site Allocations and Development Management Plan (ADMP). This document has been subject to public consultation and there are no unresolved objections in respect of the proposed allocation of this site. This proposed allocation for retail and town centre uses is proposed to be carried forward in the Draft Local Plan. This proposed allocation was agreed by Full Council on the 20<sup>th</sup> June 2016 and has been subject to public consultation. As discussed above it is considered that it would be consistent with the provisions in paragraph 216 of the NPPF, to afford more weight in decision making to the parts of the Draft Local Plan which have been rolled forward from the ADMP, due to the more advanced stage reached by those elements.

#### Sequential Test and Retail Impact

The application site is not within the defined Town Centre Boundary which is the preferred location for retail development. Paragraph 23 of the NPPF states that Local Planning Authorities should allocate appropriate edge of centre sites for main town centre uses that are well connected to the town centre where suitable and viable town centre sites are not available. As detailed above the site was allocated for retail use within the ADMP and this allocation is proposed to be carried forward in to the new Local Plan.

Paragraph 24 of the NPPF requires Local Planning Authorities to apply the sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up to date Local Plan. Applications for main town centre uses should be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. Policy CS6 of the Core Strategy states that 'any proposals for town centre uses will be based on a sequential approach in accordance with national planning policy guidance.'

The proposed development has a floor space of less than 2500m<sup>2</sup> and therefore in accordance with paragraph 26 of the NPPF a retail impact assessment is not required to be submitted. Although a retail impact assessment is not required by the NPPF and has not been sought by Officers, it is proper to consider the retail impact of the proposal. The applicant has provided comments on retail impact within their supporting statement.

In determining the 2012 application consideration was given to sites within the town centre at i) the site occupied by the Co-op and ii) land off Butler Road. Neither site was available and thus they were not sequentially preferable. This situation has not changed to date. In addition, applying the sequential test in



this case is somewhat academic given the site benefits from an extant planning permission for an unrestricted retail use. This means that even if a sequentially preferable site was identified, a retail use could still occupy the application site under permission 12/00725/FUL.

The 2012 permission, which remains extant, allowed for an unrestricted A1 use, such the site could be occupied by a food retailer or general retailer. It would be possible therefore for Lidl to occupy the site under the 2012 planning permission, albeit the building approved does not meet with their business model requirements. There was no identified end user when the 2012 application was made so the proposal was tested against two scenarios, one where the store was occupied by a convenience retailer and one where it was occupied by a comparison retailer. In the convenience scenario it was concluded that the maximum turnover of the store could be £16.95 million based on a store that would operate with a sales density of £12.500 per sqm, a figure generally in keeping with the sales densities of main convenience retailers (such as Tesco or Sainsbury's). By comparison a Lidl store achieves a sales density in the region of £4,833 per sqm, significantly below the figure assumed that could be achieved on site. It was concluded that if a food store (main retailer such as Tesco or Sainsbury's) occupied the site than the impact on convenience goods facilities in Halstead Town Centre would be 28.3% but most of this would fall on the Co-op and Sainsbury stores. There was no evidence to suggest that this would cause either store to close. In addition it was likely that 'spin off' benefits would be generated by way of new linked trips to non-food shops and services in the town. It was concluded that any retail use, food or otherwise was unlikely to harm the vitality and viability of Halstead Town Centre.

The building now proposed by Lidl has a greater gross floor area; however the net sales area is less than the building which has consent. The specific business model for Lidl and in particular its limited product range, distinguishes it from other retailers, such as Asda, Sainsbury's, Co-op and such like. In addition Lidl's primary trade is bulk, not top up shopping. Lidl does not stock convenience goods such as tobacco, nor does it have facilities such as a pharmacy or delicatessen such it does not compete with conventional supermarkets or town centre convenience stores in this regard.

The extant planning permission granted permission for an unrestricted retail unit which could generate a turnover of some £16 million. The impacts of such a store were considered in 2012 and found to be acceptable. It is reasonable to consider that the proposed Lidl foodstore will have a lower turnover than a main food retailer resulting in less expenditure being diverted to the store from existing facilities. Furthermore given the specifics of Lidl's business model which differentiates it from main food retailers the potential for trade diversion is less than would have been the case if a main convenience retailer occupied the site.

To conclude, the principle of a retail use on this site has already been considered acceptable by the 2012 planning permission. Given the extant planning permission and the specifics of the Lidl business model as

addressed above, it is not considered that the proposed development would harm the vitality or viability of Halstead Town Centre and conforms with the NPPF in this regard. Officers maintain the same opinion from 2012 that the store would result in 'spin off' benefits by increasing the potential for linked trips. This will be encouraged by the 2 hours free car parking, to which Lidl have agreed and is to be secured within the Section 106 agreement (discussed below).

### Design, Appearance, Layout and Impact on Heritage Assets

The NPPF requires planning to always seek to secure high quality design. Policy RLP90 of the Local Plan Review and policy CS9 of the Core Strategy also seek high standards of design in all developments.

The NPPF requires great weight to be given to the conservation of heritage assets. Policy CS9 of the Core Strategy states that development should respect and respond to the local context, especially where development affects the setting of historic or important buildings and Conservation Areas. Policy RLP95 of the Local Plan Review states that the Council will preserve and encourage the enhancement of the character and appearance of Conservation Areas and their setting. Policy RLP100 of the Local Plan Review seeks to protect the character and setting of listed buildings.

The design and siting of the proposed building has been amended during the course of the application given initial concerns raised by Officers that the standard model for Lidl stores, which is somewhat utilitarian in appearance, was not be appropriate for this particular site, which abuts a Conservation Area and is within close proximity to listed buildings and a greater degree of attention was needed to the detailing.

The elevation fronting Kings Road has been substantially modified and presents a series of arches and details, constructed in red brick, that have a rhythm that is better related to the street scene and has a style which evokes the railway heritage associated with the site. The other elevations (north and east facing) incorporate brick and render and the sloping roof would be faced in pre-finished aluminium. The space between the highway and the flank wall will be raised to meet the level of the adjacent footway so that proposed landscaping trees have the required space to grow and that landscaping here is more effective in providing visual mitigation of the extensive roof. There are two areas along this elevation which are reserved for public art. It is essential that the Local Planning Authority retain control over what is displayed here in the interests of the appearance of the street and thus it is recommended that a condition be placed on any grant of consent in this regard.

The front elevation of the building, which contains the entrance and overlooks the associated car park, has been modified to include a pattern of arches spanning the width of this elevation within full-height glazing. This is not as significant an amendment as seen to the Kings Road elevation however it goes some way in improving the relationship of the building to its location and the coherence of the overall design and is considered to be acceptable.

The building is to be sited in the north western corner of the site with the car park to the south of this and accessed from Factory Lane West. Officers have no objections to the positioning of the building, especially given the continuous landscaping that can be secured along the site boundaries. The soft landscaping is shown to a consistent width along Kings Road and Factory Lane West which allows adequate space for consistent planting, providing an appropriate relationship to the public realm and approach to the Conservation Area. The drawings show a raised table and/or colour contrasting strip across the wide vehicular access to the car parking. This helps to provide legibility and a sense of priority for pedestrians using this route to the town centre.

The scheme also includes tactile paving and dropped kerbs on either side of Kings Road immediately opposite the entrance to the park. This is to encourage safer pedestrian movements across Kings Road. A pedestrian access is provided in to the site along the Kings Road elevation and zebra crossing within the car park will make it a safer environment for pedestrians wishing to cross the site to access Factory Lane West.

Essentially the standard building model for Lidl stores largely remains, however the amendments to the Kings Road elevation and the front elevation of the building helps to improve what was previously, in Officer's opinion, an unsatisfactory relationship of a standardised supermarket model in this sensitive location. Whilst the building remains an undeniably large intervention into the street scene, the amendments to the building design and the improved landscaping have softened the appearance of the building, such it fits more comfortably and sympathetically into the street scene.

It is noted that the Heritage Advisor raises concerns with the design of the building and in particular the roof design, preferring the staggered appearance of the previously approved building. Officers do not consider, with the amendments that have been made, that a refusal of planning permission on the impact on the adjacent Conservation Area and listed buildings as a consequence of the proposed design could be substantiated when considering the overall design of the building.

The proposed development is considered to satisfy the NPPF, policy RLP90 of the Local Plan Review and CS9 of the Core Strategy.

It is noted that all the buildings previously occupying the site have now been demolished. A condition of the 2012 planning permission was to secure a programme of historic building recording, in relation to the three early railway buildings. This recording was undertaken prior to the demolition of the buildings, in compliance with the condition.

#### Impact on Neighbour Amenities

The NPPF requires a good standard of amenity for all existing and future occupiers of land and buildings. Policy RLP90 of the Local Plan Review requires there to be no undue or unacceptable impact on the amenity of any

nearby residential properties. Policy RLP11 of the Local Plan Review states that planning permission will not be given for employment or other new uses which by reason of their character or appearance, or the noise, fumes, smell and traffic which they generate will harm the character of a predominately residential area and make it less pleasant area in which to live.

The proposed development would be in relatively close proximity to a number of residential properties within Kings Road and The Causeway and it is reasonable to consider that the proposed development will have some impact on residential amenity, especially given that the site has not been in active use for some time.

The previous warehouse building that occupied the site was single storey in height and took up the majority of the site. The proposed building is large, but smaller than the previous building and sited to the north western corner of the site. The ground level of the site is much lower than the level of Kings Road and thus the proposed building would be set at a lower level than the surrounding properties, reducing the prominence of the building. Given the land levels and landscaping it is not considered that the proposed building would be overbearing upon the immediately adjacent properties in Kings Road. The building is set well away from the properties in The Causeway. A 2m high wall is proposed along the shared boundary with the properties in The Causeway in order to sufficiently separate the car parking area and protect amenity. No unreasonable impact is considered to result from the building to the properties to the north of the site.

The local residents are likely to experience an increase in activity at the site and associated noise. The proposed opening hours of the store are 8am – 10pm Monday to Saturday and 10am – 4pm on Sundays and Bank Holidays. The Council's Environmental Health team raise no objections to the proposal, but it is considered necessary to secure these opening hours with a condition on any grant of consent. The applicant advises that the store will receive only one delivery per day, which occurs when the store is open. A condition can also be placed on any grant of consent to prevent deliveries before and after store opening/closing hours in order to protect residential amenity.

Subject to the inclusion of the conditions recommended above it is considered that the operation of the proposed store could occur without any significant adverse impact on the amenities of neighbouring residents, satisfying the aforementioned policies. In reaching this conclusion, it is clearly material that the Authority has accepted the principle of a retail store at the site and that the relevant permission remains extant.

### Highway Issues

The NPPF sets out a presumption in favour of sustainable development and requires planning to focus development in location which are or can be made sustainable. The NPPF also advises that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

Policy CS7 of the Core Strategy states that the Council will work to improve accessibility, to reduce congestion and reduce the impact of development upon climate change and to this end future development will be provided in accessible locations to reduce the need to travel. Policy RLP49 of the Local Plan Review states that development proposals will only be permitted where the needs of pedestrians are fully incorporated in the design and layout. Policy RP56 of the Local Plan Review relates to vehicular parking.

The application is supported by a Transport Assessment.

The previous application secured the following highway improvement works, which are now also proposed as part of this application.

- Improvements to the A131 Trinity Street/Kings Road mini roundabout
- The offer to provide a pedestrian crossing facility across Kings Road
- The offer to promote amendments to the Traffic Regulation Orders in connection with the parking along Kings Road (residents parking scheme).

The improvements to the mini roundabout and the provision of a pedestrian crossing on Kings Road can be sought by condition.

The improvements to the mini roundabout will result in the loss of some on street car parking. In light of this the 2012 application concluded that it was reasonable that the possibility of a residents parking scheme along Kings Road was explored. It is not possible to impose a condition to require a residents parking scheme to be adopted, as it is subject to public consultation and is outside of the applicant's control. As such it was recommended that as part of the S106 it is a requirement for the applicant to pay the cost involved in the formal consideration of a residents parking scheme. It is proposed that this obligation is carried forward to this application.

The site is to accommodate 108 car parking spaces, 4 of which will be disabled and 4 will be for parent and child. The adopted standard requires a maximum of 1 space per 14m<sup>2</sup>. The maximum number of spaces the site should provide is 167. The extant scheme provides 114 spaces. Given the edge of centre location and good pedestrian links to residential properties and the town centre and the extant permission, it is considered that the number of car parking spaces is acceptable.

The car parking spaces meet the minimum bay size of 2.5m x 5m. This is below the preferred bay size of 2.9m x 5.5m, however using the minimum bay size was considered an acceptable approach within the 2012 application and there is no reason to conclude otherwise in this case. The Highways Authority raise no objections to the use of the minimum bay size in this instance.

The proposal includes 12 cycle stands which accords with the adopted standard. Footways are located along both sides of Kings Road and Factory

Lane West which provide pedestrian links to the town centre, bus routes and nearby residential areas.

The application is supported by a travel plan which can be secured by condition. A travel plan monitoring fee is to be secured through the Section 106. The travel plan seeks to promote alternative and more sustainable means for transport, for example by encouraging car sharing for staff, providing cycle parking, providing information of safe walking and cycling routes and providing up to date public transport information.

The Lidl servicing strategy is such that generally only 1 delivery is made to store per day. In addition Lidl have full control of their servicing fleet and no deliveries are undertaken by third parties. The Transport Assessment concludes that the uplift of 1 HGV movement on this part of the road network each day is not considered to have an adverse impact on the operation or safety of the highway, especially taking in to account the former use of the site.

The Transport Assessment discusses traffic generation. Discount food retailers are known to have very specific trading patterns, unlike more traditional supermarket stores. Based on the data available, a Lidl foodstore is expected to generate significantly fewer trips than a traditional supermarket use (which could occupy the site under the 2012 permission). It is considered that the road network can accommodate the proposed development without any severe impact. The Highways Authority has considered the Transport Assessment and raises no objections to its conclusions.

### Section 106

The previous planning approval was subject to a Unilateral Undertaking which secured the following:

- A Travel Plan monitoring fee of £3000.00
- A residents parking scheme contribution (£1000.00)
- Customer parking spaces (2 hours free)

Since purchasing the site Lidl wanted to demolish the existing buildings and as such they discharged all the pre commencement conditions of the 2012 permission and paid the financial contributions as referred to above. Given that Lidl have no intention of carrying out any further works associated with the 2012 permission, it is considered reasonable that a new Section 106 is produced which transfers the provisions of the previous agreement over to any new permission and the contributions already received are attributed to the new agreement. The applicant is agreeable to this approach.

## Other Matters

### Flooding/Surface Water Drainage

The application site is located within flood zone 2, classed as having a medium probability of flooding. A retail use is considered “less vulnerable” and therefore an appropriate use within such an area.

The Environment Agency has been consulted on the application and raises no objections subject to conditions in respect of the protection of controlled waters.

Essex County Council as Lead Local Flood Authority has also been consulted and raise no objections subject to conditions. In principle given the brownfield nature of the site they are content with the provision of porous paving in the car park to contribute towards a sustainable urban drainage system.

### Contaminated Land

In discharging the conditions of 12/00725/FUL (within application 15/00201/DAC) a Phase 1 and 2 Contamination Assessment and Remediation and Verification Plan were submitted for consideration and approved, upon advice received from the Council’s Environmental Health Officer. The above mentioned documents have been submitted with this application. It is recommended that a condition is placed on any grant of consent which requires the development to be undertaken in accordance with these documents.

### Trees and Ecology

The application is supported by an arboricultural report, method statement and tree protection plan. Given the nature of the site there are no trees of any amenity value within the site, however there are trees located just outside of the site boundaries which have been considered with the report to ensure the development does not impact upon them negatively. There are two trees to the north of the site and one to the east which will require ground protection measures to safeguard the root protection areas and protective fencing erected throughout the construction phase. It is recommended that a condition is placed on any grant of consent to ensure the development is undertaken in accordance with the arboricultural method statement and tree protection plan.

The application is supported by an ecology report which concludes that there were no protected species found on site that would be harmed as a consequence of the development.

### Lighting

Policy RLP65 of the Local Plan Review allows for external lighting provided that the alignment of lamps and provision of shielding minimises spillage and

glow, the lighting intensity is no greater than necessary to provide adequate illumination and there is no significant loss of privacy or amenity to nearby residential properties and no danger to pedestrians or road users.

The application is supported by a lighting scheme. Mounted single luminaires (at 6m in height) are proposed to be positioned on the peripheries of car parking, directed in to the site. These luminaires will be fitted with light shields to minimise light spillage. Within the centre of the car park, four double mounted luminaires, at 6m in height are proposed. Wall mounted luminaires (2.7m above ground level) are proposed along the north eastern side of the building. It is noted that the luminaires proposed, in terms of height and luminance levels are as agreed within the extant permission.

The scheme proposed shows limited light spillage beyond the site boundaries as a result of the positioning and orientation of the lamps and the use of shields and thus residential amenity would not be impinged upon as a result. It is recommended that a condition be placed on any grant of consent which requires details of the method of operation and hours of use of the lighting to be submitted, to ensure that the Local Planning Authority retains control over this in the interests of residential amenity.

## CONCLUSION

The site is identified in the Local Plan for employment use. The ADMP which is afforded weight in decision making and the Draft Local Plan identify the site for town centre uses. The site also benefits from an extant planning permission for an unrestricted A1 retail use. The principle of a retail use at the site has therefore already been established.

Given the extant planning permission and the specifics of the Lidl business model as addressed above, it is not considered that the proposed development would harm the vitality or viability of Halstead Town Centre and conforms with the NPPF in this regard.

The development, in particular the design of the building and the site more widely has been subject to amendments during the application process and it is Officers' opinion that these have resulted in an improved building and landscaping, such the development fits more comfortably and sympathetically into the street scene and would not detrimentally harm the setting of the adjacent Conservation Area or the character and setting of the nearby listed buildings.

The development is considered acceptable in highway terms and the amendments to the A131 Trinity Street/Kings Road mini roundabout and the introduction of a pedestrian crossing are considered to be beneficial to the wider public.

Planning obligation requirements have been agreed whereby the applicant will contribute towards a travel plan monitoring fee and a residents' parking scheme and will provide 2 hours free car parking.



On this basis it is recommended that the application is approved. Members are asked to grant a resolution to approve the application, subject to the completion of the S106 in accordance with the Heads of Terms reported above.

### RECOMMENDATION

It is therefore RECOMMENDED that subject to the applicant entering into a suitable legal agreement pursuant to S106 of the Town and Country Planning Act 1990 (as amended) to cover the following Heads of Terms:

- A Travel Plan monitoring fee of £3000.00
- A residents parking scheme contribution (£1000.00)
- Customer parking spaces (2 hours free)

Within 3 calendar months of this resolution, the Development Manager be authorised to GRANT planning permission under delegated powers subject to the conditions and reasons set out below.

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

### APPROVED PLANS

Proposed Elevations	Plan Ref: 301	Version: B
Proposed Site Plan	Plan Ref: 304	Version: C
Proposed Site Plan	Plan Ref: 310	Version: C
Proposed Elevations	Plan Ref: 312	Version: B
Proposed Elevations	Plan Ref: 320	Version: A-02
Lighting Plan	Plan Ref: UNNUMBERED	Version: A
Tree Plan	Plan Ref: 1	Version: A

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

#### Reason

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

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

#### Reason

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

- 3 Notwithstanding the provisions of Article 3, Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) Order 2015

(including any Order revoking or re-enacting that Order with or without modification) the development hereby permitted shall only be used as a foodstore and for no other purposes (incidental or otherwise) including any use ordinarily permitted within use class A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (including any Order revoking or re-enacting that Order with or without modification).

Reason

To enable the Local Planning Authority to give due consideration to any other use at the site.

- 4 Prior the first use of the development details shall be submitted to and approved in writing by the Local Planning Authority of the public art to be displayed on the wall fronting Kings Road as shown on drawing no. 312 Rev B. These details shall include, but not be limited to the design ethos, appearance, size and materials. The details as agreed shall be those implemented on site within one month of the first use of the building and thereafter retained in the approved form.

Reason

To ensure the Local Planning Authority retain control over the public art to be displayed in the interests of visual and residential amenity.

- 5 No development shall commence before details of all external facing and roofing material to be used in its construction have been submitted to and approved in writing by the Local Planning Authority. Such materials as may be agreed in writing by the Local Planning Authority shall be those used in the development hereby permitted.

Reason

To ensure that the development does not prejudice the appearance of the locality. This matter must be dealt with prior to commencement as its requirements relate to details that will need to be in place at the construction stage.

- 6 The development hereby permitted shall be undertaken in strict accordance with the Tree Survey and Protection Plan (Drawing no. 1 Rev A) and the Arboricultural Method Statement as contained within the Arboricultural Impact Assessment produced by SES dated 15th June 2016.

Reason

To ensure the protection and longevity of the trees beyond the site boundaries.

- 7 Prior to the first use of the development hereby approved a scheme of landscaping shall be submitted to and approved in writing by the local planning authority. The scheme shall incorporate a detailed specification including plant/tree types and sizes, planting pit details, plant numbers and distances, soil specification, seeding and turfing treatment, colour and

type of material for all hard surface areas. All areas of hardstanding shall be constructed using porous materials laid on a permeable base unless otherwise agreed in writing by the local planning authority.

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

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

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

Reason

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

- 8 The use of the site hereby permitted shall not be open to customers and no deliveries shall be made to the site outside the hours of 08:00 - 22:00 Monday to Saturday and 10:00- 16:00 on Sundays, Bank and Public Holidays.

Reason

In the interests of residential amenity.

- 9 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 residential amenity.

- 10 No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
- The parking of vehicles of site operatives and visitors;
  - The loading and unloading of plant and materials;
  - The storage of plant and materials used in constructing the development;

- The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- Wheel washing facilities;
- Measures to control the emission of dust and dirt during construction;
- A scheme for recycling/disposing of waste resulting from demolition and construction works;
- 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.

- 11 Prior to the first use of the development hereby permitted details of the proposed improvements to the A131 Trinity Street/Kings Road mini roundabout and the proposed pedestrian crossing on Kings Road shall be submitted to and approved in writing by the Local Planning Authority. The details as agreed shall be implemented prior to the first use of the development hereby permitted.

**Reason**

In the interests of highway safety and to ensure improved access to/from the site for vehicles and pedestrians.

- 12 Prior to the first use of the development a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access to the site. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

**Reason**

To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety in accordance with policy DM1 of Essex County Council's Development Management Policies.

- 13 There shall be no discharge of surface water onto the highway.

**Reason**

To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1 of Essex County Council's the Development Management Policies.

- 14 The existing redundant access in Kings Road shall be suitably and permanently closed to the satisfaction of the Local Planning Authority, incorporating the reinstatement to full height of the footway and kerbing

prior to the first use of the development hereby approved.

Reason

To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety in accordance with policy DM1 of Essex County Council's Development Management Policies.

- 15 The provisions of the Travel Plan, produced by Waterman dated 19th August 2015 shall be adhered to at all times, unless otherwise approved in writing by the Local Planning Authority.

Reason

In the interests of sustainable development.

- 16 No development shall commence before details of all gates, fences, walls or other means of enclosure have been submitted to and approved in writing by the Local Planning Authority. The details as approved shall be those implemented on site, prior to the first use of the building hereby approved and thereafter retained in the approved form.

Reason

In the interests of visual amenity. This matter must be dealt with prior to commencement as its requirements relate to details that will need to be in place at the construction stage.

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

Reason

In the interests of residential amenity.

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

Reason

In the interests of residential amenity.

- 19 The provisions of the Remediation Strategy and Verification Plan, produced by GeoInvestigations dated September 2015 shall be strictly adhered to at all times, unless otherwise approved in writing by the Local Planning Authority.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised.

- 20 Prior to first use of the development a verification report demonstrating completion of the works set out in the Remediation Strategy and Verification Plan and the effectiveness of the remediation shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (long term monitoring and maintenance plan) for longer term monitoring and of pollutant linkages, maintenance and arrangements for contingency action and for the reporting of this to the Local Planning Authority. The long term monitoring and maintenance plan shall be implemented as approved.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised.

- 21 If, during development contamination not previously identified is found to be present at the site then no further development shall be carried out until the developer has submitted and obtained written approval from the Local Planning Authority for a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved.

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.

- 22 The car parking area and cycle shelter shall be provided on site and laid out as shown on drawing no. 310 Rev C, prior to the first use of the building and thereafter retained in the approved form.

Reason

To ensure that adequate car and cycle parking is provided on site for staff and customers to accord with policies RLP51 and RLP56 of the Local Plan Review.

- 23 Prior to the first use of the development hereby permitted details of the Community Notice Board shown on drawing no. 310 Rev C shall be submitted to and approved in writing by the Local Planning Authority. The Community Notice Board shall be provided as approved and erected within one month of the first use of the building.

Reason

In order for the Local Planning Authority to retain control of the design and appearance of the Community Notice Board in the interests of visual amenity and the character and setting of nearby listed buildings and the adjacent Conservation Area.

- 24 The lighting for the site shall be undertaken in strict accordance with Revision A of the submitted 'Car park Lighting Layout' drawing as produced by Phillips.

Reason

In the interests of visual and residential amenity.

- 25 Prior to the first use of the building hereby permitted details of the method of operation and hours of use of the lighting as shown on Revision A of the submitted 'Car park Lighting Layout' drawing as produced by Phillips, shall be submitted to and approved in writing by the Local Planning Authority. The details as agreed shall be that implemented on site in perpetuity.

Reason

To enable the Local Planning Authority to retain control over the lighting on site, in the interests of amenity.

- 26 No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented as approved, prior to first occupation of the development hereby permitted and should include but not be limited to:
- Survey results of the current drainage arrangements and calculations of the existing brownfield runoff rates
  - A breakdown of the pollution mitigation indices of the up-flo filter and petrol interceptor used to derive the indices provided in the simple index approach tool
  - An assessment of the location of the permeable paving with reference to recorded groundwater levels and demonstration that its performance will not be affected by this
  - A drainage plan showing the location of the proposed surface water drainage features

Reason

In order to prevent flooding by ensuring satisfactory storage/disposal of surface water and to ensure the effective operation of SuDS features over the lifetime of the development.

- 27 No development shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works has been submitted to, and approved in writing by, the local planning authority. The scheme shall be subsequently implemented as approved.

Reason

In order to accord with paragraph 103 of the NPPF which states that local planning authorities should ensure flood risk is not increased elsewhere by development.

- 28 No works shall take place until a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed in writing by the Local Planning Authority. Should any part be maintainable by a Maintenance Company, details of long term funding arrangements should be provided. The maintenance plan as agreed in writing by the Local Planning Authority shall be implemented as approved.

Reason

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

- 29 The person(s) and/or organisation responsible for the maintenance of the surface water drainage system, as identified within the Maintenance Plan required by condition 28 above, shall produce yearly logs/records in perpetuity of the maintenance of the surface water drainage system in accordance with the approved Maintenance Plan. The yearly logs/records of maintenance shall be available for inspection to the Local Planning Authority upon request.

Reason

To ensure that the surface water drainage systems are maintained, such they continue to function as intended to ensure mitigation against flood risk.

- 30 Prior to the first use of the development hereby permitted the raising of the land level in the area between Kings Road and the elevation of the building fronting on to Kings Road as shown on drawing no's 301 Rev B, 312 Rev B and 310 Rev C shall be undertaken and a minimum of 3 trees (the species of which are to be agreed under condition 7 of this permission) which shall be to a height no less than 2 metres at the time of planting shall be planted in this area as illustrated on drawing no. 320 Rev A-02. Any trees planted in this area which are removed or become seriously damaged or diseased within a period of five years from the completion of the development shall be replaced in the next planting season with others of the same size and species unless the Local Planning Authority gives written consent to any variation.

Reason

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



- 31 No development shall commence before details of the arch detailing on the south eastern elevation of the building (elevation labelled 'side elevation towards parking) as shown on drawing no. 312 Rev B and 301 Rev B have been submitted to and approved in writing by the Local Planning Authority. The details shall include, but not be limited to, the proposed materials and how the arches will be attached to the building. The details as agreed in writing by the Local Planning Authority shall be that implemented on site and thereafter retained in the approved form.

**Reason**

In order for the Local Planning Authority to retain control over the detailing of the building in the interests of visual amenity. This matter must be dealt with prior to commencement as its requirements relates to details that will need to be in place at the construction stage.

**INFORMATION TO APPLICANT**

- 1 Please note that in accordance with Government Legislation a formal application must be made to the Local Planning Authority when submitting details in connection with the approval of details reserved by a condition. Furthermore, a fee of £28 for householder applications and £97 for all other types of application will be required for each written request. Application forms can be downloaded from the Council's web site [www.braintree.gov.uk](http://www.braintree.gov.uk)
- 2 Your attention is drawn to the need to discharge conditions before development starts where it is a requirement of the condition/s. Development will be treated as having been commenced when any material change of use or material operation has taken place, pursuant to Section 56 of the Town and Country Planning Act 1990. A material operation means any work of construction in the course of the erection of a building, including: the digging of a trench which is to contain the foundations, or part of the foundations of a building; the laying of any underground main or pipe to a trench, the foundations, or part of the foundations of a building; any operation in the course of laying out or constructing a road or any part of a road; and any work of demolition of a building. If development begins before the discharge of such conditions then those conditions cannot be discharged and a breach of planning control will have occurred, which may result in enforcement action being taken.
- 3 The applicant is made aware that the totem and other signs referred to in the submitted drawings will require the benefit of advertisement consent and thus have not been considered as part of this application.
- 4 All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at

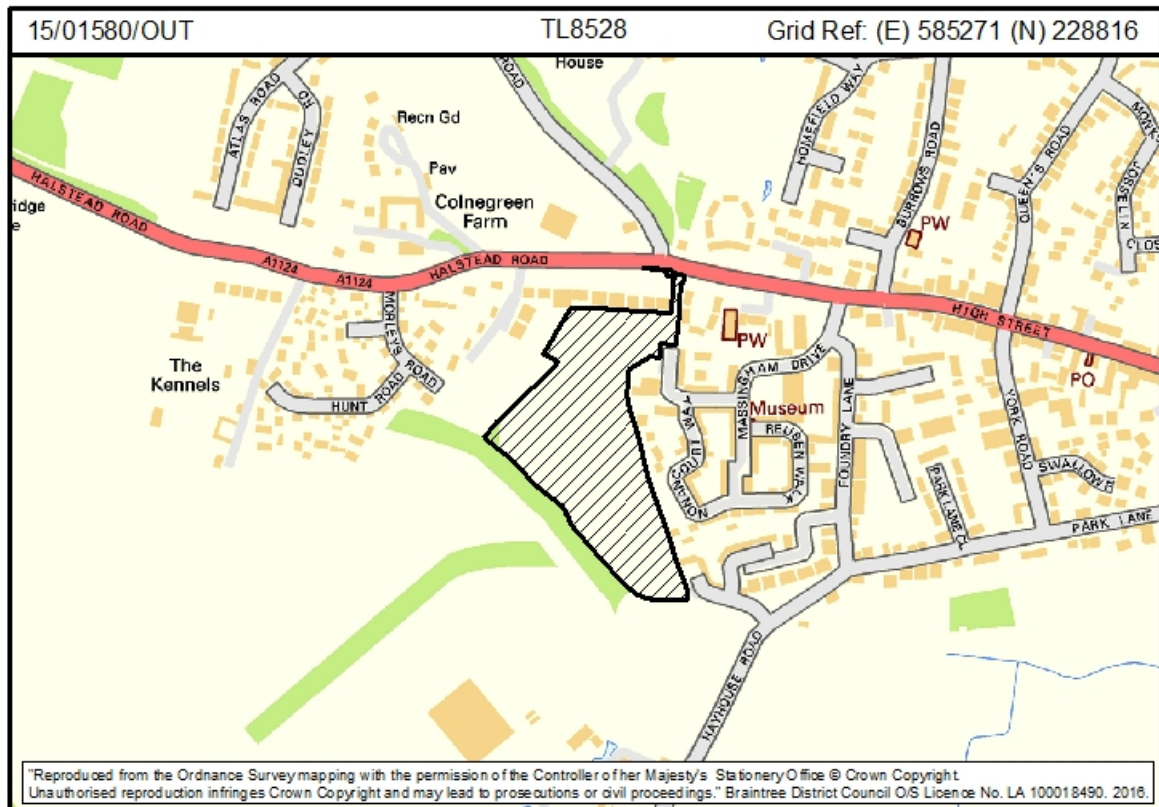
development.management@essexhighways.org or by post to: SMO1 -  
Essex Highways, Colchester Highways Depot, 653 The Crescent,  
Colchester, CO4 9YQ.

TESSA LAMBERT  
DEVELOPMENT MANAGER

PART A

APPLICATION NO: 15/01580/OUT DATE: 06.01.16  
 VALID:  
 APPLICANT: The Hunt Property Trust  
 C/o Agent  
 AGENT: Amec Foster Wheeler  
 Mr Stuart Williamson, Gables House, Kenilworth Road,  
 Leamington Spa, Warwickshire, CV32 6JX  
 DESCRIPTION: Outline planning application with all matters reserved  
 (except means of access on to Halstead Road and Thomas  
 Bell Road) to include: up to 80 dwellings (Use Class C3);  
 open space and associated ancillary works  
 LOCATION: Land South Of, Halstead Road, Earls Colne, Essex

For more information about this Application please contact:  
 Mr Neil Jones on:- 01376 551414 Ext. 2523  
 or by e-mail to: [neil.jones@braintree.gov.uk](mailto:neil.jones@braintree.gov.uk)



## SITE HISTORY

None

## POLICY CONSIDERATIONS

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

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

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

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

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

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

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

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

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

## National Planning Guidance

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

## Braintree District Local Development Framework Core Strategy

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

## Braintree District Local Plan Review

RLP3	Development within Town Development Boundaries and Village Envelopes
RLP7	Housing and Mixed Use Sites
RLP8	House Types
RLP9	Design and Layout of Housing and Mixed Use Areas
RLP10	Residential Density
RLP22	Accessible Housing and Lifetime Housing
RLP49	Pedestrian Networks
RLP50	Cycleways
RLP51	Cycle Parking
RLP54	Transport Assessments
RLP56	Vehicle Parking
RLP65	External Lighting
RLP69	Sustainable Urban Drainage
RLP70	Water Efficiency
RLP71	Water Supply, Sewerage & Drainage
RLP72	Water Quality
RLP74	Provision of Space for Recycling
RLP77	Energy Efficiency
RLP80	Landscape Features and Habitats
RLP81	Trees, Woodland Grasslands and Hedgerows
RLP90	Layout and Design of Development
RLP91	Site Appraisal
RLP92	Accessibility
RLP95	Preservation and Enhancement of Conservation Areas
RLP105	Archaeological Evaluation
RLP106	Archaeological Excavation and Monitoring
RLP138	Provision of Open Space in New Housing Developments

## Braintree District Draft Local Plan

SP1	Presumption in Favour of Sustainable Development
SP2	Meeting Housing Needs
SP4	Infrastructure and Connectivity
SP5	Place Shaping Principles
SP6	Spatial Strategy for North Essex
LPP16	Housing Provision and Delivery
LPP24	Affordable Housing

LPP28	Housing Type and Density
LPP36	Sustainable Access for All
LPP37	Parking Provision
LPP41	Broadband
LPP42	Built and Historic Environment
LPP43	Health and Wellbeing Impact Assessment
LPP44	Provision for Open Space, Sport and Recreation
LPP46	Layout and Design of Development
LPP50	Alterations, Extensions and Changes of Use to Heritage Assets and their Settings
LPP53	Archaeological Evaluation, Excavation and Recording
LPP56	Natural Environment
LPP57	Protected Species
LPP58	Enhancements, Management and Monitoring of Biodiversity
LPP59	Landscape Character and Features
LPP61	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP62	Energy Efficiency
LPP64	Renewable Energy within New Developments
LPP65	Surface Water Management Plan
LPP66	Sustainable Urban Drainage Systems
LPP68	External Lighting

#### SUPPLEMENTARY PLANNING GUIDANCE

Affordable Housing SPD  
Earls Colne Village Design Statement  
Open Spaces SPD & related Open Spaces Action Plan  
Parking Standards – Design and Good Practice (Essex County Council), 2009  
Essex Design Guide, 2005

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

This application is brought before the Planning Committee as the application is considered to be of significant public interest.

Representations have been received (13 letters from members of the public) objecting to the application, contrary to the Officer's recommendation to approve the application.

#### SITE DESCRIPTION

The application site is advised to cover 3.44 hectares and consists of an irregularly shaped area, located behind existing housing on the southern side of Halstead Road. The majority of the site is currently in use as agricultural land with arable crops. There are currently two gated accesses to the site – off the Halstead Road at the northern end of the site, between no.12 Halstead Road and Atlas Bungalows. The application states that this was the access to the former foundry works (Atlas Works) that used to exist to the east of the

site (now redeveloped). A second gated access is located at the southern end of the site, leading off Thomas Bell Road.

The land is generally level with a gentle fall across the site to the south. Within the arable field, at the northern end of the site there is a large Oak tree which is the subject of a Tree Preservation Order.

To the east of the site is the Atlas Works development. There are a number of dwellings located along this boundary, with dwellings facing onto the application site; standing side-on; or backing on. In addition to the dwellings there is also the Doctors Surgery and car park adjoining the site and further to the south, at Nonancourt Way, a children's play area. To the north of the site there is a row of semi-detached properties fronting the Halstead Road. These dwellings have an unconventional arrangement with generous front gardens, which form their main amenity area, with only very small gardens or yards to the rear, adjacent to the application site.

To the southern and western boundaries there are hedgerows or tree belts that provide some visual enclosure of the site from the open countryside beyond.

A small portion of the site, around the northern site entrance, is located within the Earls Colne Conservation Area. Whilst the vast majority of the site is outside the Conservation Area it directly abuts the Conservation Area boundary which runs along the northern and eastern site boundary. In addition there are two Grade II listed buildings close to the site – South Lodge and no's 1 & 2 Thatched Cottages - which are located directly opposite the existing site entrance on Halstead Road. Further to the east, along Halstead Road, there are numerous other Grade II listed buildings.

## PROPOSAL

This application seeks outline planning permission, with all matters reserved except access, for up to 80 dwellinghouses along with public open space and associated ancillary works.

The applicant proposes that the application site would be served by two separate vehicular accesses. One would be formed off Halstead Road – between no.10 & no.12 Halstead Road, close to the junction with Station Road – with the second vehicular access being formed off Thomas Bell Road at the southern end of the application site.

The applicant has submitted an 'Illustrative Masterplan' but as the title indicates this is for illustrative purposes only.

The application is also supported by a suite of supporting documents including: Design & Access Statement (DAS); Ecological Assessment; Flood Risk Assessment; Geo-Environmental Report; Heritage Statement; Planning Statement; Statement of Community Involvement; Transport Statement; and Utilities Plans.

## NOTATION

The application site is located outside the Earls Colne village development envelope, as designated in the documents that form the current adopted Development Plan – the Braintree District Local Plan Review (2005) and Core Strategy (2011).

The application site was included in the Pre Submission Site Allocation and Development Management Policy Plan (ADMP) and showed that it was proposed that the site had a mixed allocation with residential development parcels at the northern and southern ends of the site; a wide swath of Informal Open Space running east/west across the site; and a belt of structural landscaping along the northern boundary.

The site was also considered by Members of the Local Plan Sub-Committee on 25<sup>th</sup> May 2016 as part of the assessment of the Call for Sites for the new Local Plan. The Sub Committee agreed that the Officer recommendation that the site be included in the Local Plan – Draft Document for Public Consultation, with an allocation for residential development with open space.

The proposed allocation for the site is shown on Inset Map 21 (Earls Colne and White Colne West) of the recently published Local Plan – Draft document for Public Consultation. The site is again proposed to have a mixed allocation with the majority of the site being allocated for residential development with two separate areas proposed for informal recreation.

## CONSULTATIONS

**Anglian Water** – No response received to consultation. Anglian Water has promised a response will be submitted and this will be reported to Members at Committee.

**BDC Engineers (Surface Water Drainage)** – No comments

**BDC Environmental Services** – No objection subject to a condition requiring further investigation to ascertain the nature and extent of any contamination of the site.

**BDC Housing Enabling Officer** – In accordance with Policy CS2 of adopted Core Strategy 40% of the dwellings should be for affordable housing. If 80 residential dwellings were built this would equate to 32 homes. The Housing Enabling Officer would be supportive of this application provided it secures policy compliant affordable housing provision.

**Earls Colne Parish Council** - No objection.

**ECC Education** – No objection. There is sufficient capacity at the Earls Colne Primary School and Ramsay Academy, Halstead to meet the demand generated by the development so no financial contribution is sought. It has



subsequently been confirmed that a financial contribution would be sought to cover the cost of transporting secondary school pupils to school.

**ECC Highway Authority** – No objection subject to conditions controlling construction activity; the use of unbound surface materials; visibility splays; the formation of the access from Thomas Bell Road and Halstead Road; and the provision of Travel Information Packs to the first occupiers of the new dwellings.

**ECC Lead Local Flood Authority** – No objection. Initial consultation response required the submission of additional information concerning surface water drainage. Following the receipt of additional information from the applicant the LLFA have no objection to the application, subject to a number of conditions regarding Surface Water Drainage.

**Essex Police** – No response to consultation

**Highways England** – No comment on proposed development.

**Historic Buildings Adviser** – No objection. Recommended conditions to ensure that the proposed development would not harm the Conservation Area which abuts the application site.

**Historic Environment Adviser** – No objection, subject to a condition requiring an agreed programme of archaeological evaluation of the site prior to commencement of development.

**NHS** – No objection. Having assessed current capacity in the area and the size of this development no financial contribution is sought in this instance.

## REPRESENTATIONS

12 written representations have been received objecting to the application. The main issues referred to in these representations are listed below.

- Development is outside the designated Village Development Boundary
- The development is larger than the proposal that the Council had included within the Site Allocations and Development Management Policies Plan
- The site is not able to accommodate 80 dwellings – the indicative layout plan submitted - showing no visitor parking and garden sizes look to be too small
- Agricultural land / open space should not be built upon
- Local residents will have to endure noise, dust and disturbance during construction
- Highway safety – there should be a roundabout at the Station Road / Halstead Road junction. Traffic speed along Halstead Road often exceeds the 30mph speed limit. There are existing issues with the access to properties near the junction
- Access to the site via Hayhouse Road / Thomas Bell Road is not suitable

- Concerns about insufficient carriageway widths to accommodate traffic – particularly refuse trucks and courier vans and lorries. School and church activities both make accessing the site difficult at certain times of the day
- Local roads are already difficult to navigate due to on-street parking. Increased traffic will make these roads more difficult to navigate. No details are provided of parking restrictions which are proposed or will be required
- The development won't provide affordable housing which people can buy
- Better separation between new development and houses on Halstead Road is required
- Scale of development is unacceptable. It would harm the character of the village and be contrary to the Earls Colne Village Design Statement
- Development will be detrimental to occupiers of properties on Nonancourt Way
- There should be no access through the site between the northern and southern parts of the site
- Access to the enlarged GP surgery car park should be through the new development
- Enlargement of the GP surgery car park will not help – the problem is a lack of space
- Earls Colne is unable to support more houses, in addition to 56 dwellings approved in 2015. There are already problems with traffic; parking for the shops and school; access to appointments at the GP surgery
- Insufficient car parking provision in the layout for large houses
- There are better sites for housing development elsewhere in the District – around the main towns of Braintree and Witham, or where development would provide greater community benefits
- There is a shortage of Open Space within the village and this site was supposed to help address this. The proposed Open Space is too small.
- The development should provide equipped play facilities within their site
- The Transport Statement fails to consider impacts arising from schemes recently approved in Halstead
- There are overhead electric cables which cross the proposed Open Space area – these should be diverted underground to make the space useable
- Insufficient infrastructure in the village - capacity of highway network, GP surgery and schools
- Ecology – on, or near this site there are bats, barn owls and lizards
- The Council has already approved a scheme for 56 dwellings within the village. If approved this scheme would mean 136 extra dwellings in the village. The developments would have a detrimental impact on the character of the village and it's residents
- New housing should be on brownfield sites

In addition 2 further letters from members of the public have been received which make comments on the planning application. A summary of the key issues raised in these letters is set out below.

- The junction on the A1124 with Station Road and this development is inadequate especially when the development on land adjacent to Station Road is built. The assessment of this junction needs to consider traffic generated by both developments
- The proposal of additional land to the residents of Halstead Road needs to be a reasonable size
- Pedestrian / disabled access to the GP Surgery should be retained through Nonancourt Way but vehicular access should be through this development from Station Road
- Concerned about impact on neighbour amenity arising from the illustrative layout submitted with this application
- Housing should include bungalows and meet needs of ageing population
- Open space provided within the development should be 2-3 acres
- S106 money should be spent in the village
- Question whether all of the site is within the applicant's ownership

Correspondence was also received from another local resident concerning the Statement of Community Involvement (SCI) that was submitted as part of this application. The SCI stated that all residents of the housing development adjoining the site had been notified about the public consultation event. This was disputed by resident who lives next to the site. They stated that they had not received notification of the event and neither had a neighbour.

In response the planning agent advised that a distribution company had been engaged to deliver leaflets to all households in the village - some 1400 leaflets - to ensure that as many people as possible were informed. In addition a notice regarding the exhibition was published in the Local Newspaper and the Parish Council put up a poster at the village hall, as set out in the SCI. The public exhibition would appear to have been well publicised.

As a result of the representation from the neighbour the applicant has reissued the Statement of Community Involvement. This updated document reports the fact that some residents, including residents living immediately next to the site, reported that they had not received the leaflet. Member's attention is drawn to this amendment to the SCI that was originally submitted and appeared on the Council's website.

## REPORT

### Principle of Development

#### **Planning Policy Context – Housing**

Whilst the NPPF sets out the presumption in favour of sustainable development, planning law requires that applications for planning permission

must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework does not change the statutory status of the development plan as the starting point for decision making.

The application site is outside the Earls Colne village development envelope in the adopted Development Plan (the Braintree District Local Plan Review 2005 & Core Strategy 2011). The proposed development is therefore a departure from the Development Plan.

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

In accordance with paragraph 216 of the NPPF, from the day of publication the Council can give weight to the emerging Local Plans 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 currently affords some, limited weight to the emerging Draft Local Plan 2016.

It should also be noted that the Council was working on a Site Allocation and Development Management Plan (ADMP). This Plan was subject to extensive public consultation in 2013 and 2014. This document was not submitted to the Planning Inspectorate due to the Council taking the decision to begin work on a new Local Plan to take into account the most up to date government guidance. Parts of the ADMP, including many of the proposed site allocations, have been rolled forward into the draft Local Plan.

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

These provisions are of particular relevance to the determination of this application. Whilst the site is outside the designated development boundaries in the adopted Development Plan this is a site that the Council has identified as being suitable for residential development, both within the ADMP and the new Draft Local Plan.

Within the ADMP the site was identified for a residential development of 10 or more dwellings (site references EAR1H(N) & (S)) along with a substantial area of Informal Open Space between the two areas of proposed residential development.

Earls Colne was identified as a 'Key Service Village' in the Core Strategy (2011) and is proposed to retain the designation of a 'Service Village' in the Draft Local Plan. Although the name has changed 'Service Villages' occupy the same place in the settlement hierarchy that 'Key Service Villages' occupied in the Core Strategy. They are defined as being large villages with a good level of services including primary schools, primary health care facilities, convenience shopping facilities, local employment opportunities and links by public transport and road to the larger towns. The range of services and facilities available within the village contribute towards making it a location for Sustainable Development.

Policy SP6 of the Draft Local Plan states that '*New development will be focused on the principal settlements in each district. Below this level, each local authority will identify a hierarchy of settlements where new development will be accommodated according to the role of the settlement, sustainability, its physical capacity and local needs*'. The Core Strategy (2011) contained a spatial strategy which made similar provisions.

In light of the proposed spatial strategy and the fact that the site had previously been identified as being a suitable location for residential development a residential site allocation was brought forward in the Draft Local Plan.

It is noted that the area of the allocated site identified in the Draft Local Plan for residential development has increased (when compared to the allocation in the ADMP), and the area proposed for informal open space within the site has reduced. A number of objections to this application refer to the fact this fact.

Whilst the detail of the proposed site allocation has changed since the ADMP, to some extent this is a response to significant changes in national planning policy. The NPPF has significantly changed the way that local planning authorities are required to plan for housing growth and delivery and the Council has had to respond to this.

The NPPF requires local planning authorities '*To boost significantly the supply of housing*' going on to state that they should '*... ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework ...*' and be able to evidence '*a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land*'.

Because of these requirements the Council took the decision in June 2014 to not submit the ADMP for examination by the Planning Inspectorate. Officers

instead began work on a new Local Plan which will meet the requirements of the NPPF. The Core Strategy stated that the Council would plan for the delivery of a minimum of 4637 dwellings between 2009 and 2026 – this equates to a minimum of 272 dwellings per annum. Research undertaken by the Council's consultants has revealed that the District's Objectively Assessed Need is 845 dwellings per annum and this research forms a crucial part of the evidence base for the Draft Local Plan.

To meet this significantly higher level of housing supply the strategy set out in the Draft Local Plan is to concentrate growth in the most sustainable locations - that is, by adopting a spatial strategy that promotes development in the most sustainable locations, where there are opportunities for walking, cycling and public transport links to nearby shops, services and employment opportunities.

Draft Local Plan Policy LPP 16 (Housing Provision and Delivery) states that the Council will plan, monitor and manage the delivery of a minimum of 14,365 new homes between 2016 and 2033. These homes will be located primarily in the Towns and Service Villages and at ten specified strategic growth locations.

Officers consider that these factors all support the principle of developing this site for residential purposes. Irrespective of the proposed allocation of the site in the Draft Local Plan the Council acknowledges that in terms of what the NPPF requires, it does not have a deliverable 5 year supply of land for housing "*...that meets the full objectively assessed needs for market and affordable housing*", together with an additional buffer of 5%, as required under paragraph 47 of the NPPF. Its view as at May 31st 2016 is, therefore, that its forecast supply for the period 2016 - 2021 is 3.52 years, and for the period 2017 – 2022, 3.59 years. This does not mean that sites outside of existing development boundaries are automatically appropriate for new development as it states at Paragraph 14 of the NPPF that planning permission should only be granted where any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Officers recommend that the Council should determine this application on its merits, having regard to the principles of sustainable development set out in the NPPF and other relevant national and local planning policies and guidance.

As will be set out within the remaining sections of this report Officers do not consider that there are any adverse impacts that would significantly and demonstrably outweigh the benefits of the proposed development, when assessed against the NPPF as a whole.

### **Planning Policy Context – Open Space**

The allocation shown on Inset Map 21 in the Draft Local Plan does however indicate that the area of proposed informal open space would be less than had been shown on the Inset Map in the ADMP.

The site allocation in the ADMP included a large area of informal open space severing the site into two parcels allocated for residential development. The allocation of this large swathe of open space was a response to the consultation process, addressing a perceived shortfall in open space within the village and providing a buffer to properties adjoining the site on Nonancourt Way.

Objectors to this application have highlighted the reduction in the quantity of Open Space being offered by the applicant from the quantity proposed in the ADMP.

The submitted application includes an Illustrative Masterplan showing two areas of Public Open Space – one belt running east / west across the site next to the play area on Nonancourt Way – and the other area centred on the oak tree in the northern part of the site. The Planning Statement proposes that the development would provide for a minimum of 0.84ha of public open space.

Although the amount of land being offered as Open Space as part of this application is lower than the amount that was indicated in the ADMP allocation it remains well in excess of the level of provision that a development of this size would usually be required to provide.

Policy CS10 of the Core Strategy and the Open Spaces SPD combined specify that a development of 80 dwellings should, as a minimum, make provision for 0.415ha Public Open Space on-site. (This figure is calculated using the standards in the Core Strategy which requires a total of 2.2ha per thousand head of population, consisting of amenity greenspaces 0.8ha; Provision for children and young people 0.2ha; Parks and Gardens 1.2ha. Based on average occupancy levels 80 dwellings could be expected to have a population of 188 new residents with average occupancy of 2.36 people per dwelling).

Earlier consideration of the site sought a high level of informal recreation space to match the Parish Council's aspirations to increase the amount of this type of open space for the village. Although the Council had sought a higher level of open space through site allocation in the ADMP this was at a time when the Council had a lower housing target. In light of current planning policies Officers consider that the higher quantity of Open Space can no longer be justified and that the quantity of Open Space proposed, is acceptable in principle.

### **Village Design Statement**

A number of objectors have stated the proposed development is contrary to the Earls Colne Village Design Statement (VDS). Village Design Statements are advisory documents produced by communities to identify local character and set out design advice to help guide new development. The application site had no specific designation within the VDS. Although it is true that the VDS opposed the principle of the development of greenfield sites or significant expansion of the village, this document predates the NPPF and the

District Council identifying the site for allocation in the ADMP for housing development.

Having considered all these factors Officers conclude that there is no objection to the principle of developing the application site, subject to consideration of other relevant planning considerations including amenity, design, environmental and highway criteria.

### Design, Appearance and Layout

A Landscape Capacity Analysis for Earls Colne has recently been produced for the Council to provide evidential support to the Draft Local Plan. This report identifies the site as being within two parcels – 2f *The Croft* which has a medium-high landscape capacity to accept new development and 1c *Hayhouse Farm* which has a medium landscape capacity to accept new development.

The site is reasonably well contained and Officers consider that the development of the site would form a logical extension to the village and would not have an unacceptable impact on the wider landscape.

The site has been promoted by the applicant for residential development for a number of years. A number of submissions have been made which sought to increase the number of dwellings with as many as 90 dwellings being suggested and reduced provision of open space. The applicant argued that a higher number of dwellings would ensure that the scheme was viable and would allow for the delivery of local benefits including the extension to the car park to the doctor's surgery.

Although the areas for residential development and informal open space has been amended during the development of the ADMP and more recently the Draft Local Plan does not specified a maximum or minimum number of dwellings. The development capacity of sites will therefore need to be determined through site specific planning applications.

This application seeks outline planning permission for up to 80 dwellings with all matters reserved except access. Applications for outline planning permission seek to establish whether the scale and nature of a proposed development would be acceptable to the local planning authority, before a fully detailed proposal is put forward. Besides access to the two vehicular access points (off the A1124 / Halstead Road and Thomas Bell Road) all other matters regarding the development (appearance; landscaping; layout; and scale) are Reserved Matters so at this stage detailed assessment of the design, appearance and layout is not possible.

The applicant has submitted an Illustrative Layout to demonstrate what the future development could look like and that the scale and density of the proposed development would be acceptable.



The site is on the edge of the village and would if developed become the new urban edge to the settlement. The site has a number of constraints including the TPO Oak Tree within the site. The site also abuts the Earls Colne Conservation Area and there are two Grade II listed buildings opposite the main entrance to the site on Halstead Road (The South Lodge to Colne House and 1 & 2 Thatched Cottages). Core Strategy policy CS9 Built and Historic Environment states that, *"The Council will promote and secure the highest possible standards of design and layout in all new development and the protection and enhancement of the historic environment in order to:*

- *Respect and respond to the local context, especially in the District's historic villages, where development affects the setting of historic or important buildings, conservation areas and areas of highest archaeological and landscape sensitivity..."*

Local Plan Review Policy RLP95 Preservation and Enhancement of Conservation Areas states, *"The Council will preserve, and encourage the enhancement of, the character and appearance of designated Conservation Areas and their settings, including the buildings, open spaces and areas, landscape and historic features and views into and within the constituent parts of designated areas. Built or other development, within or adjacent to a Conservation Area and affecting its setting, will only be permitted provided that: (a) The proposal does not detract from the character, appearance and essential features of the Conservation Area; ...."* Policy RLP100 similarly states that the Council will seek to preserve and enhance the settings of listed buildings by appropriate control over the development, design and use of adjoining land.

The Council's Historic Buildings Adviser has no objected to the application. They consider that the development will not be within the setting of the Grade II listed buildings on the opposite side of Halstead Road. They are also satisfied that the development should not adversely affect the character or appearance of the Conservation Area, subject to detailed design at Reserved Matters stage.

The site area is 3.44 Ha. It is proposed that there will be 0.84ha of public open space provision. A development of 80 dwellings would result in a density of 30.8 dwellings per hectare (excluding open space).

The illustrative layout submitted with the application shows a potential scheme layout with 60 dwellings in the northern parcel of land, accessed from Halstead Road, and 20 dwellings in the southern parcel, accessed from Thomas Bell Road. The 0.84ha of open space is split between an area separating the two parcels of land and connecting to the existing open space on Nonancourt Way, with the other area around the TPO oak tree.

The number and mix of housing will be decided at Reserved Matters stage. The applicant advises that the Illustrative Layout has the following mix: 22% 4 bed houses; 32% 3 bed houses; 31% 2 bed houses; 15% 1 & 2 bed

maisonettes / houses; however this is not fixed and would form part of the Reserved Matters application.

Officers have identified a number of concerns about elements of the Illustrative Layout supplied with the application, including the relationship between new and existing dwellings; failure to provide the minimum back to back distance between new dwellings of 25m; the arrangement of the areas of public open space and the missed opportunity to link these areas. Although the Design & Access Statement states that the layout complies with the Council's adopted parking standards the provision of off-street visitor car parking is not clear.

Notwithstanding these concerns this application seeks outline permission for up to 80 dwellings and the applicant would have an opportunity to address concerns and develop a policy compliant layout at Reserved Matters stage. Detailed design matters, including the actual number and size of dwellings will be addressed at Reserved Matters stage. If there were problems accommodating up to 80 dwellings on the site in an acceptable manner then the mix of dwellings could be revisited with a greater proportion of smaller (1 & 2-bed) dwellings.

#### Impact on Neighbour Amenity

There are residential properties backing onto the site along the northern boundary and residential properties along the eastern boundary facing onto the site, backing onto the site or standing side onto the site.

The properties to the north on Halstead Road have relatively long front gardens, which form their main amenity area, with only a small area at the rear of the properties backing onto the site – the main body of the houses being approximately 7-8 metres from the boundary and single storey rear projections extending to within approximately 3 metres of the boundary.

The allocation in the ADMP had proposed an area of structural landscaping in this area. The Illustrative Layout does not show structural landscaping as indicated in the ADMP but the applicant has indicated that a strip of land 2-3 metres wide could be transferred to properties to the north to extend their rear gardens / yards. The illustrative layout also shows new dwellings backing onto the Halstead Road properties. This arrangement would not be acceptable to the Council as it would fail to meet the standards specified in the Essex Design Guide which states that there should be a minimum of 25m between the rear elevations of properties where these directly face each other, to protect against over-looking of habitable rooms and to provide a reasonable level of privacy within private amenity areas.

Officers do not consider that the Council can require the transfer of land to allow the Halstead Road residents adjacent to the site to extend their properties. Planning obligations may only constitute a reason for granting planning permission if they meet the statutory tests in the Community Infrastructure Levy Regulations 2010. The tests are that the obligation is

necessary to make the development acceptable in planning terms; is directly related to the development; and is fairly and reasonably related in scale and kind. Officers consider that the offer of this land does not fulfil all these tests as it is not necessary to make development acceptable in planning terms. Whilst there is a need to protect the amenities of future residents of this development and existing residents of Halstead Road this can be achieved through greater separation, as required by the Essex Design Guide. To ensure that future developers of this site are aware of the need to protect residential amenity along this boundary at Reserved Matters stage it is recommended that a condition is applied which specifies the minimum distance between the rear elevations of any new two storey dwelling on the site, and the rear elevation of the Halstead Road properties that abut the site.

With regards the eastern boundary the Illustrative Layout does show a narrow green corridor along part of the boundary. The properties on Nonancourt Way and The Castings have varying relationships with the site boundary. At Reserved Matters stage detailed consideration of the layout and landscaping scheme along these boundaries will be required and changes to the layout would be required, however it is not considered that the outline planning permission should be withheld as the principle of development is acceptable and concerns regarding neighbour amenity can be addressed as part of the Reserved Matters application(s).

### Highway Issues

This is an outline planning application with all matters Reserved, except for Access. Access to the proposed development is to be taken at two points. It is proposed that the site is split into two parcels for development with no vehicular access between the northern and southern parcels. This will prevent rat-running through the site and spread vehicular movements, reducing the number using either access.

The northern parcel of land will be accessed off Halstead Road in the location of an existing access onto the A1124 Halstead Road. This access is understood to have served the old Foundry. It is proposed that Halstead Road is modified creating a ghost island with right hand turn lanes serving both the access to the proposed development and Station Road. Each right hand turn lane is shown to accommodate two cars. It is also proposed that the wide bell mouth junction on Station Road is realigned and narrowed from 18m to 10m. The Transport Statement claims that these modifications will help reduce the speed of cars using the junction; provide a shorter crossing for pedestrians and improve visibility from the access to South Lodge, improving highway safety. The applicant has indicated that this access would serve approximately 60 dwellings.

The southern access will be formed off an existing turning head on Thomas Bell Road. This access point will serve approximately 20 dwellings. A number of objectors have referred to the width of Thomas Bell Road; the junction of Thomas Bell Road and Hayhouse Road; and the surrounding road network. It

is noted that a number of objectors raising highway concerns refer to problems with on-street parking and the enforcement of parking restrictions.

The Highway Authority has not objected to this arrangement and is satisfied that the access arrangements and impacts on the local highway network are acceptable.

The Highway Officer has noted that in this case the access layout is not of an appropriate standard that would allow Essex County Council to adopt the internal roads as highway. This in itself is not a reason for the Highway Authority to issue a recommendation of refusal as the proposals would not be detrimental to highway safety. From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to a number of conditions covering visibility splays; the detailed design of highway works; the use of unbound material in surface treatment; discharge of surface water from the development onto the highway; and Construction Management.

The developer will also be required to provide the occupants of each new dwelling with a travel pack containing information about bus travel, train travel, cycling, walking, taxi travel, car sharing, and community transport as is appropriate to this particular site. The aim is to promote the use of sustainable transport, and will contain a minimum of six one day travel vouchers for use with the relevant local operators.

Highways England has offered no objection to the proposal having considered the impact that this development would have on the strategic road network.

Amongst the issues raised by objectors regarding the highway implications of the development is that the Transport Statement supplied with this application did not take account of residential developments recently approved in Halstead (Central Piling & Oak Road). This concern has been raised with the Highways Officer and he has stated that those developments are too far away from the application site for it to be reasonable to include these within the Transport Statement.

The development of the site offers a number of opportunities to provide pedestrian links through to the site which will not only benefit residents of this development but also other members of the community, for example providing an alternative pedestrian route to the GP Surgery or towards the Primary School which is in the south of the village along Park Lane.

### Trees & Ecology

The Council's planning policies seek to retain quality trees and hedgerows where they have a high amenity value. The Council has made a Tree Preservation Order for the mature oak tree near the centre of the site. This is a significant tree and the applicant has stated that they intend to retain the tree and show this within an area of public open space on the Illustrative Layout.

The Council's Landscape Officer has advised that the layout should provide a suitable setting for the retained tree and enough space for it to flourish without anxieties from householders in proximity to the tree because it is too close to their properties at the edge of the open space. Officers would expect that at Reserved Matters stage the applicant demonstrate that proposed dwellings would be located outside the topple zone of the tree.

A preliminary ecological survey was undertaken to assess the site and to establish whether further protected species surveys were required. The initial Phase One survey of the site identified a limited variety of habitats within the site as the majority of the site was cultivated for agricultural production. The habitats that were observed on, or adjacent to the site, were assessed for potential to support protected species.

The ecological report identifies that the site or the surrounding area could support protected species including Great Crested Newts (GCN); bats; nesting birds; and Badgers.

Analysis of water bodies near the site indicate that GCN are not present in both water bodies that were surveyed and therefore this species is not likely to occur within terrestrial habitats within the Site. However, as the water bodies that were assessed as having 'average' suitability to support GCN, there is the possibility that GCN could colonise these ponds in the future. It is recommended that if more than two years elapse from the date of the surveys before development works commence, the surveys should be repeated.

Although there are records of a badger sett within 1km of the site the applicants survey did not reveal badger setts within the application site, or where land was accessible within 30 metres of the site. The report concludes that further detailed surveys for badgers on, or close to the site, will be required prior to the submission of Reserved Matters applications.

The site and the immediate environment contains habitats suitable for bat roosts and foraging including the mature oak tree in the site being identified as having potential as a roost. The applicant's ecologist has stated that the tree will not be directly affected by the proposed residential development as it will be retained within an area of Public Open Space.

Although no roosts were observed by the ecologist they advise that further surveys will be required prior to submission of Reserved Matters so that the detailed proposals for the development take account of potential roost sites.

The hedgerows and woodland around the margins of the Site which provide potential foraging habitat for bats will be retained within the proposed development. The mature oak which also provides a potential foraging resource will also be retained, and will be located in an area of open space which could be connected to the western Site boundary, maintaining flight lines to the tree.

In order to ensure that the detailed design of the development incorporate any measures required to minimise any adverse effects on foraging bats, it is recommended that bat activity surveys are also undertaken prior to submission of a Reserved Matters application.

Street lighting within the proposed development could have an adverse impact on the bat population so a condition is recommended requiring submission of a lighting strategy at Reserved Matters stage to demonstrate that lighting will be appropriately designed. Conditions are also required to ensure that protected species are not on site before construction commences.

### Surface Water Drainage

The site is currently largely undeveloped and is therefore considered to be 'greenfield'. The introduction of built development will affect the flows of surface water runoff from the site. The applicant has submitted a Flood Risk Assessment which includes information indicating in principle how the surface water from the development could be dealt with.

The applicant has stated that there is likely to be a need for detention basins/swales within the site to allow surface water to be controlled and discharged at a controlled rate equivalent to the rate of greenfield run-off.

Indicative positions for the detention basins and swales are shown within the Flood Risk Assessment (FRA) within areas of Public Open Space. The FRA states that the attenuation volume needed to serve the development is 1220m<sup>3</sup> although the FRA states the Engineers believe that it is possible that the geology of the site may allow for infiltration basins which would discharge at surface water into the water table.

As this is an outline application a detailed surface water drainage strategy will be developed as part of the detailed design process. The LLFA have recommended that the detailed surface water strategy should be submitted and approved prior to commencement of development, however in this instance it is considered appropriate that this information is submitted at Reserved Matters stage so that the Council can be satisfied that the design and layout of the development can incorporate the required attenuation measures. The applicant is aware that it is the Council's expectation that the areas of Public Open Space are useable spaces for informal recreation and would not be dominated by SuDS attenuation features.

### Planning Obligations / Section 106 Agreement

#### Affordable Housing

The Council's Housing Research & Development Officer confirms that there is a strong housing need in Earls Colne and the surrounding villages. In accordance with Policy CS2 of the adopted Core Strategy this proposed development would be required to provide 40% affordable housing on-site. This is an outline application for up to 80 dwellings, so the affordable housing

provision could be up to 32 units, although the actual number and mix would be dependent on the number of units that are agreed at Reserved Matters stage.

### Open Space

The applicant's Illustrative Layout shows two principal areas of Public Open Space – one centred on the TPO Oak Tree and the other running east / west across the site next to the play area on Nonancourt Way. A landscaped strip is also shown on part of the eastern boundary. The quantity of open space is shown to be 0.84ha.

As with other elements of the layout Officers have some concerns over the arrangement of the Open Space and the connectivity between the different areas, however these matters would be considered as part of the Reserved Matters application. The S106 should however specify that the development provide not less than 0.84ha of Public Open Space.

The applicant has indicated that they would be willing to transfer the larger area of Public Open Space to the Parish Council for them to own and manage, however the Parish Council have advised Officers that would not wish to assume responsibility for the Open Space. As a result the S106 will need to make provisions for the Open Space within the development to be transferred to a Management Company. The precise location and design of the Open Spaces will need to be agreed at Reserved Matters stage.

The Council's Open Spaces SPD indicates that a development of this size should provide an equipped children's play area. There is a play area adjoining the site on Nonancourt Way which is owned and managed by the District Council. This area was transferred to the District Council at a time when the Council took on the management of Open Spaces within new housing developments. The Council's policy (since 2003/04) is that it will not accept transfers of Open Space within new developments and the new play area will also need to be managed by the Management Company. The details of the new play area and how this would supplement the existing provision should be submitted as part of the Reserved Matters application.

There are 11kV overhead electricity cables crossing the site over the larger area of Public Open Space shown on the Illustrative Layout. For the whole of this area to be useable and safe for all types of potential recreation these cables should be diverted underground prior to the laying out and first use of the Open Space.

The District Council owns the open space adjacent to the site at Nonancourt Way and to aid integration of the proposed development into the existing village there should be a requirement within the S106 that at Reserved Matters stage that a pedestrian link shall be agreed, connecting the site to Nonancourt Way across the Open Space.

## **Education**

A number of representations refer to the village Primary School being unable to accommodate all the children from this development who would need places, along with the children from the recently consented scheme at Station Road.

The Education Authority has stated that they anticipate a surplus of 68 places at the village primary school by 2019-20 which would more than accommodate demand generated by a development of this size. The village is also within the priority admission area for the Ramsay Academy in Halstead which also has a surplus of spaces. The County Council have requested a financial contribution towards the cost of transport for secondary school pupils as there is no safe pedestrian route between the village and Halstead. It is not possible to calculate the exact level of contribution as this will depend on the number of dwellings, with two or more bedrooms, that come forward at Reserved Matters stage. A formula can then be used to calculate the likely number of secondary school pupils multiplied by the daily cost of school transport (currently £4.30 per pupil) x 190 days (school academic year) x 5 (years).

## **Healthcare**

Similarly the NHS has advised that they assess that there is adequate capacity at the existing Pump House surgery on the Foundry estate in the village.

The Parish Council identified an issue with the current parking provision for a surgery through the preparation of the ADMP. In addition to a shortage of spaces the current configuration of the car park does not allow easy manoeuvrability.

The application has proposed that land could be made available to extend the existing car park that serves the GP Surgery immediately adjacent to the application site. This is shown on the submitted masterplan with land included as a car park extension immediately north of the current car park, essentially squaring the current car park off and providing sufficient land for 5 additional parking spaces. Whilst the applicant has offered the land, the car park extension does not form part of this application. In the event that the Practice decides to extend the car park they would be responsible for obtaining planning permission and for commissioning and paying for the works.

The extension to the car park would help address an existing issue, providing improved community facilities. By making better parking provision it will also reduce the likelihood of visitors to the surgery using roads within the proposed development for parking. The applicant will need to identify on a plan an area of land to be offered for this purpose and this matter should be controlled through the s106 agreement.



## Other Matters

### **Archaeology**

The application includes a Desk Based Assessment of the site's potential archaeological value. The site is adjacent to the historic extent of the town and is close to the 19<sup>th</sup> Century Atlas Iron-Works. The Council's Historic Environment Adviser has stated that the location of the site and its largely undisturbed nature means that there is the potential for archaeological remains. The proposed development could potentially disturb or destroy any preserved below ground archaeological remains that exist. There is a need to assess whether there are archaeological remains through a programme of fieldwork and this will be covered by condition.

### CONCLUSION

Para.49 of the NPPF makes it clear that housing applications should be considered in the context of the presumption in favour of sustainable development and that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. In such circumstances, the local planning authority must undertake the 'planning balance' to consider whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or whether specific policies in the Framework indicate development should be restricted.

The Council have previously proposed that residential development be allocated at this site through work undertaken to prepare a new Local Plan. The Council included this site within the ADMP and more recently Members of the Local Plan Sub-Committee approved the inclusion of the site in the Draft Local Plan which has been published for public consultation.

Whilst the Council continues to work on the Draft Local Plan, the applicant wants to bring the site forward for development without further delay. Officers consider that the site is in a relatively sustainable location, being on the edge of Earls Colne which is identified in the Development Plan as a Key Service Village.

The scheme is considered to provide *economic benefits* (development will involve design and construction work), as well as helping to support local services, facilities and employment), *social benefits* (financial contributions towards improvements to health care and education; housing – which will contribute towards meeting the Council's supply of housing and the national requirement to have a 5-year supply of land. Other benefits include affordable housing, new Public Open Space and measures to promote the use of more sustainable form of transport and *environmental benefits* (the potential to enhance the ecological value of the site; provision of open space of environmental benefit; additional planting).

The presumption in favour of sustainable development is at the heart of national planning policy, as articulated through the NPPF. Sustainable development is development that can demonstrate that it balances economic, social and environmental factors and in this case it is considered that the development can be considered to be a more sustainable form of development, subject to planning conditions and the S106 agreement. Having assessed the proposed development Officers consider that the limited adverse impacts of granting planning permission would not outweigh the benefits and accordingly this application is recommended for approval.

Whilst there are issues raised by the Illustrative Layout provided in support of the application Officers do not consider that these would warrant refusal of the application. The applicant still proposes to create a significant area of land for use as Public Open Space and it is considered that the remainder of the site could accommodate up to 80 dwellings in a manner which would comply with relevant planning policies.

### RECOMMENDATION

It is therefore RECOMMENDED that subject to the applicant entering into a suitable legal agreement pursuant to S106 of the Town and Country Planning Act 1990 (as amended) to cover the following Heads of Terms:

- Affordable Housing (40% of units provided on-site)
- Pedestrian link to Nonancourt Way
- Provision of a minimum of 0.84ha of on-site Public Open Space including Equipped Play Area and suitable management arrangements for the On-Site Public Open Space within the site
- Financial contribution towards secondary school transport
- Land to be offered for the possible extension to the car park at The Pump House Doctors Surgery

The Development Manager be authorised to GRANT planning permission under delegated powers subject to the conditions and reasons set out below.

Alternatively, in the event that a suitable planning obligation is not agreed with three calendar months of the date of the resolution to approve the application by the Planning Committee the Development Manager may use her delegated authority to refuse the application.

### APPROVED PLANS

Location Plan	Plan Ref: 37157-LEA018B
Access Details	Plan Ref: 37157-LEA002A

#### 1 Details of the:-

- (a) scale, appearance and layout of the building(s); and the
- (b) 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 3 years from the date of this permission.

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.

Reason

The particulars submitted are insufficient for consideration of the details mentioned and also pursuant to Section 92 of the Town and Country Planning Act 1990.

- 2 Details of appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason

In order to comply with Section 92 of the Town and Country Planning Act 1990 and as the outline application as submitted does not give particulars sufficient for consideration of these reserved matters.

- 3 No development or preliminary ground works of any kind shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the local planning authority.

Reason

The site may be of archaeological interest.

- 4 The landscaping scheme required by Condition 1 of this permission shall incorporate a detailed specification of hard and soft landscaping works. This shall include plant/tree types and sizes, plant numbers and distances, soil specification, seeding and turfing treatment, colour and type of material for all hard surface areas and method of laying, refuse storage, signs and lighting.

All areas of hardstanding shall be constructed using porous materials laid on a permeable base unless otherwise agreed in writing by the local planning authority.

All planting, seeding or turfing contained in the approved details of the landscaping scheme shall be carried out in phases to be agreed as part of

that scheme by the local planning authority.

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

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

#### Reason

Landscape planting will add character to the development and it is considered desirable for these to be dealt with concurrently with the other details and to enhance the appearance of the development and in the interests of amenity and privacy and to ensure adequate provision of amenity/open space to serve and enhance the development.

- 5 As part of the submission of the first reserved matters application as detailed within Condition 1, an Arboricultural Method Statement (AMS) shall be 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 (to include frequency of visits; and key works which will need to be monitored) and how they will record their monitoring and supervision of the site.

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

Following each site inspection during the construction period the Project Arboricultural Consultant shall submit a short report to the local planning authority.

The approved means of protection shall be installed prior to the commencement of any building, engineering works or other activities within that Phase of the development 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 hedge. These details are required prior to the determination of the application to ensure that the development does not prejudice the long term retention of trees of value. These details are also required prior to the commencement of the development as they relate to measures that need to be put in place prior to development commencing.

- 6 Prior to submission of the first application for Reserved Matters, as required by Condition 1, pursuant to this planning permission an updated survey of the application site will have been carried out by a suitably qualified and experienced ecologist to investigate the potential presence on the application site of badgers, as specified in the Ecological Assessment (AMEC Foster Wheeler, December 2015).

Details of the methodology, findings and conclusions of the survey shall be submitted to the local planning authority for approval as part of the first application for Reserved Matters pursuant to this planning permission.

#### Reason

To allow adequate consideration of protected species which might be present on the site when assessing detailed proposals for the development and to allow potential impacts resulting from development to be taken into account and mitigated.

- 7 Prior to submission of the first application for Reserved Matters, as required by Condition 1, pursuant to this planning permission an updated survey of the application site and the immediate surrounding area will have been carried out by a suitably qualified and experienced ecologist to investigate the potential presence on the application site of bat roosts and bat foraging, as specified in the Ecological Assessment (AMEC Foster Wheeler, December 2015).

Details of the methodology, findings and conclusions of the survey shall be submitted to the local planning authority for approval as part of the first application for Reserved Matters pursuant to this planning permission.

#### Reason

To allow adequate consideration of protected species which might be present on the site when assessing detailed proposals for the development and to allow potential impacts resulting from development to be taken into account and mitigated.

- 8 In the event that development commences after August 2017 then prior to commencement of development an updated survey for Great Crested Newts should be undertaken prior to works commencing to ensure that no Great Crested Newts have not colonised the site or nearby water bodies as specified in the Ecological Assessment (AMEC Foster Wheeler,

December 2015). The findings of the survey and any additional mitigation measures proposed submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.

#### Reason

To ensure the survival and protection of important species and those protected by legislation that could be adversely affected by the development and to allow potential impacts resulting from development to be taken into account and mitigated. This information is required prior to the commencement of the development to ensure that protected species are not adversely affected by the commencement of the development.

- 9 Prior to the commencement of development a comprehensive survey shall be undertaken to assess the nature and extent of any contamination on the site, a copy of the survey findings together with a remediation scheme to bring the site to a suitable condition in that it represents an acceptable risk shall be submitted to and agreed in writing with the Local Planning Authority prior to the commencement of development.

Formulation and implementation of the remediation scheme shall be undertaken by competent persons and in accordance with 'Model Procedures for the Management of Land Contamination, CLR 11'. Further advice is available in the 'Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers'. Such agreed measures shall be implemented and completed prior to the commencement of development hereby approved.

Notwithstanding the above, should contamination be found that was not previously identified or not considered in the remediation scheme agreed in writing with the Local Planning Authority, that contamination shall be made safe and reported immediately to the Local Planning Authority. The site shall be re-assessed in accordance with the above and a separate remediation scheme shall be submitted to and agreed in writing with the Local Planning Authority. Such agreed measures shall be implemented and completed prior to the first occupation of any parts of the development.

The developer shall give one-month's advanced notice in writing to the Local Planning Authority of the impending completion of the remediation works. Within four weeks of completion of the remediation works a validation report undertaken by competent person or persons and in accordance with the 'Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers' and the agreed remediation measures shall be submitted to the Local Planning Authority for approval. There shall be no residential occupation of the site (or beneficial occupation of the office building hereby permitted) until the Local Planning Authority has approved the validation report in writing. Furthermore, prior to occupation of any property hereby permitted, the developer shall submit to the Local Planning Authority a signed and dated certificate to confirm that the

remediation works have been completed in strict accordance with the documents and plans comprising the remediation scheme agreed in writing with 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. This information is required prior to the commencement of development to ensure that development activity does not mobilise pollutants prior to these details being agreed.

- 10 As part of the submission of the first reserved matters application as detailed within Condition 1, the application shall be accompanied by a detailed surface water drainage scheme for the site, based on sustainable drainage principles and as assessment of hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented prior to occupation and shall include but not be limited to:

- Further investigation into the viability of infiltration drainage. Following further investigation should it be found that infiltration is not possible at reasonable rates then water should be discharged from the site at no more than the greenfield 1 in 1 year rate for all events up to the 1 in 100 year event plus 30% climate change.
- Provide sufficient storage for the 1 in 1 year event plus 30% climate change and provide an additional 10% allowance to cater for urban creep over the lifetime of the development.
- Ensure suitable treatment for all elements of the development in line with the CIRIA SuDS Manual (C753)

**Reason**

To ensure a satisfactory method of surface water drainage and to demonstrate that the proposed layout of the development has made suitable provision for surface water drainage attenuation.

- 11 The development hereby permitted shall not be commenced until such time as a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.

**Reason**

The National Planning Policy Framework paragraph 103 states that local planning authorities should ensure flood risk is not increased elsewhere by development.

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

- 12 Prior to commencement of the development the applicant must submit a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies. The development shall be carried out and managed in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Reason

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

- 13 The applicant, or any successor in title, must maintain yearly Maintenance Logs for maintenance of the approved surface water drainage scheme which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

Reason

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

- 14 Prior to occupation of the first dwelling the provision of the right turn lanes, pedestrian refuge island and associated works on Halstead Road shall be implemented as shown in principle on drawing 37157-Lea002A.dwg dated November 2015, details of which shall have been previously submitted to and agreed in writing by the Local Planning Authority.

Reason

To help mitigate the impact of the development on the local road network and to ensure that the access to the site is safe and is not detrimental to highway safety.

- 15 Prior to occupation of the first dwelling the provision of the access onto Thomas Bell Road shall be implemented as shown in principle on drawing 37157-Lea25.dwg, details of which shall have been previously submitted to and agreed in writing by the Local Planning Authority.



Reason

To help mitigate the impact of the development on the local road network and to ensure that the access to the site is safe and is not detrimental to highway safety.

- 16 Prior to occupation of the development, the access onto Halstead Road at its centre line shall be provided with a visibility splay with dimensions of 2.4 metres by 88 metres to the west and 2.4 metres by 83 metres to the east, as measured from and along the nearside edge of the carriageway. The area within each splay shall be kept clear of any obstruction exceeding 600mm in height at all times

Reason

To provide adequate inter-visibility between the users of the access and the existing public highway for the safety and convenience of users of the highway and of the access.

- 17 No unbound material shall be used in the surface treatment of the vehicular access where it joins Halstead Road and Thomas Bell Road within 10 metres of the highway boundary.

Reason

To avoid displacement of loose material onto the highway in the interests of highway safety.

- 18 There shall be no discharge of surface water from the development onto the highway.

Reason

To prevent hazards caused by flowing water or ice on the highway.

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

- a. the parking of vehicles of site operatives and visitors
- b. loading and unloading of plant and materials
- c. storage of plant and materials used in constructing the development
- d. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- e. wheel and underbody washing facilities
- f. measures to control the emission of dust and dirt during construction
- g. a scheme for recycling/disposing of waste resulting from demolition and construction works

- h. a scheme to control noise and vibration during the construction phase, including details of any piling operations
- i. details of construction traffic routing and site access

The approved Plan shall be adhered to throughout the construction period.

Reason

To protect the amenities of the occupiers of nearby residential properties and the surrounding area and in the interests of highway safety. This information is required prior to the commencement of development activity to ensure adequate arrangements are put in place to protect neighbour amenity and highway safety prior to the works commencing.

- 20 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.

- 21 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.

- 22 Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by the Local Planning Authority, to include six one day travel vouchers for use with the relevant local public transport operator. The approved pack shall be provided to the first occupiers of each new residential unit on the development site.

Reason

In the interests of fostering sustainable travel patterns.

- 23 The first reserved matters application submitted in accordance with Condition 1 shall include full details of the design and layout of a new Children's Play Area located within the Public Open Space within the application site.

Reason

To ensure the provision of high quality and safe equipped play area for the enjoyment of the public and to help encourage active lifestyles and promote health and well-being.

- 24 A site-wide design guide for all areas of public realm, including the incorporation of public art, shall be submitted to and approved in writing by the local planning authority prior to the approval of any reserved matters application. All reserved matters submissions shall accord with the approved site wide guidance, unless otherwise agreed in writing by the local planning authority. The agreed strategy shall be implemented within 12 months of occupation of the first dwelling being occupied.

Reason

In the interests of good design and ensuring a high quality and characterful development and promoting social and cultural well-being.

- 25 Each Reserved Matters application that seeks approval of appearance, layout or scale of the building(s) as detailed within Condition 1, shall be accompanied by full details of the location and design of the refuse bins and recycling materials separation, storage areas and collection points. Where the refuse collection vehicle is required to go onto any road, that road shall be constructed to take a load of 26 tonnes. No dwelling shall be occupied until the refuse bins, and where applicable, storage areas and collection points, for that dwelling have been provided and are available for use.

Reason

To meet the District Council's requirements for recycling, to prevent the unsightly storage of refuse containers and in the interests of amenity and sustainability.

- 26 No development shall commence until a Landscape and Ecology Management Plan (LEMP), to specify long term habitat management prescriptions, and based upon the approved detailed landscape scheme, has been submitted to and approved in writing by the local planning authority. The LEMP should reference the recommendations contained within the Ecological Assessment (AMEC Foster Wheeler, December 2015) and shall specify the timing of the delivery of the Plan. The development shall be implemented in accordance with the approved details and thereafter so maintained.

Reason

In the interests of protecting and enhancing biodiversity.

- 27 Each Reserved Matters application as detailed within Condition 1, shall be accompanied by a Lighting Scheme. The details of the lighting scheme shall include a layout plan with beam orientation and a schedule of equipment in the design (luminaire type, mounting height, aiming angles,

luminaire profiles and energy efficiency measures). All lighting shall be installed, maintained and operated in accordance with the approved details prior to the occupation of the development. There shall be no other sources of external illumination unless otherwise agreed in writing by the local planning authority.

Reason

In the interest of promoting sustainable forms of development and minimising the environmental, ecological and amenity impact.

- 28 The layout of the development shall ensure that a minimum back-to-back distance of 25 metres is provided between any proposed dwellings exceeding one-storey height and the rear face of the dwellings at no. 12-24 Halstead Road.

Reason

To ensure a satisfactory relationship between existing and new dwellings in order to protect the amenities of the occupiers of nearby residential properties and of the occupiers of the residential properties hereby permitted.

- 29 Prior to the completion of the Public Open Space with the application site the overhead electricity cables crossing the site east / west shall be diverted underground.

Reason

To ensure adequate provision of high quality, useable amenity/open space to serve and enhance the development.

INFORMATION TO APPLICANT

- 1 Please note that in accordance with Government Legislation a formal application must be made to the Local Planning Authority when submitting details in connection with the approval of details reserved by a condition. Furthermore, a fee of £28 for householder applications and £97 for all other types of application will be required for each written request. Application forms can be downloaded from the Council's web site [www.braintree.gov.uk](http://www.braintree.gov.uk)
- 2 Your attention is drawn to the need to discharge conditions before development starts where it is a requirement of the condition/s. Development will be treated as having been commenced when any material change of use or material operation has taken place, pursuant to Section 56 of the Town and Country Planning Act 1990. A material operation means any work of construction in the course of the erection of a building, including: the digging of a trench which is to contain the foundations, or part of the foundations of a building; the laying of any underground main or pipe to a trench, the foundations, or part of the foundations of a building; any operation in the course of laying out or constructing a road or any part of a road; and any work of demolition of a

building. If development begins before the discharge of such conditions then those conditions cannot be discharged and a breach of planning control will have occurred, which may result in enforcement action being taken.

- 3 All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to The Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate Notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway.
- 4 All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works. An application for the necessary works should be made to [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or SMO1 - Essex Highways, Colchester Highways Depot, 653, The Crescent, Colchester Business Park, Colchester, CO4 9YQ
- 5 The applicant is advised that due to the design of the proposed access onto Halstead Road the development is not of an adoptable design. Therefore the development would not be adopted by the Highway Authority once constructed.
- 6 Your attention is drawn to condition 3 of this planning permission and that there may be archaeological remains on the site. Any financial implications resulting from the need for archaeological investigation and subsequent protection measures are the responsibility of the developer/applicant. In respect of these requirements, you are advised to contact the Essex County Council, Historic Environment Branch (Teresa O'Connor, 01245 437638).
- 7 You are advised that trees on the site are the subject of a Tree Preservation Order. No tree, the subject of a Tree Preservation Order may be lopped, topped, felled or uprooted without permission under the Order. It is an offence to carry out any works to a preserved tree without such consent having previously been obtained from the local planning authority.
- 8 You are advised that the granting of planning permission does not absolve you from complying with the relevant law regarding protected species, including obtaining and complying with the terms and conditions of any licenses required by Part IV B of the Circular 06/2005 (Biodiversity and Geological Conservation - Statutory Obligations)
- 9 In respect of the contamination conditions, the contamination

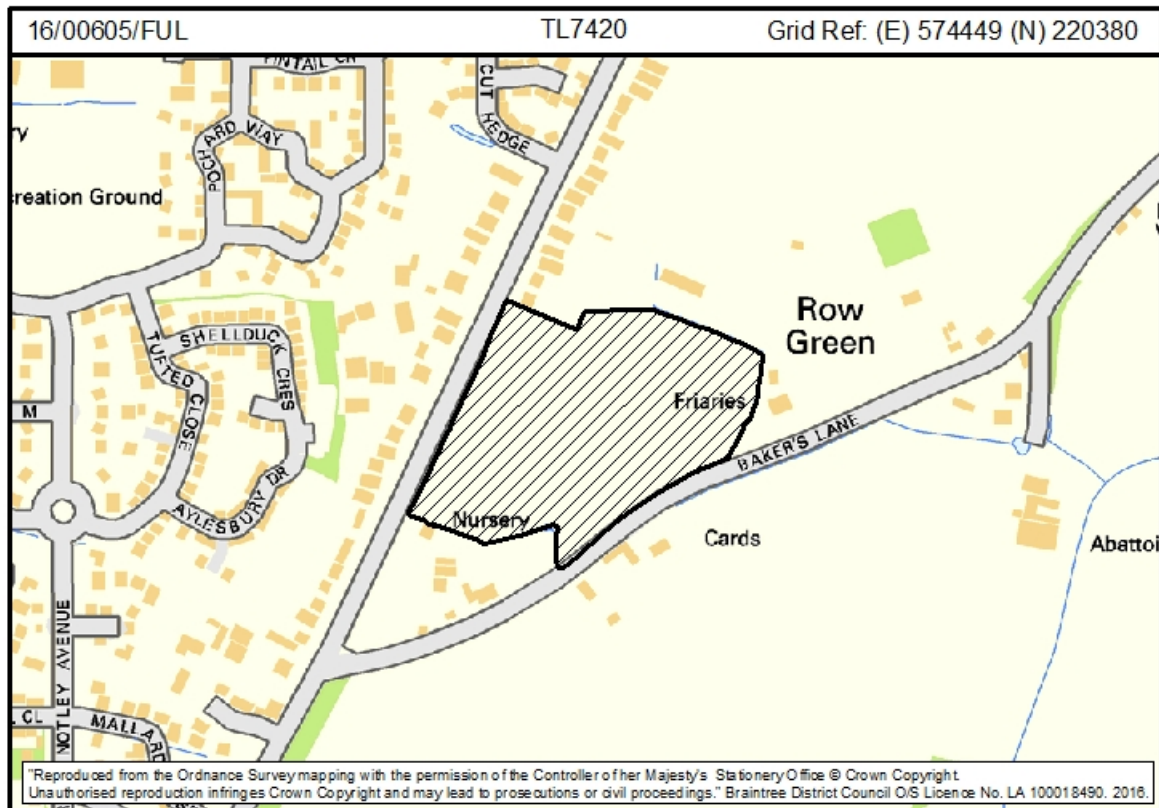
investigation, risk assessment and remediation strategy shall be undertaken by competent person(s) and in accordance with 'Model Procedures for the Management of Land Contamination, CLR 11'. Further advice is available in the 'Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

TESSA LAMBERT  
DEVELOPMENT MANAGER

PART A

APPLICATION NO: 16/00605/FUL DATE: 21.04.16  
 VALID:  
 APPLICANT: Crest Nicholson Eastern  
 C/o Agent  
 AGENT: Barton Willmore  
 Mr Andrew Wilford, The Observatory, Southfleet Road,  
 Ebbsfleet, Dartford, Kent, DA10 0DF  
 DESCRIPTION: Erection of 96 residential dwellings (inc Affordable Housing)  
 and the creation of a new primary vehicular access from  
 London Road and new vehicular accesses from London  
 Road and Bakers Lane. The provision of open space (inc  
 children's play area), sustainable urban drainage systems;  
 associated landscaping, infrastructure and earthworks.  
 LOCATION: Land Adjacent, Bakers Lane, Black Notley, Essex

For more information about this Application please contact:  
 Mr Neil Jones on:- 01376 551414 Ext. 2523  
 or by e-mail to: [neil.jones@braintree.gov.uk](mailto:neil.jones@braintree.gov.uk)



## SITE HISTORY

None.

## POLICY CONSIDERATIONS

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

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

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

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

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

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

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

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

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

### National Planning Guidance

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



## Braintree District Local Development Framework Core Strategy

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

## Braintree District Local Plan Review

RLP7	Housing and Mixed Use Sites
RLP8	House Types
RLP9	Design and Layout of Housing and Mixed Use Areas
RLP10	Residential Density
RLP22	Accessible Housing and Lifetime Housing
RLP49	Pedestrian Networks
RLP50	Cycleways
RLP52	Public Transport
RLP53	Generators of Travel Demand
RLP54	Transport Assessments
RLP55	Travel Plans
RLP56	Vehicle Parking
RLP62	Development Likely to Give Rise to Pollution or the Risk of Pollution
RLP63	Air Quality
RLP65	External Lighting
RLP69	Sustainable Urban Drainage
RLP70	Water Efficiency
RLP71	Water Supply, Sewerage & Drainage
RLP74	Provision of Space for Recycling
RLP77	Energy Efficiency
RLP80	Landscape Features and Habitats
RLP84	Protected Species
RLP90	Layout and Design of Development
RLP92	Accessibility
RLP94	Public Art
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 Draft Local Plan

SP1	Presumption in Favour of Sustainable Development
SP2	Meeting Housing Needs
SP4	Infrastructure and Connectivity
SP5	Place Shaping Principles
SP6	Spatial Strategy for North Essex

LPP17	Strategic Growth Location - Land East of Great Notley, South of Braintree
LPP28	Housing Type and Density
LPP36	Sustainable Access for All
LPP37	Parking Provision
LPP42	Built and Historic Environment
LPP43	Health and Wellbeing Impact Assessment
LPP44	Provision for Open Space, Sport and Recreation
LPP46	Layout and Design of Development
LPP53	Archaeological Evaluation, Excavation and Recording
LPP56	Natural Environment
LPP57	Protected Species
LPP59	Landscape Character and Features
LPP61	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP62	Energy Efficiency
LPP64	Renewable Energy within New Developments
LPP65	Surface Water Management Plan
LPP66	Sustainable Urban Drainage Systems
LPP67	Run-off Rates
LPP68	External Lighting

### SUPPLEMENTARY PLANNING GUIDANCE

Essex Design Guide for Mixed Use and Residential Areas (2005)  
 Essex Design Guide Urban Place Supplement (2005)  
 ECC Parking Standards – Design and Good Practice (September 2009)  
 Open Space Supplementary Planning Document  
 Open Spaces Action Plan  
 Affordable Housing Supplementary Planning Document  
 External Lighting Supplementary Document

### Other Guidance

Landscape Character Assessment 2007  
 Landscape Fringe Assessment July 2015

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

This application is brought before the Planning Committee as it is considered to be of significant public interest, and is on land that is currently outside the development boundary for Great Notley, as defined within the adopted development plan. The site is however shown to be allocated as a housing site for 10 or more dwellings within the Draft Local Plan (reference BLAN 115).

In addition, Black Notley Parish Council and Great Notley Parish Council have objected to the application and there have been a significant number of

representations from members of the public objecting to the application, contrary to the Officer's recommendation to approve the proposal.

## SITE DESCRIPTION AND CONTEXT

The site comprises 3.96ha of arable farm land to the east of London Road, close and to the north of its junction with Bakers Lane and fronting both roads. It is bounded by hedgerow with some mature trees along its northern, eastern and south-western boundaries, with more interspersed planting along London Road and the southern part of Bakers Lane.

In totality, the site forms an undeveloped gap within a ribbon of residential development between nos. 289 and 291 London Road which are situated to the north-east and south-western boundaries respectively. Other dwellings sharing a boundary with the application site include The Friary, a Grade II Listed Building and Friaries which is located adjacent to the site's Eastern boundary off Bakers Lane. There are also two dwellings on the opposite side of Bakers Lane, The Barn and Cards the latter which is listed Grade II\*.

On the opposite side of London Road there is a ribbon of development, predominantly comprising detached dwellings of different storey heights. Consequently, the immediate surroundings are mixed in character, but with the site being essentially semi-rural in nature. Further, as highlighted above, the site is allocated within the Draft Local Plan (DLP) as a housing site for 10 or more dwellings.

In terms of wider context, the site is due east of Great Notley. The development boundary in the current adopted Development Plan runs along the opposite of London Road, opposite the site. The Draft Local Plan also proposes a much larger new allocation of approximately 2,000 new homes (BLAN 114 – Land East of Great Notley, South of Braintree). This Strategic Growth location includes land immediately to the north, east and south of the application site.

Pursuant to the Landscape Character Assessment (LCA) published in 2007, the site falls within the Felsted Farmland Plateau which is characterised by gently undulating farmland; a network of narrow, winding lanes; many small woods and copses; and predominantly arable farmland with field boundaries delineated by fragmented hedgerows. The site is located within a wider parcel identified as 5A in the LCA which states that it has a medium capacity to accommodate development.

## PROPOSAL

This application seeks full planning permission for the erection of 96 residential dwellings (including 29 affordable homes) and associated development including the formation of a new vehicular access from London Road and a further vehicular access off Bakers Lane; the provision of Public Open Space (including a children's play area), sustainable urban drainage systems; associated landscaping, infrastructure and earthworks. The

proposed development contains a mix of dwelling types with 6no. 1-bed flats; 12no. 2-bed flats/maisonette; 13no. 2-bed houses; 30no. 3-bed houses; 30no. 4-bed houses and 5no. 5-bed houses.

The application is accompanied by a detailed set of plans including a site layout plan, house type plans and elevations for each dwelling, and street elevations for all frontages.

In addition, detailed site access drawings and indicative landscape layouts are provided along with other supporting documentation, these include:

- Design and Access Statement
- Ecological Surveys and Assessment
- Flood Risk Assessment
- Heritage Statement
- Statement Landscape and Visual Impact Assessment
- Noise Impact Assessment
- Planning Statement
- Site Investigation and Risk Assessment Report
- Sustainability and Energy Statement
- Sustainable Urban Drainage Checklist
- Transport Assessment
- Tree Survey
- Utilities and Services

Revised documentation was received by the Council following the first round of public consultation which, amongst other things, included the submission of revised plans for a number of house / flat types; matters of layout and design, a reduction in the number of units by 1no. (from 97no. originally proposed), the provision of a culvert along the London Road frontage to accommodate a widened footway /cycleway which will continue north along London Road to a new Toucan crossing near to Cut Hedge, an amendment to the Arboricultural /Landscape Strategy, a change to the affordable housing provision and the refuse collection strategy and additional information on SUDs, as well as refuse collection. In addition, more detail has been provided on boundary treatments, where adjoining existing residential properties, and the red line (site ownership) boundary has been confirmed by the applicant as being accurate.

The wider concept for the site is derived from the qualities identified in Great Notley Garden Village with the key principle advocated to extend a network of linked green spaces into the site, by proposing a focal village green supported by a smaller green village square. There is also an opportunity to create a green link which connects London Road to the existing Public Right of Way to the south of the site, as well as providing both pedestrian/cycle access into the wider potential housing allocation beyond, via the north eastern boundary. It is intended to provide a continuation of the frontage along London Road and to create a positive frontage along Bakers Lane, as well as sensitively responding to the Listed Buildings adjacent to and opposite the site.

The proposed dwellings would be finished in a variety of materials including brick, render and timber boarding, with varied roof profiles. The design and layout is proposed to be respectful of the relationship, not only to the aforementioned Listed Buildings and their settings, but the revised scheme has been designed so as to protect the living conditions of the occupants of 289 and 291 London Road.

Building-to-building distances, private amenity areas and car parking provision seek to meet the Council's adopted standards. In total, the residential development area measures approximately 2.36 hectares with 0.53 hectares of land in addition to this to meet the Council's Open Space requirements. The Open Space provision on the site includes parkland, amenity green space and the provision of areas for formal and informal children's play.

In total there are four character areas provided within the development and these include the 'London Road frontage', the 'Bakers Lane frontage', the 'Green Heart' and 'Neighbourhood Areas'.

## CONSULTATIONS

**Anglian Water** – No objection, subject to a condition requiring the implementation of an approved foul water drainage strategy. The Braintree Water Recycling Centre has sufficient capacity to accommodate foul drainage flows from the site. It is recommended that a foul water drainage strategy is required to mitigate against the risk of flooding downstream.

It is also advised that they have assets close to or crossing this site and that the site layout should take this into account and accommodate those assets within prospectively adoptable highways or public open space.

**BDC Environmental Services** – No objection subject to conditions regarding noise; contaminated land; and controlling construction activity.

**BDC Engineers (Land Drainage)** – The roads in the area are known to flood, but this is deferred to ECC as Lead Local Flood Authority for consultation and response.

**BDC Housing Research & Development** - The application sets out detailed proposals for construction of 96 residential dwellings. In accordance with policy CS2 of Adopted Core Strategy, 30% of the dwellings (equating to 29 homes) are required to be provided as affordable housing.

During the course of this application and as a result of negotiation with the developer over an appropriate affordable housing mix, agreement has been reached for provision of the following.

- 6 x 1-bedroom, 2 person flats
- 12 x 2-bedroom, 4 person flats
- 6 x 2-bedroom, 4 person houses
- 1 x 3-bedroom, 5 person house

- 3 x 3-bedroom, 6 person houses
- 1 x 4-bedroom, 7 person house

This affordable housing mix has been confirmed by the developer in recently submitted revisions to the application and is considered appropriate to address local housing need, based on evidence from the Council's housing needs register. It has also been agreed that the tenure of the Affordable Dwellings will comprise 70% for rented tenure (20 dwellings) and 30% for shared ownership (9 dwellings).

The developer has additionally confirmed that all affordable units will be compatible with standards acceptable to the Homes and Communities Agency and be compliant with Lifetime Homes Standards.

The Housing Officer is supportive of this application because it has the potential to yield much needed new affordable homes.

**ECC Education** A development of this size can be expected to generate the need for up to 7.3 early years and childcare (EY&C) places, 24.6 primary school, and 16.4 secondary school places.

According to Essex County Council's childcare sufficiency data, published in January 2016, there are 3 providers of early years and childcare in the area. Of these 2 are full day care nurseries and 1 child-minder. Overall a total of 0 unfilled places were recorded for 2 year olds and 5 unfilled places were recorded for 3 and 4 year olds. For Essex County Council to meet its statutory duties it must both facilitate sufficient places to meet free childcare entitlement demand and also ensure a diverse range of provision so that different needs can be met. Although there is some EY&C capacity in the area, the data shows insufficient free entitlement places to meet demand from this proposal. It is, thereby, clear that additional provisions will be needed and a project to expand provision / provide a new facility at Black Notley and Terling. A financial contribution is sought based on a cost of £13,930 per place. Based on demand generated by this proposal set out above, a developer contribution of £102,803 index linked to April 2016, is sought to mitigate the impact on local early years and childcare provision.

This proposed development is located within the Braintree Primary Group 6 (Braintree town and surrounds) forecast planning group. The forecast planning group has an overall capacity of 5,323 places, of which 166 places are in temporary accommodation. It is forecast that the planning group will have a deficit of 146 permanent places by the school year 2019-20. A financial contribution is sought that equates to a cost of £12,218 per place and so, based on demand generated by this proposal set out above, a developer contribution of £300,563 index linked to April 2016, is sought to mitigate the impact on local primary school provision.

This proposed development is located within the Braintree Secondary Group 1 (Braintree) forecast planning group. The forecast planning group has an overall capacity of 3,693 places. The forecast planning group is forecast to

have a surplus of 213 places by the school year 2019-20. No contribution for additional secondary school places is therefore requested.

Having reviewed the proximity of the site to the nearest primary and secondary schools, Essex County Council will not be seeking a school transport contribution. However the developer should ensure that safe and direct walking/cycling routes are available to the nearest schools.

In view of the above, it is requested on behalf of Essex County Council that any permission for this development is granted subject to a section 106 agreement to mitigate its impact on early years and childcare primary education.

**ECC Highways** – The assessment of the planning application and transport assessment was undertaken with reference to the National Planning Policy Framework and in particular paragraph 32, the following aspects of the application were considered: access and safety; capacity; the opportunities for sustainable transport; and mitigation measures. In addition the layout of the application site was assessed against the transport sections of the Essex Design Guide.

Site visits were undertaken and extensive discussions took place with the applicant's Transport consultants and a number of changes to the application were made, including the provision of a footway/cycleway along London Road to link the site to the local facilities and the existing network. Changes to the original internal site layout, in particular to ensure that provision was made to prevent refuse collection from the Bakers Lane access and that there were adequate turning facilities within the site.

From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to the mitigation and conditions covering the following matters: Access, Cycleway/Footway, Bus stop improvements, Electric vehicle charging points within garages, Travel information pack provision, Layout, Construction Management Plan, Parking and surface water drainage.

**ECC Historic Environment (Archaeology)** – The site lies within an area of archaeological potential, with evidence for Roman and late medieval/early post-medieval activity within close proximity. London Road follows the route of the Roman road linking Chelmsford to Braintree and onto Long Melford. Bakers Lane retains a number of listed buildings which reveals settlement evidence dating back to the 15<sup>th</sup> century. The site also lies to the west of a historic green, known as Row Green, comparison with similar greens in Essex has established that this location were favoured sites for medieval settlement.

Given the potential for features associated with the Roman road and nearby medieval settlements to survive, a programme of archaeological trial trenching will be required, followed by, if necessary, archaeological excavation. Conditions are recommended to be imposed.

**ECC Historic Buildings Consultant** – The land falls to the south of Braintree and east of Great Notley, in a relatively open part of the district. Directly adjoining the south-west of the application site is The Friary, a grade II Listed Building of fifteenth century origin. Directly facing the application site across Bakers Lane is Cards Farmhouse, a grade II\* Listed Building of late fifteenth or early sixteenth century origin. Cards, in particular, currently enjoys an open and rural setting, which contributes to its significance.

The applicant received pre-application advice on the site, and they have included their comments within the supporting documents. In regard to the proposed application, which has not changed fundamentally from that which was considered at pre-application stage, they reiterate their previous comments:

*The proposed development will cause particularly detrimental harm to the setting of Cards, as it will alter the way in which the Listed Building is experienced. It will also harm the setting of The Friary. Cards currently enjoys a very open and rural setting, with almost nothing visible to the south and east, The Friary and associated buildings to the west, and the settlement of Great Notley visible at a distance to the north. This development will alter the surroundings in which the asset is experienced, as the previously open and semi-rural character of land surrounding to the north will be lost, meaning that the setting of the heritage asset will change in character. In particular the development is currently experienced as being outside the settlements of Great Notley or Braintree in a relatively rural location. The development of this site, which would bring development virtually up to Bakers Lane would alter the way in which the building is experienced by bringing it to a more residential and suburban setting, at odds with its historic and current surroundings. The loss of this historic setting and the corresponding harm to the ability to understand a building, by extension has a detrimental impact on the historic significance of the building, which will be accordingly compromised.*

*The building also can be seen to have an historical association with The Friary to the west, as they are roughly contemporaneous in age and are both surviving elements of a much older historic settlement pattern, evident on older historic mapping. The open fields around these assets, of which the development site is one, make a positive contribution to the setting of the heritage asset by emphasising its historic sense of isolation, and its association with the Friary further along Bakers Lane. Whilst the expansion of Great Notley can be seen to be a modern intrusion on this setting, there is substantial separation between new buildings and Listed Buildings. This would not be true of the proposed development, which would be located in the very immediate vicinity of the Listed Buildings.*

*Further to this, the development will fundamentally change the nature of Bakers Lane, which is currently rural in character. The comparatively quiet and rural nature of this road, particularly when compared to London Road to the west, is a significant factor in determining the character of the surrounding area adjacent to the lane, and therefore by extension an important factor in*



*determining the way in which the Listed Buildings are experienced. The erection of nearly a hundred houses adjacent to the lane will have an associated impact on the level of traffic, noise etc. on Bakers Lane, and would thereby negatively impinge on the setting of the Listed Buildings.*

*The Historic England guidance notes on setting state that setting is often characterised by a series of views, with views from and through the Heritage Asset. The views from the heritage asset in particular, I believe, would be negatively altered by the increased sense of enclosure around the Listed Buildings by the general proximity of buildings to it. The guidance also notes that views do not have to be publically accessible to be considered as helping to define setting, and as such I would also suggest that the new development will have a negative effect on views of Cards from the rear of houses on London Road.*

*Given the historically open setting of the buildings, and the formerly isolated, rural and scattered nature of the historic buildings along Bakers Lane, I would suggest that the setting of Cards could be considered to be fairly extensive, particularly given the relatively flat topology of the surrounding land. The setting is also characterised by a surprising air of tranquillity given its proximity to Braintree, which would also be lost. There has evidently been some modern intrusion into this setting with the expansion of Braintree along London Road, but the extent and scale of this development would lead to a cumulative change which I believe to be unacceptable. There is also likely to be harm to the setting of the heritage assets during the construction phase of the work, in terms of noise, dust, visual intrusion and increased traffic.*

In early May a large site to the south and east of Great Notley, which includes this site within its boundary was recommended for inclusion within the new Local Plan by the Local Plan Sub-Committee. This was a recommendation to include the site as a whole, rather than considering the impact of developing specific areas of the site, which will obviously vary in sensitivity from low to high. As a whole the site was considered to be suitable to accommodate the level of development proposed. However this is not to say that the development of smaller individual areas within it should automatically be considered to be acceptable by extension, as a more holistic approach needs to be taken. This section, although included would seem to be an area of higher sensitivity where development would be better avoided.

I would therefore conclude that the application is contrary to section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and to saved policy RLP 100 of the Braintree District Replacement Local Plan. It would therefore be considered to represent harm to the heritage assets as per paragraph 134 of the NPPF. On this basis I would have to recommend that the application is refused.

Notwithstanding the revised drawings, these do not alter the Historic Buildings Advisor's previous comments; however he has advised that in the event that planning permission is granted, conditions covering the submission of external materials and landscaping along the Bakers Lane frontage be imposed.

**ECC Lead Local Flood Authority** – Having reviewed the Flood Risk Assessment no objection is raised to the proposal, subject to the imposition of conditions dealing with matters of surface water and drainage.

In respect of the revisions to the proposal, they raise no objection to the culverting of the London Road ditch. They also state that the applicant has agreed, in principle, to connect the highway drains in this area into the site's drainage system which will help alleviate surface water flooding on London Road.

**ECC Urban Design** – A number of issues were identified within the original submission, including some minor layout issues (alignment of buildings and location of visitor parking), the elevational treatment of buildings, boundary treatments and public realm materials. A suite of revised plans were submitted by the applicant to address these concerns and the Urban Design consultant is satisfied that these address his concerns.

**Essex Fire & Rescue Service** – No objection. Due to the distance to the nearest fire hydrant it is considered that the developer will need to install additional fire hydrants within the site.

**Historic England** - In terms of designated heritage assets, the principal affected assets are the Grade II\* listed Cards and the Grade II listed The Friary, both in close proximity to the site on Bakers Lane. Their significance is based on a range of heritage values that make up their overall architectural and historic interest. For example, they have evidential value in terms of the survival of late medieval form and fabric with subsequent additions and alterations of interest. They have historical value in terms of illustrating the design and creativity of the past. They have aesthetic value as attractive buildings within the landscape. As listed buildings they have considerable significance, particularly Cards as a Grade II\* building.

As the NPPF makes clear, significance derives not only from a heritage asset's physical presence, but also from its setting. The NPPF defines setting as the surroundings in which a heritage asset is experienced. Despite the development of modern Great Notley, both buildings retain a rural setting with views across the countryside in many directions. This contributes greatly to their significance and helps to appreciate their heritage values in relatively unspoilt surroundings.

The proposed development would impact on the significance of both buildings through change within their setting. The NPPF makes clear that significance can be harmed or lost through development within the setting of a heritage asset (paragraph 132). The proposed site is currently a large open field and the only gap in suburban development along the eastern side of London Road. It therefore greatly contributes to the significance of the listed buildings by providing an open, tranquil and rural setting to the north of both buildings.

It is important to stress that the presence of vegetation (or lack of) should not

be regarded as the determining factor in terms of impact, as setting is more than just visual effects and can include noise, lighting, dust and vibration. Both listed buildings are surrounded by vegetation to a greater or lesser extent, but this can alter over time and between the seasons. In our opinion, the development of the proposed site would result in an encroachment of suburban development into the immediate setting of both buildings and would result in harm to their significance. This is because the ability to experience and appreciate the heritage values of the buildings would be diminished by the proximity of modern development and the associated noise, lighting and movement.

The degree of harm will to some extent depend on the design and layout of development, but it will be of a considerable magnitude regardless given the number of proposed units and the total change of use within the site. In line with the NPPF, any harm to a designated heritage asset requires clear and convincing justification and the harm will need to be weighed against the public benefits. Great weight should be given to the conservation of designated heritage assets, with Cards afforded even greater weight as a Grade II\* listed building.

The site was put forward by the developer at pre-application stage for inclusion within the emerging Braintree Local Plan, and was formally included in the Draft Plan on 9 May 2016. Their planning consultants had asserted that the District has a greater housing development need than previously assumed and lacks a five-year housing land supply. Whilst that assertion was accepted by your authority and the site is now an allocated one, development is still required to be sustainable in line with Paragraph 14 and other sections of the NPPF. This includes impact on the historic environment and heritage assets. There are several recent appeal decisions where harm to the significance of heritage assets (including less than substantial harm caused by development within the setting of heritage assets) was not outweighed by the public benefits of delivering housing in locations lacking a five-year housing land supply (e.g. Chapel Lane, Wymondham and land off Walden Road, Thaxted).

Historic England advise that when considering the proposals for the erection of 97 dwellings on the Bakers Lane site, it will be necessary for your authority to weigh the harm that would result to the setting of the nearby grade II\* listed Cards and the grade II listed The Friary against the public benefits that would be delivered by the proposals; mindful of recent appeal decisions, local planning policy, the NPPF and Section 66 of the 1990 Listed Building and Conservation Areas Act.

**NHS England** - The proposed development is likely to have an impact on the services of one GP practice operating within the vicinity of the site. The GP practice does not have adequate capacity to accommodate the additional growth resulting from the development. The subsequent increase in demand upon the Great Notley Surgery, including its branch at Little Waltham would give rise to the need to provide additional surgery floorspace. This has been calculated as a cost of £31,630, which can be secured by way of a planning obligation.

**Great Notley Parish Council** - object to this application on the basis that it is contrary to the District Council's current development policies. In particular it is noted that the site lies outside the village envelope and the District Council's Core Strategy states that development in such an area will be strictly controlled to uses appropriate to the Countryside and also Policy RLP2 of the current Braintree District Local Plan Review states that new development will be confined to the areas within town development boundaries and village envelopes. Thus the proposed development is contrary to those criteria within the current development policies.

**Black Notley Parish Council** - Object to the application on the grounds that it is an isolated site in the open countryside, on good agricultural land and exiting onto a sensitive and overburdened road system, London Road and Bakers Lane, Black Notley. There are no local school places, available health care, or accessible green open space and the site is next to and overlooking two Grade II Listed Buildings and other expensive character homes. Building on this site will set a precedent to other applicants in the area.

A closer look at the plan reveals an access onto Bakers Lane which despite a 30 and 40 mph limit has become a speeding rat run at peak times for traffic avoiding Galleys Corner, school runs to Notley High (the last traffic survey was erroneous and was done at a quieter time in the summer when older students had left school) and access to the A12 via the village and Witham. Extra traffic will give rise to an even more dangerous situation, looking at this plan it will be possible to cross from London Road to Bakers Lane for access (a short cut).

The site access on Bakers Lane faces Cards Farm a Listed Grade II Farmhouse. It is a fine example of a country house set in a lovely garden in an open setting, the screening of the site is inadequate and the access will cause considerable extra noise and danger.

County Councillor James Abbott said at the Braintree District Council meeting that there should be no access onto Bakers Lane.

There is another fine Listed Building next to the site, The Friary, again screening with very mature trees would be necessary.

Mature screening as installed at the entrance to Great Notley from London Road and offsetting of the houses would also be necessary to prevent loss of amenity and privacy to the other expensive houses abutting the site. We notice that a block of flats is planned next to the large private house on London Rd. Although only 2 storeys high there is a kitchen window overlooking the property. People will be living full time on the second floor causing constant overlooking of this property. These flats should be redesigned internally to avoid this or be relocated on the estate so purchasers can choose to live next to them.

The site is designed to mirror Gt Notley even though it is 1/2 mile away and to be low in height to blend with the neighbouring properties Listed buildings and chalet style properties. Therefore should this development go ahead we would want a condition imposed that prevented loft conversions and roof dormers that deviated from this style allowing overlooking.

Crest Nicholson want to be seen as a considerate developer so should set this example.

Parking is inadequate as this is an enclosed site contained between two busy roads London Road and Bakers Lane so there is nowhere to park elsewhere. It should also be noted that one bedroom flats can still have two car owners.

There is a serious flooding problem in this area. Local people on London Rd and Mr Caulfield on Bakers Lane have been flooded at times of heavy rain with up to a foot of water on the roads making them impassable.

We have our doubts that the solution put forward by the developers would cope with this situation. It would operate by storing the water in times of heavy rainfall and allow it to percolate away. The makeup of the local soil is very heavy clay and soakaways don't work. With all the extra concrete block paving and buildings on site, where will all this extra water percolate to? We are worried it would make the problem worse to neighbouring existing homes. White Court Estate houses were built on rafts because of local conditions and an innovative system designed and set up for Gt Notley failed to cope in 2014.

There is no community gain from this application.

In conclusion Black Notley Parish Council objects to this application. If Site BLAN114 goes ahead Crest Nicholson should develop this lane as a whole within the full plan to achieve the best from the area with proper infrastructure and drainage, landscaping, school, health facilities, and open space and as suggested by Cllr James Abbott at BDC council meeting - a buffer between the new development and the six Listed Buildings and other character properties on Bakers Lane to retain the character of the area as it is the only part of the historic village of Black Notley remaining.

## REPRESENTATIONS

69 letters of representation have been received from third parties with regard to the proposal; 62 object to the proposal; two support the proposal; and five make comments, neither objecting nor supporting the application.

The objections raised centre upon the following:

- The red boundary line is incorrectly drawn.
- The proposed post and rail boundary fence bounding plots 12 – 28 is unacceptable. Stock-proof fencing should be provided so as to prevent The Friary's dogs from escaping.

- Loss of privacy to neighbouring dwellings.
- Key essential local services are already too stretched with waiting times for the Doctors at Great Notley intolerable, and the Dentists full to capacity.
- Local schools have no places which would mean driving to John Ray and Notley High Schools.
- London Road has struggled with traffic congestion whilst new gas and water pipes have been installed for only a handful of new developments.
- Construction traffic would cause havoc with school and commuter traffic.
- Concerns over noise and air pollution from increased traffic and dangers to pedestrians and cyclists along Bakers Lane.
- More traffic would be using Bakers Lane, which, along with London Road, is already an over-burdened 'rat-run'.
- Traffic calming measures should be installed along London Road to slow down traffic speeds.
- There is a need for pedestrian crossing points along London Road.
- Concerns over parking provision on the site.
- Raise concerns over poor road drainage.
- The proposal will encourage further out-commuting.
- Consider that Braintree is a dying town, not used by the people who inhabit the surrounding areas, with major retailers having vacated the town centre.
- Concerns over the principle of the development of the site, along with the potential for an additional 2,000 dwellings being built adjacent.
- Proposal detrimental impact upon wildlife.
- Loss of rural setting to the Listed Buildings.
- The proposal is next to 2no. Listed Buildings, there should be a buffer zone and mature screening to these properties.
- Little open space or play areas are proposed within the site.

- Concerns raised over the provision of 1 and 2 bedroom flats as well as affordable housing.
- Reference made to the refusal of planning application 15/01124/OUT which was dismissed on appeal on the grounds that it would have set an unwelcome precedent for new development beyond the settlement boundary.
- The proposal would be an unjustified intrusion within and be of harm to the amenity afforded to the countryside.
- Concerns over the adequacy of foul drainage within the area.
- The area has great archaeological potential and were the development to be agreed, the planning conditions contained in the ECC Archaeological letter should be imposed.
- The traffic flow data provided within the Transport Assessment Addendum doesn't paint a true picture of the situation due to the fact that the survey was carried out on a Saturday and not during a weekday.

One letter of comment has been received from the representative of the Braintree South Alliance, who are promoting the land allocated as a Strategic Growth Location in the Draft Local Plan as 'Land east of Great Notley and South of Braintree' suggesting that the application site should integrate with the larger allocation, particularly through providing pedestrian and cycle links through the development.

Other letters of comment cover the following:

- The main exit from the new estate is almost opposite Partridge Walk, a mini roundabout would be helpful.
- It is important that all those in the decision making process are aware of the extent of the surface water flooding issue and the importance of a proper assessment of the water management plans of the developer to alleviate these longstanding issues permanently.

Two letters of support has been provided which states that the site is well planned and would provide much needed housing in Braintree.

## REPORT

### Principle of Development and Five Year Housing Land Supply

As set out previously within this report the application site is located outside designated development boundaries in the adopted Development Plan. Whilst the applicant has put the site forward for allocation through the Local Plan they have submitted this planning application as they do not want to wait

for the Local Plan process to be completed and for the Plan to be formally adopted.

The Council has received a number of objections to the application which argue that the application could be refused for this reason. Questions have also been raised by third parties with regard to the appropriateness of the site, having regard to the dismissal of appeal ref. APP/Z1510/W/16/3143190. In that appeal, the proposal for 8 no. market and affordable dwellings on land to the south of Peacehaven (291 London Road) was dismissed. The Planning Inspector accepted that the development would not be in an isolated rural location, but considered that the proposed dwellings would not have any particular visual or physical affinity with the looser-knit pattern of development to be found on the east side of London Road, or along Bakers Lane.

This site is situated within the gap in the London Road frontage to the north of Peacehaven and leads up to 289 London Road in the north, and Officers consider that it therefore relates more closely with the bulk of established development situated within the built up area of Great Notley/London Road. Furthermore, since that appeal was determined there have been material changes to the Council's Development Plan context concerning the 5 year supply of housing land and the progression of the Draft Local Plan (DLP).

In accordance with National Planning Policy, the Council commissioned research to establish the Objectively Assessed Need for housing in the District. This research forms part of the evidence base for the Draft Local Plan and the Council's consultants advised that the Objectively Assessed Need for Braintree District is 845 dwellings per annum. Accordingly, the draft target of 845 dwellings per year from 2016 has been included within the Draft Local Plan.

Draft Local Plan Policy LPP 16 (Housing Provision and Delivery) states that *"The Council will plan, monitor and manage the delivery of a minimum of 14,365 new homes between 2016 and 2033. These homes will be located primarily in the Towns and Service Villages and on the following strategic growth locations"*.

Since planning permission was refused for the 8 no. dwellings to the south of Peacehaven the Council has changed its position and it now acknowledges that in terms of what the NPPF requires, it does not currently have a deliverable 5 year supply of land for housing *"...that meets the full objectively assessed needs for market and affordable housing"*, together with an additional buffer of 5%, as required under paragraph 47 of the NPPF.

As at May 31st 2016 the Council's forecast supply for the period 2016 - 2021 is 3.52 years and for the period 2017 - 2022 it is forecast to be 3.59 years. This does not mean that sites outside of existing development boundaries are automatically appropriate for new development, but Paragraph 14 of the NPPF states that planning permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a



whole.

Members will be aware that the Council is committed to working on developing a new Local Plan that will be fully compliant with the NPPF as a matter of urgency. The strategy set out in the DLP is to concentrate growth in the most sustainable locations - that is, by adopting a spatial strategy that promotes development in the most sustainable locations, where there are opportunities for walking, cycling and public transport links to nearby shops, services and employment opportunities. This means *"That the broad spatial strategy for the District should concentrate development on Braintree, planned new garden communities, Witham and the A12 corridor, and Halstead"*.

In totality, the Council considered about 360 sites brought forward through two 'Call for Sites' exercises, of which about 80 have been included in the list of sites that the Council proposes to allocate for development in the DLP, including this site that is the subject of this application.

In addition, site BLAN114 – 'Land East of Great Notley and South of Braintree' - is identified as a Strategic Growth Location within the DLP. BLAN114 abuts the north eastern, eastern and south eastern boundaries of the site and it is anticipated that the proposed allocated site could provide approximately 2000 new homes.

To date, other planning applications for significant amounts of new housing have been submitted in advance of the DLP, some of which have already been permitted, having regard to impact and issues of sustainability, some have been refused and others which remain to be determined.

Paragraph 49 of the NPPF makes it clear that housing applications should be considered in the context of the presumption in favour of sustainable development and that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

In such circumstances, the local planning authority must undertake an assessment of the '*planning balance*' to consider whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or whether specific policies in the Framework indicate development should be restricted.

The site is considered to be in a reasonably sustainable location, on the edge of Great Notley, where there are a range of services and facilities that are accessible by walking or cycling. There is also good access to public transport. The Council, having previously considered the location and characteristics of the site and surrounding area, included the site for allocation for residential development within the DLP. The site should also be considered alongside the proposed, much larger, Strategic Growth Location (pursuant to DLP Policy LPP17). The development of the site will assist the Council in meeting the District's Objectively Assessed Need for housing as

required by National Planning Policy. Having considered all these factors Officers consider that the principle of residential development upon the site can be afforded some weight, being in accordance with DLP Policies SP1, SP2 and SP6. The issue of planning balance is discussed at the end of the report.

### Built Heritage

The Council has a duty under Section 66(1) of the Listed Buildings & Conservation Areas Act 1990 to have special regard to the desirability of preserving the setting of a 'listed' building.

Core Strategy Policy CS9 states that the Council will promote and secure the highest possible standards of design and layout in all new development and the protection and enhancement of the historic environment in order to, amongst other things, respect and respond to the local context, where development affects the setting of historic buildings, and areas of highest archaeological and landscape sensitivity. These sentiments are consistent with Braintree Local Plan Review (BLPR) Policy RLP 100 and DLP Policy LPP42.

The application includes a detailed Heritage Statement that sets out to identify the heritage assets in the vicinity of the development site, establishes the nature of their historic significance and evaluates the impact of the proposed development on that significance. The Council have consulted Historic England and the Council's Historic Buildings Adviser regarding the impact on heritage assets.

As highlighted by Historic England and the Council's Historic Buildings Consultant, the principal heritage assets affected by the proposal are the Grade II\* listed Cards and the Grade II listed The Friary, both in close proximity to the site on Bakers Lane. Their significance is based on a range of heritage values that make up their overall architectural and historic interest and they have aesthetic value as attractive buildings within the landscape.

The NPPF makes clear that the significance of heritage assets derives not only from their physical presence, but also from their setting. The NPPF defines setting as the surroundings in which a heritage asset is experienced.

It is acknowledged that both listed buildings currently retain a largely rural setting. Whilst the presence of Great Notley and built development along the London Road can be seen from the listed buildings, there are also currently views from the listed buildings across the countryside in a number of directions, and this contributes to their significance. Quite clearly the proposed development would affect the setting of these heritage assets and the NPPF makes clear that the significance of listed buildings can be harmed or lost through development in such situations.

It is also accepted by Officers that the presence of vegetation (or lack of) should not be regarded as the only determining factor in terms of impact, as

setting can be more than just visual effects and can include noise, lighting, dust and vibration. Further, the extent of vegetation to a greater or lesser extent can alter over time and between the seasons.

However, The Friary is set within a substantial curtilage and the proposed development would be kept some distance away from it, a minimum distance of some 45m would be achieved between the built form of the listed building and the dwelling on plot 14. There is quite substantial soft and hard landscaping within the confines of the intervening rear garden of The Friary, including a tennis court.

Clearly, the presence of a major housing development upon what is currently open arable farmland would have an effect upon the setting of The Friary in terms of noise, but this should not be significant, due to the fact that there would only be a small parking court of five spaces to the rear of plots 13 & 14, with the remainder of the shared boundary being abutted by a soft landscaping strip with informal planting and rear gardens beyond. Subject to the imposition of a lighting condition, street and other lighting could be designed so as to minimise light pollution not only to adjacent residents, but the setting of the listed buildings and the night sky. Any dust or vibration caused would be limited to the construction process and would therefore be short lived.

Similar limited effects in respect of noise, lighting, dust and vibration would be imposed upon Cards, although with its Grade II\* status it is afforded greater protection. However, Cards is located on the opposite (south) side of Bakers Lane and again the building to building distance between the listed building, and in this case the dwelling on plot 31 would be just over 45m. The new housing proposed along Bakers Lane would be limited to 7no. large detached dwellings, of a low density and separated from the frontage by a shared driveway and enhanced landscape strip. A condition could be imposed which seeks to implement this as well as to interplant and reinforce the existing field hedging.

In addition, the association of Cards with The Friary is considered incidental as they are not part of a group and had no formal historical relationship with each other. Officers consider that the growth of Great Notley and the number of further individual dwellings built between and around these properties has already changed the historic character of the area significantly since they were originally built.

Finally, with reference to the appeal APP/Z1510/W/16/3143190 decision referred to above, the Inspector noted that that site was bounded to the east by 'The Friary', and identified 'Cards' further along Bakers Lane. The Inspector highlighted that in that case the Council was particularly concerned about the effect of the proposal on the setting of the former, but although the Inspector concluded that proposal would harm the character and appearance of the area, he took a different view regarding its implications for the setting of the historic buildings, with the development not intruding upon the setting of either listed building.

Whilst Cards is clearly closer to the application site, than that appeal site, nonetheless the Inspector's decision is material to the proposal in hand, and for the reasons given above it is considered that the proposal would lead to less than substantial harm to the significance of the designated heritage assets, pursuant to Paragraph 134 of the NPPF.

As previously stated the Council has a statutory duty to have special regard to the desirability of preserving the setting of a "listed" building. The NPPF states that where there is harm identified this should be weighed against the public benefits of the proposal, and this weighing exercise is carried out within the 'planning balance' section below.

### Archaeology

In its glossary, the NPPF highlights that *"There will be archaeological interest in a heritage asset if it holds, or potentially may hold, evidence of past human activity worthy of expert investigation at some point. Heritage assets with archaeological interest are the primary source of evidence about the substance and evolution of places, and of the people and cultures that made them."*

The site lies within an area of archaeological potential, with evidence for Roman and late medieval/early post-medieval activity within close proximity. London Road follows the route of the Roman road linking Chelmsford to Braintree and onto Long Melford. Bakers Lane retains a number of listed buildings which reveals settlement evidence dating back to the 15<sup>th</sup> century. The site also lies to the west of a historic green, known as Row Green, comparison with similar greens in Essex has established that this location were favoured sites for medieval settlement.

The Council's Historic Environment Adviser states that given the potential for features associated with the Roman road and nearby medieval settlements to survive, a programme of archaeological trial trenching will be required, followed by, if necessary, archaeological excavation.

Consequently, as archaeological features are likely to be identified on the site therefore Policies LPP53 and Policy RLP106 also apply. These state that where permission is given for development which will affect remains, conditions are required to ensure that the site is properly assessed and recorded before the commencement of development. This matter can be covered by planning condition.

### Landscape and Ecology

Part 11 of the NPPF indicates that development should contribute to and enhance the natural environment and that impacts on biodiversity should be minimised. Policy CS8 of the Core Strategy states that *'the restoration and enhancement of the natural environment will be encouraged through a variety*

measures'. These aims are supported by Policies RLP80 and RLP84 of the Local Plan Review.

Policy RLP80 states that *'proposals for new development will be required to include an assessment of their impact on wildlife and should not be detrimental to the distinctive landscape features and habitats of the area such as trees, hedges, woodlands, grasslands, ponds and rivers. Development that would not successfully integrate into the local landscape will not be permitted.'* Policy RLP84 states that *'planning permission will not be granted for development, which would have an adverse impact on protected species' and 'where appropriate, the Planning Authority will impose conditions to: facilitate the survival of individual members of the species; reduce disturbance to a minimum; and provide supplementary habitats'.*

A Landscape Capacity Analysis assessing land around the District's main settlements has recently been produced for the Council to provide evidential support to the Draft Local Plan. This report identifies the application site as having a 'medium' capacity to absorb development. The report went on to state that *'The interface between the existing residential properties and any proposed development should be appropriately addressed through careful layout planning and tree and shrub planting, as well as to integrate a new settlement edge into the countryside'.*

With the widened foot/cycleway now proposed to be constructed along the site's London Road frontage, it is necessary to remove some trees and hedging and culvert the ditch. The Council's Landscape Officer has not objected to the proposals commenting that the frontage vegetation, for the extent covered by the application is characterised by a broken and intermittent assemblage of multi-stem ash trees with some elm and elder; all growing as part of a semi-mature hedgerow that has been left unattended for a number of years. The vegetation is largely less than 7 metres in height and is not as visually prominent or valuable as the substantial mature oak trees that are a major feature further north along London Road.

Therefore there is an opportunity for the development to provide some feature planting as part of a landscape scheme that will be suitable to the setting found elsewhere. The Council's Landscape Officer also states that if left unattended the elm and ash are both likely to succumb to the cycle of decline, death and regeneration that are unfortunately a feature of these two varieties through Dutch elm disease and ash dieback. A well-designed roadside frontage with the appropriate landscaping, as well as to the Bakers Lane frontage and within the site, connecting through to the areas of Public Open Space will add value and character to the proposed development and the existing street scene and help to absorb new development in a suitable and sympathetic manner.

### Biodiversity

There is a limited level of biodiversity and ecology on the site given its current use and this has been evidenced through ecology reports submitted as part of

the planning application. As such there is an expectation that this can improved through the provision and management of Open Spaces, a suitable landscape scheme and the provision of new habitats. This matter should be covered by planning condition.

### Design, Appearance and Layout

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

Policy CS9 of the Core Strategy states that *'the Council will promote and secure the highest possible standards of design and layout in all new development and the protection and enhancement of the historic environment'*. This is supported by Policy RLP90 of the Local Plan Review and these sentiments are also reflected with DLP Policies SP5, LPP28, LPP42 and LPP46 which are concerned with place shaping principles, housing type and density, the built and historic environment and the layout and design of development respectively.

Existing properties along London Road contain a mix of house types and styles, including many detached houses, some of which are substantial. The NPPF states that it is *'proper to seek to promote or reinforce local distinctiveness'* The Draft Local Plan states that *'The density of a new development will depend on a number of factors, including the location of the site, access point/s, local road network and characteristics of the surrounding area. The layout will need to provide garden sizes and car parking in line with the Council's standards and any required landscaping, open space and requirements for water and drainage.'*

*As a general guide the Council would expect densities in the District to be at least 30 dwellings per hectare to ensure the most efficient use of land'.*

As set out within the Design and Access Statement the proposed development has taken cues from the Essex Design Guide and the design philosophy behind Great Notley Garden Village. The average gross density across the site is 25 dwellings per hectare (dph), and the average net density 30dph.

It is considered that the proposal would respond positively to local character, provide buildings that exhibit individual architectural quality and a mix of densities and house-types with well-defined public and private spaces. The public realm through additional landscaping, street furniture and other distinctive features will assist in creating a sense of place, and will provide streets and spaces that are overlooked and active, promoting natural surveillance and inclusive access, include parking facilities that are well integrated as part of

the overall design. Furthermore, the proposal incorporates waste storage and collection arrangements, including provision for recycling, within the site to ensure that the impact on amenity and character are considered and recycling is optimised.

In totality it is considered that the scale, layout, density, height and massing of buildings and overall elevation design should reflect or enhance the area's local distinctiveness and will be in harmony with the character and appearance of the surrounding area; including their form, scale and impact on the skyline and the building line.

### Impact on Neighbour's Amenity

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 which states that '*there shall be no undue or unacceptable impact on the amenity of any nearby residential properties*'. The DLP Policies have similar objectives as those set out in the Local Plan Review.

The Essex Design Guide states that "*with rear-facing habitable rooms, the rear faces of opposite houses approximately parallel, and an intervening fence or other visual barrier which is above eye level from the potential vantage point, a minimum of 25 metres between the backs of houses may be acceptable*". It goes on to state that "*where new development backs on to the rear of existing housings, existing residents are entitled to a greater degree of privacy to their rear garden boundary, and therefore where the rear faces of the new houses may not encroach any closer than 15 metres to an existing rear boundary, even though with a closer encroachment 25 metres between the backs of houses would still be achieved*".

Officers raised concerns with the applicant over the relationship between the proposed development and no. 289 and 291 London Road, with opportunities for mutual overlooking from substandard separation distances. Consequently the applicant removed 1no. unit from the proposal, to the northern end of the London Road boundary (adjacent no. 289), and reorganised the layout both in that location and adjacent no. 291 to the south of the London Road frontage.

The distance between the south west facing first floor dormer windows within the rear return of no. 289 to the north eastern flank elevation of the dwelling on plot 87 would be approximately 12.5m. The private rear sitting out (patio) area of this new dwelling would be shielded from direct overlooking by its own proposed double garage. With a rear garden of some 279.6 m<sup>2</sup>, there is ample scope for trees and other landscaping features to be implemented that create private zones within the garden for the future occupants to enjoy, without harming the living conditions of the occupants of no. 289.

In addition the building to building distance between no.289 and the dwelling proposed on plot 86 would be approximately 16m. Views between the respective first floor windows would be oblique, and again there is scope for

tree planting to minimise direct mutual overlooking of the respective rear gardens. This could be required through the imposition of landscape related condition/s.

The house type on plot 8 (the dwelling to be sited alongside no. 291) has also changed as a result of the amendments, and a rear return with windows facing no. 291 London Road is no longer proposed. The distance between the north eastern facing flank of this neighbouring dwelling and the built form of the plot 8 dwelling would be a minimum 17m, with no windows proposed on the south west elevation. Again a double garage serving that proposed dwelling would intervene, along with a soft landscape strip that would be owned and managed by a Management Company appointed by the applicant to manage the Open Space within the site. Following receipt of representations from the occupants of The Friary, the red line boundary has been confirmed by the applicant as being accurate with reference to their title information and has added stock-proof fencing so as to prevent their dogs from escaping their garden.

All other distances between proposed buildings to external boundaries exceed the Essex Design Guide standards, as well as internal measurements between individual proposed plots and their immediate neighbours. Private rear garden areas also largely exceed the Council's adopted minimum standards, in some cases by a significant amount. There are just two houses that would have rear gardens below the standard. These dwellings should have 100m<sup>2</sup> rear gardens but are shown to have 80m<sup>2</sup> and 81m<sup>2</sup>. This is considered acceptable given the overall density of the development and the position of the two dwellings with sub-standard amenity areas.

#### Accessibility and Highway Issues

Part 4 of the NPPF indicates that all development that could generate significant amounts of movement should be supported by a Transport Assessment to ensure, amongst other things, that suitable access to the site can be achieved and that opportunities for sustainable transport modes are explored to reduce the need for major transport infrastructure. The NPPF advised that development should only be prevented where the residual cumulative impacts are likely to be severe. Saved Policy RLP54 and RLP55 require that a Transport Assessment is submitted with all proposals for major new development.

The application site is located on bus routes that provide for good local connections to other settlements across the District and further afield, with up to four buses each way per hour (Service 34 providing a circular service around Bocking, Braintree and Great Notley and Service 70 connecting to Chelmsford, Broomfield, Little Waltham, Great Leighs, Great Notley, Braintree, Coggeshall, Marks Tey, Stanway, Lexden and Colchester).

Braintree railway station is within cycling distance of the site - circa 3.7km (approximately 12-min cycle time). The station is also accessible by the 34/34A and 70 bus services.



Primary vehicle access to the development is proposed from London Road via a priority 'T' junction. In addition it is proposed that there are also two private drive accesses; one on London Road and the other on Bakers Lane, serving five dwellings each. The private drives will be isolated from the rest of the road network so that drivers will not be able to drive through the development between London Road and Bakers Lane.

The Council's adopted parking standards state that a minimum of 1 space per dwelling should be provided for 1 bedroom dwellings and a minimum of 2 spaces per dwelling should be provided for 2 and more bedroom dwellings. In addition there is a requirement for 1 visitor space for every 4 dwellings. Parking spaces should measure 5.5 metres by 2.9 metres and garages (if they are to be counted towards parking provision) should measure 7 metres by 3 metres internally. The development has been laid out in a manner that adheres to these standards and on a number of plots exceeds the minimum standards and pays regard to the need to plan for sustainable access for all.

As with any new development, it is inevitable that additional road traffic would be generated, however the key is to provide other options, such that future residents are given the opportunity to travel by more sustainable means. The revisions to the proposal see a new widened foot/cycleway proposed along the site frontage and leading to a new Toucan crossing, just beyond Cut Hedge, so as to connect into the existing Great Notley path network. It is also proposed to leave a strip of land adjacent to the proposed plot no.47, which would enable a footpath/cycleway to connect this development into the potential larger allocation to the north east. The widened footway and new pedestrian / cyclist crossing address concerns expressed by local residents about the width of the footway along this part of London Road. This provision should be included within the S106 agreement.

Members will note that the Local Highway Authority raise no objection to the proposal, subject to the imposition of a suite of planning conditions and obligations. Included, is also a requirement for electric car charging points to be provided in each garage, the provision of Travel Information Packs to first occupants; and improvements to the two bus stops on either side of London Road to the south of the site, in the form of the installation of Real Time Passenger Information systems.

The Highway Authority has recommended that electric car charging points are provided within all garages at the proposed development. Essex County Council has recently carried out a public consultation exercise regarding proposed changes to the Parking Standards. These changes included a proposal that electric car charging points are provided for all new dwellings. The results of the public consultation are not yet known and a revised version of the Parking Standards has not been produced, or adopted. As such Officers consider that there are insufficient grounds to require that the applicant make such provision at this time. An informative is recommended which encourages the developer to consider offering electric car charging points to occupiers of the development who are interested in using this facility.

## Green Infrastructure and Public Open Space

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

The proposed landscape design would promote and enhance local biodiversity and is in accordance with Development Plan Policy, the planting of trees and hedges will also enable new green (wildlife) corridors to be created through the site.

The proposed Layout provides 0.28ha of Public Open Space, centrally located on the Site and provided as a linked Village Green and Village Square. In addition a Children's Play area of 0.05ha will be provided within the Village Green. The applicant has provided some further information regarding the concept for this play area, including some images from a similar scheme undertaken elsewhere in the country. It is proposed that the play area is styled as a dry river bed with associated natural play. The play features in the space are designed to appear naturally in the landscape, with informal items such as rocks, logs, timber beams and decking. The dry river bed will also function as part of the SuDS scheme which will handle the development site's surface water. Details will be required for the design of the play area. The S106 will require that the Play Area is managed by the Management Company who will be responsible for maintenance of the Open Space within the development.

A further 0.20ha of amenity green space has been proposed as part of the proposed layout, including areas around the main site entrance and Bakers Lane, and along the boundaries of the Site.

The scale of the proposed development does not require on-Site provision of Outdoor Sports or Allotments, and instead Policy CS10 and DLP Policy LPP44, requires that the developer make a financial contribution towards provision or enhancement of these facilities off-site, where this is required to meet demand arising from the development. Currently there are no allotment sites within Great Notley and Officers are unaware of an identified scheme for allotment provision within Great Notley. The nearest allotment sites would be those at Black Notley and White Notley but Officers do not consider that it is reasonable to require a financial contribution towards these allotments as it is unlikely that residents on this development would look to these settlements for allotment provision. As a result it is recommended that the Council does not in this case seek a financial contribution towards allotment provision.

The applicant has agreed to make a financial contribution of £87,435.62 towards off-site Outdoor Sports improvements at Notley Green and the Discovery Centre.

## Drainage and Flood Risk

Part 10 of the NPPF sets out the Government's stance on climate change, flooding and coastal change, recognising that planning plays a key role in, amongst other things, providing resilience to the impacts of climate change. Inappropriate development in areas at risk of flooding should be avoided. Furthermore, Policy CS8 of the Core Strategy states that '*the Council will minimise exposure of people and property to the risks of flooding by following the national guidance. In particular the sequential test will be applied to avoid new development being located in the areas of flood risk*'.

The proposed development is located within Flood Zone 1 (low probability risk), and having reviewed the proposals and associated documents which accompanied the planning application, ECC Flood and Water Management confirm that the proposal would provide appropriate measures to manage surface water arising from the development through the implementation of SUDS and other engineered hydrological measures which will control the discharge of surface water from the site.

A number of representations have referred to problems with surface water flooding which affects the highway on London Road. It is understood that ECC Officers have been trying to find a solution for some time to these problems which are caused by the current pipe draining the area being unable to handle the volume of water when there is heavy rainfall. To date it had not been possible to identify a viable scheme as agreement cannot be secured with landowners to allow a suitably sized pipe to address the issue. Following discussions between the applicant and ECC Flood Water Management Team, it has been agreed in principle that the applicant will connect the highway drainage system serving this part of London Road, into the site's SUDs network. This will be beneficial in reducing localised highway flooding, to both local residents and highway users in times of heavy rainfall.

Whilst there is agreement in principle about how a solution could be engineered there is a need for further discussions and detailed design work before ECC Officers and the developer can finalise an agreement. Officers do not consider that the applicant can be required to carry out the work as part of the development as this is an existing problem and not one that has arisen as a result of the proposed development. Whilst the applicant has advised that it is their intention to agree a solution with ECC Officers there is no certainty at the time of writing this report that an agreement will be reached and that the work will be undertaken. As a result Officers have encouraged the applicant to continue discussions with ECC Officers. It is hoped that a solution is agreed and implemented but Members are advised that this should not be secured through the S106 agreement or by planning condition as it does not meet the relevant tests. As there will be no guarantee that the work will be undertaken when considering the public benefits arising from the development Members should not factor in a benefit arising from dealing with surface water drainage problems on London Road.

## Affordable Housing

Policy CS2 Affordable Housing of the adopted Core Strategy (2011) states that *“a target of 30% affordable housing provision on sites”* shall be provided.

The application indicates 29 units (30%) of affordable housing provision, providing a range of dwelling types and therefore accords with Core Strategy Policy CS2. Policy RLP 3 of the Local Plan Review 2005 requires that regard is paid to the extent to which proposals for housing development will contribute towards meeting local housing needs. Policies RLP 7 and RLP 8 of the Local Plan Review require that new residential development should seek to achieve mixed communities incorporating a mix of different house types, sizes and tenures.

The mix of Affordable Housing originally offered by the applicant did not adequately reflect local housing need. Following discussion between the applicant and Officers the mix of affordable housing has been revised and it is now proposed that it will consist of 6 no. 1-bed units, 18 no. 2-bed units, 4 no. 3-bed units and 1 no. 4-bed units. The Council's Housing Enabling Officer is now satisfied that the proposed mix of units is acceptable.

## Planning Obligations

Core Strategy Policy CS11 - Infrastructure Services and Facilities - states that the Council will work with partners, service delivery organisations and the development industry to ensure that the infrastructure services and facilities required to provide for the future needs of the community are delivered in a timely, efficient and effective manner.

The applicant has agreed to enter into a planning obligation under Section 106 of Town and Country Planning Act 1990 covering the following matters, which include those covered above:

- 29 dwellings to be provided as affordable housing
- £31,630 towards capacity improvements in Primary Care Facilities at the Great Notley GP Practice
- £102,803 for Early Years & Childcare and £300,563 for Primary Education provision
- £87,435.62 towards off-site Outdoor Sports improvements to playing pitches at Notley Green and the Discovery Centre
- Management Company to manage all areas of Public Open Space within the development
- Footpath/Cycleway provision and crossing along eastern side of London Road and provision of land to allow construction of a 3m wide

strip adjacent to plot 47, from the carriageway to the northern boundary of the site to allow for future provision of footway /cycleway link if necessary

- Bus stop improvements - provision of Real Time Passenger Information (RTPI), at the two bus stops on either side of London Road to the south of the site.

## **Socio-Economic Impacts**

A summary sheet identifying the potential socio-economic impacts of the development has been submitted in support of the application by the applicant. This report highlights a number of positive benefits including; the creation of jobs - both direct and indirect during construction of the development and indirectly through increased on-going demand for goods and services as a result of the occupation of the proposed dwellings.

The applicant also indicates that the Government will pay a New Homes Bonus if the development is built. This is a grant paid by central government to local councils for increasing the number of homes in their local area. The Government has consulted on possible changes to the New Homes Bonus but currently it is paid annually over the course of six years and is based on the amount of additional council tax revenue raised for new-build homes. The applicant estimates over the 6 years the amount generated by the scheme would be in excess of £900,000.

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. New Homes Bonus payments are listed as one form of 'local financial consideration'.

The NPPG states that '*Whether or not a 'local finance consideration' is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms. It would not be appropriate to make a decision based on the potential for the development to raise money for a local authority or other Government body*'.

Officers do not consider that the payment of New Homes Bonus is a material consideration as the payment is not necessary to make the proposed development acceptable in planning terms. Reference to this payment is therefore for information only and Members should not consider this as being a material consideration when determining this application.

## **PLANNING BALANCE/ CONCLUSION**

NPPF paragraph 14 stipulates that at its heart is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.

For decision-taking this means approving development proposals that accord with the development plan without delay; but where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicate development should be restricted.

It has been acknowledged that the site is situated outside a defined settlement boundary, and therefore for all intents and purposes rural policies of restraint apply. However, due to the fact that the Council cannot currently demonstrate a five year supply of housing land, those policies are deemed out of date and therefore the balance of considerations outlined above applies. The site has, however, been allocated for residential development within the DLP, and this can be afforded some weight as a material planning consideration.

Officers acknowledge that there is less than significant harm to the setting of the two designated heritage assets (listed buildings) near the site. Whilst the Council must have special regard to maintaining the setting of a listed building the NPPF (paragraph 134) states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

Clearly in times where there is significant pressure to increase the delivery of developable housing land, the granting of planning permission for 96 houses would go some way in meeting the Council's Objectively Assessed Needs. This, along with the provision of much needed affordable housing, of an appropriate dwelling type mix to meet social needs also weighs in favour of the proposal. In addition, it is considered that the fact that by granting this application, full planning permission would be issued (subject to the completion of the S106 planning obligation), meaning that the scheme should deliver new housing in the short term.

Furthermore, the provision of a new footpath/cycleway along London Road, the facilitation of a future such link through to the much larger proposed housing allocation to the north east, as well as the installation of Real Time Passenger Information displays would enable the proposal to facilitate both accessible and therefore sustainable development to ensue. The development will also provide socio-economic benefits at a local and district level and create new areas of public open space and green infrastructure for use by the new and existing community development as well as providing opportunities to enhance the ecological value of the site.

The impacts of the development upon the amenity of neighbouring premises are considered acceptable, as is the wider impact upon the character of the landscape and settlement.

The site is considered to be in a sustainable location where there is good access to public transport and opportunities to access local services and facilities for walking or cycling. The application sets out the economic benefits arising from the proposed development.

The NPPF identifies three dimensions to sustainable development: economic, social and environmental. As set out above Officers consider that the proposed development offers benefits against each of these dimensions. Having assessed the public benefits arising from the development and when weighed against the less than significant harm to the listed building, it is considered that, pursuant to NPPF paragraphs 14 and 134, that permission should be granted as the adverse impacts of doing so are outweighed by the public benefits of the proposal.

### RECOMMENDATION

It is therefore RECOMMENDED that subject to the applicant entering into a suitable legal agreement pursuant to S106 of the Town and Country Planning Act 1990 (as amended) to cover the following Heads of Terms:

- Affordable Housing - 29 dwellings to be provided as affordable housing – 20 units to be affordable rent and 9 units of intermediate housing / shared ownership. Affordable Housing to be constructed to Lifetime Homes standards
- Bus stop improvements - provision of Real Time Passenger Information (RTPI), at the two bus stops on either side of London Road to the south of the site.
- Education - financial contribution of £102,803 for Early Years & Childcare and £300,563 for Primary Education provision
- Health - financial contribution of £31,630 towards capacity improvements in Primary Care Facilities at the Great Notley GP Practice
- Highways – Prior to occupation of the first dwelling construction of a footpath/cycleway from the south western corner of the site to link to the cycleway adjacent to PROW 311-26 on the western side of London Road, including a toucan crossing to link to the east and west sides of the cycleway, and appropriate signing and traffic regulation orders. For the avoidance of doubt such cycleway to include full depth construction/reconstruction of any existing footway and surfacing of the entire width of the cycleway to the satisfaction of the Local Planning Authority, as shown in principle on Drawing T530-013 Rev B
- On-Site Public Open Space, including an equipped play area, and arrangements Management Company to manage all areas of Public Open Space within the development
- Public Open Space – on-site provision of equipped play and informal open space; management arrangements for on-site provision
- Provision of land to allow construction of a 3m wide strip adjacent to plot 47, from the carriageway to the northern boundary of the site to allow for future provision of footway /cycleway link if necessary

- Outdoor Sports - a financial contribution of £87,435.62 towards off-site Outdoor Sports improvements to playing pitches at Notley Green and the Discovery Centre

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

### 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

Site Boundary	002-E
Planning Layout	004-AM
Recycling/Waste Strategy	012-AJ
Amenity Garden Size Plan	015-AL
Building Materials Plan	016-AJ
Affordable Housing Plan	23461-019-AJ
Parking Plan	020-AL
Site Topography Plan	021-A
Street Elevations Sheet 1	EL-01.1-D
Street Elevations Sheet 2	EL-01.2-D
Sandown Type 1 – Plans & Elevations	HT01-B
Sandown Type 2 – Plans & Elevations	HT01.1-C
Sandown Type 3 – Plans & Elevations	HT01.2-C
Braxted - Elevations	HT02-C
Braxted - Plans	HT02.1-C
Hartley Type 1 – Plans & Elevations	HT03-E
Hartley Type 1a – Plans & Elevations	HT03.1-D
Hartley Type 2 – Plans & Elevations	HT03.2-D
Hartley Type 3 –Plans & Elevations	HT03.3-C
Elmswell Type 1 – Plans & Elevations	HT04-E
Elmswell Type 2 – Plans & Elevations	HT04.2-D
Elmswell Type 3 – Plans & Elevations	HT04.3-C
Chelsworth – Plans & Elevations	HT05-D
Kensington - Elevations	HT06-F
Kensington - Plans	HT06.1-F
Stock - Elevations	HT07-F
Stock - Plans	HT07.1-F
Elsenham Type 1 – Plans & Elevations	HT08-F
Elsenham Type 2 – Plans & Elevations	HT08.1-D
Walberswick - Elevations	HT09-D
Walberswick - Plans	HT09.1-D



Woodbridge - Elevations	HT10-F
Woodbridge - Plans	HT10.1-F
Copthorne - Elevations	HT11-D
Copthorne - Plans	HT011.1-D
Danbury – Elevations	HT12-E
Danbury – Plans	HT12.1-E
Lavenham - Elevations	HT13-E
Lavenham - Plans	HT13.1-E
Caldwick - Elevations	HT14-C
Caldwick - Plans	HT14.1-C
5B Type 1 - Elevations	HT15-D
5B Type 1 - Plans	HT15.1-D
5B Type 2 - Elevations	HT15.2-C
5B Type 2 - Plans	HT15.3-C
Bed Cottage Flats - Elevations	HT16-E
Bed Cottage Flats - Plans	HT16.1-E
1 Bed Flats - Elevations	HT17-C
1 Bed Flats - Plans	HT17.1-C
Coach 2 Bed Flat - Elevations	HT18-E
Coach 2 Bed Flat - Plans	HT18.1-E
1-2 Bed Flats Type 1 - Elevations	HT19-F
1-2 Bed Flats Type 1 – Elevations	HT19.1-F
1-2 Bed Flats Type 1 - Plans	HT19.2-F
1-2 Bed Flats Type 1 - Plans	HT19.3-F
1-2 Bed Flats Type 2 - Elevations	HT19.4-F
1-2 Bed Flats Type 2 - Plans	HT19.5-D
2 Bed Type 1 – Plans & Elevations	HT20-D
2 Bed Type 2 – Plans & Elevations	HT20.1-E
3 Bed Type 1 – Plans & Elevations	HT21-E
Kennet 3 Bed – Elevations	HT22-C
Kennet 3 Bed – Plans	HT22.1-C
Single Garage – Plans & Elevations	HT24-G
Double Garage Type 1 – Plans & Elevations	HT25-G
Double Garage Type 2 – Plans & Elevations	HT25.1-F
Double Garage Type 3 – Plans & Elevations	HT25.2-B
Single Garage Pair – Plans & Elevations	HT26-G
Triple Garage – Plans & Elevations	HT27-G
HA 4 Bed	HT28-C
HA Loft 2 Bed Flat - Elevations	HT29-C
HA Loft 2 Bed Flat - Plans	HT29.1-C
Kennet - Elevations	HT30-B
Kennet – Plans	HT30.1-B
Drainage Strategy Plan	T530-200-D
Proposed Cycle Link	T530-013-B
Noise Impact Assessment	T530-04A
Site Investigation and Risk assessment Report	J12098 (Revision 2)
Flood Risk Assessment and Drainage Strategy	T530-05
Proposed Site Access	T530-005 Rev C
Schedule of Parking Places	SC01 AJ

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

Reason

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

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

Reason

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

- 3 Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting that Order) no enlargement of the dwelling-house/provision of any building within the curtilage of the dwelling-house/alteration of the dwelling-house, as permitted by Classes A, B, C & E of Part 1 of Schedule 2 of that Order shall be carried out without first obtaining planning permission from the local planning authority.

Reason

In order that the local planning authority may exercise control over any proposed future extensions / outbuildings in the interests of residential and/or visual amenity.

- 4 The garage and car ports hereby permitted on Plots 2, 4, 5, 6, 7, 9, 10, 13, 14, 15, 16, 20, 21-26, 35, 38, 41, 42, 45, 53, 55, 56-58, 62, 70-71, 78, 84 shall only be used for the parking of vehicles or for domestic storage associated with the dwelling and not used for living accommodation.

Reason

To ensure adequate parking and garage space is provided within the site in accordance with the standards adopted by the local planning authority.

- 5 Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no enlargement of, or additional windows, doors, rooflights, voids or openings, as permitted by Classes A, B and C of Part 1 of Schedule 2, other than those indicated on the approved plans shall be placed or formed in the walls or roof of the dwellings on Plots 8 and 87 hereby permitted without first obtaining planning permission from the local planning authority.

Reason

In the interests of residential amenity and in order to secure the privacy of adjoining occupiers.

- 6 No development or preliminary groundworks shall commence until a

programme of archaeological excavation has been secured and undertaken on the areas identified within the evaluation in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the local planning authority.

Reason

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

- 7 No development or preliminary groundworks shall commence until a programme of archaeological investigation and mitigation has been secured in those areas which have not been previously been evaluated. A proposed mitigation strategy should be submitted by the applicant and approved by the local planning authority.

Reason

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

- 8 The applicant will submit to the Local Planning Authority a post-excavation assessment (to be submitted within six months of the completion of the fieldwork, unless otherwise agreed in writing in advance with the Local Planning Authority. This will result in the completion of post-excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

Reason

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

- 9 Prior to the occupation of the development hereby approved a scheme of landscaping shall be submitted to and approved in writing by the local planning authority. The scheme shall incorporate a detailed specification including plant/tree types and sizes, plant numbers and distances, soil specification, seeding and turfing treatment, colour and type of material for all hard surface areas and method of laying where appropriate.

All areas of hardstanding shall be constructed using porous materials laid on a permeable base unless otherwise agreed in writing by the local planning authority.

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

All hard surface areas agreed as part of the scheme shall be constructed prior to the first occupation of the dwelling to which it relates, or in the case of communal areas in accordance with a scheme specified within the Landscaping Scheme.

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

Reason

Landscape planting will add character to the development and it is considered desirable for these to be dealt with concurrently with the other details.

- 10 Prior to the commencement, including site clearance, of the development hereby permitted a Landscape and Ecology Management Plan (LEMP), to specify long term habitat management prescriptions, and based upon the approved detailed landscape scheme, has been submitted to and approved in writing by the local planning authority. The LEMP shall include the extent and location of proposed works; aftercare and long term management; the personnel responsible for the work; the timing of the works; and monitoring.

The LEMP shall include, but not be restricted to, the provision of nest/roost sites for bats and birds through the provision of tubes and boxes on both retained trees and within new buildings and to provide or enhance habitats for hedgehogs.

The development shall be implemented in accordance with the approved details and thereafter so maintained.

Reason

To protect and enhance the ecological value of the site. It is necessary for these details to be agreed prior to commencement of development as failure to do so could result in the loss of potentially valuable habitats.

- 11 Prior to the commencement of development hereby permitted, a wildlife protection plan shall be submitted and approved by the local planning authority identifying appropriate measures for the safeguarding of protected species and their habitats within the application site. The plan shall include:
- a) an appropriate scale plan showing protection zones where any construction activities are restricted and where protective measures will be installed or implemented;
  - b) details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction;
  - c) details of how development work will be planned to mitigate potential impacts on protected species, as informed by the project ecologist;
  - d) a person responsible for:
    - i.) compliance with legal consents relating to nature conservation;

- ii.) compliance with planning conditions relating to nature conservation;
- iii.) installation of physical protection measures during construction;
- iv.) implementation of sensitive working practices during construction;
- v.) regular inspection and maintenance of physical protection measures and monitoring of working practices during construction; and
- vi.) provision of training and information about the importance of "Wildlife Protection Zones" to all construction personnel on site.

All construction activities shall be implemented in accordance with the approved details and timing of the plan unless otherwise approved in writing by the local planning authority

#### Reason

To protect features of recognised nature conservation importance. It will be necessary for this information to be supplied and agreed prior to the commencement of site clearance or development otherwise there would be a danger that valuable habitats used by protected species could be removed or irrevocably damaged.

- 12 Prior to first occupation of the development, provision of an access (as shown in principle on drawing number T530-005 C to include a 5.5 metre carriageway, two 2 metre footways and radii of 10m (variation from drawing which has radii of 10.5m). The road junction at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 90m in both directions along London Road as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction is first used by vehicular traffic and retained free of any obstruction at all times.

#### Reason

To provide adequate inter-visibility between vehicles using the road junction and those in the existing public highway in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- 13 Prior to first occupation of any dwelling served by the private drive accessed from London Road provision shall be made of a 5.5m wide access (as shown in principle on drawing number T530-005 C) which at its centre line shall be provided a clear to ground visibility splay with dimensions of 2.4 metres by 90m metres in both directions along London Road, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction is first used by vehicular traffic and retained free of any obstruction at all times.

Reason

To provide adequate inter-visibility between vehicles using the road junction and those in the existing public highway in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- 14 Prior to first occupation of any dwelling served by the private drive accessed from Bakers Lane provision shall be made of a 5.5m wide access (as shown in principle on drawing number T530-005 C ) which at its centre line shall be provided a clear to ground visibility splay with dimensions of 2.4 metres by 120m metres in both directions along Bakers Lane, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction is first used by vehicular traffic and retained free of any obstruction at all times.

Reason

To provide adequate inter-visibility between vehicles using the road junction and those in the existing public highway in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- 15 Prior to first occupation of the dwellings hereby approved, details of a Residential Travel Information Pack, promoting sustainable transport and including six one day travel vouchers for use with the relevant local operators, has been submitted to and approved in writing by the local planning authority.

The approved packs shall be provided to the prospective first occupiers of each Dwelling at the expense of the Developer.

Reason

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

- 16 Prior to installation details of the following, including construction details, shall be submitted to and approved in writing by the local planning authority.
- i. The design and position of physical barriers, such as bollards, adjacent to plots 30 and 33 to prevent a vehicular through route to and from the Bakers Lane access.
  - ii. Refuse collection points to be provided at the points marked B on the layout plan adjacent to plots 33 and 30. To ensure that refuse collection can take place within the site and there

- is no need for refuse collection from the Bakers Lane access.
- iii. The design and location of low level fencing along the Bakers Lane frontage as shown on plan 004AM in order to inhibit refuse collection from Bakers Lane.
- iv. The design and location of a pedestrian access, constructed with an unbound material, onto Bakers Lane adjacent to plot 28 to form a connection to PROW 66/24 on the southern side of Bakers Lane.

Development shall be implemented in accordance with the approved details and be installed / constructed prior to the occupation of the first dwelling on the private drive accessed off Bakers Lane (Plots 30, 31, 32, 33, 34) and shall be permanently maintained as such.

#### Reason

To ensure footways are constructed to an acceptable standard, in the interests of highway safety and of sustainable development.

- 17 No development shall take place, including any ground works or site clearance, until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The approved Plan shall provide for the following all clear of the highway:
- a. the parking of vehicles of site operatives and visitors
  - b. loading and unloading of plant and materials
  - c. safe access to/from the site, including the routeing of construction traffic
  - d. storage of plant and materials used in constructing the development
  - e. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
  - f. wheel and underbody washing facilities
  - g. measures to control the emission of dust and dirt during construction
  - h. a scheme for recycling/disposing of waste resulting from demolition and construction works
  - i. a scheme to control noise and vibration during the construction phase, including details of any piling operations
  - j. details of how the approved Plan will be implemented and adhered to

The approved Plan shall be adhered to throughout the construction process.

#### Reason

To protect the amenities of the occupiers of nearby residential properties and the surrounding area and in the interests of highway safety, to ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM 1 and

- 18 The dwellings hereby permitted shall not be occupied until the car parking provision (parking bay/driveway/garage/car port) indicated to serve that dwelling, as shown on approved plan Drawing No 020 Revision AL, has been constructed, hard surfaced, and where appropriate marked out in parking bays. The visitor parking bays coloured turquoise and marked with a 'V' on Drawing No 020 Revision AL shall be provided and hard surfaced prior to occupation of the 80th dwelling.

The car parking areas shall be retained in this form at all times.

Reason

To ensure that appropriate parking is provided in the interests of highway safety and efficiency in accordance with policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- 19 Details of any proposed external lighting to the site shall be submitted to, and approved in writing by, the local planning authority prior to installation. The details shall include a layout plan with beam orientation and a schedule of equipment in the design (luminaire type, mounting height, aiming angles, luminaire profiles and energy efficiency measures).

All lighting shall be installed, maintained and operated in accordance with the approved details. There shall be no other sources of external illumination.

Reason

To minimise light pollution of the night sky and to safeguard the amenities of the local residents and the general appearance of the development and to minimise the impact on ecology.

- 20 Development shall not be commenced until a scheme for the provision and implementation of foul water drainage has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied until the works have been carried out in accordance with the approved foul water strategy.

Reason

This information is required prior to commencement of development so that the local planning authority can be satisfied that if mitigation measures are required within the application site these are designed and constructed prior to the development commencing. To ensure a satisfactory method of foul drainage and to prevent the increased risk of flooding and/or pollution of the water environment.

- 21 The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment and



Drainage Strategy (Produced by Ardent Consulting Ref T530-05) and the information contained within the e-mail received from Ardent Consulting dated 19.05.2016 and the following mitigation measures detailed within the FRA:

- Runoff limited to 9l/s, 24.7l/s and 32.2l/s for the 1 in 1, 1 in 30 and 1 in 100 year plus climate change events respectively. Runoff limited to 5l/s from the central basin to provide long term storage.
- Provide attenuation storage (in the locations on layout plan) for all storm events up to and including the 1:100 year storm event inclusive of climate change.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

**Reason**

To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and to ensure the effective treatment of surface water runoff to prevent pollution.

- 22 No development, including any construction works, shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.

**Reason**

The National Planning Policy Framework paragraph 103 states that local planning authorities should ensure flood risk is not increased elsewhere by development.

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

- 23 No development, including any construction works, shall take place until a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority. This information is required prior to the commencement of development to ensure that satisfactory arrangements are in place to address maintenance needs

associated with both initial construction and ongoing requirements.

Reason

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

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

Reason

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

- 25 Development shall not be commenced until details of new fire hydrants have been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall include details of the timing of the installation of the fire hydrants. The new fire hydrants shall be installed in accordance with the approved details.

Reason

To ensure that adequate facilities are provided for the Fire and Rescue Service to access water supplies in the event of an emergency. This information is required prior to the commencement of the development as the installation of the hydrants is dependent on the design of the water main system serving the development.

- 26 The recommendations of the Site Investigation and Risk Assessment Report, dated 16.02.2015, Report reference J12098 (Revision 2) shall be implemented.

The developer shall give one-month's advanced notice in writing to the Local Planning Authority of the impending completion of any required remediation works. Within four weeks of completion of any required remediation works a validation report undertaken by competent person or persons and in accordance with the 'Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers' and the agreed remediation measures shall be submitted to the Local Planning Authority for approval. There shall be no residential occupation of the site (or beneficial occupation of the office building hereby permitted) until the Local Planning Authority has approved the validation report in writing. Furthermore, prior to occupation of any property hereby permitted, the developer shall submit to the Local Planning Authority a signed and dated certificate to confirm that any required remediation works have been completed in strict accordance with the documents and plans comprising the remediation scheme agreed in writing with 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.

- 27 The development shall be carried in accordance with the recommendations of the Noise Impact Assessment, produced by Ardent, Report Ref T530-04A, dated April 2016 and this shall be confirmed prior to occupation of the first residential dwelling.

Reason

In the interests of the amenity of residents of the locality and of future residents of the development.

- 28 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.

- 29 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.

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

Reason

In the interests of visual amenity.

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

Reason

In the interest of visual amenity.

- 32 All buildings containing flats shall be equipped with a communal TV and radio aerial and satellite dish in positions to be submitted to and approved in writing by the local planning authority. On all buildings, satellite dishes shall be of dark coloured mesh unless fixed to a light coloured, rendered wall, in which case a white dish shall be used. Satellite dishes shall not be fixed to the street elevations of buildings or to roofs.

Reason

All buildings containing flats shall be equipped with a communal TV and radio aerial and satellite dish in positions to be submitted to and approved in writing by the local planning authority. On all buildings, satellite dishes shall be of dark coloured mesh unless fixed to a light coloured, rendered wall, in which case a white dish shall be used. Satellite dishes shall not be fixed to the street elevations of buildings or to roofs.

- 33 All roads which form part of the refuse vehicle route, as shown on Drawing 012 Revision AJ, shall be constructed to take a load of 26 tonnes. All turning heads within the development site shall conform to the dimensions specified within in the Essex Design Guide.

Reason

To ensure roads are constructed to an acceptable standard and can accommodate refuse collection vehicles.

- 34 No dwelling shall be occupied until the refuse recycling bins, and where applicable, storage areas and collection points, for that dwelling have been provided and are available for use.

Reason

To ensure adequate facilities for refuse and recycling in the interests of residential amenity and in order to prevent the unsightly storage of refuse containers and in the interests of amenity.

- 35 Prior to the occupation of the development the details of the number, location and design of a covered parking facility for bicycles shall be submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the approved facilities for that dwelling have been provided. The approved facilities shall be retained at all times.

Reason

To ensure appropriate bicycle parking is provided in accordance with the Council's adopted Parking Standards and to encourage residents to use more sustainable forms of transport.

- 36 Prior to first occupation of the development hereby approved details of all gates/fences/walls or other means of enclosure not previously submitted, shall be submitted to and approved in writing by the local planning authority. The details shall include position, design, height and materials of the enclosures. The enclosures as approved shall be provided prior to

the occupation of the development hereby approved and shall be permanently maintained as such.

Reason

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

- 37 No development shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.

Reason

To avoid the excessive raising of any building hereby permitted and the alteration of ground levels within the site which may lead to unneighbourly development with problems of overlooking and loss of privacy.

- 38 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.

Following each site inspection during the construction period the Project Arboricultural Consultant shall submit a short report to the local planning authority.

The approved means of protection shall be installed prior to the commencement of any building, engineering works or other activities within that Phase of the development 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. These details are required prior to the commencement of the development as they relate to measures that need to be put in place prior to development commencing.

- 39 Construction of any buildings shall not be commenced until samples of the materials to be used on the external finishes 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 the use of appropriate materials and in the interests of visual amenity.

- 40 A public realm strategy shall be submitted to and approved in writing by the local planning authority prior to the first occupation of the dwellings hereby approved. The plans shall specify how all areas of public realm will be treated, which should include 'public art', include, but not be limited to, details of road kerbs/edging, bin collection points, signage, and street furniture. The Public Realm Strategy shall include a delivery strategy which will specify the timing of delivery.

The Public Realm Strategy shall be implemented in accordance with the approved details.

Reason

In the interests of good design and to ensure a well-designed place that is attractive, helps create a distinctive character and contribute towards making a high quality development, consistent with National and Local Planning Policies.

INFORMATION TO APPLICANT

- 1 Please note that in accordance with Government Legislation a formal application must be made to the Local Planning Authority when submitting details in connection with the approval of details reserved by a condition. Furthermore, a fee of £28 for householder applications and £97 for all other types of application will be required for each written request. Application forms can be downloaded from the Council's web site [www.braintree.gov.uk](http://www.braintree.gov.uk)
- 2 Your attention is drawn to the need to discharge conditions before development starts where it is a requirement of the condition/s. Development will be treated as having been commenced when any material change of use or material operation has taken place, pursuant to Section 56 of the Town and Country Planning Act 1990. A material operation means any work of construction in the course of the erection of a building, including: the digging of a trench which is to contain the foundations, or part of the foundations of a building; the laying of any underground main or pipe to a trench, the foundations, or part of the foundations of a building; any operation in the course of laying out or

constructing a road or any part of a road; and any work of demolition of a building. If development begins before the discharge of such conditions then those conditions cannot be discharged and a breach of planning control will have occurred, which may result in enforcement action being taken.

- 3 Your attention is drawn to Condition 3, 4 and 5 of this planning permission which removes permitted development rights for certain alterations/extensions/ development. You are requested to inform prospective purchasers of these restrictions and/or incorporate them in covenants relating to the properties.
- 4 Your attention is drawn to condition 6, 7 and 8 of this planning permission and that there may be archaeological remains on the site. Any financial implications resulting from the need for archaeological investigation and subsequent protection measures are the responsibility of the developer/applicant. In respect of these requirements, you are advised to contact the Essex County Council, Historic Environment Branch (Teresa O'Connor, 01245 437638).
- 5 You are advised that the granting of planning permission does not absolve you from complying with the relevant law regarding protected species, including obtaining and complying with the terms and conditions of any licenses required by Part IV B of the Circular 06/2005 (Biodiversity and Geological Conservation - Statutory Obligations)
- 6 All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to The Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate Notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway.
- 7 All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to: SMO1 - Ringway Jacobs, Essex County Council, 653, The Crescent, Colchester Business Park, Colchester, CO4 9YQ

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential

claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

- 8 The developer to meet the full cost of compensation claims associated with any new or altered highway as part of the proposed development, including provision of a Bond. This is required to indemnify the Highway Authority against any claims, under the Land Compensation Act, associated with the highway works.
- 9 All construction or demolition works should be carried out in accordance with the "Control of Pollution and Noise From Demolition and Construction Sites Code of Practice 2012." A copy can be viewed on the Council's web site [www.braintree.gov.uk](http://www.braintree.gov.uk), at Planning Reception or can be emailed. Please phone 01376 552525 for assistance.
- 10 For the avoidance of doubt the Pedestrian Access adjacent to Plot 28, leading to / from Bakers Lane will not be adopted or maintained by the highway authority and so shall be maintained through the private maintenance agreement for the site.
- 11 The applicant is encouraged to offering electric car charging points within the garages of dwellings hereby approved to occupiers who are interested in using this facility.
- 12 The applicant is advised that in discharging Condition 15 the Residential Travel Information Packs shall mean a bespoke district led booklet, or other approved media, aimed at promoting the benefits of sustainable transport in support of the objective to secure a modal shift from the private car and increase the use of sustainable modes of travel, and shall contain the following:
  - Guidance and promotional material on the use of sustainable modes of travel
  - Details on walking, cycling, trains, buses, park & ride, taxis, car sharing, electric vehicles, school transport, and personalised journey planning services
  - Reference to travel websites, resources and support services for each mode of travel, information provided by county, district and or borough councils
  - Details of local travel campaigns and networking/support groups
  - Six one day Travel Vouchers for each occupier of each Dwelling

'Travel Vouchers' shall mean tickets/passes/credits or other means of accessing transport or journey planning information as agreed with the Local Planning Authority including the following as a minimum (either six carnet or scratch card bus tickets per household that can be used by each eligible member of the household OR season ticket voucher) and/or (incentives for rail travel with the local rail operator) and/or (My PTP credits to access an online tool to generate personalised travel plans



using a home and destination postcode to provide details of different travel modes/options travel routes/maps and timetable information)

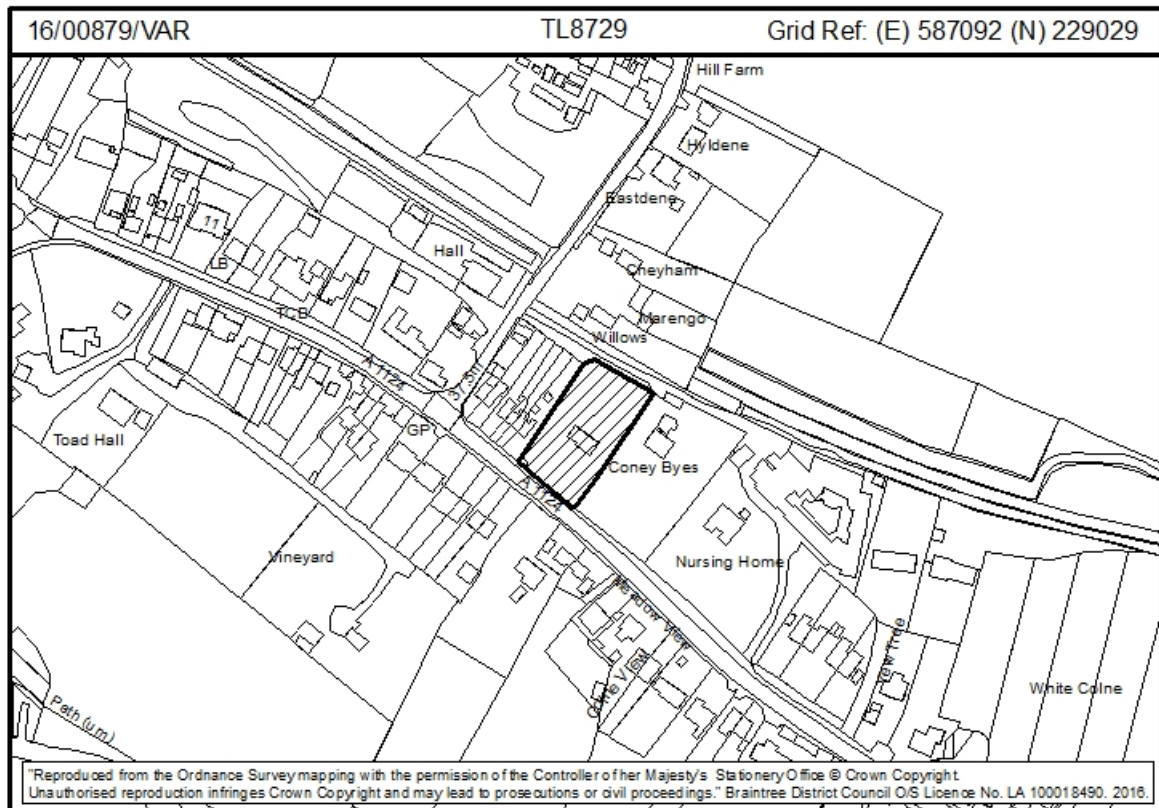
- 13 Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore the site layout should take this into account and accommodate those assets within prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost under section 185 of the Water Industry Act 1991, or in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that diversion works should normally be completed before development can commence.

TESSA LAMBERT  
DEVELOPMENT MANAGER

PART A

APPLICATION NO: 16/00879/VAR DATE: 27.05.16  
 VALID:  
 APPLICANT: CCC Property  
 Mr G Sharp, 144 New London Road, Chelmsford, Essex,  
 CM2 0AW  
 AGENT: The Planning And Design Bureau  
 FAO Mr Stewart Rowe, 45 Hart Road, Thundersley,  
 Benfleet, Essex, SS7 3PB  
 DESCRIPTION: Application for variation of condition nos. 3 and 7 of  
 approved application 10/00537/OUT (Erection of two storey  
 rear extension and first floor side extension to existing  
 dwelling and alterations including reduction in building  
 width, rationalise existing parking area and erection of two  
 storey dwellinghouse with parking and amenity areas and  
 formation of new vehicular access) - Levels and turning  
 facilities  
 LOCATION: 41 Colchester Road, White Colne, Colchester, Essex, CO6  
 2PW

For more information about this Application please contact:  
 Mathew Wilde on:- 01376 551414 Ext. or by e-mail to:



## SITE HISTORY

08/00067/REF	Demolition of house and garage and erection of five detached houses with associated parking and amenity areas. Formation of private drive and new vehicular access onto colchester road	Appeal Dismissed	27.03.09
08/00082/REF	Demolition of house and garage and erection of four detached houses with associated parking and amenity areas. Formation of private drive and new vehicular access onto Colchester Road	Appeal Dismissed	27.03.09
10/00012/REF	Demolition of house and garage and erection of two storey terrace of five houses with associated parking and amenity area. form private drive, and new vehicular access onto Colchester Road	Appeal Dismissed	08.07.10
78/00568/P	Dismantle existing garage and erect double garage	Granted	
07/02303/FUL	Demolition of house and garage and erection of five detached houses with associated parking and amenity areas. Formation of private drive and new vehicular access onto colchester road	Refused	28.12.07
08/00727/FUL	Demolition of house and garage and erection of five detached houses with associated parking and amenity areas. Formation of private drive and new vehicular access onto colchester road	Refused then dismissed on appeal	09.06.08
08/01687/OUT	Demolition of house and garage and erection of four detached houses with associated parking and amenity areas. Formation of private drive and new	Refused then dismissed on appeal	29.10.08

09/01288/OUT	vehicular access onto Colchester Road Demolition of house and garage and erection of two storey terrace of five houses with associated parking and amenity area. form private drive, and new vehicular access onto Colchester Road	Refused then dismissed on appeal	17.11.09
10/00537/OUT	Erection of two storey rear extension and first floor side extension to existing dwelling and alterations including reduction in building width, rationalise existing parking area and erection of two storey dwellinghouse with parking and amenity areas and formation of new vehicular access	Granted with S106 Agreement	17.06.10
13/00724/REM	Application for approval of reserved matters following outline approval - 10/00537/OUT (Landscaping) - Erection of two storey rear extension and first floor side extension to existing dwelling and alterations including reduction in building width, rationalise existing parking area and erection of two storey dwellinghouse with parking and amenity areas and formation of new vehicular access	Granted	09.08.13
14/00104/DAC	Application for approval of details reserved by condition no. 3, 4, 7, 8, 10 and 13 of approved application 10/00537/OUT	Granted	04.07.14
14/01478/FUL	Application for a variation of condition no. 3 of approved application 10/00537/OUT - Amendments to levels	Granted	13.01.15
16/00899/OUT	Erection of detached bungalow to rear of no. 41, lay out parking and amenity	Pending Decision	

areas, construct private drive with new vehicular access onto Colchester Road, form retaining walls, and alter parking and amenity areas to existing dwellings

## POLICY CONSIDERATIONS

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

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

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

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

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

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

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

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

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

## National Planning Guidance

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

## Braintree District Local Development Framework Core Strategy

CS9            Built and Historic Environment

## Braintree District Local Plan Review

RLP2	Town Development Boundaries and Village Envelopes
RLP3	Development within Town Development Boundaries and Village Envelopes
RLP9	Design and Layout of Housing and Mixed Use Areas
RLP10	Residential Density
RLP17	Extensions and Alterations to Dwellings in Towns and Villages
RLP76	Renewable Energy
RLP77	Energy Efficiency
RLP80	Landscape Features and Habitats
RLP90	Layout and Design of Development
RLP100	Alterations and Extensions and Changes of Use to Listed Buildings and their settings
RLP163	Infrastructure and Community Facilities

## Draft Local Plan

SP1	Presumption in Favour of Sustainable Development
SP2	Meeting Housing Needs
LPP28	Housing Type and Density
LPP36	Sustainable Access for All
LPP37	Parking Provision
LPP42	Built and Historic Environment
LPP46	Layout and Design of Development
LPP59	Landscape Character and Features
LPP65	Surface Water Management Plan
LPP66	Sustainable Urban Drainage Systems
LPP67	Run-off Rates
LPP68	External Lighting

## INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

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

## SITE DESCRIPTION

The site comprises an existing detached dwelling on Colchester Road in White Colne. The site formerly comprised a single detached dwelling located towards the centre of the site, which slopes down steeply from the north-east. To the north-west of the site is a terrace of four small, traditional style dwellings. To the east is a large dwelling, set back from the highway by approximately 40 metres. A single track private access road is located to the north-east of the site. Opposite the site are semi-detached dwellings and a listed thatched cottage.

The most recent history in the site's development is as follows:

Application 10/00537/OUT proposed to retain the existing dwelling on the site while also proposing the addition of a further detached dwelling. This application was permitted in 2010. Matters of landscape for the new dwelling were secured through application 13/00724/REM. Application 14/00104/DAC secured the discharge of conditions 3,4,7,8,10 and 13 attached to application 10/00537/OUT. The proposed dwelling has now been constructed and is sited adjacent to the existing dwelling on the site.

Further to the discharge of condition 3 (which related to ground levels at the site), the new dwelling once constructed was actually 290mm higher than was granted planning permission for. This was because the levels at the site had to be slightly altered during construction. As such, application 14/01478/FUL sought to vary condition 3 (related to application 10/00537/OUT) which was approved in 2015.

## PROPOSAL

This application seeks to further vary condition 3 (levels) attached to planning application 10/00537/OUT to regularise changes to the front parking and rear garden levels that have been completed during construction and landscaping. Consequently, the application also proposes to vary condition 7 (turning facilities) to regularise these works.

## CONSULTATIONS

### Environmental Health Officer

No objection.

### Braintree Engineers

Not aware of any surface water issues affecting the site

### Essex County Council Highways

No objection.

## White Colne Parish Council

Object to the application on the basis of non-compliance with original planning application.

### REPRESENTATIONS

None received.

### REPORT

#### Principle of Development

Planning Permission has been granted for the erection of a new dwelling at the site and modifications to an existing dwelling by application 10/00537/OUT. The current application seeks to vary condition 3 and 7 of this permission to regularise works that have been carried out with regard to changing levels at the site and the associated impact on the turning facilities.

The Planning Practice Guidance states that in deciding an application to vary conditions (under Section 73 of the Town and Country Planning Act 1990), the local planning authority must only consider the condition/s that are the subject of the application – it is not a complete re-consideration of the application. It also states that the original planning permission will continue to exist whatever the outcome of the application under Section 73.

#### Design and Appearance

Condition 3 of planning application 10/00537/OUT stated:

*Prior to commencement of development details showing the existing and proposed ground levels, both inside and immediately adjoining the site and the slab and finished roof heights and levels of dwellings in relation to the neighbouring properties shall be submitted to and approved in writing by the Local Planning Authority.*

This was later changed to 'prior to occupation' under application 14/01478/FUL as the levels at the site had changed. The changes included both levels of land and also the small increase in ridge height of the proposed dwelling. The ridge height of the dwelling was approved as shown on plan reference 585/30A attached to application 14/01478/FUL.

The level change in this application specifically relates to the front driveway and rear garden of both the original and the new dwelling. The rationale was to improve the functionality of the parking and garden spaces by reducing the gradient of the slope. The application would then include retaining walls both at the front of the houses (1m high) and around the rear garden area (1.2m high). The retaining wall is stepped back into the site (from the front) and at the rear would not be visible. As such, due to its small size and location it is



considered that the retaining wall at the front and rear of the site would not have a detrimental impact on the character of the area.

As such, the revised condition can be amended to read as follows:

*Development shall be carried out in accordance with details submitted on plan reference PDB/16/102/02 received 31<sup>st</sup> May 2016 showing the proposed ground levels inside and immediately adjoining the site including the agreed roof heights and levels in relation to neighbouring properties on plan reference: 585/30A dated 14/04/2014 attached to application 14/01478/FUL. The development shall only be implemented in accordance with the approved details and permanently retained as such.*

### Highways

The development permitted by planning application 10/00537/OUT showed the formation of a second vehicle access to the site and some modification to the original vehicle access. In order to ensure that there was space for vehicles to leave both dwellings in forward gear, the following condition was attached to the permission:

Condition 7 of planning application 10/00537/OUT stated:

*Prior to occupation of the development a vehicular turning facility, of a design to be submitted to and approved in writing by the Local Planning Authority shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.*

This condition was initially discharged under application reference 14/00104/DAC. However, following revisions to the levels, the parking and turning areas the site, the plans have subsequently changed to now show a block paved area at the frontage of both dwellings in front of the new retaining wall. The Highways Authority has no objection to this application with regard to highway safety and functionality. As such it is considered the condition can be varied to the following:

*Development shall be carried out in accordance with details submitted on plans reference SPA01 & SPA02, SPA03 & SPA04, SPA05 & SPA06, SPA07 & SPA08 received 31<sup>st</sup> May 2016. The accesses shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose. The development shall only be implemented in accordance with the approved details and permanently retained as such.*

### Impact on Neighbouring Residential Amenities

Due to the minor nature of the proposed alterations it is considered that the conclusion reached in the initial application 10/00537/OUT would still be

relevant, that there would not be a detrimental impact on neighbouring amenity as a result of the changes.

#### S106 Open Space Contribution

In this case the dwelling and alterations to existing dwelling have been completed on site. In addition to this, the agreed Open Space Contribution from application 10/00537/OUT has been paid.

#### CONCLUSION

The application seeks retrospective changes to levels and turning facilities to increase the functionality of the parking at the site. It is considered the changes would not have a detrimental impact on the character of the area, neighbouring properties or parking/access at the site. As such it is considered the 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	Plan Ref: PDB/16/102/01
Proposed Block Plan	Plan Ref: PDB/16/102/02
Topographical Survey	Plan Ref: PDB/16/102/02
Parking Strategy	Plan Ref: SPA01 & SPA02
Parking Strategy	Plan Ref: SPA03 & SPA04
Parking Strategy	Plan Ref: SPA05 & SPA06
Parking Strategy	Plan Ref: SPA07 & SPA08

- 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 Development shall be carried out in accordance with details submitted on plan reference PDB/16/102/02 received 31st May 2016 showing the proposed ground levels inside and immediately adjoining the site including the agreed roof heights and levels in relation to neighbouring properties on plan reference: 585/30A dated 14/04/2014 attached to application 14/01478/FUL. The development shall only be implemented in accordance with the approved details and permanently retained as such.

#### Reason

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

- 3 The development shall be constructed in accordance with the following samples of external materials submitted with application 14/00104/DAC:

- o Reclaim Tile IB Stock
- o Vanhoe Red Brick

The development shall only 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 Prior to occupation of the development visibility splays with dimensions of 2.4 metres by 90 metres as measured from and along the nearside edge of the carriageway shall be provided on both sides of the proposed access. The area within each splay shall be kept clear of any obstruction exceeding 600mm in height at all times.

Reason

To provide adequate inter-visibility between the users of the access and the existing public highway for the safety and convenience of users of the highway and of the access.

- 5 Prior to the first use of the access a 1.5 metre x 1.5 metre pedestrian visibility sight splay as measured from the highway boundary, shall be provided on both sides of the vehicular access. There shall be no obstruction above a height of 600mm as measured from the finished surface of the access within the area of the visibility sight splays thereafter.

Reason

To provide adequate inter-visibility between pedestrians and users of the access and the existing public highway for the safety and convenience of users of the highway and of the access.

- 6 Development shall be carried out in accordance with details submitted on plans reference SPA01 & SPA02, SPA03 & SPA04, SPA05 & SPA06, SPA07 & SPA08 received 31st May 2016. The accesses shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose. The development shall only be implemented in accordance with the approved details and permanently retained as such.

Reason

To ensure appropriate turning facilities are provided so that vehicles can enter and leave the highway in a safe and controlled manner.

- 7 There shall be 6 metres between parking spaces and the opposite boundary fence.

Reason

To enable a vehicle using the parking spaces to manoeuvre in and out.

- 8 The development shall not be occupied until the car parking areas indicated on the approved plans listed above have been hard surfaced and available for use. The car parking area shall be retained in this form at all times. The car park shall not be used for any purpose other than the parking of vehicles that are related to the use of the development.

Reason

To ensure adequate parking space is provided.

- 9 Development shall be carried out in accordance with details submitted on plan reference 585/4 on application 14/00104/DAC received 09/05/2016 showing the proposed means of surface water discharge. The development shall only be implemented in accordance with the approved details and permanently retained as such.

Reason

To prevent hazards caused by flowing water or ice on the highway.

- 10 All areas of hardstanding shall be constructed using porous materials laid on a permeable base unless otherwise agreed in writing by the local planning authority.

Reason

To reduce the risks of flooding.

- 11 All tree protection measures shall be carried out in accordance with the Arboricultural Report produced by Andrew Day Arboricultural Consultancy Ltd, dated 17th June 2009 on application 10/00537/OUT.

Reason

To ensure existing trees, shrubs and hedges are retained as they are considered essential to enhance the character of the development.

- 12 Development shall be carried out in accordance with details submitted on application reference 14/00104/DAC received 09/05/2016 relating to refuse design and location, recycling materials and external light on application reference. The development shall only be implemented in accordance with the approved details and permanently retained as such.

Reason

In the interest of promoting sustainable forms of development.

- 13 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 0730 hours - 1800 hours

Saturday 0730 hours - 1300 hours

Sundays, Bank and Public Holidays - no work.

Reason

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

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

Reason

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

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

Reason

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

- 16 Development shall not be commenced until a dust and mud control management scheme has been submitted to and approved in writing by the local planning authority and shall be adhered to throughout the site clearance and construction process.

Reason

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

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

Reason

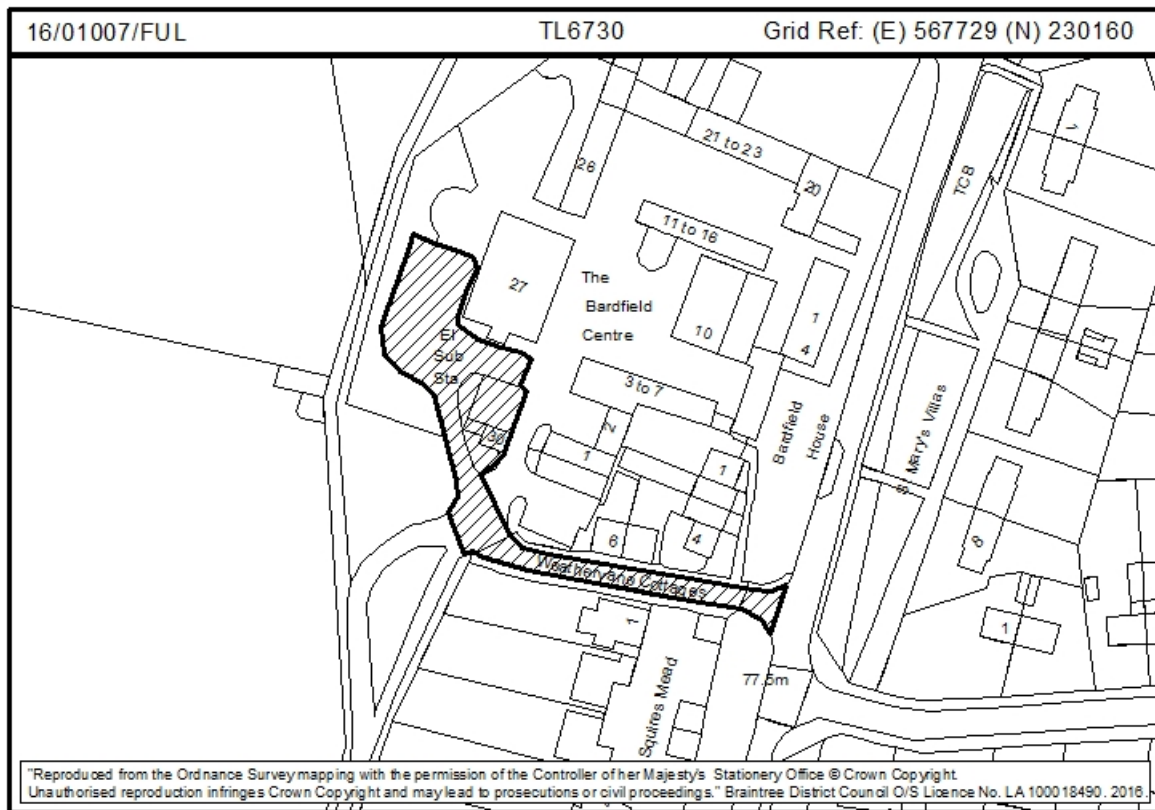
In order to secure the satisfactory development of the area and in order to protect the privacy of the occupiers of adjoining dwellings.

TESSA LAMBERT DEVELOPMENT MANAGER

PART A

APPLICATION NO: 16/01007/FUL DATE: 23.06.16  
 VALID:  
 APPLICANT: Miss Katrina O'Brien  
 27 Clockhouse Way, Braintree, Essex, CM7 3RD  
 DESCRIPTION: Change of use from office to D1 (children's nursery) and  
 erection of fencing adjacent to the building  
 LOCATION: 28 - 30 Bardfield Centre, Braintree Road, Great Bardfield,  
 Essex, CM7 4SL

For more information about this Application please contact:  
 Mr Timothy Havers on:- 01376 551414 Ext. 2526  
 or by e-mail to: [timha@braintree.gov.uk](mailto:timha@braintree.gov.uk)



## SITE HISTORY

16/01008/LBC	Change of use from office to D1 (children's nursery) and erection of fencing adjacent to the building	Pending Decision
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## POLICY CONSIDERATIONS

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

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

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

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

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

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

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

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

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

### National Planning Guidance

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

### Braintree District Local Development Framework Core Strategy

CS5            The Countryside  
CS9            Built and Historic Environment

### Braintree District Local Plan Review

RLP38        Conversion of Rural Buildings  
RLP40        Minor Industrial and Commercial Development in the  
                 Countryside  
RLP51        Cycle Parking  
RLP56        Vehicle Parking  
RLP74        Provision of Space for Recycling  
RLP90        Layout and Design of Development  
RLP97        Changes of Use in Conservation Areas  
RLP100       Alterations and Extensions and Changes of Use to Listed  
                 Buildings and their settings

### Braintree District Draft Local Plan

SP1            Presumption in Favour of Sustainable Development  
LPP5           Rural Enterprise  
LPP37        Parking Provision  
LPP42        Built and Historic Environment  
LPP46        Layout and Design of Development  
LPP47        Preservation and Enhancement of Conservation Areas and  
                 Demolition within Conservation Areas  
LPP50        Alterations, Extensions and Changes of Use to Heritage Assets  
                 and their Settings

### Supplementary Planning Guidance

Essex Parking Standards Design and Good Practice 2009  
Essex Design Guide

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

This application is brought before the Planning Committee as the Parish Council has objected to the proposal, contrary to the Officer recommendation.



## SITE DESCRIPTION

The application site is located in the countryside outside but adjacent to the Village Envelope of Great Bardfield. It is positioned within the Conservation Area and is located within the Bardfield Centre, an established but undesignated commercial/employment area.

The site lies adjacent to High Barn, a Grade 2\* Listed Building. It consists of no's 28 - 30 Bardfield Centre, a part two storey, part single storey building with associated access and parking area. Vehicular access is taken via an established access from Braintree Road. The previous use of the building, which is currently vacant was as an office, historically in conjunction with both the Bardfield Centre and High Barn. High Barn itself operates as a wedding/events venue.

## PROPOSAL

The applicant proposes to change the use of the building from an office use to a D1 (non-residential institution) use (children's nursery). No external works would be required with the exception of the erection of a fence to enclose the proposed children's play area.

The applicant proposes two elements to the nursery; a nursery for children aged 3 months to 5 years with opening hours of 0730hrs to 1815hrs on weekdays and an after school club for children from 4 to 13 years of age with term time opening hours of 0730hrs to 0900hrs and 1500hrs to 1815hrs and holiday opening hours of 0730hrs to 1815hrs. Each element would cater for a maximum of approximately 14 children with a chef and cleaner being employed in addition to the main nursery staff. The applicant anticipates that they will require 3 full time nursery staff with the possibility of a fourth depending on the take up of places in the nursery. A part time cleaner (operating out of hours) and a part time chef would also be required. The applicant states that they expect a total take up of around 15 to 20 children's places.

## CONSULTATIONS

### Historic Buildings Advisor

No objection subject to a condition requiring folding fencing to be used where the outdoor play area would attach to High Barn, to ensure the fencing does not remain permanently attached.

### ECC Highways

No objection, no conditions requested.

## BDC Environmental Services

No objection, no conditions requested.

## Parish Council

Objection. Nursery would compete with other local, established nursery, pre and after school provision. Approach to site is via an unadopted single track road which is poorly maintained and used for parking by residents and access to the Bardfield Centre and High Barn.

Location is adjacent to High Barn, a wedding/events venue with a license for live music (17:00 – 23:00), recorded music (12:00 to midnight) and sale of alcohol (12 to midnight) with general opening hours from 10am to midnight. Consider that proximity of nursery to this type of venue makes the location unsuitable for a nursery in terms of conflict of traffic movements, general safety and security. Also a conflict of parking as parking to rear of site is for use by High Barn.

Also object in terms of noise impact upon nearby residential properties. Proposed outside play space is too small for its intended function.

## REPRESENTATIONS

9 letters of objection were received. The main material and non-material considerations are set out below:

- Increase in traffic and unsuitability of access
- No need for another nursery and will undermine existing community childcare/nursery facilities
- Application underpublicised
- Lack of parking
- Noise impact

## REPORT

### Principle of Development

The application site is located within the countryside where Core Strategy Policy CS5 states that development will be strictly controlled to uses appropriate to the countryside. Adopted Local Plan Policy RLP40 makes provision for minor industrial and commercial development in the countryside provided that proposals are not detrimental in terms of visual impact, noise, smell or other pollution, excessive traffic generation, health or safety or loss of nature conservation interests. Adopted Policy RLP38 also provides support for the conversion of rural buildings for business re-use.

The applicant proposes to change the use of an established vacant commercial building from an office use to a D1 (non-residential institution) use

(children's nursery). No external works would be required with the exception of the erection of a fence to enclose the proposed children's play area. The building is located within the Bardfield Centre complex of buildings, a well-established cluster of commercial/business buildings. The Bardfield Centre is not an allocated employment site and its buildings are not safeguarded purely for employment use. The proposed change of use would constitute minor commercial development in the countryside and would also facilitate the re-use of a rural building for a business use. The general principle of the development is therefore considered acceptable.

#### Design, Appearance and Layout

Policy RLP90 seeks a high standard of design in all developments. The proposed development would not require any external works to the building. The layout incorporates a fenced children's play area positioned between the applicant's building and High Barn and a designated parking area to the rear of the building and is considered acceptable to accommodate the detail of the proposal as set out above.

#### Heritage

The application site sits adjacent to High Barn, a Grade 2\* listed Building. The applicant has submitted a listed building application and the accompanying Officer Committee Report (16/01008/LBC) assesses the impact of the proposal upon the special architectural and historical interest of High Barn.

The Council's Historic Buildings Advisor has no objection to the proposal's impact upon the Conservation Area or the adjacent Listed Building subject to a condition requiring the play space fencing to be folded back when not in use rather than permanently attached to the listed barn. A condition requiring the approval of details of the type, height and materials of the fence and details of the specification and fittings of the fixing points to attach the fence to High Barn is required along with a second condition requiring the first 2m of the fencing to be folded back when not in use. It is not therefore considered that the proposal would have a detrimental impact upon the Conservation Area or the adjacent Listed Building.

#### Impact on Neighbour Amenity

There are existing residential dwellings positioned to the east of the application site, which sit adjacent to the Bardfield Centre. They do not directly abut the applicant's building and the BDC Environmental Health Team has no objection to the proposal in terms of noise impact.

#### Highway Issues

Essex County Highways have no objection to the proposed development and do not require any planning conditions to be attached to any permission granted.

The Essex Parking Standards (2009) require a maximum of 1 car parking space per full time equivalent staff plus drop off/pick up facilities. The applicant submitted a parking layout which provides a total of 12 parking spaces, with 3 staff spaces and 9 drop off/collection spaces including 1 blue badge space all of which are located in a dedicated parking/drop off area for the applicant's building. This parking area did not form part of the planning permission for High Barn to operate as a public assembly building, the Barn having its own dedicated parking area to the north. The applicant's proposed parking provision is considered acceptable in accordance with the adopted Parking Standards.

A condition is recommended to limit the total number of children attending the nursery to 28, as specified by the applicant. This would allow the Council to further assess the highway impact of any future proposed increase in numbers.

#### Other Matters

A number of residents have objected on the grounds of the proposal's potential to undermine the viability of existing community led nursery/childcare providers in the locality. This is not however a material planning consideration.

#### CONCLUSION

The proposed development would facilitate the change of use of a vacant commercial building to a D1 (Nursery) use. It would constitute minor commercial development in the countryside in accordance with adopted Local Plan Policy RLP40 and would also facilitate the re-use of a rural building for a business use in accordance with adopted Policy RLP38.

There are no technical objections to the proposal and it is therefore recommended that planning permission is granted.

#### 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

Planning Layout

Ground Floor Plan

First Floor Plan

Plan Ref: Proposed Fencing & Parking 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

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

- 3 Prior to the erection of the fence to enclose the proposed children's play area details of the type, height and materials of the fence and details of the specification and fittings of the fixing points to attach the fence to High Barn shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details prior to the first use of the building for the purposes hereby approved and permanently retained in that form thereafter.

Reason

To ensure that the development does not affect the character or setting of the listed building adjoining the site.

- 4 The first 2 metres of the proposed boundary fence to the Children's outdoor play area, where the fence attaches to High Barn shall be detached from High Barn and folded back into the application site outside of the normal opening hours of the nursery, which are specified by the applicant as being 0730hrs to 1815hrs.

Reason

To ensure that the separation between the applicant's building and High Barn is retained so that the development does not affect the character or setting of the listed building.

- 5 There shall be no more than 28 children attending the nursery for its primary function as a childcare provider at any one time.

Reason

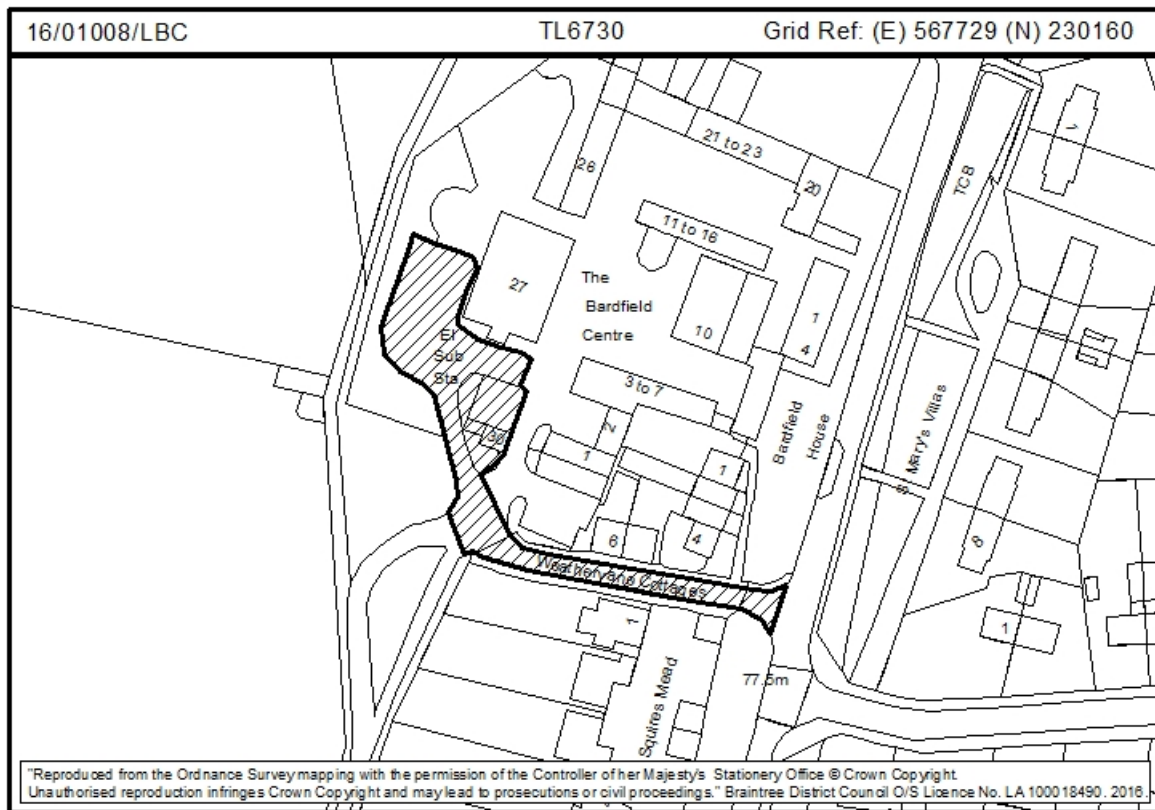
To determine the scope of this permission and to enable the Local Planning Authority to further assess the highway and amenity impact of any future proposed increase in the number of children attending the nursery.

TESSA LAMBERT  
DEVELOPMENT MANAGER

PART A

APPLICATION NO: 16/01008/LBC DATE: 23.06.16  
 VALID:  
 APPLICANT: Miss Katrina O'Brien  
 27 Clockhouse Way, Braintree, Essex, CM7 3RD  
 DESCRIPTION: Change of use from office to D1 (children's nursery) and  
 erection of fencing adjacent to the building  
 LOCATION: 28 - 30 Bardfield Centre, Braintree Road, Great Bardfield,  
 Essex, CM7 4SL

For more information about this Application please contact:  
 Mr Timothy Havers on:- 01376 551414 Ext. 2526  
 or by e-mail to: [timha@braintree.gov.uk](mailto:timha@braintree.gov.uk)



## SITE HISTORY

16/01007/FUL	Change of use from office to D1 (children's nursery) and erection of fencing adjacent to the building	Pending Decision
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## POLICY CONSIDERATIONS

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

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

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

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

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

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

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

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

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

## National Planning Guidance

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

## Braintree District Local Development Framework Core Strategy

CS9            Built and Historic Environment

## Braintree District Local Plan Review

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

## Draft Local Plan

LPP42        Built and Historic Environment  
LPP50        Alterations, Extensions and Changes of Use to Heritage Assets  
and their Settings

## INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is brought before the Planning Committee as the Parish Council has objected to the proposal, contrary to the Officer recommendation.

## SITE DESCRIPTION

The application site is located in the countryside outside but adjacent to the Village Envelope of Great Bardfield. It is positioned within the Conservation Area and is located within the Bardfield Centre, an established but undesignated commercial/employment area.

The site lies adjacent to High Barn, a Grade 2\* Listed Building. It consists of no's 28 - 30 Bardfield Centre, a part two storey, part single storey building with associated access and parking area. Vehicular access is taken via an established access from Braintree Road. The previous use of the building, which is currently vacant was as an office, historically in conjunction with both the Bardfield Centre and High Barn. High Barn itself operates as a wedding/events venue.

## PROPOSAL

The applicant proposes to change the use of the building from an office to a D1 (non-residential institution) use (children's nursery). No external works would be required with the exception of the erection of a fence to enclose the proposed children's play area.



The applicant proposes two elements to the nursery; a nursery for children aged 3 months to 5 years with opening hours of 0730hrs to 1815hrs on weekdays and an after school club for children from 4 to 13 years of age with term time opening hours of 0730hrs to 0900hrs and 1500hrs to 1815hrs and holiday opening hours of 0730hrs to 1815hrs. Each element would cater for a maximum of approximately 14 children with a chef and cleaner being employed in addition to the main nursery staff. The applicant anticipates that they will require 3 full time nursery staff with the possibility of a fourth depending on the take up of places in the nursery. A part time cleaner (operating out of hours) and a part time chef would also be required. The applicant states that they expect a total take up of around 15 to 20 children's places.

## CONSULTATIONS

### Historic Buildings Advisor

No objection subject to a condition requiring folding fencing to be used where the outdoor play area would attach to High Barn, to ensure the fencing does not remain permanently attached.

### ECC Highways

No objection, no conditions requested.

### BDC Environmental Services

No objection, no conditions requested.

### Parish Council

Objection. Nursery would compete with other local, established nursery, pre and after school provision. Approach to site is via an unadopted single track road which is poorly maintained and used for parking by residents and access to the Bardfield Centre and High Barn.

Location is adjacent to High Barn, a wedding/events venue with a license for live music (17:00 – 23:00), recorded music (12:00 to midnight) and sale of alcohol (12 to midnight) with general opening hours from 10am to midnight. Consider that proximity of nursery to this type of venue makes the location unsuitable for a nursery in terms of conflict of traffic movements, general safety and security. Also a conflict of parking as parking to rear of site is for use by High Barn.

Also object in terms of noise impact upon nearby residential properties. Proposed outside play space is too small for its intended function.

## REPRESENTATIONS

9 letters of objection were received. The main material and non-material

considerations are set out below:

- Increase in traffic and unsuitability of access
- No need for another nursery and will undermine existing community childcare/nursery facilities
- Application underpublicised
- Lack of parking
- Noise impact

## REPORT

### Principle of Development

Please refer to the previous report 16/01007/FUL.

### Design, Appearance and Layout

Please refer to the previous report 16/01007/FUL.

### Impact Upon the Heritage Asset

The main consideration in the determination of this application for listed building consent is the impact of the proposed works on the character and appearance of the listed building as a building of special architectural or historic interest.

The Council's Historic Buildings Advisor has no objection to the proposal's impact upon the adjacent Listed Building subject to a condition requiring the play space fencing to be folded back when not in use rather than permanently attached to the listed barn to ensure that the spacing between the buildings is not permanently compromised. A condition requiring the approval of details of the type, height and materials of the fence and details of the specification and fittings of the fixing points to attach the fence to High Barn, in addition to a condition requiring the first 2m of the fencing to be folded back when not in use is recommended for the accompanying planning application 16/01007/FUL.

## CONCLUSION

The proposed works are considered to comply with the requirements of Policy CS9 of the Core Strategy and Policy RLP100 of the adopted Local Plan. It is therefore recommended that Listed Building Consent is granted.

## 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

Planning Layout

Ground Floor Plan

First Floor Plan

Plan Ref: Proposed Fencing & Parking Plan

- 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

To ensure that the work does not affect the character or setting of the listed building on/adjoining the site.

- 3 Details of the specification and fittings of the fixing points to attach the fence to High Barn shall be submitted to and approved in writing by the Local Planning Authority prior to its provision.

### Reason

To ensure that the development respects the character and fabric of the listed High Barn.

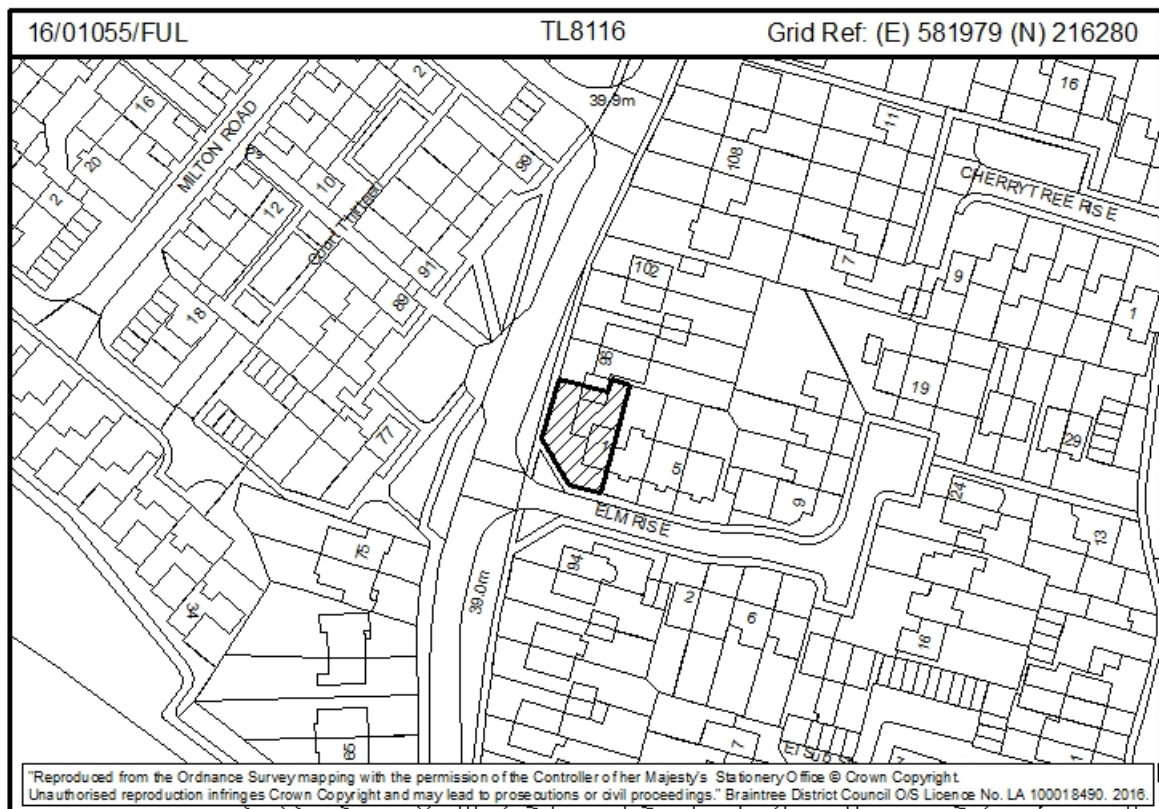
TESSA LAMBERT  
DEVELOPMENT MANAGER

# AGENDA ITEM NUMBER 5h

## PART B

APPLICATION NO: 16/01055/FUL DATE: 16.06.16  
 VALID:  
 APPLICANT: Miss Carla Beck  
 7 Birkdale Rise, Hatfield Peverel, Essex, CM3 2JT  
 AGENT: Clarity Building Solutions  
 Mr Roy Vowles, 32 New Road, Hatfield Peverel,  
 Chelmsford, Essex, CM3 2HZ  
 DESCRIPTION: Erection of two storey side extension, removal of chimney  
 stack, replacement of all existing windows and doors,  
 extension to driveway, removal of fencing and erection of  
 retaining wall  
 LOCATION: 1 Elm Rise, Witham, Essex, CM8 2LE

For more information about this Application please contact:  
 Mrs Sandra Green on:- 01376 551414 Ext. 01376 552525 Ext. 2557  
 or by e-mail to: [sandra.green@braintree.gov.uk](mailto:sandra.green@braintree.gov.uk)



## SITE HISTORY

None.

## POLICY CONSIDERATIONS

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

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

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

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

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

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

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

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

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

## National Planning Guidance

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

## Braintree District Local Development Framework Core Strategy

CS9            Built and Historic Environment

### Braintree District Local Plan Review

RLP3            Development within Town Development Boundaries and Village Envelopes  
RLP17           Extensions and Alterations to Dwellings in Towns and Villages  
RLP90           Layout and Design of Development

### Draft Braintree District Local Plan

SP1            Presumption in Favour of Sustainable Development  
SP5            Place Shaping Principle  
LPP29           Residential Alterations, Extensions and Outbuildings within Development Boundaries  
LPP42           Built and Historic Environment  
LPP46           Layout and Design of Development

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

This application is brought before the Planning Committee due to the Town Council objecting to the application, contrary to officer recommendation.

### SITE DESCRIPTION

The site is located on a residential estate within the Witham development boundary. It is not within a Conservation Area or subject to any listing. No.1 Elm Rise occupies a corner plot on the northern side of the junction of Elm Rise with Rickstones Road. The front door is located on the side of the property facing Rickstones Road. A detached garage with a parking space in front is located at the north eastern corner of the plot. There is a grassed area to the side of the property that is within the applicant's ownership and a further area of highway verge between that land and the highway.

### PROPOSAL

It is proposed to build a two-storey side extension to house a hall, WC, and dining room at the ground floor and a third bedroom with ensuite at the first floor. The position of the front door will be moved and a new porch erected on elevation facing Elm Rise. A new path will be laid from the existing parking space along the side of the extension to the new front door. A new fence will also be erected to enclose the private rear garden. The footprint of the extension is approximately 4 metres wide and 8.5 metres long at the ground floor and 7.25 metres long at the first floor.

## CONSULTATIONS

Witham Town Council – Recommend refusal on the grounds of detrimental impact on the character of the neighbourhood and the street scene and over development of the site. The amendments to the original proposal are such that the Town Council's view remains the same and therefore the recommendation that the application be refused still stands.

## REPRESENTATIONS

A site notice was displayed near the site and neighbour notification letters were sent out to adjacent properties.

In response, one letter of representation has been received from G Noble of Redwood Close in respect of the original proposal that objects to the application on the following grounds:

- Too big and out of character with the area, will stick out like a sore thumb.
- Why buy the house in the first place if want to change it so much; should have bought a bigger house for her needs.
- A Salix tree that was there for years has already been chopped down, which was a shame.

## REPORT

### Principle of Development

The site is located within a development boundary where there is a general presumption in favour of sustainable development, subject to satisfactory design, highway considerations and subject to there being no detrimental impacts upon neighbouring residential amenity. There is therefore no objection in principle to an appropriately designed extension in this location.

### Design, Appearance and Layout

The adopted development plan requires that proposals for new development be in harmony with the character and appearance of the surrounding area. RLP90 seeks a high standard of layout and design in all developments, large and small in the district. There should be no over-development of the plot when taking into account the footprint of the building and the relationship to the boundaries and the siting, bulk, form and materials of the development should be in keeping with the character of the area. There shall also be no undue or unacceptable impact on the amenity of any nearby residential properties.

It was considered that the extension as originally proposed did not appear visually subordinate to the main dwelling. The concerns were discussed with the applicant and various revised sketches discussed and refined. The revised proposal before the Committee has reduced the width of the extension

and set back the front elevation at the first floor. This has overcome the concerns in respect of subordination and steps the building around the corner. The new flat roof porch on the front elevation is considered to be in keeping with the other properties in the terrace as is the proposed brick and render mix to the front elevation. The asymmetrical arrangement of the windows in the front elevation is also considered to be in keeping with the rest of the terrace. An open area of grass will still remain beside the property and the new extension does not protrude beyond the building line of the properties to the north of the site that face onto Rickstones Road.

Approximately 14 square metres of the existing private rear amenity space will be lost. However, given the proximity to a large area of public open space to the southeast of the site this is considered to be acceptable.

#### Impact on Neighbour Amenity

Two new windows are proposed in the rear (north) elevation at the first floor. These will look onto the flank wall of No.96, approximately 9 metres away, where there are existing windows. The new windows are to serve an ensuite and walk in wardrobe respectively. No objection has been received from the neighbour and it is considered that any privacy concerns can be overcome by the use of obscure glazing and top hung vents, which has been conditioned accordingly.

Taking into account the position of the dwelling, and having regard to the proposed works, it is considered that the proposal would not have a detrimental impact upon adjacent residential properties in terms of loss of natural light, overshadowing, overbearing, or in terms of overlooking.

#### Highway Issues

A 2+ bedroom house is required to provide two off-street parking spaces. The increase from a two to a three bedroom house does not require the creation of an additional space. No change is proposed to the existing parking arrangement that provides a detached garage with a space to the front. It is considered therefore that there are no highway impacts associated with the proposal.

#### Other Issues

Permitted Development Rights for the property are intact and the chimney stack can be removed under the permitted development regime. A representation has referred to the removal of a Salix tree. No Tree Protection Order was in place and the site is not within a Conservation Area, there was therefore no requirement to retain the tree.



## CONCLUSION

In this case, it is considered that the proposal is acceptable in terms of design and highway considerations and there will be no detrimental impacts upon neighbouring residential amenity or on the character of the area.

## 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 Plans                      Plan Ref: 1ELMR-TH-PROP03

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

### Reason

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

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

### Reason

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

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

### Reason

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

- 4 The first floor windows in the northern elevation serving the ensuite and Walk in Wardrobe, shall be glazed with obscure glass to a minimum of level 3, opening vents shall be top hung, and shall be so retained at all times.

### Reason

In the interests of residential amenity and in order to secure the privacy of adjacent occupiers.

## INFORMATION TO APPLICANT

- 1 Glazing to provide privacy is normally rated on a scale of 1-5, with 5 providing the most privacy.

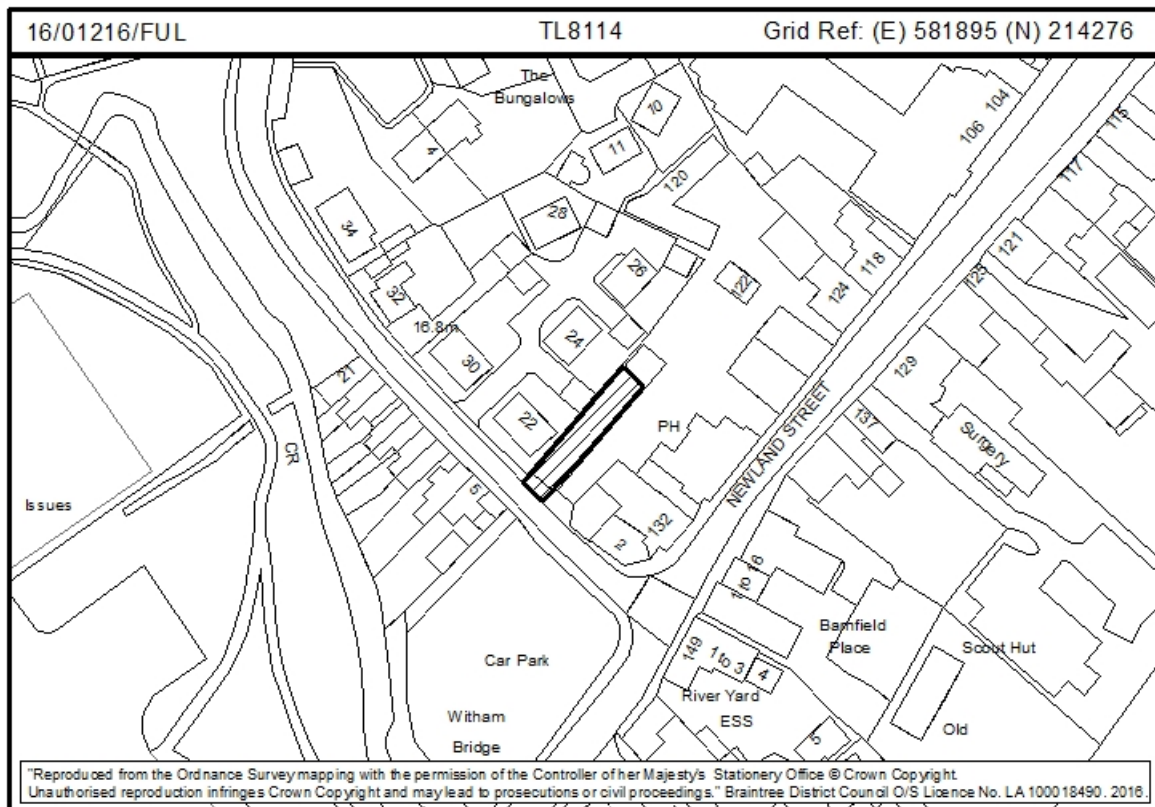
TESSA LAMBERT - DEVELOPMENT MANAGER

## AGENDA ITEM NUMBER 5i

### PART B

**APPLICATION NO:** 16/01216/FUL      **DATE VALID:** 12.07.16  
**APPLICANT:** Mr Hamish Borno  
                     Borno Chemists Ltd, 124 Newland Street, Witham, Essex,  
                     CM8 1BA  
**AGENT:** Polyhedron Architecture Ltd  
                     Mr Dominic Goldfinger, 30 Castle Street, Woodbridge, IP12  
                     1HN  
**DESCRIPTION:** Demolition of existing single storey store  
**LOCATION:** Mill Lane Stores, Mill Lane, Witham, Essex, CM8 1BP

For more information about this Application please contact:  
 Mathew Wilde on:- 01376 551414 Ext.  
 or by e-mail to:



## SITE HISTORY

11/00004/REF	Application for a new planning permission to replace an extant planning permission (07/00534/FUL & 07/00535/CON), in order to extend the time limit for implementation - Rebuild of existing structure to comprise retail area and 2 no. one bed flats	Appeal Allowed	10.05.11
80/00094/P	Change of use from storage to shop	Granted	
07/00534/FUL	Rebuild of existing structure to comprise retail area and 2 no. one bed flats	Granted	02.07.07
07/00535/CON	Demolition and rebuild of existing retail store	Granted	02.07.07
10/00777/FUL	Application for a new planning permission to replace an extant planning permission (07/00534/FUL & 07/00535/CON), in order to extend the time limit for implementation - Rebuild of existing structure to comprise retail area and 2 no. one bed flats	Refused then allowed on appeal	03.08.10
10/00778/CON	Application for a new planning permission to replace an extant planning permission (07/00534/FUL & 07/00535/CON), in order to extend the time limit for implementation - Rebuild of existing structure to comprise retail area and 2 no. one bed flats	Granted	03.08.10

## POLICY CONSIDERATIONS

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

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

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

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

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

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

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

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

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

#### National Planning Guidance

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

#### Braintree District Local Development Framework Core Strategy

CS9            Built and Historic Environment  
CS10          Provision for Open Space, Sport and Recreation

#### Braintree District Local Plan Review

RLP2          Town Development Boundaries and Village Envelopes  
RLP3          Development within Town Development Boundaries and Village Envelopes  
RLP62        Development Likely to Give Rise to Pollution or the Risk of Pollution  
RLP90        Layout and Design of Development

RLP95	Preservation and Enhancement of Conservation Areas
RLP100	Alterations and Extensions and Changes of Use to Listed Buildings and their settings

### Braintree District Draft Local Plan

SP1	Presumption in Favour of Sustainable Development
LPP42	Built and Historic Environment
LPP46	Layout and Design of Development
LPP47	Preservation and Enhancement of Conservation Areas, and Demolition within Conservation Areas
LPP50	Alterations, Extensions and Changes of Use to Heritage Assets and their Settings
LPP61	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards

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

This application is brought before the Planning Committee as the Parish Council objected to the application contrary to the recommendation of Officers.

### SITE DESCRIPTION

The site relates to an existing single storey building on Mill Lane in Witham. The building historically has been in A1 use and has been subject to redevelopment proposals in the past that have not been implemented. The building is of modern construction and has been vacant for a number of years.

### PROPOSAL

The proposal in this case seeks permission to demolish the building in its entirety to facilitate future development of the site.

### CONSULTATIONS

#### Witham and Countryside Society

Object to the application as suggest the demolition of the building would result in a negative impact on the character of the Conservation Area. Outline that the application should be delayed until a full scheme is also submitted.

#### Witham Town Council

Object to the application as suggest the demolition of the building without an active approval for its demolition will lead to a vacant site that would be detrimental to the character of the Conservation Area.

### Essex County Council Historic Buildings Consultant

No objection to the proposal as the principle of demolition and redevelopment was established in 2007 by approval reference 07/00354/FUL and 07/00355/CON. Furthermore, outlines that the building does not make a positive contribution to the character and appearance of the Conservation Area, and consequently supports the principle of demolition as set out in previous approvals.

### Braintree District Council Environmental Services

No objections subject to conditions relating to dust and mud, site clearance and demolition and no burning.

### REPRESENTATIONS

Three objections to the planning application have been received from 24 Mill Lane, 26 Mill Lane and 22 Mill Lane outlining the following summarised comments:

- Objections relating to the previously approved planning application scheme (*which do not form part of this submission*)
- Hours of working to be conditioned
- Demolition of building a concern as likely to contain asbestos

### REPORT

#### Principle of Development & Conservation Area

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

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

Policy RLP100 of the Local Plan states that development involving internal or external alterations, extensions and partial demolitions to a listed building and changes of use will only be permitted if the proposed works or uses do not

harm the setting, character, structural stability and fabric of the building (or structure); and do not result in the loss of, or significant damage to the building or structure's historic and architectural elements of special importance, and include the use of appropriate materials and finishes. The Council will seek to preserve and enhance the settings of listed buildings by appropriate control over the development, design and use of adjoining land.

The site is located within Witham Conservation area and sits in a prominent position adjacent to Mill Lane. However, the building is of modern construction and by virtue of it being vacant for a number of years is beginning to fall into disrepair. The Historic Buildings Consultant outlines that the building does not positively contribute to the character or appearance of the Conservation Area and as such has no objection to its removal. It is therefore considered that the removal of the building would not have a detrimental impact upon the Conservation Area.

Furthermore, the site historically has had planning permission for redevelopment of the site, where the principle of demolishing the building had been established. It has been confirmed by the agent that proposals for the redevelopment of the site will come forward again and would be the subject of a future planning application.

As such, it is considered that the demolition of the building in principle is acceptable and would not have a detrimental impact on the character and appearance of the Conservation Area.

#### Impact on Neighbour Amenity

Policy RLP62 states that planning permission will not be granted for development including changes of use which will, or could potentially, give rise to polluting emissions to land, air and water, or harm to nearby residents including noise, smell, fumes, vibration or other similar consequences, unless:

- i) adequate preventative measures have been taken to ensure that any discharges or emissions, including those which require the consent of statutory agencies, will not cause harm to land use, including the effects on health and the natural environment; and
- ii) adequate preventative measures have been taken to ensure that there is not an unacceptable risk of uncontrolled discharges or emissions occurring, which could cause harm to land use, including the effects on health and the natural environment.

In order to protect neighbouring amenity during the demolition phase, conditions have been attached relating to site clearance, dust and mud control, no burning and appropriate hours of working. As such, it is considered there would not be a detrimental impact on the amenity of neighbouring properties as a result of the demolition.

#### CONCLUSION

The application proposes to demolish an existing modern building in Witham Conservation Area. The building does not however contribute positively to the

character and appearance of the Conservation Area and the Historic Buildings Consultant has no objection to its demolition. It has been confirmed by the agent that the site will come forward for development in the near future.

### 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

General Plans & Elevations

Plan Ref: MIL/D/01

- 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 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.

- 4 Development shall not be commenced until a dust and mud control management scheme has been submitted to and approved in writing by the local planning authority and shall be adhered to throughout the site clearance and construction process.

#### Reason

During construction, the creation of dust and the displacement of mud is commonplace. These details are required prior to the commencement of development to ensure that a scheme is in place to mitigate the dust and mud created at the site, to prevent it being transferred onto the highway and also in the interests of residential amenity.



- 5 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 areas.

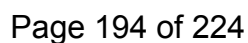
- 6 All materials resulting from the demolition shall be removed from the site as soon as reasonably practical but no later than 2 weeks from the date the existing building has been demolished.

Reason

In the interests of visual amenity.

TESSA LAMBERT  
DEVELOPMENT MANAGER

For more information about this Application please contact:  
Mrs Liz Williamson on:- 01376 551414 Ext. 2506  
or by e-mail to:



## SITE HISTORY

01/00356/FUL	Erection of a new warehouse with offices	Granted with S106 Agreement	25.07.01
02/00115/ADV	Display of illuminated sign	Granted	08.03.02
88/02510/P	Erection of B1 units	Granted	28.02.89
88/02510/P	Erection Of B1 Units	Granted	21.02.89

## POLICY CONSIDERATIONS

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

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

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

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

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

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

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

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

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

## National Planning Guidance

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

## Braintree District Local Development Framework Core Strategy

CS9            Built and Historic Environment

## Braintree District Local Plan Review

RLP3            Development within Town Development Boundaries and Village  
                    Envelopes  
RLP90          Layout and Design of Development  
RLP107        Outdoor Advertisements

## Braintree District Draft Local Plan

SP1            Presumption in Favour of Sustainable Development  
SP5            Place Shaping Principal  
LLP42        Built and Historic Environment

## INTRODUCTION

This application is brought before the Planning Committee due to an objection received from the Town Council, contrary to the recommendation of Officers.

## SITE DESCRIPTION

The site is located adjacent to the A12, within the Waterside Business Park which is part of the Eastways Industrial Estate in Witham. Foremost House is located at the end of the industrial estate, within the town development boundary of Witham.

## PROPOSAL

The application seeks permission to replace an existing sign with a larger sign measuring 8.4 metres in length by 4.3 metres in width. The sign will be illuminated with LED lighting which would be aimed upwards from the base of the advert. It is proposed that the sign will be made from 4 sections, butted-up vertically using 3mm thick aluminium composite panels, with blue lettering and a red logo. The sign is to be displayed on the south elevation of the building which fronts onto the A12.

## CONSULTATIONS

Essex County Council Highways Officer – No objection to the proposal, but would recommend a condition is added to the approval, so that the light source shall be positioned and shielded, in perpetuity, to ensure that users of the highway, are not affected by dazzle and/or glare from the lighting.

Rivenhall Parish Council – Objection

The Rivenhall Parish Council recommends refusal of the application on the grounds that the sign is much larger than the original and brightly lit. It is considered that the sign would distract drivers using the A12; secondly, the lighting is of a poor design; thirdly, there are no proposed hours stipulated regarding the illumination.

Highways England raised no objection to the proposal subject to standard lighting conditions.

BDC Environmental Health raised no objection to the proposal commenting that the nearest residential properties are a sufficient distance away from the application site so that light spillage should not be significant. Environmental Health may only control the light spillage through statutory nuisance legislation, any impact on road users or distant occupiers due to glare would not come under this section's control.

## REPRESENTATIONS

A site notice was displayed at the front of the property. In response, one letter of objection has been received from Cllr Abbott. Councillor Abbott recommends refusal of the application as it contravenes RLP65 (External Lighting) Councillor Abbott considers that the proposal will distract users of the A12; that the proposed lighting is of a very poor design; the lighting should be aimed downwards to avoid any light spill; the applicant does not state any hours of use, therefore the lighting could be used during the day and night.

## REPORT

Advertisements fall under a separate statutory control from development, the Town and Country Planning (Control of Advertisements) Regulations 2007. In determining applications for express consent the local planning authority may only consider two issues, the interests of amenity and public safety. Amenity refers to the effect upon the visual and aural amenity in the immediate vicinity and public safety refers to the effect on traffic or transport on land, over water or in the air.

### Amenity

The visual amenity of an area where signs are to be displayed is a material consideration as set out in Regulation 3 of the Advertising Regulations 2007.

The NPPF states that new development should “always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings”, whilst policies RLP17 and RLP90 from the Braintree District Local Plan Review and Policy LPP 46 of the Braintree District Draft Local Plan allow for new development where there would be “no unacceptable or undue impact” on neighbouring residential amenities by way of loss of “privacy, overshadowing, loss of light or overbearing impact.”

The NPPF provides a policy context as to how advertisements should be determined, recognising that “poorly placed advertisements can have a negative impact on the appearance of the built and natural environment”. Control over outdoor advertisements should be efficient, effective and simple in concept and operation. Only those advertisements which will clearly have an appreciable impact on a building or on their surroundings should be subject to the local planning authority’s detailed assessment. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts. In addition, Braintree District Local Plan Review policy RLP107 allows for advertisements, where they are “in close proximity to the activities they are advertising”, where the area of display of an advertisement is visually subordinate to the host building’s main features and include an appropriate level and type of luminance (if required). Issues of public safety, including traffic safety will be accorded a high priority in decision making.

In this case it is considered that the proposed illuminated signs are appropriately located on the building. The proposal is to replace the existing signage with a new sign, and it is not proposed to increase the number of signs on the building. As such, it is considered that the proposal would not have a detrimental impact upon visual amenity.

### Highways Safety

The Advertising Regulations 2007 outline that any advertisement should be considered in relation to the safety of a person using a highway. Policy RLP107 also states that public safety, including traffic safety, will be accorded in a high priority in decision making.

Essex County Council and Highways England were consulted on the application and no objections were raised regarding the proposal subject to conditions being included in the decision notice. The consultation response states that details should be submitted and approved in writing by the local planning authority, regarding the position of the light source, so that users of the highway are not affected by dazzle and/or glare.

In this case, and subject to the conditions recommended, it is considered that the proposed advertisements would not obstruct visibility splays or vehicle movement or have a detrimental impact upon highway safety. While the comments received in connection with this application are noted, in the absence of an objection on highway safety grounds from either Highways

England or Essex County Council Highways, it is not considered that a reason for refusal could be substantiated.

### CONCLUSION

It is considered that the proposal would not have a detrimental impact upon visual amenity or highway safety. It is therefore recommended that Advertisement Consent is granted.

### 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  
Elevations  
Site Plan  
Elevations  
Lighting Plan  
Signage Details

- 1 The consent hereby granted shall expire at the end of a period of 5 years from the date hereof.

#### Reason

This condition is imposed pursuant to the Town & Country Planning (Control of Advertisements) (England) Regulations 2007 and in the interests of visual amenity.

- 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 Prior to the first use of any external lighting within the development site, the light source shall be positioned and shielded, in perpetuity, to ensure that users of the highway area not affected by dazzle and/or glare, in accordance with details to be submitted to an approved in writing by the Local Planning Authority.

#### Reason

To ensure that users of the highway are not subjected to glare and dazzle from lighting within the development in the interest of highway safety and in accordance with Policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

## INFORMATION TO APPLICANT

- 1 Your attention is drawn to the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 and the need to comply with the following:
  - (i) No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
  - (ii) No advertisement shall be sited or displayed so as to:
    - (a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
    - (b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
    - (c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.
  - (iii) Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.
  - (iv) Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.
  - (v) Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.
- 2 The illuminated advertisement sign shall comply with the guidance and recommendations of the Institution of Lighting Engineers "Brightness of Illuminated Advertisements" Technical Report No. 5.
- 3 The proposed light must not cause a glare problem to trunk road users.
- 4 No lighting source (lamps) shall be directly visible, or visible by reflection, to trunk road users.
- 5 The advertisement must not show any animated pictures.

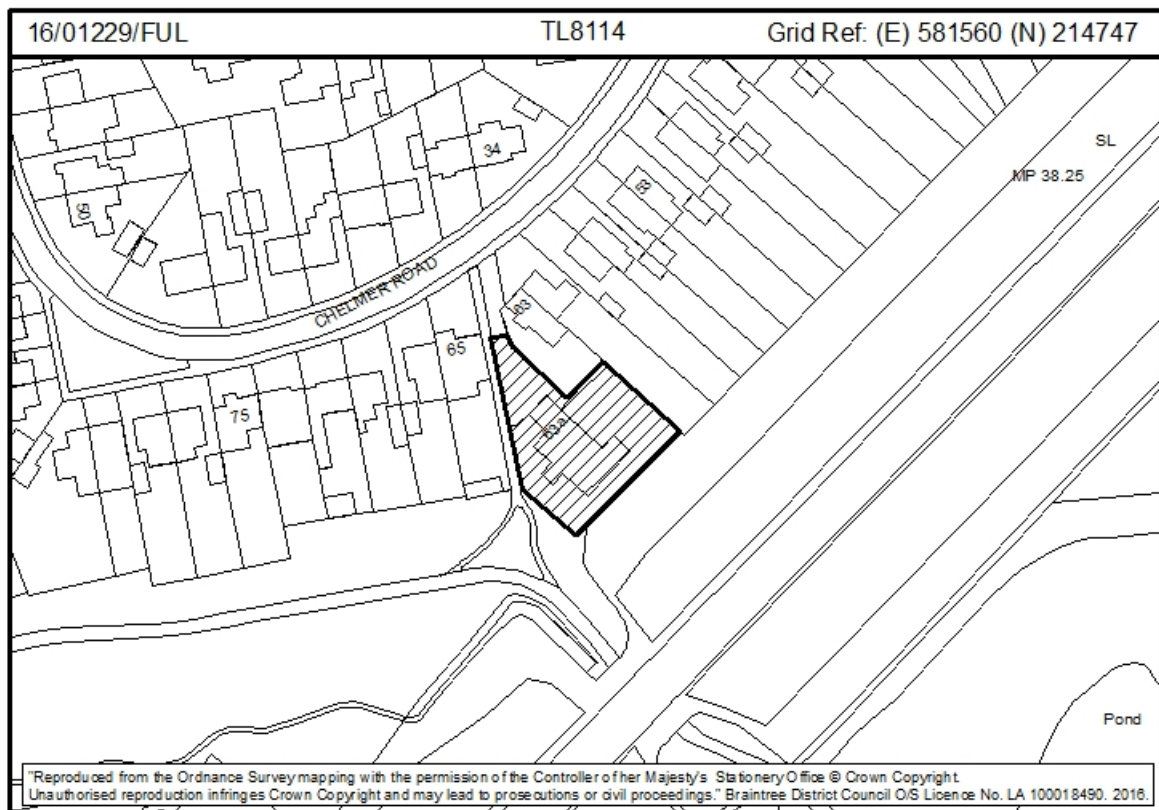
TESSA LAMBERT  
DEVELOPMENT MANAGER



PART B

APPLICATION NO: 16/01229/FUL DATE: 03.08.16  
 VALID:  
 APPLICANT: Mr William Roach  
 63A Chelmer Road, Witham, Essex, CM8 2EY,  
 AGENT: CPS Architecture + Design Limited  
 Mr Andrew Feasey, 7 Middleborough, Colchester, Essex,  
 CO1 1QT  
 DESCRIPTION: Proposed single storey front and rear extensions  
 LOCATION: 63A Chelmer Road, Witham, Essex, CM8 2EY

For more information about this Application please contact:  
 Mrs Liz Williamson on:- 01376 551414 Ext. 2506  
 or by e-mail to:



## SITE HISTORY

08/00285/FUL	Erection of single storey side extension	Granted	28.03.08
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## POLICY CONSIDERATIONS

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

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

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

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

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

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

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

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

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

## National Planning Guidance

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

## Braintree District Local Development Framework Core Strategy

CS9            Built and Historic Environment

## Braintree District Local Plan Review

RLP3            Development within Town Development Boundaries and Village Envelopes  
RLP17           Extensions and Alterations to Dwellings in Towns and Villages  
RLP90           Layout and Design of Development

## Braintree District Draft Local Plan

SP1            Presumption in Favour of Sustainable Development  
SP5            Space Shaping Principal  
LPP29           Residential Alterations, Extensions and Outbuildings within Development Boundaries  
LPP42           Built and Historic Environment  
LPP46           Layout and Design of Development

## INTRODUCTION

This application is brought before the Planning Committee as Witham Town Council have objected to the application, contrary to the recommendation of Officers.

## SITE DESCRIPTION

The application site comprises a detached single storey dwelling within the Witham development boundary. The property benefits from a large rear amenity area and a minimum of two parking spaces which would remain unaffected by the proposal. The property is accessed via a driveway which runs alongside No. 63 Chelmer Road and has a gated access and entry system.

## PROPOSAL

The application seeks planning permission to erect a single storey front and single storey rear extension. The rear extension would comprise an additional two bedrooms and one bathroom. It would measure 13.2m x 3.2m and span the width of the host dwelling. It is proposed to remove the glass roof from the existing conservatory and replace it with a new pitched roof. The roof tiles proposed would match the roof on the proposed extension. It is proposed to infill an area to the front of the property with a single storey extension which would provide an en-suite bathroom and walk in wardrobe to be accessed via the existing bedroom located at the front of the property. The extension would measure 5.2m in length and 3.5m in width. The existing flat roof on the front bedroom would be removed and a new pitched roof installed with vaulted ceilings.

## CONSULTATIONS

Witham Town Council have objected to the application on the grounds that the proposal would constitute an over development of the site; loss of amenity and lack of detail of parking.

## REPRESENTATIONS

A site notice was displayed at the front of the property and neighbouring properties at 63 Chelmer Road and 65 Chelmer Road were notified of the proposal. However, no representations have been received in connection with this application.

## REPORT

### Principle of Development

Both the NPPF and the NPPG require all new forms of development to be well designed. The NPPG (paras. 23 – 28) elaborates on this in a residential context, by requiring Local Planning Authorities to consider whether the layout, scale, form, details and materials come together to “help achieve good design and connected objectives”. Policy RLP17 of the Braintree District Local Plan Review and Policy LPP 29 of the Braintree District Draft Local Plan reiterate this, allowing 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 site is located within a development boundary where there is a general presumption in favour of sustainable development, subject to the detailed policies in the plan. Therefore, there is no objection in principle to this proposal.

### Design, Appearance and Layout

The NPPF states that new development should seek to improve “streetscapes and buildings to create attractive and comfortable places” by using design which reflects “local character and history, and reflect the identity of local surroundings and materials”, thereby resulting in a form of development which is “visually attractive as a result of good architecture and appropriate landscaping.” In addition to this, Policy RLP90 of the Braintree District Local Plan Review and Policy LPP 46 of the Braintree District Draft Local 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 LPP 42 of the Braintree District Draft Local 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.

The property is set back from the street elevation, towards the rear of 63 Chelmer Road. The property benefits from a generous rear amenity area, set within a large plot. To the rear of the property is a railway track, whilst to the side of the property is an area of vacant land with a public footpath running between 63A and 65 Chelmer Road. The dwelling has been previously extended by the addition of a conservatory to the rear of the property, together with a single storey side extension approved under planning application reference 08/00285/FUL. The proposed extensions have been designed to complement the host dwelling and the previously approved extension. The proposal to replace the conservatory roof from a glass roof to a tile roof, together with the proposed alteration from a flat to pitched roof on the single storey front extension, will complement and remain in keeping with the host dwelling. The proposed extensions are to the rear and front of the host dwelling. Despite the various additions to the property, it is considered that there will be a generous amount of amenity area remaining to the side of the host dwelling. It is proposed to use materials which match the existing host dwelling, namely facing brickwork and roof tiles. In this case, it is not considered, that the proposed extensions would have a detrimental impact upon the character and appearance of the host dwelling.

#### Impact on Neighbour Amenity

The NPPF states that new development should “always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings”, whilst policies RLP17 and RLP90 from the Braintree District Local Plan Review and Policy LPP 46 of the Braintree District Draft Local Plan allow for new development where there would be “no unacceptable or undue impact” on neighbouring residential amenities by way of loss of “privacy, overshadowing, loss of light or overbearing impact.”

The boundary treatment is a 1.8m high close boarded fence, which separates the host dwelling from the neighbouring property as well as the land to the rear and side of the dwelling. It is not considered that the proposal would have a detrimental impact on neighbouring residential amenity in terms of loss of natural light, overshadowing, overbearing or in terms of overlooking. Furthermore, no representations have been received from neighbouring properties in connection with the proposal.

#### Highway Issues

There is existing parking to the front of the property. The proposed extension would not affect the existing parking arrangements at the property. Therefore, it is considered that there would be no highway implications associated with this application and moreover, sufficient parking provision would be retained at the property.

#### CONCLUSION

In conclusion, it is considered that the proposal is acceptable and would comply with the aforementioned policies.

### 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

Proposed Floor Plan                      Plan Ref: 101

Version: A

Proposed Elevations                      Plan Ref: 103

- 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 is in character with the surrounding area and does not prejudice the appearance of the locality.

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

Reason

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

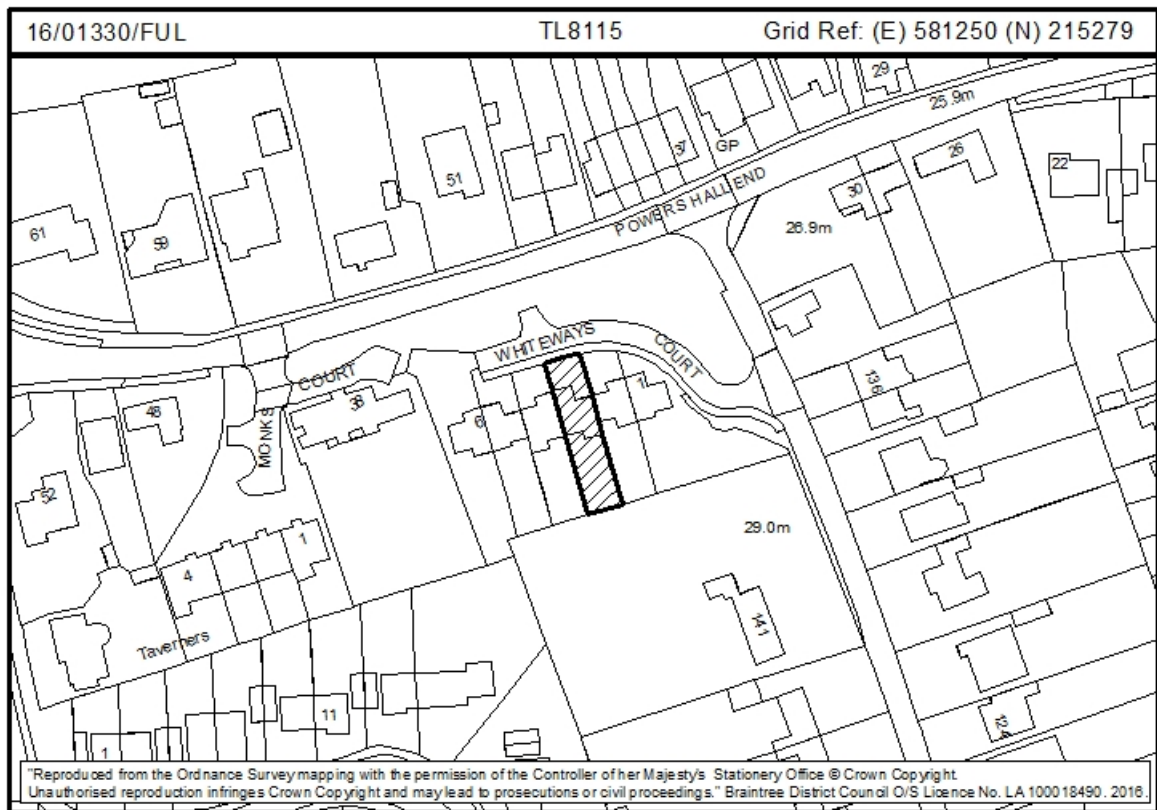
TESSA LAMBERT  
DEVELOPMENT MANAGER

AGENDA ITEM NUMBER 5I

PART B

APPLICATION 16/01330/FUL DATE 01.08.16  
NO: VALID:  
APPLICANT: Mrs Sigrid Ponder  
3 Whiteways Court, Witham, Essex, CM8 2EP,  
AGENT: Lee Virgin Architectural Design Consultant  
Mr Lee Virgin, 14 Rowan Way, Witham, Essex, CM8 2LJ  
DESCRIPTION: Erection of single storey ground and first floor extensions  
LOCATION: 3 Whiteways Court, Witham, Essex, CM8 2EP,

For more information about this Application please contact:  
Mrs Liz Williamson on:- 01376 551414 Ext. 2506  
or by e-mail to:



## SITE HISTORY

03/01936/TPO	Notice of intent to carry out works to trees protected by Tree Preservation Order No. 7/80 G1 - Carry out works to trees (see Arboriculturists Report)	Granted	13.11.03
80/01396/P	Erection of single storey extension to rear of dwellinghouse.	Granted	

## POLICY CONSIDERATIONS

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

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

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

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

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

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

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

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

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



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

### National Planning Guidance

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

### Braintree District Local Development Framework Core Strategy

CS9                Built and Historic Environment

### Braintree District Local Plan Review

RLP3                Development within Town Development Boundaries and Village  
                         Envelopes  
RLP17               Extensions and Alterations to Dwellings in Towns and Villages  
RLP90               Layout and Design of Development

### INTRODUCTION

This application is brought before the Planning Committee due to an objection received from Witham Town Council, contrary to the recommendation of Officers.

### SITE DESCRIPTION

The application site is located within the Town Development Boundary of Witham. It is a terraced property with off road parking and an integral garage. The dwelling is situated at a lower level than the rear amenity area with steps leading up to an area of garden which is primarily lawn.

### PROPOSAL

The applicant seeks to create a single storey rear extension, a first floor extension. The ground floor extension which would create a larger kitchen area would measure 3567mm in length and 1429mm in width to line up with the existing rear elevation of the dwelling. The first floor extension will accommodate an additional bedroom at the rear of the property, measuring 3655mm in width and 2429mm in length.

It is also proposed to convert part of the existing garage to a downstairs WC. measuring 1m x 2.3m, accessed via the new extension. However, it should be noted that this element of the proposal does not require planning permission.

## CONSULTATIONS

Witham Town Council have objected to the application on the grounds that if the garage is to be shortened it would be of an insufficient size to be used for its original purpose.

## REPRESENTATIONS

A site notice was displayed at the front of the property and a neighbour notification letter was sent to 141 Highfields Road; 2 Whiteways Court and 4 Whiteways Court. An objection was received from the resident at 2 Tees Close, Witham, who is concerned that to continue to designate the garage as such, would be classed as devious, as the garage at 4m in length would only accommodate a small vehicle and there would be no available space for cycle storage.

## REPORT

### Principle of Development

Both the NPPF and the NPPG require all new forms of development to be well designed. The NPPG (paras. 23–28) elaborates on this in a residential context, by requiring Local Planning Authorities to consider whether the layout, scale, form, details and materials come together to “help achieve good design and connected objectives”. Policy RLP17 of the Braintree District Local Plan Review and Policy LPP 29 of the Braintree District Draft Local Plan reiterate this, allowing 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.

In this case, it is considered that there are no principle objections to an extension in this location, subject to satisfactory design and external appearance and subject to no adverse impacts upon neighbouring residential amenity.

### Design, Appearance and Layout

The NPPF states that new development should seek to improve “streetscapes and buildings to create attractive and comfortable places” by using design which reflects “local character and history, and reflect the identity of local surroundings and materials”, thereby resulting in a form of development which is “visually attractive as a result of good architecture and appropriate landscaping.” In addition to this, Policy RLP90 of the Braintree District Local Plan Review and Policy LPP 46 of the Braintree District Draft Local 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 LPP 42 of the Braintree District Draft Local 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.

The applicant seeks to create a single storey rear extension to create a larger kitchen area and to create a first floor extension over the existing dining room. The ground floor extension would measure 3567mm in length and 1429mm in width to line up with the existing rear elevation of the dwelling.

The roof of the ground floor extension would be sloped and tiled to match the existing materials of the host dwelling. It is proposed to install bifold doors into the proposed extension, which would lead directly onto the terraced rear amenity area. No fenestration is proposed in the side elevation,

The first floor extension will accommodate an additional bedroom at the rear of the property, measuring 3655mm in width and 2429mm in length. The design of the proposed extension is sympathetic with the main dwelling with a proposed gable roof to match the host property. New fenestration consisting of one large first floor window would be inserted into the rear elevation, overlooking the rear amenity area. There is no fenestration proposed in the side elevation of the proposed extension which would cause overlooking into the neighbouring property.

The materials used in the finish of the extension will match with the host dwelling, namely, interlocking concrete roof tiles, stock facing bricks, UPVC doors and windows and black UPVC rainwater good and are therefore considered acceptable.

Due to the scale and design of the proposed extensions, it is considered that the proposal would be proportionate to the existing host dwelling and due to the location would not be detrimental to the wider street scene. As such, it is considered that the proposal would be in keeping with the host dwelling and not have a detrimental impact on the character of the existing property or the wider character of the area.

#### Impact on Neighbour Amenity

It is considered that the proposed single storey addition would not have any detrimental impact upon neighbouring properties. It is acknowledged that the proposed first floor extension would extend along the boundary with the adjacent property by 2429mm. The nearest window within the adjacent property is to a bathroom; as such it is not considered that this element of the proposal would have a detrimental impact upon the adjacent property in terms of overbearing, overshadowing, or loss of natural light.

As such it is not considered that the proposal would have a detrimental impact on neighbouring residential amenity in terms of loss of natural light, overshadowing, overbearing or in terms of overlooking. Furthermore, no

representations have been received from neighbouring properties in connection with the proposal.

### Highway Issues

There is currently off road parking at the front of the property. Whilst the comment from Witham Town Council is noted, the existing garage does not meet the current parking standards. Moreover, this element of the proposal to convert the rear part of the garage to a WC, does not require planning permission. As sufficient parking provision would be retained at the property, it is considered that there would be no highways objections associated with this application.

### CONCLUSION

In conclusion, it is considered that the proposal is acceptable and would comply with the aforementioned policies.

### 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 Floor Plan	Plan Ref: 344/05	Version: 01
Proposed Floor Plan	Plan Ref: 344/06	Version: 01
Proposed Elevations	Plan Ref: 344/07	Version: 01
Proposed Elevations	Plan Ref: 344/08	Version: 01
Location Plan	Plan Ref: 344/09	Version: 01

- 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 is in character with the surrounding area and does not prejudice the appearance of the locality.

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

Reason

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

TESSA LAMBERT  
DEVELOPMENT MANAGER

Monthly Report of Planning and Enforcement Appeal Decisions Received		Agenda No: 6
Portfolio	Planning and Housing	
Corporate Outcome:	A sustainable environment and a great place to live, work and play A well connected and growing district with high quality homes and infrastructure	
Report presented by:		
Report prepared by:	Liz Williamson – Planning Technician	
Background Papers:	Public Report	
Appeal decisions summary	Key Decision: No	
Executive Summary:		
This is a regular report on planning and enforcement appeal decisions received with specific analysis of each appeal decision.		
Recommended Decision:		
That the report be noted.		
Purpose of Decision:		
To note a report on appeal decisions.		
Corporate Implications		
Financial:	N/A	
Legal:	N/A	
Safeguarding:	N/A	
Equalities/Diversity:	N/A	
Customer Impact:	N/A	
Environment and Climate Change:	N/A	
Consultation/Community Engagement:	N/A	
Risks:	N/A	
Officer Contact:	Liz Williamson	
Designation:	Planning Technician	
Ext. No:	2506	
E-mail:	lizwi@braintree.gov.uk	

This is the monthly report on appeals which contains a précis of the outcome of each appeal received during the month of **August 2016**.

The full text of decisions is available on the planning website under each respective planning application or, in respect of enforcement cases, a copy may be obtained from the Planning Enforcement Team (Ext 2529). **Commentary Text (Inspector's Conclusions) is given only** in respect of specific cases where the planning decision has been overturned.

1.	<b>Application No/Location</b>	15/01300/FUL – Site rear of 52-56 High Street, Kelvedon
	<b>Proposal</b>	Erection of 2 no. dwellings
	<b>Council Decision</b>	Refused under delegated authority RLP2, RLP3, RLP4, RLP9, RLP10, RLP56, RLP69, RLP70, RLP74, RLP77, RLP90, RLP95, RLP138
	<b>Appeal Decision</b>	Dismissed
	<b>Main Issue(s)</b>	1. The effect of development on the character and appearance of the area and Kelvedon Conservation Area.
	<b>Inspector's Conclusion</b>	<p><u>Preliminary Matters</u></p> <p>The appeal site has recently been granted permission for a pair of semi-detached properties in a similar position to the proposed development (16/00106/FUL). The approved scheme provides the appellant with a fallback position which, as it could implemented should the appeal fail, is an important material consideration that carries great weight for the purposes of the Inspectors decision.</p> <p><u>Reasons</u></p> <p>The site lies within Kelvedon Conservation Area, being a relatively wide and derelict parcel of land to the rear of 52-56 High Street. The approved scheme would result in dwellings smaller than the proposed dwellings in terms of height and footprint. The approved scheme would have a subservient relationship with properties along the High Street. The proposed development would not look out of keeping as backland development, however, the dwelling would be tall compared to Nos 52-56 and would occupy a prominent position given the elevation and gap. Furthermore, the footprint of the houses would be overly large relative to the size and site of their individual plots. The proposed development would thus cause harm to the character and appearance of the area distinctly greater than what would be caused from the implementation of the approved scheme. The development would not be subservient and would compete with the prominence of properties along the High Street. As a consequence, there would also be clear harm to the character, appearance and significance of Kelvedon Conservation Area.</p>

		Concluding on the main issue, the proposed development would result in clear harm to the character and appearance of the area and would fail to preserve the character and appearance of the Kelvedon Conservation Area. Therefore, it would not accord with Policy CS9 of the Braintree District Core Strategy and Policies RLP3, RLP90 and RLP95 of the Braintree District Local Plan Review July 2005, which, amongst other things, require development to respect local context, protect the character and appearance of Conservation Areas, and relate well to its surroundings in terms of matters such as size, scale and proportions. The development would also not meet the aims of the NPPF as it would fail to sustain the significance of the Conservation Area and the public benefits would not outweigh the harm.
2	<b>Application No/Location</b>	15/01175/FUL – 18 Highfields Road, Witham
	<b>Proposal</b>	Erection of new dwelling
	<b>Council Decision</b>	Refused under delegated authority RLP2, RLP3, RLP4, RLP9, RLP10, RLP56, RLP69, RLP70, RLP74, RLP77, RLP90, RLP95, RLP138
	<b>Appeal Decision</b>	Dismissed
	<b>Main Issue(s)</b>	1. The effect of the development on the character and appearance of the area
	<b>Inspector's Conclusion</b>	The houses on the east side of Highfields Road, Millbridge Road and north side of Guithavon Road form a distinct residential enclave of plain but nicely detailed inter-war, semi-detached housing. The potential development site appears to have been created by fencing off the larger part of the rear garden of number 18. The introduction of a new dwelling in the rear garden area of number 18 would be to break with the strong building line around the perimeter of the block and insert a built element into its open core. This would depart from the regular pattern of active frontages and long back gardens to form backland development not seen elsewhere in the area. This would be to the detriment of its character by breaking with its strongly defined rhythm. Policy CS9 of the Braintree District Core Strategy seeks design and layout in new development which respect and respond to local context. Policies RLP3, RLP0, RLP90 of the Braintree District Local Plan Review seek to protect the existing character of settlements. The Inspector considers that the proposals would harm the character and appearance of the area, and would be in conflict with these policies.
3	<b>Application No/Location</b>	15/01401/FUL – 5 School Road, Blackmore End
	<b>Proposal</b>	Demolition of existing double garage, home office and garden buildings and replace them with a new building of modern construction containing a new double garage with



		garden store at ground level, with a multi-function space to provide a home/office/gym/playroom within the roof space at first floor level.
	<b>Council Decision</b>	Refused under delegated authority – RLP3, RLP18, RLP90
	<b>Appeal Decision</b>	Dismissed
	<b>Main Issue(s)</b>	1. The character and appearance of the area; and 2. The living conditions of adjacent occupants
	<b>Inspector's Conclusion</b>	<p><u>Character and Appearance</u></p> <p>The appeal property is a semi-detached house which is within a row of houses along one side of School Road. These are in an open rural area and the pairs of dwellings have quite generous spaces between them, maintaining a sense of openness. There are a number of outbuildings at the rear of the property which include a prefabricated garage and other buildings. The proposal would replace those buildings although an original wash house which is joined to a similar building in the adjacent garden would be retained. The proportion of the rear garden area that would be occupied by the proposed building would be similar to that of the existing outbuildings but the proposal would be of significant size and bulk in relation to the house. It would be out of proportion to the house and as such it would have an unacceptably dominant appearance. For these reasons the proposal would not be subordinate to the main building as required by saved policy RLP18 of the Braintree District Local Plan Review (2005). Although to the rear of the house and screen from the road the proposal nonetheless would be visible and prominent from the recreation ground to the rear of the site and from adjacent properties. It would be visible to some extent from the road given its large size and height. The size and scale of the proposal in relation to the house and its garden would be particularly noticeable in the context of the generally open surroundings. For these reasons the proposal would not be compatible with the scale and character of the existing dwelling and its plot as required by saved Policy RLP18 of the Local Plan. The proposal would not accord with saved policy RLP90 of the Local Plan which requires the layout, height and masse to be in harmony and appearance of the surrounding area.</p> <p><u>Living Conditions</u></p> <p>The eaves of the height of the proposed building would not be dissimilar to that of the existing outbuildings but the roof would project significantly above this and would present a large expanse of built form that would dominate the neighbouring back garden. It would not be likely to significantly restrict sunlight. Although the proposal would be dominant visually it would not be in the direct line of</p>

		view from the rear windows of the adjacent property but would be seen at an angle. For these reasons I find the proposal would not adversely affect the living conditions of the adjacent occupants.
4	<b>Application No/Location</b>	15/01020/FUL – Windyridge, Colne Road, Bures Hamlet
	<b>Proposal</b>	Demolition of existing dwellinghouse and outbuildings and erection of 3 new dwellinghouses with associated external works.
	<b>Council Decision</b>	Refused under delegated authority – RLP2, RLP15, RLP56, RLP69, RLP74, RLP80, RLP90, RLP138
	<b>Appeal Decision</b>	Allowed and planning permission granted
	<b>Main Issue(s)</b>	1. Whether the site is a suitable location for housing having regard to the development plan and the principles of sustainable development.
	<b>Inspector's Conclusion</b>	<p>The appeal site is a roughly triangular parcel of land located on Colne Road immediately to the south of the built up area of Bures Hamlet. The site lies outside but immediately adjacent to the defined settlement limit for the village. Saved Policy RLP2 of the Braintree District Local Plan Review and Policy CS5 of the Braintree District Local Development Framework (Core Strategy) seek to restrict development beyond the settlement limits to uses that are appropriate to the countryside. The presumption in favour of sustainable development is set out in Paragraph 14 of the NPPF which states that, planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed the policies in the Framework. Paragraphs 7 and 8 of the Framework set out the three dimensions to sustainable development; economic, social and environmental, and state that these are mutually dependent. The development would result in some jobs in construction and the new occupiers would generate some additional spending on goods and services in the local economy. Even a small amount of additional spending in the local economy would help sustain the existing shops and services. Therefore, the development would meet the economic dimension of sustainable development.</p> <p>The Inspector concludes that the proposed houses would make a contribution, albeit modest, to meeting the undersupply of housing which would be a social benefit.</p> <p>Although the appeal site is located on the edge of the settlement, the central part of the village can be easily accessed on foot. There is a railway station approximately 350 metres from the appeal site and all services within the village centre could be accessed via footways or by cycle. The development would therefore meet the environmental dimension of sustainable development through reduced</p>

		<p>car dependency and thus help move towards a low carbon economy.</p> <p>The proposed development does not comply with saved Policy RLP2 and Policy CS5 of the Core Strategy. However, in the absence of an identified and deliverable five year housing land supply, these policies cannot be considered up to date and the presumption in favour of sustainable development is engaged. The Inspector concluded that the development would satisfy the three dimensions of sustainable development. The Inspector therefore concludes that the site is a suitable location for housing having regard to the principles of sustainable development.</p>
5	<b>Application No/Location</b>	15/00980/OUT – Land at Foxes Road, Ashen
	<b>Proposal</b>	Erection of 17 no. dwellings
	<b>Council Decision</b>	Refused under delegated authority - RLP2, RLP7, RLP8, RLP9, RLP10, RLP49, RLP53, RLP54, RLP56, RLP64, RLP69, RLP71, RLP74, RLP80, RLP84, RLP90, RLP94, RLP106, 138
	<b>Appeal Decision</b>	Dismissed
	<b>Main Issue(s)</b>	1. Whether the proposed development is appropriate within an area defined by the adopted development plan as open countryside.
	<b>Inspector's Conclusion</b>	<p>The appeal site is outside the village envelope for Ashen. Policy RLP2 states that new development will be confined to land within town development boundaries and village envelopes and Policy CS5 of the Core Strategy repeats Policy RLP2 by stating that development outside town development boundary, village envelopes and industrial limits will be strictly controlled to uses appropriate to the countryside. The proposed development would be contrary to the above two policies.</p> <p>The Inspector states that Policies RLP2 and CS5 are relevant to the supply of housing. Up-to-date information available to the Council on the need for housing in the district, claims that a five-year supply of deliverable housing sites can no longer be sustained.</p> <p>Ashen is not a key Service Village but an 'other village' which forms the bottom category of settlement. By any standards the Inspector considered that Ashen is an isolated settlement where virtually all journeys to services, to school, to work or for leisure would have to be made by car. The Inspector shares the view of the LPA that there is insufficient evidence to accept the appellant's argument that the proposed development would provide significant in retaining rural services as opposed to the demonstrable and generally accepted fact that future residents would</p>

		<p>rely virtually entirely on the private car. The Inspector claims there is very little support that the proposed development is suitable in respect of the environmental role for sustainable development. Apart from the unsustainable location in terms of the dependence of future residents on the private car, the appeal site clearly represents an extension of the village into the open countryside. It would occupy two fields currently in arable cultivation.</p> <p><u>The Planning Balance</u></p> <p>The Inspector concludes that the Framework promotes policies that can be contradictory in specific circumstances and where any decision maker has to exercise a judgement as to where priorities should lie. The Inspector states that in this case, in circumstances where there is no five year supply of deliverable housing land, the critical questions is whether there are significant and demonstrable adverse impact to outweigh any benefits. That's issue needs to assessed against the policies of the Framework as a hole. The Inspector's judgement is that such impacts can be identified in terms of the unsustainable location of the development and do outweigh the benefits which are the provision or additional housing and especially the provision of additional affordable housing. The Inspector therefore concludes that the assessment of the planning balance s that the proposed location fails the test set by Paragraph 14 of the Framework.</p>
6	<b>Application No/Location</b>	16/00144/FUL – 25 New Road, Hatfield Peverel
	<b>Proposal</b>	Erection of two sided extension and rear extension
	<b>Council Decision</b>	Refused under delegated authority – RLP3, RLP17, RLP90
	<b>Appeal Decision</b>	Allowed
	<b>Main Issue(s)</b>	1. Whether the proposed side extension element of the development would have an unacceptable impact in the character and appearance of the host property and area having regard to its size, siting and bulk.
	<b>Inspector's Conclusion</b>	<p>The appeal dwelling is located on a street characterised by relatively uniform pairs of two storey semi-detached houses incorporating either full hipped or half hipped roofs. There is minimal variation in front building line with the result that overall the street has a pleasing well laid out and planned character.</p> <p>The proposal would be quite similar to the extension that has taken place at the neighbouring property. In addition, the proposal also includes a rear extension to form larger kitchen and lounge areas. There are a number of other</p>

		<p>properties on this estate that have been altered in a similar style. There are a number of extensions on this estate that have also been built in close proximity to the boundary and none of these have created the unacceptable terracing effect that is feared by the Council in this case. These examples, in the Inspector's view, have also retained the subordination that extensions should strive to achieve. Whilst the officers report criticises the roofline, the important hipped arrangement is retained which would in turn help to lessen the massing of the roofscope. The Inspector states that the overall design of the extension would be sympathetic to the host property and would not unacceptably harm the character and appearance of the area, whilst the bulk, height and massing of the proposed side extension would remain a subservient element to the host property. Consequently the proposal would be consistent with Policies RLP3 and RLP17 of the Braintree District Local Plan Review that seek to retain the character and identity of streets and prevention of over-development of plots. It would also respond to its local context in line with Core Strategy Policy CS9.</p>
7	<b>Application No/Location</b>	15/01425/FUL – 2 St Peter's in the Fields, Braintree
	<b>Proposal</b>	Erection of new dwelling
	<b>Council Decision</b>	Refused under delegated authority – RLP3, RLP4, RLP10, RLP56, RLP69, RLP74, RLP90, RLP95, RLP141
	<b>Appeal Decision</b>	Dismissed
	<b>Main Issue(s)</b>	<ol style="list-style-type: none"> <li>1. The effect of the proposed development on the character and appearance of the Braintree Conservation Area and the setting of the adjacent Listed Building; and</li> <li>2. The effect of the proposed development on the character and appearance of the area.</li> </ol>
	<b>Inspector's Conclusion</b>	<p>The proposed new building would be approximately 9.5 metres high and would be a significant tall feature very close to the east end of the Grade II Listed Church. St Peters Church was built in the late Nineteenth Century and it is a simple design located adjacent to the Braintree and Bocking Public Gardens which are also considered to be a significant historical importance due their association with the textile manufacturing family Courtauld. The Public Gardens also form a spacious open area amid the built up area of the town. The complex structure of the house, with multiple front gables and tiered balconies to the end elevation, would complete visually with the simpler form of the church building. It would also diminish the spacious setting and serve the continuity of the visual relationship that the church currently has with the adjacent Victoria Park. Therefore, the Inspector considers the introduction of a large, modern, house would cause harm to the setting of the Listed Building.</p>

		<p>The appeal site is outside, but directly adjoining the boundary of the Braintree Conservation Area. Braintree and Bocking Public Gardens lie directly behind the appeal site. The proposed new dwelling would be located very close to the boundary with the Public Gardens, In longer views across the park, established trees would prevent direct views and largely screen the proposed dwelling. However the perimeter path that forms a circular walk around the park, where the new house would be extremely prominent and, due to its height, significantly increase the degree of enclosure to this path. The appeal site is also an undeveloped area at the end of St Peter's in the Fields, which creates visual continuity between the Public Gardens and St Peter's Church and contributes to the openness and setting of the park. Due to its location immediately adjoining the boundary and its effect on views out of the Conservation Area, the Inspector considers that the proposed development would cause harm to the character and appearance of the conservation area.</p> <p>The Inspector concludes that due to the cramped form of development that would result and the inconsistency with the generally simple built form of the surrounding buildings, the development would cause harm to the character and appearance of the area. It would not comply with the requirements of Policy CS9 of the Braintree Core Strategy and Saved Policies RLP3, RLP9 and RLP90 of the Braintree District Local Plan which seeks a high standard of design that respects the character of the surrounding area and reflects local distinctiveness.</p>
8	<b>Application No/Location</b>	15/01509/FUL – Land adjacent 19 Church Street, Bocking
	<b>Proposal</b>	Erection of new dwelling
	<b>Council Decision</b>	Refused under delegated authority – RLP3, RLP4, RLP9, RLP10, RLP77, RLP90, RLP95, RLP100, RLP138, RLP141
	<b>Appeal Decision</b>	Dismissed
	<b>Main Issue(s)</b>	<ol style="list-style-type: none"> <li>1. The effect of the proposal on the character and appearance of the area including its effect on heritage assets; and</li> <li>2. Whether the proposal would provide sufficient outdoor amenity space for future occupants.</li> </ol>
	<b>Inspector's Conclusion</b>	The site is within Bocking Conservation Area. It forms part of the garden of 19 Church Street. To the front of the property is a road which is set behind a grassed area and which provides access to the Grade I listed Church of St Mary the Virgin and the church hall. The proposed new dwelling would be particularly conspicuous because it would occupy part of the garden which together with the adjacent area of open space forms part of the open setting. From some viewpoints on Church Street, the

		<p>proposal would obscure views of the church. Furthermore, the close proximity of the proposed dwelling to the site boundaries and to the existing house would give it a somewhat cramped appearance which would be at odds with the open character of the adjoining area. For the reasons given, the Inspector considers that the proposal would be harmful to the setting of the listed building and would not preserve or enhance the character or appearance of the Conservation Area. The proposal would not accord with Policies RLP95 and RLP100 of the Braintree District Local Plan Review which require the preservation and enhancement of the character and appearance of the Conservation Areas including open spaces and views within those areas and the settings of the Listed Buildings.</p> <p>The Local Planning Authority state that the proposal would provide 63sqm of private amenity space which would fall significantly below the recommendation in the Essex Design Guide of 100sqm of usable garden space. On this basis the Inspector considers that the proposal would not provide sufficient outdoor amenity space for its future occupants and would not accord with the high standard of layout and design required by Policy RLP90 of the Local Plan.</p>
9	<b>Application No/Location</b>	15/01562/FUL – Grove House, Cross End, Pebmarsh
	<b>Proposal</b>	Erection of first floor side extension
	<b>Council Decision</b>	Refused under delegated authority – RLP3, RLP17, RLP90
	<b>Appeal Decision</b>	Dismissed
	<b>Main Issue(s)</b>	1. The effect on the character and appearance of the streetscene.
	<b>Inspector's Conclusion</b>	<p>The appeal site is located at the northern end of the village towards the end of the built up part of this lane, which adjoins open countryside. The dwelling on the appeal site lies at the end of a row of similarly designed dwellings with front gable feature and deep main roof with a small front dormer and half hip roof. The proposed first floor extension would be on the northern side of the dwelling, extending from the existing 'catslide' roof with eaves height to match the front gable feature and a half hip. It would extend over the flat roofed garage to the side of the dwelling, which abuts the northern boundary and would be set back about a metre from the northern boundary. The Inspector considers that the extension would be a large and bulky addition which would fill virtually the whole gap that currently exists at first floor level on this side of the plot. As such, it would also appear cramped in relation to the boundaries and the street scene and overly large when viewed within the confines of the plot width and wider</p>

		<p>pattern of built form. The Inspector notes the lack of objections from local residents and the support of the Parish Council, but this does not alter the Inspectors view that the proposed extension would be unacceptable.</p> <p>In conclusion the proposed extension would have a harmful impact on the character and appearance of the host dwelling and wider street scene. It would thus be contrary to Policies RLP3, RLP17 and RLP90 of the Braintree District Local Plan.</p>