

PLANNING COMMITTEE AGENDA

Tuesday, 13th February 2024 at 7.15pm

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

THIS MEETING IS OPEN TO THE PUBLIC

Members of the public will be able to view and listen to this meeting via YouTube.
To access the meeting please use the link below:

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

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

Councillor J Abbott

Councillor J Beavis

Councillor L Bowers-Flint

Councillor T Diamond

Councillor M Fincken

Councillor J Hayes

Councillor D Holland (Vice-Chairman)

Councillor A Hooks

Councillor A Munday

Councillor I Parker (Chairman)

Councillor F Ricci

Councillor P Schwier

Councillor G Spray

Substitutes: Councillor K Bowers, Councillor M Green, Councillor P Heath, Councillor L Jefferis, Councillor J Pell, Councillor G Prime, Councillor S Rajeev, Councillor W Taylor, Councillor M Thorogood, Councillor P Thorogood, Councillor J Wrench, Councillor B Wright, Vacancy.

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

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

D GASCOYNE
Chief Executive

INFORMATION FOR MEMBERS - DECLARATIONS OF MEMBERS' INTERESTS

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

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

Public Question Time - Registration and Speaking

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

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

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

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

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

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

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

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

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

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

Health and Safety

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

Substitute Members

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

Documents

Agendas, Reports and Minutes may be accessed via www.braintree.gov.uk

Data Processing

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

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

Mobile Phones

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Webcast and Audio Recording

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

Comments and Suggestions

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

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 23rd January 2024 (copy to follow).

4 Public Question Time

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

5 Planning Applications

To consider the following planning applications.

- | | | |
|-----------|--|------------------|
| 5a | App. No. 23 01552 FUL - Land adjacent to Weavers Park, Courtauld Road, BRANTREE | 6 - 49 |
| 5b | App. No. 23 01911 FUL - Land South of 231 Witham Road, BLACK NOTLEY | 50 - 71 |
| 5c | App. No. 23 02988 FUL - Witham Town Council, Town Hall, 61 Newland Street, WITHAM | 72 - 88 |
| 5d | App. No. 23 02996 LBC - Witham Town Council, Town Hall, 61 Newland Street, WITHAM | 89 - 103 |
| 6 | Tree Preservation Order 07 2023 - Old Magistrates Court, WITHAM | 104 - 131 |

7 Urgent Business - Public Session

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

8 Exclusion of the Public and Press

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

At the time of compiling this agenda there were none.

PRIVATE SESSION

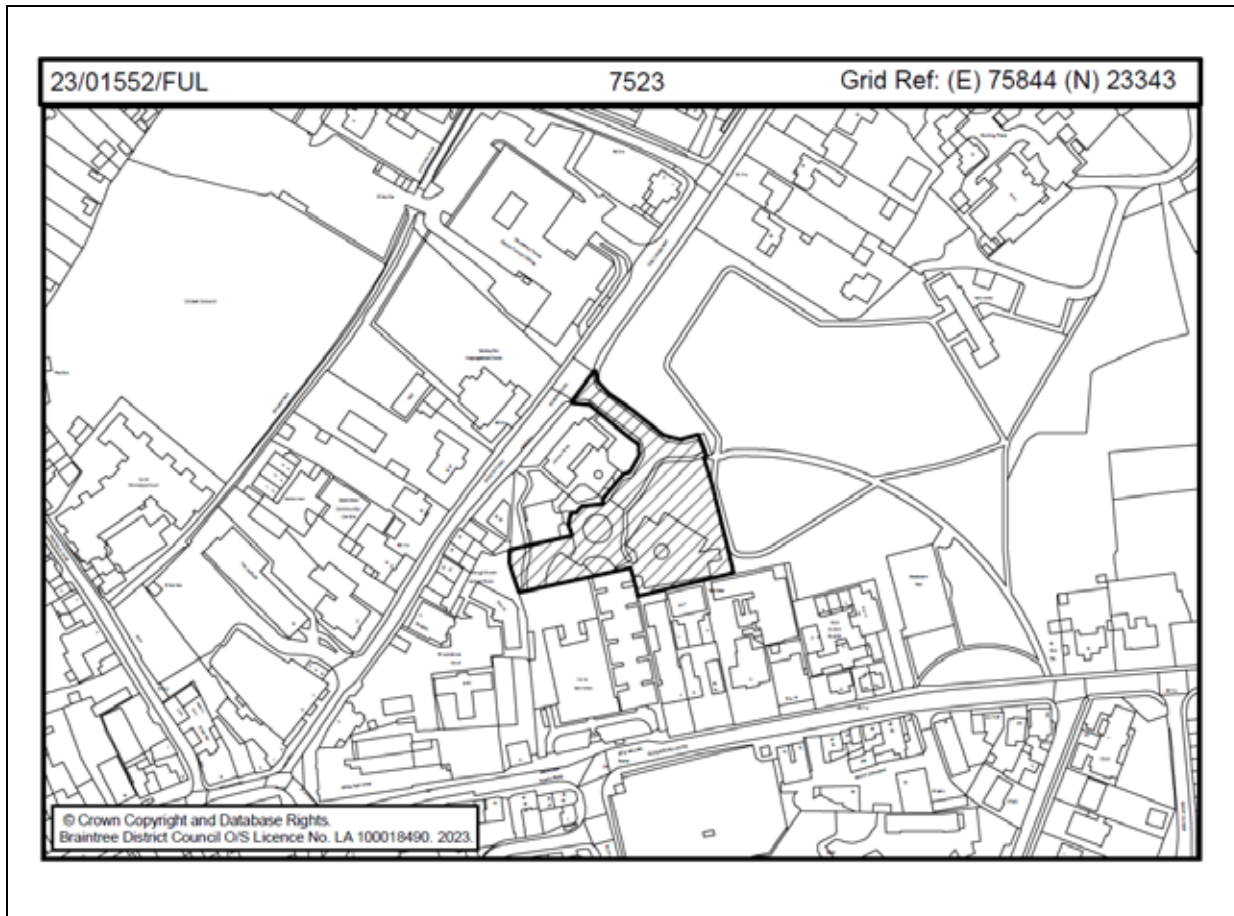
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9 Urgent Business - Private Session

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

Report to: Planning Committee	
Planning Committee Date: 13th February 2024	
For: Decision	
Key Decision: No	Decision Planner Ref No: N/A
Application No:	23/01552/FUL
Description:	Erection of 22 residential apartments with associated access, parking and amenity area
Location:	Land Adjacent Weavers Park, Courtauld Road, Braintree
Applicant:	Weavers Park Limited, C/o Agent
Agent:	Mrs Lisa Skinner, LSA Planning, Stirling House, Denny End Road, Cambridge, CB25 9PB
Date Valid:	4th August 2023
Recommendation:	It is RECOMMENDED that the following decision be made: § Application REFUSED for the reasons outlined within Appendix 1 of this Committee Report.
Options:	The Planning Committee can: a) Agree the Recommendation b) Vary the Recommendation c) Overtturn the Recommendation d) Defer consideration of the Application for a specified reason(s)
Appendices:	Appendix 1: Reason(s) for Refusal Submitted Plan(s) / Document(s)
	Appendix 2: Policy Considerations
	Appendix 3: Site History
Case Officer:	Melanie Corbishley For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2527, or by e-mail: melanie.corbishley@braintree.gov.uk

Application Site Location:



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

	<p>understanding.</p> <p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
<p>Background Papers:</p>	<p>The following background papers are relevant to this application include:</p> <ul style="list-style-type: none"> § Planning Application submission: <ul style="list-style-type: none"> § Application Form § All Plans and Supporting Documentation § All Consultation Responses and Representations <p>The application submission can be viewed online via the Council's Public Access website: www.braintree.gov.uk/pa by entering the Application Number: 23/01552/FUL.</p> <ul style="list-style-type: none"> § Policy Documents: <ul style="list-style-type: none"> § National Planning Policy Framework (NPPF) § Braintree District Local Plan 2013-2033 § Neighbourhood Plan (if applicable) § Supplementary Planning Documents (SPD's) (if applicable) <p>The National Planning Policy Framework can be viewed on the GOV.UK website: www.gov.uk/.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: www.braintree.gov.uk.</p>

1. EXECUTIVE SUMMARY

- 1.1 The application site is located within the Town Development Boundary of Braintree, adjacent to Weavers Park. To the north of the site is the Grade II listed John Ray House, and to the south is Tabor House, which is a non-designated heritage asset. The whole site is located within the Braintree Conservation Area.
- 1.2 Directly to the south of the application site is a three storey residential development containing flats and a building occupied by Mencap. The application site is predominantly laid to block paving, with an area of soft landscaping containing a group of trees to the east. Part of the site is located within an area of land defined as 'Informal Recreation' space within the Adopted Local Plan.
- 1.3 This application seeks full planning permission for the erection of a three storey building containing 22no flats and comprising 16no one-bed units and 6no two-bed units. The submitted plans show that vehicular access to the site would be from Bocking End and that 28 parking spaces would be provided, two of which would be accessible spaces. The plans also include the provision of a bin store and a cycle store. The Applicant has appealed against the non-determination of the planning application.
- 1.4 The proposals would result in a low-moderate level of less than substantial harm to the significance of the Grade II Listed John Ray House and a low level of less than substantial harm to of the Braintree Town Centre Conservation Area. It would also result in harm to the setting of the non-designated Tabor House. Further harm would be caused by the poor layout and design of the proposals, poor internal amenity for future residents, an unneighbourly relationship with existing occupiers, sub-standard parking spaces, along with an insufficient financial contribution in lieu of on-site affordable housing.
- 1.5 Part of the application site includes land designated as 'Informal Recreation' space within the Proposals Map of the Adopted Local Plan, Policy LPP50 of which states that existing open space shall not be built on, unless a robust and up to date assessment has been undertaken which clearly demonstrates that the space is surplus to requirements. Policy LPP50 goes on to state that in considering planning applications which could impact on open space, the Council shall weigh any benefits being offered to the community against the loss of open space that would occur. An assessment has been provided by the Applicant that concludes by stating that there is a surplus of amenity space in the Bocking Blackwater, however Officers disagree with this conclusion and maintain that a sufficient case has not be made for the loss if the informal recreation space.
- 1.6 It should be noted that the Applicant has lodged an appeal for non-determination, and the hearing date has been set by the Planning Inspectorate for 26th March 2024. Therefore, the Local Planning Authority

can no longer determine this application, but outline its position for the appeal hearing, by setting out its putative reasons for refusal in this case.

- 1.7 When considering the planning balance and having regard to the adverse impacts and benefits outlined above, Officers have concluded that the adverse impacts of granting permission would outweigh the benefits, when assessed against the policies in this Framework taken as a whole. Consequently, it is recommended that planning permission is refused for the proposed development.
- 1.8 Notwithstanding the above, even if the 'tilted balance' was engaged, it is considered that the adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Against this context, it would have been recommended that planning permission be refused for the proposed development, had the local planning authority been in a position to have determined the planning application.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

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

2.2 It should be noted that the Applicant has lodged an appeal for non-determination, and the hearing date has been set by the Planning Inspectorate for 26th March 2024. Therefore, the Local Planning Authority can no longer determine this application, but outline its position for the appeal hearing, by setting out its putative reasons for refusal in this case.

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

5.1 The application site is located within the Town Boundary of Braintree, adjacent to Weavers Park. To the north of the site is the Grade II listed John Ray House, and to the south is Tabor House, which is a non-designated heritage asset. The whole site lies within the Braintree Conservation Area.

5.2 Directly to the south of the application site is a three storey residential development containing flats and a building occupied by Mencap.

5.3 The application site is predominantly laid to block paving, with an area of soft landscaping containing a group of trees to the east. Part of the site lies within an area of land defined as 'Informal Recreation' space by the Adopted Local Plan.

5.4 Part of the site was owned by Braintree District Council, but was sold in December 2021. Officers confirm that none of the site is owned by Braintree District Council.

5.5 This current planning application follows an application received in September 2022, determined in February 2023 (Application Reference 22/02522/FUL). The previous application was for the following:

'Erection of 29no. flats with associated access, parking, and amenity area'

5.6 The application was refused for the following reasons:

Reason 1- The proposals would result in a moderate level of less than substantial harm to the significance of the Grade II Listed John Ray House and low level of less than substantial harm to of the Braintree Town Centre Conservation Area and would also result in harm the non-designated Tabor House. Whilst the level of harm in this case would be less than substantial harm, taking into account the cumulative impact upon the designated and non-designated heritage assets, the benefits of the proposal do not outweigh the harm to the identified assets. The proposal is therefore contrary to Policies SP7, LPP47, LPP52, LPP53 and LPP57 of the Braintree District Local Plan 2013-2033 and the National Planning Policy Framework.

Reason 2- The proposed development would result in the loss of an area of informal recreation space. No assessment has been supplied by the Applicant to justify this loss and demonstrate that it is surplus to requirements. However, notwithstanding the above, it is not considered that the benefits arising from the proposed development would outweigh the loss of the informal recreation space. The proposal is therefore contrary to Policy LPP50 of the Braintree District Local Plan 2013-2033.

Reason 3- The proposal would result in a poorly considered scheme which fails to secure a high standard of design and layout. The design fails to reflect the context of its surroundings, unsympathetic to its sensitive location and the amenity of future occupiers will be harmed by the inadequate internal and external amenity and a lack of car parking. The proposal results in an unacceptable and unjustified loss of trees and the layout will result in pressure for retained trees to be reduced or removed. Furthermore, the scheme relates poorly to neighbouring development, detrimental to residential amenity. The proposals amount to poor design and layout failing to add to the quality of the area and an overdevelopment of the site contrary to Policies SP7, LPP35, LPP52 and LPP65 of the Braintree District Local Plan 2013-2033, the Essex Design Guide and the National Planning Policy Framework.

Reason 4- Policy LPP31 of the Adopted Local Plan states that affordable housing will be directly provided by the developer within housing schemes. The proposal fails to provide a sufficient financial contribution in lieu of on-site provision of affordable housing in accordance with the local need and therefore conflicts with Policy LPP31 of the Braintree District Local Plan 2013-2033.

Reason 5- The proposed development would trigger the requirement for:

- The delivery of 30% affordable housing on site or a financial contribution in lieu of on-site provision;*
- A financial contribution towards primary health services;*
- The provision, maintenance and delivery of on-site open space;*
- Financial contribution towards outdoor sports, equipped play and allotments;*
- Habitat mitigation payment.*

5.7 The Applicant chose not to appeal that decision and did not engage with the Local Planning Authority via the Pre-Application Service prior to submitting the current application.

6. PROPOSAL

6.1 This application is seeking full planning permission for the erection of a three storey building containing 22no flats. 16no one-bed units and 6no two-bed units ranging in floor area from 42.8sq.m to 78sq.m.

6.2 The submitted plans show that vehicular access to the site would be from Bocking End and that 28no parking spaces would be provided, 2no of which would be accessible spaces. The plans also include the provision of a flat roofed, single storey bin and cycle store.

7. SUMMARY OF CONSULTATION RESPONSES

7.1 Active Travel England

7.1.1 No comments received.

7.2 Anglian Water

7.2.1 Assets Affected - There are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development boundary that may affect the layout of the site. An informative is requested should permission be granted.

7.2.2 Wastewater Treatment - The foul drainage from this development is in the catchment of Bocking Water Recycling Centre which currently does not have capacity to treat the flows the development site. Anglian Water are obligated to accept the foul flows from the development with the benefit of planning consent and would therefore take the necessary steps to ensure that there is sufficient treatment capacity should the Planning Authority grant planning permission.

7.2.3 Used Water Network - This response has been based on the following submitted documents: Flood risk assessment. Due to lack of information, we are unable to make an informed assessment. A full assessment cannot be made due to lack of information, the Applicant has identified a connection point on Roman Road (page 7 of FRA), which Anglian Water have been unable to locate. Anglian Water request a strategy that shows the connection point into the public network and would wish to be reconsulted once this is available. Therefore, the development has the potential to have an unacceptable risk of flooding/or pollution from the network. Anglian Water will need to plan effectively for the proposed development, if permission is granted. We will need to work with the Applicant to ensure any infrastructure improvements are delivered in line with the development. We therefore request a condition requiring an on-site drainage strategy.

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

7.2.5 A number of conditions are requested.

7.3 Environment Agency

7.3.1 No comments received.

7.4 Essex Fire and Rescue

7.4.1 Access for Fire Service purposes has been considered in accordance with the Essex Act 1987 - Section 13. The arrangements should be in accordance with the details contained in Section B5 Approved Document "B" Fire Safety Volume 1, taking into consideration the specifications for Essex Fire Appliances contained in the table below:

Appliance Type	Min. width of road between kerbs(m)	Min. width of gateways (m)	Min. turning circle between kerbs (m)	Min. turning circle between walls (m)	Min. clearance height (m)	Min. carrying capacity (tonnes)
Pump	3.7	3.1	17.8	19.0	3.7	18.0
High Reach	3.7	3.1	26.0	29.0	4.0	26.0
Special Appliance	4.0	3.1	25.2	25.9	4.0	26.0

7.4.2 More detailed observations on access and facilities for the Fire Service will be considered at Building Regulation consultation stage.

7.4.3 Building Regulations - It is the responsibility of anyone carrying out building work to comply with the relevant requirements of the Building Regulations. Applicants can decide whether to apply to the Local Authority for Building Control or to appoint an Approved Inspector. Local Authority Building Control will consult with the Essex Police, Fire and Crime Commissioner Fire and Rescue Authority (hereafter called "the Authority") in accordance with "Building Regulations and Fire Safety - Procedural Guidance". Approved Inspectors will consult with the Authority in accordance with Regulation 12 of the Building (Approved Inspectors etc.) Regulations 2010 (as amended).

- 7.4.4 Water Supplies - The Architect or Applicant is reminded that additional water supplies for firefighting may be necessary for this development. The architect or Applicant is urged to contact Water Section at Service Headquarters, 01376 576000.
- 7.4.5 Sprinkler Systems - There is clear evidence that the installation of Automatic Water Suppression Systems (AWSS) can be effective in the rapid suppression of fires. Essex County Fire & Rescue Service (ECFRS) therefore uses every occasion to urge building owners and developers to consider the installation of AWSS. ECFRS are ideally placed to promote a better understanding of how fire protection measures can reduce the risk to life, business continuity and limit the impact of fire on the environment and to the local economy. Even where not required under Building Regulations guidance, ECFRS would strongly recommend a risk-based approach to the inclusion of AWSS, which can substantially reduce the risk to life and of property loss. We also encourage developers to use them to allow design freedoms, where it can be demonstrated that there is an equivalent level of safety and that the functional requirements of the Regulations are met.
- 7.5 Essex Police
- 7.5.1 Braintree District Local Plan 2022 states: LPP52 (h) Designs and layouts shall promote a safe and secure environment, crime reduction and prevention, and shall encourage the related objective of enhancing personal safety with the maximum amount of natural surveillance of roads, paths and all other open areas and all open spaces incorporated into schemes LPP52 (j) The design and level of any lighting proposals will need to be in context with the local area, comply with national policy and avoid or minimise glare, spill and light pollution on local amenity, intrinsically dark landscapes and nature conservation LPP52 (m) The development proposed should not have a detrimental impact on the safety of highways or any other public right of way, and its users.
- 7.5.2 In relation to some of the ground floor apartments we would seek to establish that the external private amenity space has a suitable boundary treatment between it and the public accessible space beyond to ensure that security of the apartment is maintained especially during summer months when the French doors may be left open whilst the room is unoccupied. ADQ states "reasonable provision must be made to resist unauthorised access to a) any dwelling: and b) any part of a building from which access can be gained to a flat within the building". Whilst there are no other apparent concerns with the layout to comment further we would require the finer detail such as the proposed lighting, access/visitor entry systems, provision for mail delivery and physical security measures.
- 7.5.3 We would welcome the opportunity to consult on this development to assist the developer demonstrate their compliance with these policies by achieving a Secured by Design Homes award. An SBD award is only achieved by compliance with the requirements of the relevant Design Guide

ensuring the risk commensurate security is built into each property and the development as a whole.

7.6 Natural England

7.6.1 To be reported to Members at the Planning Committee Meeting.

7.7 NHS

7.7.1 Financial contribution of £10,900 sought in order to increase capacity for the benefit of patients of the Primary Care Network operating in the area. This may be achieved through any combination of extension, reconfiguration or relocation of premises.

7.8 BDC Ecology

7.8.1 No objection subject to securing:

- a) A financial contribution towards visitor management measures at the Black Water Estuary Special Protection Area and Ramsar Site and Essex Estuaries Special Area of Conservation in line with the Essex Coast Recreational Disturbance Avoidance Mitigation Strategy; and
- b) Biodiversity enhancement measures.

7.9 BDC Environmental Health

7.9.1 No objection. Condition requested regarding contamination, hours of work, dust and mud control management scheme and piling.

7.10 BDC Housing, Research and Development

7.10.1 In accordance with Affordable Housing Policy LPP31, 30% of these flats (equalling 6no) are required to be provided as affordable housing. To address housing need we would usually want to secure a mix of flat types and tenure on site. Typically, there would be a 70/30 tenure mix of rented units over shared ownership, equating to 4 and 2 units respectively, shown in the table below.

	No.	Affordable Rent	Shared Ownership
1 bed flat	4	3	1
2 bed flat	2	1	1
	6	4	2

7.10.2 However, this block is designed with a single entrance, stair core and shared common areas and consequently is not considered suitable for on-site affordable housing. It has been confirmed by a number of Register Providers (RP's) that they would have no interest in purchasing affordable

homes within a block that would require mixing affordable tenure with market units.

- 7.10.3 We feel therefore a more appropriate approach in this case is to seek a commuted payment in lieu of affordable housing. The usual methodology when calculating commuted payments is to formulate the calculation on the amount of subsidy an RP would require to purchase comparable homes elsewhere. This subsidy is based on market values for each of the unit types shown above, less what an RP could typically offer for the flats if they were being provided on site. Two RP's have been approached and have provided figures on market values along with sums that theoretically could be offered. These figures have been averaged for the purpose of calculating the commuted sum.
- 7.10.4 Accordingly, we recommend a commuted payment of £376,500 should be sought and secured by s106 agreement.

7.11 BDC Landscape Services

- 7.11.1 Overall, the design has incorporated the existing higher valued trees well, prioritising the retention of these, with the trees proposed for removal totalling 9 no. all of which are category C. These would be compensated for as a result of the proposed soft landscape plan. This plan proposes planting 25 no. new trees and 2 shrubs, demonstrating good intention to offset the losses required for construction and a clear biodiversity net gain result.
- 7.11.2 Clarity needs to be obtained regarding the retention or removal of G3 London Planes (x3) as there is contradictory documents.
- 7.11.3 Further details are required in addition to the arboricultural method statement to ensure timings of operations are clearly defined, overseen and inspected. The appointment of a suitably qualified Project Arboricultural Consultant is required, who will be responsible for monitoring the implementation of the approved method statement, 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 and including management of service plan and installation and the exact specifications of the 'No dig' surfacing.
- 7.11.4 A number of conditions are requested.

7.12 BDC Waste Services

- 7.12.1 The doors for the bin store need to open wide enough to allow the width of a 100cm wide 1100 litre bin plus 15cm each side to ensure operatives can maneuverer the bins without risking injuring their hands. Therefore an overall door width of at least 130cm. So long as this is incorporated the waste collections will be able to be carried out without any hindrance.

7.13 ECC Education

7.13.1 Financial contribution toward expansion of the existing library service of £1711.60 and the relevant monitoring fee.

7.14 ECC Highways

7.14.1 From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to a condition requiring the submission of a traffic management plan and that the development should not be occupied until the vehicular and pedestrian access arrangements as shown on the planning application drawings are implemented and the provision of residential travel information packs for all new residents.

7.15 ECC Independent Living/ Extra Care

7.15.1 No comments received.

7.16 ECC Suds

7.16.1 Holding objection. An updated technical note has been received from the Applicant and ECC Suds are still maintaining a holding objection based on the following:

Please clarify how the impermeable surfaces will receive sufficient treatment. Will all surface water be directed towards permeable paving?

7.17 ECC Place Services - Heritage

7.17.1 This application follows on from a previously refused scheme (Application Reference 22/02522/FUL) for 29 residential apartments at the Site. The proposed site is within the immediate setting of the Grade II Listed John Ray House, which was built in 1928-9 as the Braintree County High School Gymnasium. The listed building has historic and functional links to Tabor House, which originally housed the Braintree County High School. Tabor House itself is considered to be a non-designated heritage asset.

7.17.2 The proposed site is also within the Braintree Conservation Area and is adjacent to Weavers Park, an important open public space, which provides views in which the architectural and historic significance of the listed former gymnasium can be appreciated. Along with Tabor House and John Ray House the Grade II Listed Essex County Library and the Congregational Church also make a beneficial contribution to the distinctive character of this part of the conservation area.

7.17.3 The scheme proposes a reduction in storeys from the four proposed in the previous scheme to three and a reduction from 29 to 22 units. While the reduction in height has somewhat reduced the overdominance of the apartment block, the drawings show that it would still form an intrusive solid

built form of substantial massing. UPVC doors and windows are proposed, along with man-made faux slate tiles, which are inauthentic and do not reflect the architectural and historic special interest of the conservation area and the character of the setting of the heritage assets.

- 7.17.4 At present the site is an unused area of car park and is essentially, an undeveloped and open area. Historically, the site was once part of the playing fields and tennis courts of the school, as can be seen in aerial photographs taken in 1946 (Britain From Above EAW001516 1946). The open aspect and interrelationship between Weavers Park, the school, the gymnasium, and tennis courts were features of the historic layout and despite some modern development, this open aspect is still perceptible today. The listed Gymnasium still looks out over the park and the layout of the former school buildings and spaces is retained in the definition, scale and grain of the surrounding area. The formal design, orientation, hierarchy and layout of the school, gymnasium and open spaces can still be appreciated.
- 7.17.5 The Heritage Statement maintains that the scheme proposes a “a new built frontage to this space”, which is a departure from the previously open and permeable relationship between the park, the listed building and Tabor House. While the unused car park area that forms the site could be enhanced in terms of its appearance, I disagree with the assertion in the Heritage Statement that the site currently makes an inherently negative contribution to the setting of the listed building. Its existing appearance and condition could easily be enhanced, without the proposed residential development.
- 7.17.6 The scheme would result in an increase the enclosure of the former school grounds, weakening its historic relationship to the park. This example of setting for the Gymnasium and Tabor House is comparatively rare and the visual dominance, prominence and the Gymnasium’s role as focal point would be diminished by the scheme. This impact would be notable in views from the listed building, Tabor House and the immediate area and also in important views from the park. The increased noise, movement and traffic, along with diurnal changes would also have a negative impact on the setting of John Ray House and Tabor House, given their existing relationship to Weavers Park.
- 7.17.7 Contrary to Paragraph 206 of the NPPF, the proposed development would fail to preserve or enhance the architectural and historic special interest of the Braintree Town Centre Conservation Area and would not enhance or better reveal the significance of the Grade II Listed John Ray House and the non-designated Tabor House. The scheme does not preserve those elements of setting and local historic character that make a positive contribution to the significance of the heritage assets. As a result, the proposal would result in less than substantial harm to their significance.
- 7.17.8 Therefore, Paragraph 208 of the NPPF is relevant, which 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 including, where appropriate, securing its optimum viable use. In the assessment of the balance between harm to public benefit, great weight is to be given to the conservation of the heritage assets, in line with Paragraph 205 of the NPPF.

8. PARISH / TOWN COUNCIL

8.1 N/A

9. REPRESENTATIONS

9.1 Three representations received making the following comments:

- Insufficient car parking provided as the area already gets congested due to the nursery use and there are no alternative options nearby.
- Loss of outlook to the flats in Park View.
- Loss of privacy to the residents of Park View.
- Increased noise and light pollution.
- Loss of light to neighbouring occupiers.
- Increased air pollution from more traffic which is unacceptable in this greenfield and conservation area.
- This is not the right place for development, as this space should be an area for recreation.
- The area should be protected as the development does not fit in.
- Concerns that the fire exit for a neighbouring property will be compromised by the new development.

10. PRINCIPLE OF DEVELOPMENT

10.1 National Planning Policy Framework (NPPF)

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

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

- 10.1.3 Paragraph 12 of the NPPF sets out that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making. In addition, paragraph 47 of the NPPF states that planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise.
- 10.1.4 The NPPF underlines the Government's objective of significantly boosting the supply of homes. In this regard, Paragraph 60 of the NPPF highlights the importance of ensuring that there is a sufficient amount and variety of land that can come forward where it is needed, that specific housing requirements are met, and that land with permission is developed without unnecessary delay. Paragraph 76 of the NPPF requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth (plus the relevant buffer) of housing for decision making purposes where the relevant application was made prior to the publication of the December 2023 version of the NPPF.
- 10.1.5 In this regard, and in considering the overall planning balance as to whether the proposed development subject to this application constitutes sustainable development, an important material consideration in this case is whether the Council can robustly demonstrate a 5 Year Housing Land Supply. This will affect whether Paragraph 11 of the NPPF is engaged and consequently the weight that can be attributed to the Development Plan (see below).
- 10.2 5 Year Housing Land Supply
- 10.2.1 Paragraph 76 of the NPPF sets out that local planning authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years worth of housing for decision making purposes if: their adopted plan is less than five years old; and that adopted plan identified at least a five year supply of specific, deliverable sites at the time that its examination concluded. The Council's Local Plan is up to date and complies with the NPPF.
- 10.2.2 However, Footnote 79 of the NPPF sets out that this provision only applies to planning applications which were submitted on or after the date of publication of the revised NPPF (December 19th 2023). As this application was received prior to that date, the Council must consider it in relation to the 5 year housing land supply.
- 10.2.3 The Braintree District Local Plan has an approved minimum housing target of 716 new homes per year in the District between 2013 and 2033. To this annual supply the Council must add the cumulative shortfall since the start of the Plan period. This figure is recalculated each year. 873 new homes per year are therefore required to be delivered within this 5 year period (2023-2028). Taking the above into account, the Council's latest 5 Year

Housing Land Supply position for 2023-2028 shows that the Council has a 5.8 years supply.

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

10.3 The Development Plan

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

10.3.2 The application site is located within the Town Development Boundary in Braintree, where new development is considered acceptable in principle in accordance with Policy LPP1 of the Adopted Local Plan.

10.3.3 Part of the application site includes land designated as 'Informal Recreation' space. Policy LPP50 of the Adopted Local Plan states that existing open space shall not be built on unless a robust and up to date assessment has been undertaken which clearly demonstrates that the space is surplus to requirements. Policy LPP50 goes on to state that in considering planning applications which could impact on open space, the Council shall weigh any benefits being offered to the community against the loss of open space that will occur. The Council will seek to ensure that all proposed development takes account of, and is sensitive to, the local context.

10.3.4 Within their planning statement the Applicant has assessed a number of supplementary planning documents and have reached the conclusion that there is a surplus of park and recreation ground in the ward and that the portion of the site that is allocated as 'informal recreation space' would remain open and would form amenity space for the new apartments. The Applicant also states that it is also highly relevant that the Council sold this piece of land and has therefore accepted it is not required to form a public area for the park.

10.3.5 The District Council acquired Weavers Park from Essex County Council in 2001. The part of the land that forms the triangular amenity space for this application was acquired subject to an option agreement in favour of Essex County Council for the benefit of Tabor House, at the time occupied by ECC Social Services, to enable the land to be transferred back to Essex County Council in the event that they wished to use it for car parking.

10.3.6 The option agreement was assigned to Sammi Development Limited in 2013 when Essex County Council sold Tabor House to them for

redevelopment. When the option notice was served this triggered the requirement for the Council to transfer the land to Sammi Development. The transfer was completed in 2021.

- 10.3.7 The inference that the District Council sold the land commercially and in the knowledge that it would be developed is incorrect. The Council were obliged to transfer the land in accordance with the terms of the option agreement. This was not land that the District Council considered surplus to requirements.
- 10.3.8 The Braintree Open Space Strategy 2015 (BOPS) lists Weavers Park as an Amenity Green Space (this builds on The Braintree Green Spaces Strategy 2008 – which lists Weavers Park as a Park and Garden) and states: “*The standards that have been proposed are for minimum guidance levels of provision. So, just because geographical areas may enjoy levels of provision exceeding minimum standards does not mean there is a surplus, as all such provision may be well used.*”
- 10.3.9 Table 15 from BOPS recommends that the Amenity Green Space access standard is 480 metres (10 minutes walking time).
- 10.3.10 Table 16 from the BOPS (above) shows a significant deficit of amenity green space in the adjacent Ward. A significant amount of the access standard area covers this adjacent ward (Braintree Central and Beckers Green ward). The site is also within the access standard area for Braintree Town Centre, there are shortfalls in the Bocking Blackwater Ward of play spaces and therefore Officers consider that the deficit could be reduced if an alternative use was proposed for some of the amenity green space.

Table 16: Required provision of open space in urban analysis areas (hectares)

Ward	Allotments	Amenity Green Space	Park and Recreation Ground (Public & Private Combined)	Play Space (Children)	Play Space (Youth)	Accessible Natural Green Space
Bocking Blackwater Ward	-2.16	15.07	3.50	-0.41	-0.23	1.94
Bocking North Ward	-0.01	12.98	-1.40	-0.13	-0.14	0.00
Bocking South Ward	-0.72	1.27	0.12	-0.20	-0.08	1.88
Braintree Central and Beckers Green Ward	-2.05	-6.34	5.69	-0.33	-0.27	0.38
Braintree South Ward	-0.27	-1.84	-3.92	-0.17	-0.16	8.35
Braintree West Ward	-1.53	6.41	-7.38	-0.01	-0.18	13.72

- 10.3.11 Officers therefore consider that the proposals conflicts with Policy LPP50 of the Adopted Local Plan.

11. SITE ASSESSMENT

11.1 Location and Access to Services and Facilities

11.1.1 Where concerning the promotion of sustainable transport, the NPPF in Paragraph 109 states that the planning system should actively manage patterns of growth; and that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions and improve air quality and public health.

11.1.2 The strategy set out in the Adopted Local Plan within Policy SP3 is to concentrate growth in the most sustainable locations 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 shops, services and employment. This means that 'the broad spatial strategy for the District should concentrate development in Braintree, Witham and the A12 corridor and Halstead.'

11.1.3 In this case, the site is within one of the District's main towns, has good access to local services and facilities as well as good public transport links. As such it is a sustainable location which weights in favour of the development.

11.2 Heritage

11.2.1 The application site is located within the Braintree Town Centre Conservation Area and also within the immediate setting of the Grade II Listed John Ray House which was built in 1928-9 and designed by the County architect, John Stuart. It was built as a gymnasium (now converted to a children's nursery) for the Braintree County High School, which is immediately to the south-west of the site. The site therefore is within what was once the school grounds. The high school building, now known as Tabor House, has a distinctive appearance and is a non-designated heritage asset, which makes a beneficial contribution to the Conservation Area.

11.2.2 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that when considering a grant of planning permission that affects a listed building special regard shall be given to the desirability of preserving its setting.

11.2.3 Paragraph 205 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

- 11.2.4 Paragraph 207 of the NPPF states that where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:
- a) The nature of the heritage asset prevents all reasonable uses of the site; and
 - b) No viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
 - c) Conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
 - d) The harm or loss is outweighed by the benefit of bringing the site back into use.
- 11.2.5 Policies LPP47 and LPP57 of the Adopted Local Plan seek to conserve local features of architectural, historic and landscape importance and the setting of listed buildings.
- 11.2.6 The site is located within the Conservation Area Boundary. Policy LPP53 of the Adopted Local Plan states *'The Council will encourage the preservation and enhancement of the character and appearance of designated Conservation Areas and their settings. These include the buildings, open spaces, landscape and historic features and views into, out from and within the constituent parts of designated areas. Built or other development within or adjacent to a Conservation Area and affecting its setting will be permitted provided that all the following criteria are met.*
- a. Where the proposal enhances the character, appearance and essential feature of the Conservation Area or its setting;*
 - b. Details of existing buildings which make a positive contribution to the character and appearance of the Conservation Area will be retained;*
 - c. Building materials are of high quality and appropriate to the local context'.*
- 11.2.7 The application site lies within the immediate setting of the Grade II listed John Ray House. Policy LPP57 of the Adopted Local Plan states that *'Development of internal, or external alterations, or extensions, to a listed building or listed structure (including any structures defined as having equivalent status due to being situated within the curtilage of a listed building and locally listed heritage assets) and changes of use will be permitted when all the following criteria are met.*
- For designated heritage assets:
The development meets the tests set out in national policy.*
- For all heritage assets:*
- a. The works or uses include the use of appropriate materials and finishes*
 - b. The application submitted contains details of the significance of the*

heritage asset, within a Heritage Statement which should include any contribution made by their setting

c. There may be a requirement for appropriate specialist recording to be carried out prior to the change of use, demolition or conversion of a listed building or associated historic building.

The Council will seek to preserve and enhance the immediate settings of heritage assets by appropriate control over the development, design and use of adjoining land'.

- 11.2.8 The scheme proposes a reduction in storeys from the four proposed in the previous scheme, to three and a reduction from 29 to 22 units. While the reduction in height has somewhat reduced the overdominance of the apartment block, the drawings show that it would still form an intrusive solid built form of substantial massing, with large areas of flat roof. UPVC doors and windows are proposed, along with man-made faux slate tiles, which are inauthentic and do not reflect the architectural and historic special interest of the conservation area and the character of the setting of the heritage assets.
- 11.2.9 At present the site is an unused area of car park and is essentially, an undeveloped and open area. Historically, the Site was once part of the playing fields and tennis courts of the school, as can be seen in aerial photographs taken in 1946 (Britain From Above EAW001516 1946). The open aspect and interrelationship between Weavers Park, the school, the gymnasium, and tennis courts were features of the historic layout and despite some modern development, this open aspect is still perceptible today. The listed Gymnasium still looks out over the park and the layout of the former school buildings and spaces is retained in the definition, scale, and grain of the surrounding area. The formal design, orientation, hierarchy and layout of the school, gymnasium and open spaces can still be appreciated.
- 11.2.10 The Applicant's heritage statement maintains that the scheme proposes a "a new built frontage to this space", which is a departure from the previously open and permeable relationship between the park, the listed building and Tabor House. While the unused car park area that forms the site could be enhanced in terms of its appearance, the Council's Historic Buildings Consultant disagrees with the assertion in the Heritage Statement that the site currently makes an inherently negative contribution to the setting of the listed building. Its existing appearance and condition could easily be enhanced, without the proposed residential development.
- 11.2.11 It is considered that the scheme would result in an increase the enclosure of the former school grounds, weakening its historic relationship to the park. This example of setting for the gymnasium and Tabor House is comparatively rare and the visual dominance, prominence and the gymnasium's role as focal point would be diminished by the scheme. This impact would be notable in views from the listed building, Tabor House and the immediate area and also in important views from the park. The

increased noise, movement and traffic, along with diurnal changes would also have a negative impact on the setting of John Ray House and Tabor House, given their existing relationship to Weavers Park.

- 11.2.12 Contrary to Paragraph 212 of the NPPF, the proposed development would fail to preserve or enhance the architectural and historic special interest of the Braintree Town Centre Conservation Area and would not enhance or better reveal the significance of the Grade II Listed John Ray House and the non-designated Tabor House. The scheme does not preserve those elements of setting and local historic character that make a positive contribution to the significance of the heritage assets. As a result, the proposal would result in less than substantial harm to their significance.
- 11.2.13 Therefore, Paragraph 208 of the NPPF is relevant, which 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 including, where appropriate, securing its optimum viable use. In the assessment of the balance between harm to public benefit, great weight is to be given to the conservation of the heritage assets, in line with Paragraph 205 of the NPPF.
- 11.2.14 Officers are not satisfied that the proposals are acceptable and consider them to be contrary to Policies LPP47, LPP53 and LPP57 of the Adopted Local Plan and the NPPF. The conflict with these policies provides a clear reason for refusing the development on the basis that it is considered that the public benefits of the proposal cited below would not outweigh the heritage harm.

11.3 Amenity for Future Occupiers

- 11.3.1 Paragraph 135 in the NPPF states that 'planning policies and decisions should ensure that development that create places that are safe with a high standard of amenity for all existing and future occupants of land and buildings'. Policy LPP52 of the Adopted Local Plan also states that residential developments shall provide a high standard of accommodation and amenity for all prospective occupants. Policy LPP35 requires all new development to be in accordance with the Nationally Described Space Standards (NDSS).
- 11.3.2 The NDSS sets out the requirements for the gross internal floor area of new dwellings at a defined level of occupancy as well as floor areas. For one-bedroom dwellings two floor areas are provided, one person occupancy would require at least 39sq.m and for two-person occupancy, at least 50sq.m would be required. For two-bedroom dwellings two floor areas are provided, three-person occupancy would require at least 61sq.m and for four-person occupancy, at least 70sq.m would be required.
- 11.3.3 Units 1, 2, 17 and 20 are shown on the plans as being 1 person dwellings but are shown to have a double bed and Officers consider that they would be capable of 2 person occupancy. These four units all have floor areas

below the minimum requirements of the NDSS, some by up to 7sqm. Unit 8, a one-bedroom unit, two-person occupancy, have a floor area below the minimum NDSS standard. Unit 19 has a substandard floor area for a two-bedroom, 4 person dwelling.

- 11.3.4 Officers consider that the internal layout of the flats is poor, particularly in relation to the siting of the kitchens. These spaces lack natural light and would be wholly reliant on electric illumination. Many of the bathrooms are the same and it is considered that both of these elements are compromised in order to achieve the maximum amount of development within the new block. The treatment of the internal arrangements is considered to be poor design and not a layout Officers are willing to accept given the impact upon the living conditions for future occupiers.
- 11.3.5 Many of the flats are single aspect and face north. Officers are of the view that the quality of the internal space within these dwellings would be poor with an unacceptable level of light. It is not clear how the roof design impacts on the practicality of some of the second floor accommodation with regards restricted head room.
- 11.3.6 In addition to the poor level of internal amenity space for residents, the outdoor amenity provision is inadequate for some and non-existent for other residents. The submitted plans indicate that the ground floor flats would have access to small areas of amenity space. However, some of these spaces are located along the northern elevation of the building would receive inadequate sunlight, being in the shadow of the three storey building. The landscaping plans indicate that these spaces would be enclosed by hedging, thus not making them private, as required by the Essex Design Guide 2005. Furthermore, these spaces need to provide a safe a defensible space around the building otherwise residents would be exposed to the publicly accessible space around the building. However, to ensure that these spaces are sufficiently private a quality enclosure is likely to have a detrimental impact on the setting of the Conservation Area.
- 11.3.7 Occupants of the upper two floors do not have access to any private communal outdoor space. The submitted plans show an open communal space enclosed by estate railings and Officers do acknowledge that there would be access to the adjoining public park, however this is not an acceptable substitute for private, secure communal areas where clothes can be dried, and privacy created. The Essex Design Guide 2005 requires 25sq.m of communal private space per flat. Overall, this would equate to a provision of 325sq.m in total of communal amenity space, enclosed at eye level. Officers do not consider that this can be adequately achieved at this site, without causing undue harm to the Conservation Area.
- 11.3.8 The proposals are therefore unacceptable, resulting in a poor level of internal and external amenity for future occupiers, contrary to Policies SP7, LPP35 and LPP52 of the Adopted Local Plan, the Essex Design Guide, and the NPPF.

11.4 Urban Design

- 11.4.1 Paragraph 131 the NPPF highlights that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable developments, creates better places in which to live and work and helps make development acceptable to communities.
- 11.4.2 Paragraph 135 states that planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting.
- 11.4.3 Paragraph 139 states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.
- 11.4.4 Policy SP7 of the Adopted Local Plan states that all new development must meet high standards of urban and architectural design and provides a number of place making principles.
- 11.4.5 In addition to this, Policy LPP52 of the Adopted Local Plan also seeks to secure the highest possible standards of design and layout in all new development and the protection and enhancement of the historic environment.
- 11.4.6 Officers consider that the application site is a very exposed and public site within the Conservation Area and consider that it provides part of the setting for John Ray House. Given the sensitive and significant heritage qualities of the location, there is an expectation that any potential development of the site would need to be of the highest design quality which is sympathetic to its sensitive surroundings.
- 11.4.7 The resulting visual relationship between the listed gymnasium and the proposed three storey block is considered to be unsympathetic and the poorly composed elevation facing the designated heritage asset is not considered to be good design.
- 11.4.8 The single storey element protruding beyond the upper floors on the eastern is considered to be highly contrived and unattractive; and this entire eastern elevation would be unacceptable in design and composition.
- 11.4.9 The immediate context surrounding the application site features buildings with a much more considered window detailing than that of the proposal. It is considered that the chosen blends of traditional and contemporary design would result in a building that has unremarkable detail and is considered as unresponsive to the context. Not only has the proposed building not managed to express the richness of fenestration in the local character, but it has also not responded to the visual richness of brick

detailing and stone work. Instead, it is considered that there are tokenistic aspects of detail that only make for a diluted quality and appearance.

- 11.4.10 National policy and design guidance clearly expects new development to enhance the location where it is proposed. It is considered that this new building is too pared down, and utilitarian in appearance in comparison to the buildings it relates to. Given the importance of the site and heritage assets in the immediate context, the proposed design is too inadequate to be considered acceptable.
- 11.4.11 The materials palette indicates artificial slate and given the status of the site and the need more sensitive sympathetic design; the choice of artificial slate is a poor one. Like the fake pitched roof of the design, the lack of authenticity of artificial slate is inadequate in this location, where the quality of materials is a critical aspect of good design as expected by the NPPF.
- 11.4.12 The proposed bin and cycle store is shown to be located in a prominent location between the new block and Tabor House. It would back onto a number of the existing parking spaces that serve Tabor House and currently there is no boundary treatment to the rear of these. The hard landscaping plan indicates that a 2.2m high combination of black metal fence and dwarf brick would be located to the rear of these existing car parking spaces. The store would be nearly 12m in length and 2.4m high with a flat roof. Officers consider that the combination of the new black metal fence and the siting of a large flat roof building, would in an incongruous feature, not appropriate for this sensitive location.
- 11.4.13 Officers also consider that the car park would be poorly planted. Despite there being room for understorey and low-level planting, only six trees in a completely hard surfaced parking court are proposed. As this is a Conservation Area the expectation for good design is fully justifiable, but the car park design is tokenistic and poor quality. It is considered that the parking area would be visually dominant and inadequately mitigated. The two additional spaces, closest to John Ray House would be poorly accommodated and particularly dominant in a sensitive location.
- 11.4.14 Therefore, Officers are not satisfied that the proposals are acceptable in terms of design, layout and appearance and its general impact upon the character and appearance of the area. The proposal is therefore considered to be contrary to Policies SP7 and LPP52 of the Adopted Local Plan and the NPPF.

11.5 Ecology

- 11.5.1 Policy LPP64 of the Adopted Local Plan seeks to ensure that the developer undertakes an ecological survey and demonstrate adequate mitigation plan is in place to ensure no harm to protected species or priority species.
- 11.5.2 Policy LPP66 of the Adopted Local Plan states, if significant harm to biodiversity resulting from a development cannot be avoided, adequately

mitigated, or as a last resort compensated for then planning permission should be refused.

- 11.5.3 The Council's Ecologist has reviewed the Preliminary Ecological Assessment (ACJ Ecology Ltd, August 2022), Updated PEA Statement (ACJ Ecology Ltd, June 2023), Biodiversity Method Statement – Hedgehogs (ACJ Ecology Ltd), DEFRA Metric 3.1 calculations (ACJ Ecology Ltd, June 2023) and the Hard and Soft Landscape General Arrangement Plan Drawing 120_101 Revision E, submitted by the Applicant, relating to the likely impacts of development on designated sites, protected and priority species/habitats.
- 11.5.4 The Council's Ecologist is satisfied that sufficient ecological information is available for determination for this application and that with appropriate mitigation measures, secured, the development can be made acceptable. Therefore, the mitigation measures as detailed in the Preliminary Ecological Assessment (ACJ Ecology Ltd, August 2022), and Biodiversity Method Statement – Hedgehogs (ACJ Ecology Ltd), must be secured and implemented in full. This is necessary to conserve protected and priority species, particularly nesting birds and hedgehogs.
- 11.5.5 The Council's Ecologist also supports the conclusions of the submitted and Defra Biodiversity Metric 3.1 -calculations. This demonstrates that an increase of 18.59% Habitat units will be achieved for this scheme. As a result, measurable biodiversity net gains will be able to be delivered for this scheme, as outlined under Paragraph 180d & 186d of the National Planning Policy Framework 2023.
- 11.5.6 The Council's Ecologist also recommends that bespoke biodiversity enhancement measures should be delivered for this application, to secure net gains for biodiversity, as outlined under Paragraph 180d of the National Planning Policy Framework 2023. This should be secured as a condition of any consent, via a Biodiversity Enhancement Layout, and we recommend bespoke enhancements should include the provision of integrated swift nesting bricks. This is because swifts are considered to have predominantly declined due to a reduction of available nest site locations due to changes in modern building practices. Therefore, it is recommended that nest site locations be provided within new developments for swifts, so the Council's Ecologist would like to see a number of swift nesting boxes included in the biodiversity enhancement proposals. Ideally this should consist of integrated universal swift bricks as these are known to be beneficial to a range of bird species.
- 11.5.7 The Council's Ecologist also recommends that hedgehog friendly fencing/gaps should be incorporated and detailed on the Biodiversity Enhancement Layout. As a result, the Council's Ecologist recommends that a Landscape and Ecological Management Plan should be secured as a condition of consent, which would set out the detailed management plan to achieve the aims and objectives of the Biodiversity Metric, as well as the implementation and aftercare of any bespoke biodiversity enhancements.

- 11.5.8 Furthermore, the site contains proposed residential development which is situated within the 22km Zone of Influence (ZOI) for the Blackwater SPA/Ramsar site, and Essex Estuaries SAC. Therefore, Natural England's standard advice should be followed to ensure compliance with the Habitats Regulations. The LPA is therefore advised that a financial contribution should be secured in line with the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS), which will need to be secured by legal agreement or S111. Payment.
- 11.5.9 The Council's Ecologist indicates that the impacts of the proposals will be minimised such that the proposal is acceptable subject to the conditions requiring compliance with the submitted ecological appraisal, the submission of a hedgehog method statement, a biodiversity enhancement layout, and a landscape and ecological management plan.
- 11.6 Trees and Landscaping
- 11.6.1 The NPPF states in Paragraph 136, '*trees make an important contribution to the character and quality of urban environments and can also help mitigate and adapt to climate change. Planning policies and decisions should seek to ensure... that existing trees are retained wherever possible*'.
- 11.6.2 Policy LPP65 of the Adopted Local Plan states, '*trees which make a significant positive contribution to the character and appearance of their surroundings will be retained unless there is a good arboricultural reason for their removal for example, they are considered to be dangerous or in poor condition*'.
- 11.6.3 Policy SP7 of the Adopted local Plan states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. It goes on to state that new development should enhance the public realm through additional landscaping, street furniture and other distinctive features that help to create a sense of place.
- 11.6.4 The site is located within the Conservation Area and faces onto the parkland setting that provides a valuable and relatively open, amenity space in this part of the town; the boundaries to the park are well defined by a mosaic of semi-mature and mature trees which provide an attractive prospect for the visitor. The proximity of a building of this scale and elevation will inevitably dominate the views across this part of the park closing off a relatively open prospect and creating a discordant note with a development proposal that is out of character for the setting.
- 11.6.5 An Arboricultural Report has been submitted to accompany the application including an arboricultural tree survey detailing the arboricultural method statement and tree protection plan. The report neglects to state a date in which the tree survey was undertaken and in which the data that the plans

rely on. The data is assumed to be the same as previously used in the above previous application in 2022.

11.6.6 The application site is within the Braintree Conservation Area and sits within the south-west boundary of Weavers Park. The site is previously landscaped as is partially covered with block paving and was previously used as a car park with areas of soft landscaping. Therefore, a number of the trees are already offered some degree of protection of their Root Protection Area (RPA) from compaction provided there's no significant changes to levels or a need for excavation.

11.6.7 The tree survey schedule in Appendix 3, pages 15 & 16 of the tree report confirms there were 14 No. of trees and 3 No. of groups inspected in association with the planning application site. Of these trees and groups surveyed on the site:

- None are category A
- 9 no. of are category B
- 8 no. of were category C

To allow for the development to be implemented, 4 no. of Cat C trees (T9, T10, T11, T13) and 3 No. Cat B trees (T7, T8 and T12) require removal and 2 no. of groups Cat C's (G1 & G2) totalling 9 trees and groups requiring removal.

11.6.8 Contrary to the tree report, the hard and soft general arrangement plan 120/101 dated 08/08/22 shows G3 (London Planes) as being proposed for removal. G3 are Category C1 trees which could be compensated for through replanting, this would need to be accounted for also. The tree report does not clarify the number of stems within the groups, and an Officer site visit confirmed G3 includes x3 London Planes. G3 is potentially affected by proposed car parking bays extending into the RPA. There is however already existing hard surfacing in these locations at present. If the subbase of the existing surface can be utilised, it's unlikely any new surface will impact upon them. However, there is a risk that roots have incurred through the subbase due to London Plane trees being quite vigorous root growers capable of growing through hard surfaces easily. A 'no dig' construction method to protect the RPA's of G3 may be required unless trial pits can be undertaken to demonstrate roots are not present above the existing subbase layer. A suitable worded bespoke condition will be required.

11.6.9 The development appears to have been set back away from T14 to afford it more space to grow than the previously refused application, thus reducing future potential pressure on this tree. T1 to T6 and T14 are shown as retained on the submitted plans and are afforded suitable tree protection fencing outline on the tree protection plan. This would need to be secured by way of a specifically worded planning condition.

- 11.6.10 T5 shows some minor incursion with a clay brick surface proposed within the RPA, although this is unlikely to have a significant impact. T6 RPA is incurred partially by the positioning of a proposed bike shed, and again this is likely to have a limited impact and could be mitigated against with the 'No Dig' methodology reference in the method statement.
- 11.6.11 There could be future pressure on the retained trees T1 to T6 from new inhabitants due to their proximity to the proposed building. However, the building design accommodates future growth well by staggering heights and keeping the nearest section single-story. In addition, the trees are all afforded protection to an extent due to being within a Conservation Area and therefore the Council has control over what can be permitted or refused and further protected via a Tree Preservation Order (TPO) if necessary.
- 11.6.12 Officers consider that the proposed planting plan appears to be well considered and aims to soften the impact of the development from the access road and the park footpaths around the road entrance. Block paving with Silver Birch trees is proposed around the north of the development at the entrance from the access road, however it is unclear why this is necessary. Officers are concerned that this may in fact tempt residents or visitors to park on these areas which would be an unwelcome eyesore for park users. Instead low level fencing could be used to prevent this and Council Landscape Officers would recommend larger impactful tree species are chosen for this area, as Silver Birch are considered shorter lived 'pioneer' trees. Larger parkland specimen trees would be more appropriate. The use of Yew as hedging for boundaries is supported as well as the choice of species for the car park area. The inclusion of bulb planting is a welcome addition.
- 11.6.13 Overall, the proposals have incorporated the existing higher valued trees, prioritising the retention of these, with the trees proposed for removal totalling 9 no. all of which are category C. These will be compensated for as a result of the proposed soft landscape plan. This plan proposes planting 25 no. new trees and 2 shrubs, demonstrating good intention to offset the losses required for construction and a clear biodiversity net gain result.
- 11.6.14 A number of suitably worded conditions would be recommended against the context that the application is recommended for approval. Further clarification is required with regards G3.

11.7 Impact upon Neighbouring Residential Amenity

- 11.7.1 The NPPF requires a good standard of amenity for all existing and future occupants of land and buildings. Policy LPP52 of Adopted Local Plan states that there shall be no undue or unacceptable impact on the amenity of any nearby residential property.
- 11.7.2 To the south of the application site is a building occupied by Mencap, a three-storey block of flats (2-7 Park View) and Braintree Nursing Home. At

its closest point, the three-storey building would be located just over 5.5m from the boundary with the Park View flats. The rear elevation of the Park View flats contains 10-bedroom windows and two lounge windows, spread over three floors. It is considered that this distance is not sufficient and that the current outlook from the existing flats would be materially harmed, to their detriment. Officers consider that the resulting relationship between the new and existing flats would be unneighbourly and unacceptable impact upon neighbouring residential amenity.

- 11.7.3 Officers are not satisfied that the proposals are acceptable and consider them to conflict with Policy LPP52 of the Adopted Local Plan and the NPPF.

11.8 Highway Considerations

- 11.8.1 Paragraph 115 of the NPPF states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residential residual cumulative impacts on the road network would be severe.
- 11.8.2 With the National Planning Policy Framework in mind, particularly Paragraph 115, the Highway Authority has reviewed the planning application and supporting Transport Assessment against its own Development Management Policies to ensure the proposal site can be accessed safely, any additional trips would not be detrimental to highway safety and capacity and to ensure as far as possible the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.
- 11.8.3 The Highway Authority have raised no objection subject to conditions relating to submission of a construction management plan, construction of vehicular and pedestrian access and a travel pack.
- 11.8.4 Policy LPP43 of the Adopted Local Plan seek to ensure sufficient vehicle/cycle parking is provided within new developments.
- 11.8.5 The Essex Parking Standards 2009 requires the minimum of one space per one-bedroom flats and two spaces per two-bedroom flat, which results in 28 spaces. In addition to this 6 visitor parking spaces would be required. The plans indicate that 28 car parking spaces would be provided, but no visitor spaces.
- 11.8.6 The Essex Parking Standards 2009 states that the preferred bay size for cars would be 5.5m by 2.9m, and that the minimum bay size would be 5m by 2.5m, however these dimensions are only to be used in exceptional circumstances. Twelve of the proposed parking bays measure 4.7m by 2.7m, and Officers do not consider that exceptional circumstances apply for this site to allow for the minimum bay size requirements here. The 28 spaces shown could not therefore be provided.

- 11.8.7 A separate bike store is indicated on the submitted plans and would be located to the south of new block. It would be attached to the proposed bin store. The Parking Standards requires one covered bike parking space per new dwelling and 28 spaces would be provided.
- 11.8.8 The proposals would conflict with Policy LPP43 of the Adopted Local Plan and the Essex Parking Standards 2009, as the parking spaces provided are sub-standard in size and that no visitor parking spaces are provided within the development.

11.9 Refuse and Recycling

- 11.9.1 Policy LPP52 of the Adopted Local Plan states that designs shall incorporate details of 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.
- 11.9.2 BDC Waste Team have assessed the details submitted in support of the application and do not raise any objection to the proposed design and siting of the bin store and make comments on the opening width of the doors to allow easy access for waste services operatives. The width of the door gap should be at least 1.3m wide. The proposed bin store has a door width of at least 1.4m.
- 11.9.3 Officers are satisfied that the proposals are acceptable and comply with Policy LPP52 of the Adopted Local Plan.

11.10 Affordable Housing

- 11.10.1 Policy LPP31 of the Adopted Local Plan states that affordable housing will be directly provided by the developer within housing scheme. A requirement of 30% of the total number of dwellings on sites located in the main towns of Braintree (including Great Notley, Bocking and High Garrett), Witham, Halstead, Sible Hedingham and development sites directly adjacent to these areas.
- 11.10.2 In accordance with Affordable Housing Policy, 30% of these flats (equalling 9) are required to be provided as affordable housing. To address housing need the Housing, Development and Research officer would usually want to secure a mix of flats types and tenure on site. Typically, there would be a 70/30 tenure mix of rented units over shared ownership, equating to 6 and 3 units respectively, shown in the table below.

	No.	Affordable Rent	Shared Ownership
1 bed flat	6	5	1
2 bed flat	3	1	2
	9	6	3

- 11.10.3 However, this block is designed with a single entrance, stair core and shared common areas and consequently is not considered suitable for on-

site affordable housing. It has been confirmed by a number of Register Providers (RP's) that they would have no interest in purchasing affordable homes within a design arrangement such as this. The Housing, Development and Research Officer feels therefore a more appropriate approach in this case is to seek a commuted payment in lieu of affordable housing. The usual methodology when calculating commuted payments is to formulate the calculation on the amount of subsidy an RP would require to purchase comparable homes elsewhere. This subsidy is based on market values for each of the unit types shown above, less what an RP could typically offer for the flats if they were being provided on site. Two RP's have been approached and have provided figures on market values along with sums that theoretically could be offered. These figures have been averaged for the purpose of calculating the commuted sum. Accordingly, it is considered that a commuted payment of £376,500 should be sought and secured by s106 agreement.

- 11.10.4 Members are advised that the Applicant has chosen to design the proposed development so that all of the flats are accessed by a single access point. The unacceptability of this design approach was raised with the Applicant during the pre-application discussions such the Applicant was aware that RP's would raise objection and would be unlikely to purchase flats that are designed with this access arrangement.
- 11.10.5 During the life of the application, and following the comments made by BDC Housing, Development and Research Officer, the Applicant submitted a, affordable housing statement prepared by Kift Consulting Ltd (KCL).
- 11.10.6 Kift Consulting conclude that a fair and reasonable approach would be for the commuted sum payment to be set at a level which captures some of the additional development value. The result of this is that the commuted sum suggested by the Applicant is £84,500, equating to £292,000 less than the amount requested by the Council's Housing, Research and Development Officer.
- 11.10.7 Officers conclude that this level of financial contribution would be insufficient and would not accord with Policy LPP31 of the Adopted Local Plan.
- 11.10.8 During the life of the previous application (Application Reference 22/02522/FUL) Officers engaged the services of an independent consultant to assess the contents and conclusions the previously submitted affordable housing statement. Officers have engaged the services of the same independent consultant to act on their behalf with regards the non-determination appeal. The independent consultant previously concluded that the residual land value was higher than quoted by the Applicant, and that revenue would be higher than costs and that there would be sufficient surplus to go towards Section 106 requirements, including an off-site affordable housing financial contribution.

11.10.9 Officers therefore conclude that the financial contribution sought by BDC Housing, Development and Research team in lieu of an on-site provision of affordable housing is appropriate. As the Applicant wishes to only provide less than half of this figure, the proposed mitigation is not acceptable and does not comply with Policy LPP31 of the Adopted Local Plan or the NPPF.

11.11 Flooding and Drainage

11.11.1 Section 14 of the NPPF is concerned with how the Government expects the planning system to consider climate change, flooding and coastal change, and recognises that planning plays a key role in, amongst other things, providing resilience to the impacts of climate change.

11.11.2 Policy LPP74 of the Adopted Local Plan seeks to minimise exposure of people and property to the risks of flooding by following the national guidance. Policy LPP76 of the Adopted Local Plan refers to SUDS design being an integral part of the layout and should reflect up to date standards.

11.11.3 The application is supported by a Flood Risk Assessment and Drainage Strategy (prepared by Ingent Consulting Engineers dated May 2023 rev A).

11.11.4 The Lead Local Flood Authority (LLFA) have been consulted and raised a holding objection to the proposals. The Applicant submitted a technical drainage note with their appeal submission and the LPA have formally consulted the LLFA, who have still maintained their holding objection.

11.11.5 In the absence of this information and the objection raised by Essex County Council it is therefore considered that the application is contrary to the NPPF and Policy LPP74 of the Adopted Local Plan.

11.12 Habitat Regulations Assessment (HRA / RAMS)

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

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

11.12.2 It is therefore necessary for the Council to complete an Appropriate Assessment under the Habitat Regulations to establish whether mitigation measures can be secured to prevent the development causing a likely significant adverse effect upon the integrity of these sites.

11.12.3 An Appropriate Assessment (Habitat Regulation Assessment Record) has been completed in accordance with Natural England's standard guidance. Subject to the proposed mitigation measures set out in the Council's Habitat Regulations Assessment being secured these mitigation measures would rule out the proposed development causing an adverse effect on the integrity of the above European Designated Sites.

11.12.4 The proposed mitigation measures would consist of the securing of a financial contribution of £156.57 per dwelling erected towards offsite visitor management measures at the above protected sites.

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

12. PLANNING OBLIGATIONS

12.1 Paragraph 57 of the NPPF sets out that planning obligations should only be sought where they are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. This is in accordance with Regulation 122 of the Community Infrastructure Levy (CIL) Regulation. The following identifies those matters that the District Council would seek to secure through a planning obligation, if it were proposing to grant it permission.

12.2 Policy LPP78 of the Adopted Local Plan states that permission will only be granted if it can be demonstrated that there is sufficient appropriate infrastructure capacity to support the development or that such capacity will be delivered by the proposal. It must further be demonstrated that such capacity as is required will prove sustainable over time both in physical and financial terms.

12.3 Where a development proposal requires additional infrastructure capacity, to be deemed acceptable, mitigation measures must be agreed with the Council and the appropriate infrastructure provider. Such measures may include (not exclusively):

- § Financial contributions towards new or expanded facilities and the maintenance thereof
- § On-site construction of new provision
- § Off-site capacity improvement works and/or
- § The provision of land

12.4 Developers and landowners must work positively with the Council, neighbouring authorities and other infrastructure providers throughout the planning process to ensure that the cumulative impact of development is considered and then mitigated, at the appropriate time, in line with their published policies and guidance.

12.5 The following are identified those matters that the District Council would seek to secure through a planning obligation, if it were preparing to grant permission and the Applicant has agreed to enter in to a S106 agreement in respect of these matters (other than affordable housing which is not proposed within the scheme):

Affordable Housing

- 12.6 Policy LPP31 of the Adopted Local Plan states that for developments of this size, affordable housing will be provided on-site with a target of 30% affordable housing provision on sites in town areas. The application does not provide a sufficient financial contribution in lieu of on-site provision and the application is recommended to be refused for this reason.

Health

- 12.7 NHS England advise that the development is likely to impact the GP practice within the vicinity of the application site and that the practice do not have sufficient capacity to meet the demand arising from a development of this size. A financial contribution of £10,900 is sought to increase capacity for the benefits of patients of the primary care network operating in the vicinity of the proposed development. This may be achieved through any combination of extension, reconfiguration, or relocation of premises.

Open Space

- 12.8 Policy LPP50 of the Adopted Local Plan states that all developments will be expected to provide new open spaces in line with the requirements set out in the Open Spaces Supplementary Planning Document 2009 or successor document. The Council's Open Space SPD sets out further details on how these standards will be applied.
- 12.9 A financial contribution would be sought for improvements to existing outdoor sport, outdoor equipped play, and allotments. The provision/contribution is based upon a formula set out in the SPD. These aspects could be secured through a S106 Agreement.

Essex RAMS

- 12.10 The site is situated within the Zone of Influence (ZOI) for the Blackwater Estuary SPA/Ramsar site.
- 12.11 As such, the developer is required to pay a financial contribution towards off-site visitor management measures for the Blackwater Estuary SPA and Ramsar site, currently £156.57 per dwelling for the uplift in the number of dwellings (22no) which equates to £3,444.54.
- 12.12 Subject to the above matters being incorporated into a legal agreement to ensure their provision, the development would be made acceptable in these respects. No such agreement is in place at the present time and therefore the development fails to satisfactorily mitigate the impacts of the development on local infrastructure and is contrary to Policies SP6, LPP31, LPP50 and LPP78 of the Adopted Local Plan.

13. PLANNING BALANCE AND CONCLUSION

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

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

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

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

13.1.3 As indicated above, the Council's latest 5 Year Housing Land Supply position for 2023-2028 shows that the Council has a 5.8 years supply. The Council considers this a robust position and as the Council is able to demonstrate an up to date 5 year housing land supply, the presumption (at Paragraph 11d of the Framework) is not engaged. Consequently, the policies within the Development Plan are considered to have full weight in

decision making. Planning applications must therefore be determined in accordance with the Development Plan, unless material planning considerations indicate otherwise.

Development Boundary Designation within the Development Plan

- 13.1.4 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Paragraph 15 of the NPPF emphasises that the planning system should be “genuinely plan led”.
- 13.1.5 As set out within Paragraph 47 of the NPPF, planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In this case, the application site is located within a defined development boundary where the principle of development is acceptable. The proposal therefore accords with Policy LPP1 of the Adopted Local Plan and this weighs in favour of the proposal in the overall planning balance in accordance with the presumption in favour of sustainable development.

13.2 Summary of Adverse Impacts

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

Heritage Harm

- 13.2.2 The proposals would result in a low-moderate level of less than substantial harm to the significance of the Grade II Listed John Jay House and low level of less than substantial harm to of the Braintree Town Centre Conservation Area and would also result in harm the non-designated Tabor House. The proposal would be contrary to Policies LPP47, LPP53 and LPP57 of the Adopted Local Plan and the NPPF. Significant weight is attributed to this harm.

Layout and Design

- 13.2.3 Further harm is caused by the poor layout and design of the proposals, specifically the unattractive building with a contrived design, poor internal amenity for future residents, unneighbourly relationship with existing occupiers at neighbouring properties, inadequate refuse facilities and sub-standard parking spaces, contrary to Policies LPP43, LPP47, LPP52 and LPP65 of the Adopted Local Plan. Significant weight is attributed to this harm.

Insufficient Affordable Housing Contribution

- 13.2.4 The Applicants are proposing an insufficient financial contribution in lieu of on-site affordable housing, contrary to Policy LPP31 of the Adopted Plan. Significant weight is attributed to this harm.

13.3 Summary of Public Benefits

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

Delivery of Market Dwelling

- 13.3.2 The development would deliver 22no. market dwellings. The LPA can demonstrate a 5-year housing land supply, only moderate weight is assigned to this benefit.

Location and Access to Services and Facilities

- 13.3.3 Officers are of the view that in respect of access to services and facilities, the site is considered to be in a sustainable location. In addition, there is convenient access to public transport. Substantial weight is assigned to this.

Economic and Social Benefits

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

13.4 Conclusion and Planning Balance

- 13.4.1 Taking into account the above, while the proposal complies with some Development Plan policies which weigh in favour of the proposal, it is considered that the proposal conflicts with the Development Plan as a whole.
- 13.4.2 As set out within Paragraph 47 of the NPPF, planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In this case, an important material consideration is whether the Council can demonstrate a 5 Year Housing Land Supply and consequently, whether Paragraph 11d) of the NPPF is engaged.
- 13.4.3 As indicated above, the Council is currently able to demonstrate a 5 Year Housing Land Supply and therefore Paragraph 11d) of the NPPF is not engaged.

- 13.4.4 When considering the planning balance and having regard to the adverse impacts and benefits outlined above, Officers have concluded that the adverse impacts of granting permission would outweigh the benefits, when assessed against the policies in this Framework taken as a whole. Consequently, Officers consider that there are no material considerations that indicate that a decision should be made other than in accordance with the Development Plan. It is therefore recommended that planning permission is refused for the proposed development.
- 13.4.5 Notwithstanding the above, if the 'tilted balance' was engaged, it is considered that the adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Against this context, it would be recommended that planning permission be refused for the proposed development.

14. RECOMMENDATION

- 14.1 It is RECOMMENDED that the following decision be made:
Application REFUSED for the reasons outlined within APPENDIX 1.

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

APPENDIX 1:

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

Submitted Plan(s) / Document(s)

Plan Description	Plan Ref	Plan Version
Existing Elevations	0212 EX03_P1	N/A
Proposed Ground Floor Plan	0212 GA00 P1	N/A
Proposed 1st Floor Plan	0212 GA01 P1	N/A
Proposed 2nd Floor Plan	0212GA02-P1	N/A
Proposed Elevations	0212 GE00-P1	N/A
Proposed Elevations	0212 GE01	West/East
Proposed Bin Collection Plan	0212 ELBIKE_P1	N/A
Existing Elevations	0212 EX02_P1	N/A
Proposed Block Plan	0212 SS01 P1	N/A
Location / Block Plan	0212 SS00 P1	N/A
Existing Site Plan	0212 SS01 P1	N/A

Reason(s) for Refusal

Reason 1

The proposals would result in a low-moderate level of less than substantial harm to the significance of the Grade II Listed John Ray House and low level of less than substantial harm to of the Braintree Town Centre Conservation Area and would also result in harm the non-designated Tabor House. Whilst the level of harm in this case would be less than substantial harm, taking into account the cumulative impact upon the designated and non-designated heritage assets, the benefits of the proposal do not outweigh the harm to the identified assets. The proposal is therefore contrary to Policies SP7, LPP47, LPP52, LPP53 and LPP57 of the Braintree District Local Plan 2013-2033 and the National Planning Policy Framework.

Reason 2

The proposed development would result in the loss of an area of informal recreation space. An assessment has been supplied by the Applicant, seeking to justify this loss and demonstrate that it is surplus to requirements, however, this position is not accepted. Moreover it is not considered that the land is surplus to requirements and it is not considered that the benefits arising from the proposed development would outweigh the loss of the informal recreation space. The proposal is therefore contrary to Policy LPP50 of the Braintree District Local Plan 2013-2033.

Reason 3

The proposal would result in a poorly considered scheme which fails to secure a high standard of design and layout. The design fails to reflect the context of its surroundings, unsympathetic to its sensitive location and the amenity of future occupiers will be harmed by the inadequate internal and external amenity and a lack of car parking. Furthermore, the scheme relates poorly to neighbouring development, detrimental to residential amenity.

The proposals amount to poor design and layout failing to add to the quality of the area and an overdevelopment of the site, and would fail to provide a satisfactory level of amenity for future occupiers contrary to Policies SP7, LPP35, LPP52 and LPP65 of the Braintree District Local Plan 2013-2033, the Essex Design Guide, and the National Planning Policy Framework.

Reason 4

Policy LPP31 of the Adopted Local Plan states that affordable housing will be directly provided by the developer within housing schemes. The proposal fails to provide a sufficient financial contribution in lieu of on-site provision of affordable housing in accordance with the local need and therefore fails to comply with Policy LPP31 of the Braintree District Local Plan 2013-2033.

Reason 5

Insufficient information has been submitted in relation to proposals for a sustainable urban drainage system such it has not been possible for the Local Planning Authority to make an assessment. The proposal is therefore considered to be contrary to the NPPF and Policy LPP74 of the Braintree District Local Plan 2013-2033.

Reason 6

The proposed development would trigger the requirement for:

- A financial contribution in lieu of on-site provision;
- A financial contribution towards primary health services;
- Financial contribution towards outdoor sports, equipped play and allotments;
- Habitat mitigation payment.

These requirements would need to be secured through a S106 Agreement. At this time, a S106 Agreement had not been prepared or completed. As such the proposal is contrary to the Open Space Supplementary Planning Document (SPD) and Policy LPP78 of the Braintree District Local Plan 2013-2033.

Positive and Proactive Statement

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

APPENDIX 2:

POLICY CONSIDERATIONS

National Planning Guidance

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

Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP2	Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
SP3	Spatial Strategy for North Essex
SP4	Meeting Housing Needs
SP6	Infrastructure & Connectivity
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP16	Housing Provision and Delivery
LPP31	Affordable Housing
LPP35	Housing Mix, Density and Accessibility
LPP42	Sustainable Transport
LPP43	Parking Provision
LPP47	Built and Historic Environment
LPP50	Provision of Open Space, Sport and Recreation
LPP52	Layout and Design of Development
LPP53	Conservation Areas
LPP57	Heritage Assets and their Settings
LPP64	Protected Sites
LPP65	Tree Protection
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP74	Flooding Risk and Surface Water Drainage
LPP75	Surface Water Management Plan
LPP76	Sustainable Urban Drainage Systems
LPP78	Infrastructure Delivery and Impact Mitigation

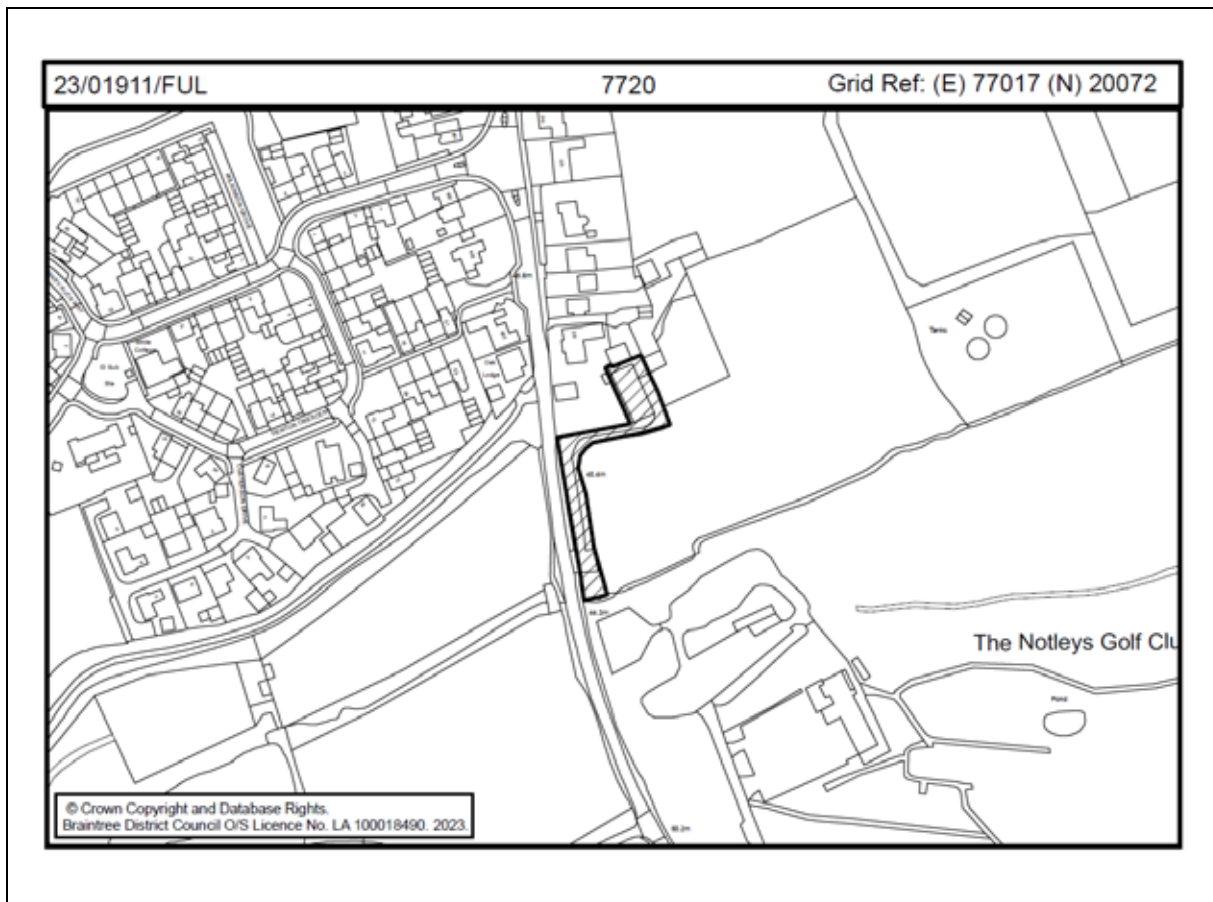
APPENDIX 3:

SITE HISTORY

Application No:	Description:	Decision:	Date:
24/00002/NONDET	Erection of 22 residential apartments with associated access, parking and amenity area	Pending Consideration	
22/02522/FUL	Erection of 29no. flats with associated access, parking, and amenity area	Refused	17.02.23

Report to: Planning Committee	
Planning Committee Date: 13th February 2024	
For: Decision	
Key Decision: No	Decision Planner Ref No: N/A
Application No:	23/01911/FUL
Description:	Demolition of The Piggeries and construction of 2 No. 3 bedroomed 2 storey semi-detached dwellings with parking & associated works
Location:	Land South Of 231 Witham Road, Black Notley
Applicant:	Ms Michelle Smith, 11 Rye Grass Way, Braintree, Essex, CM7 1GL
Agent:	Mr John Baugh, JBDesign & Planning, 67 Church Lane, Bocking, Braintree, Essex, CM7 5SD
Date Valid:	5th September 2023
Recommendation:	It is RECOMMENDED that the following decision be made: § Application REFUSED for the reasons outlined within Appendix 1 of this Committee Report.
Options:	The Planning Committee can: a) Agree the Recommendation b) Vary the Recommendation c) Overtturn the Recommendation d) Defer consideration of the Application for a specified reason(s)
Appendices:	Appendix 1: Reason(s) for Refusal Submitted Plan(s) / Document(s)
	Appendix 2: Policy Considerations
	Appendix 3: Site History
Case Officer:	Fiona Hunter For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2521, or by e-mail: fiona.hunter@braintree.gov.uk

Application Site Location:



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

	<p>understanding.</p> <p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
<p>Background Papers:</p>	<p>The following background papers are relevant to this application include:</p> <ul style="list-style-type: none"> § Planning Application submission: <ul style="list-style-type: none"> § Application Form § All Plans and Supporting Documentation § All Consultation Responses and Representations <p>The application submission can be viewed online via the Council's Public Access website: www.braintree.gov.uk/pa by entering the Application Number: 23/01911/FUL.</p> <ul style="list-style-type: none"> § Policy Documents: <ul style="list-style-type: none"> § National Planning Policy Framework (NPPF) § Braintree District Local Plan (2013-2033) § Neighbourhood Plan (if applicable) § Supplementary Planning Documents (SPD's) (if applicable) <p>The National Planning Policy Framework can be viewed on the GOV.UK website: www.gov.uk/.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: www.braintree.gov.uk.</p>

1. EXECUTIVE SUMMARY

- 1.1 The application seeks the demolition of the existing building at the application site, and the erection of a pair of semi-detached dwellings with associated access, parking, landscaping, and amenity space.
- 1.2 The application site is located within the countryside to the south east of Black Notley, abutting the village envelope. To the west and north of the site are residential properties, and to the south of the site is an agricultural field.
- 1.3 The application site is located outside of a designated development boundary, and therefore the proposed development is contrary to the Development Plan as a matter of principle. The proposals are considered to be out of character with the surrounding area in terms of their design and would give rise to a poor quality of accommodation. Harms have also been identified with regards to the potential ecological impacts of the proposal on Priority Species, upon the living conditions of future occupants of the new dwelling permitted at 231 Witham Road, and highway access.
- 1.3 It is therefore recommended that planning permission is refused for the proposed development.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

2.1 This application is being reported to Planning Committee in accordance with Part A of the Council's Scheme of Delegation as the Agent is a Member of Braintree District Council.

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

5.1 The application site is located within the countryside to the south east of Black Notley. The site is located outside of the defined village envelope, abutting the development boundary along the northern boundary. The site currently consists of a dilapidated building, known as 'The Piggeries'.

6. PROPOSAL

6.1 The application seeks the demolition of the existing building at the site and the erection of two dwellings, which would be semi-detached in form. The proposed dwellings would sit towards the front of the site towards the northern boundary. The proposal would also see the creation of an access, from Witham Road running along an existing unmade access track which serves the surrounding field to the south.

6.2 The proposed dwellings would be two storey in nature, with catslide dormers and roof lights to the first floor. In terms of design, the dwellings would feature brickwork to the ground floor, and cladding to the first floor. Parking for the proposed dwellings would be located to the side of the dwellings, and the dwellings would benefit from amenity space to the rear.

7. SUMMARY OF CONSULTATION RESPONSES

7.1 ECC Highways

7.1.1 Not acceptable from a highway and transportation perspective. The developer has not demonstrated that the proposal would be acceptable in terms of highway safety, efficiency and accessibility. Further information would be required.

7.2 Essex Fire and Rescue

7.2.1 Matters would need to be addressed before access for Fire Service purposes can be satisfactory including access width, provision of a turning circle, and access surfacing.

7.3 BDC Ecology

7.3.1 Holding objection due to insufficient ecological information regarding a Protected Species (bats).

8. PARISH / TOWN COUNCIL

8.1 Black Notley Parish Council

8.1.1 No comments received.

9. REPRESENTATIONS

9.1 The application was publicised by way of a site notice displayed to the front of the application site and neighbour notification letters were sent to properties immediately adjacent to the site. A total of three letters of representation were received, objecting to the proposals as follows:

- Development is in the countryside.
- Hazardous access.
- Does not comply with Class Q permitted development.

10. PRINCIPLE OF DEVELOPMENT

10.1 National Planning Policy Framework (NPPF)

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

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

- 10.1.3 Paragraph 12 of the NPPF sets out that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making. In addition, paragraph 47 of the NPPF states that planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise.
- 10.1.4 The NPPF underlines the Government's objective of significantly boosting the supply of homes. In this regard, Paragraph 60 of the NPPF highlights the importance of ensuring that there is a sufficient amount and variety of land that can come forward where it is needed, that specific housing requirements are met, and that land with permission is developed without unnecessary delay. Paragraph 76 of the NPPF requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth (plus the relevant buffer) of housing for decision making purposes where the relevant application was made prior to the publication of the December 2023 version of the NPPF.
- 10.1.5 In this regard, and in considering the overall planning balance as to whether the proposed development subject to this application constitutes sustainable development, an important material consideration in this case is whether the Council can robustly demonstrate a 5 Year Housing Land Supply. This will affect whether Paragraph 11 of the NPPF is engaged and consequently the weight that can be attributed to the Development Plan (see below).
- 10.2 5 Year Housing Land Supply
- 10.2.1 Paragraph 76 of the NPPF sets out that local planning authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years worth of housing for decision making purposes if: their adopted plan is less than five years old; and that adopted plan identified at least a five year supply of specific, deliverable sites at the time that its examination concluded. The Council's Local Plan is up to date and complies with the NPPF.
- 10.2.2 However, Footnote 79 of the NPPF sets out that this provision only applies to planning applications which were submitted on or after the date of publication of the revised NPPF (December 19th 2023). As this application was received prior to that date, the Council must consider it in relation to the 5 year housing land supply.
- 10.2.3 The Braintree District Local Plan has an approved minimum housing target of 716 new homes per year in the District between 2013 and 2033. To this annual supply the Council must add the cumulative shortfall since the start of the Plan period. This figure is recalculated each year. 873 new homes per year are therefore required to be delivered within this 5 year period (2023-2028). Taking the above into account, the Council's latest 5 Year

Housing Land Supply position for 2023-2028 shows that the Council has a 5.8 years supply.

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

10.3 The Development Plan

10.3.1 Currently the Council's statutory Development Plan consists of the Braintree District Local Plan 2013 – 2033 (the "Adopted Local Plan").

10.3.2 Policy LPP1 of the Adopted Local Plan states that Development outside development boundaries will be confined to uses appropriate to the countryside whilst also protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils to protect the intrinsic character and beauty of the countryside.

10.3.3 The application site is located to the south east of Black Notley, outside of a defined development boundary, and as such is located within the countryside. The proposal is therefore contrary to Policy LPP1 of the Adopted Local Plan as a matter of principle.

10.3.4 The Applicant states within their Design and Access Statement that the possibility of utilising permitted development rights under Class Q of Part 3, Schedule 2 of the General Permitted Development (England) Order 2015 (as amended) (the "GPDO") was explored however it would not have resulted in 'ideal living arrangements' for occupants. This does not form a fallback position for the application site, as no prior approval application has been submitted for the site. Furthermore, the Design and Access Statement states that the roof and metal trusses would be required to be completely replaced, which raises the question over whether the building would be capable of conversion in accordance with the GPDO. Accordingly, this application is treated as being for two new dwellings within the countryside, contrary to the Adopted Local Plan.

11. SITE ASSESSMENT

11.1 Location and Access to Services and Facilities

11.1.1 The strategy set out in the Adopted 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. This means "that the broad spatial

strategy for the District should concentrate development in Braintree, Witham and the A12 corridor, and Halstead”.

11.1.2 The site is located outside of the designated development boundary of Black Notley, however it is located within close proximity to the village of Black Notley, abutting the village envelope. There is opportunity for walking, cycling and public transport links to a full range of services and facilities nearby and within nearby Braintree town. Therefore, it is reasonable to conclude that the site is not isolated in terms of its functional connectivity to community services and facilities.

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

11.2.1 Paragraph 131 of the NPPF highlights that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable developments, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 130 states that planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).

11.2.2 Policy LPP35 of the Adopted Local Plan stipulates that development should create sustainable, inclusive, and mixed communities through providing a mix of house types and size at an appropriate density for the area, which reflects local need. This includes criteria ensuring that the density and massing of residential developments should relate to the character of the site and its immediate surroundings, as well as the wider locality, and onsite amenity space and an appropriate standard of residential accommodation should be provided in accordance with the adopted guidance.

11.2.3 Policy LPP47 of the Adopted Local Plan requires 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 LPP52 of the Adopted 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.

11.2.4 The proposal seeks the erection of a pair of semi-detached dwellings, which would be two storey in nature. The proposed design of the dwellings includes catslide dormers to the front and rear of each dwelling, with a variety of fenestration to each property. The location of the application site is to the rear of properties along Witham Road, perpendicular to existing buildings.

11.2.5 Witham Road is characterised by a varied streetscene, however the proposed dwellings fail to accord with the local distinctiveness of the area. The inclusion of catslide dormers is contradictory to the character of the area, as is the scale of the properties as a pair of semi-detached dwellings within such a constrained site. The streetscene in the locality comprises of larger detached dwellings, which are set back from Witham Road but facing onto the highway. The proposed dwellings, by virtue of their location and the access arrangements, would fail to be legible within the streetscene, but appear as being of an incongruous orientation in the background.

11.3 Quality of Accommodation

11.3.1 Policy LPP35 of the Adopted Local Plan considers the housing mix, density, and accessibility of new development, stating that new development should provide an appropriate standard of residential accommodation for the occupants, and further stipulates that all new development should be in accordance with the national technical housing standards. Furthermore, Policy LPP52 of the Adopted Local Plan requires residential developments to provide a high standard of accommodation and amenity for all prospective occupants.

11.3.2 In terms of internal layout, the proposed dwellings would be two storey in nature. At ground floor level, each property would be provided with a kitchen/dining area, and a living room along with a downstairs w/c. At first floor level, each property would be afforded three bedrooms, one of which would be ensuite, a bathroom and storage. The Nationally Described Space Standards (NDSS) set out that for a two storey three bedroom property which serves five people (when taking into account two of the bedrooms accord with the space standards for double bedrooms), a minimum internal floor area of 93sq.m should be provided. Each property would be afforded approximately 97sq.m of floor area, in excess of the requirements. The habitable rooms appear to be afforded an adequate level of light and outlook.

11.3.3 In terms of external amenity, Policy LPP52 of the Adopted Local Plan states that the provision of private outdoor amenity space shall be provided having regard to the standards set out in the Essex Design Guide, and shall be accessible, usable, and well-related to the development. The Essex Design Guide states that for a three bedroom dwelling, a minimum garden size of 100sq.m would be appropriate. The proposal would see the provision of amenity area to the rear of each dwelling, amounting to 140sq.m for Plot 1 and 189sq.m for Plot 2, in excess of the requirements. The amenity area would be located to the rear of No.231 Witham Road, however owing to the angle of the properties and the degree of separation, it considered that this would not lead to a loss of privacy. However, to the west of the application site, planning permission has been granted for the erection of a single dwelling. The permitted dwelling, under Application Reference 22/00839/FUL, features a juliet style balcony to the rear, which

has the potential to overlook the proposed amenity area for Plot 1, thereby harming its future occupants through a loss of privacy.

11.4 Impact upon Neighbouring Residential Amenity

- 11.4.1 Policy LPP52 of the Adopted Local Plan state that development shall not cause undue or unacceptable impacts on the amenities of nearby residential properties. The NPPF further requires a good standards of amenity for all existing and future occupiers of land or buildings.
- 11.4.2 The proposal would see the introduction of two dwellings to the rear of No.231 Witham Road. The site to the west of the application site also benefits from planning permission for the erection of one dwelling, pursuant to Application Reference 22/00839/FUL. The proposed dwellings would be in close proximity to this, and whilst owing to the perpendicular nature of the proposed dwellings and the separation distances between the two, the proposed dwellings would not have an overbearing or overshadowing impact upon each other, it is considered that there would be a material loss of amenity to the future occupants of the new dwelling approved next door by virtue of overlooking from the first floor rear dormer window of Plot 1 into its private amenity area.

11.5 Ecology

- 11.5.1 Policy LPP64 of the Adopted Local Plan seeks to ensure that developer undertakes an ecological survey and demonstrate adequate mitigation plan is in place to ensure no harm to protected species or priority species.
- 11.5.2 Policy LPP66 of the Adopted Local Plan states, if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or as a last resort compensated for then planning permission should be refused.
- 11.5.3 The Applicant has provided limited ecological information with this submission, outlining within the Design and Access Statement that an independent report has not been commissioned based on an assessment by the Agent.
- 11.5.4 The Council's Ecological Consultant has reviewed the proposals and the existing application and has surmised that there is not sufficient ecological information available for determination. Owing to the demolition of an existing building, located within 200 metres of woodland, there is the potential for bat roosting at the site. Further information would therefore need to be provided in order to provide certainty on the impacts on protected species.
- 11.5.5 The Council's Ecological Consultant has therefore issued a holding objection based on insufficient ecological information regarding impacts on bats, a protected species.

11.6 Highway Considerations

- 11.6.1 Policy LPP52 of the Adopted Local Plan, requires the highway impact of new development to be assessed, and developments which result in a severe impact upon the highway network to be refused.
- 11.6.2 The application seeks to provide access to the two dwellings from an existing unmade access track from Witham Road. The field currently has gated access to an access on the eastern side of Witham Road.
- 11.6.3 Essex County Council Highways have provided comment on the application, objecting to the proposal on the basis of a lack of information. The Applicant has not provided information regarding visibility splays from the access, or provided speed surveys to demonstrate the necessary visibility splays. The proposal is therefore not deemed to be acceptable from a highway safety perspective.

11.7 Habitat Regulations Assessment (HRA / RAMS)

- 11.7.1 In terms of the wider ecological context, the application site sits within the Zone of Influence of one or more of the following:
- § Blackwater Estuary Special Protection Area and Ramsar site;
 - § Dengie Special Protection Area and Ramsar site;
 - § Essex Estuaries Special Area of Conservation.
- 11.7.2 It is therefore necessary for the Council to complete an Appropriate Assessment under the Habitat Regulations to establish whether mitigation measures can be secured to prevent the development causing a likely significant adverse effect upon the integrity of these sites.
- 11.7.3 An Appropriate Assessment (Habitat Regulation Assessment Record) has been completed in accordance with Natural England's standard guidance. Subject to the proposed mitigation measures set out in the Council's Habitat Regulations Assessment being secured these mitigation measures would rule out the proposed development causing an adverse effect on the integrity of the above European Designated Sites.
- 11.7.4 The proposed mitigation measures would consist of the securing of a financial contribution of £156.76 per dwelling erected towards offsite visitor management measures at the above protected sites.
- 11.7.5 This financial contribution has been secured and the applicant has made the required payment under S111 of the Local Government Act 1972.

12. PLANNING BALANCE AND CONCLUSION

- 12.1 As set out in Paragraph 8 of the NPPF, achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and needed to be pursued in mutually supportive ways

(so that opportunities can be taken to secure net gains across each of the different objectives):

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

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

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

12.3 As indicated above, the Council's latest 5 Year Housing Land Supply position for 2023-2028 shows that the Council has a 5.8 years supply. The Council considers this a robust position and as the Council is able to demonstrate an up to date 5 year housing land supply, the presumption (at Paragraph 11d of the Framework) is not engaged. Consequently, the policies within the Development Plan are considered to have full weight in decision making. Planning applications must therefore be determined in accordance with the Development Plan, unless material planning considerations indicate otherwise.

12.4 Development Boundary Designation within the Development Plan

- 12.4.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Paragraph 15 of the NPPF emphasises that the planning system should be “genuinely plan led”.
- 12.4.2 The proposed development would be contrary to Policy LPP1 of the Adopted Local Plan as it proposes development outside of defined development boundaries and within the countryside. Full weight is afforded to this conflict.

12.5 Summary of Adverse Impacts

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

Harm to the Character and Appearance of the Rural Area

- 12.5.2 The proposed dwellings, by virtue of their general presence, scale and design, would not be in keeping with the surrounding character of development. This is afforded full weight in the planning balance.

Ecology

- 12.5.3 The proposal fails to provide sufficient information regarding ecological features within the site, contrary Policies LPP63 and LPP64 of the Adopted Local Plan and the National Planning Policy Framework. Significant weight is attributed to this harm.

Quality of Accommodation

- 12.5.4 The proposed dwellings have the potential to be overlooked from the extant permission to the west of the application site, which would feature Juliet balconies overlooking the proposed amenity area for the proposed dwellings. This is afforded moderate weight in the planning balance.
- 12.5.5 In addition, there would be a material loss of amenity to the future occupants of the new dwelling approved next door by virtue of overlooking from the first floor rear dormer window of Plot 1 into its private amenity area. This is afforded moderate weight in the planning balance.

Highways Considerations

- 12.5.6 Insufficient information has been provided to assess the acceptability of the access from a safety perspective. This is afforded significant weight.

12.6 Summary of Public Benefits

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

Delivery of Market and Affordable Housing

- 12.6.2 The proposal would have economic and social benefits and the provision of a two dwellings which would contribute to the Council's housing land supply. Given the small scale of the proposal, only limited weight is attached to this benefit.

Location and Access to Services and Facilities

- 12.6.3 The application site is located adjacent to the Black Notley Village Envelope, and there is opportunity for walking, cycling and public transport links to a full range of services and facilities nearby and within nearby Braintree town. Moderate weight is attached to this benefit.

Economic and Social Benefits

- 12.6.4 The erection of a dwelling would constitute a short-term economic gain from the construction of two dwellings. Furthermore, the proposal would introduce additional occupants, thus bringing economic and social benefits. However, with only two dwellings proposed these benefits would be limited, and thus only limited weight can be afforded to this benefit.

12.7 Conclusion and Planning Balance

- 12.7.1 Taking into account the above, while the proposal complies with some Development Plan policies which weigh in favour of the proposal, it is considered that the proposal conflicts with the Development Plan as a whole.
- 12.7.2 As set out within Paragraph 47 of the NPPF, planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In this case, an important material consideration is whether the Council can demonstrate a 5 Year Housing Land Supply and consequently, whether Paragraph 11d) of the NPPF is engaged.
- 12.7.3 As indicated above, the Council is currently able to demonstrate a 5 Year Housing Land Supply and therefore Paragraph 11d) of the NPPF is not engaged.
- 12.7.4 When considering the planning balance and having regard to the adverse impacts and benefits outlined above, Officers have concluded that the adverse impacts of granting permission would outweigh the benefits, when assessed against the policies in this Framework taken as a whole. Consequently, Officers consider that there are no material considerations

that indicate that a decision should be made other than in accordance with the Development Plan. It is therefore recommended that planning permission is refused for the proposed development.

- 12.7.5 Notwithstanding the above, even if the 'tilted balance' was engaged, it is considered that the adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Against this context, it would be still be recommended that planning permission be refused for the proposed development.

13. RECOMMENDATION

- 13.1 It is RECOMMENDED that the following decision be made:
Application REFUSED for the reasons outlined within APPENDIX 1.

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

APPENDIX 1:

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

Submitted Plan(s) / Document(s)

Plan Description	Plan Ref	Plan Version
Existing Elevations and Floor Plans	0735/08	N/A
Section	0735/07	N/A
Site Plan	0735/01	A
Location Plan	N/A	N/A
Topographical Survey	N/A	N/A
Topographical Survey	N/A	N/A
Existing Ground Floor Plan	0735/02	N/A
Existing Elevations	0735/03	N/A
Proposed Floor Plan	0735/04	N/A
Proposed Elevations	0735/05	N/A

Reason(s) for Refusal

Reason 1

The proposed dwellings, owing to their location outside of any defined development boundaries, would represent an inappropriate form development which would encroach into the countryside, harmfully altering its rural character and appearance. Furthermore, by virtue of the detailed design and massing of the proposed dwellings, the scheme would fail to respond positively to the locality and would have an unacceptable detrimental impact on the character and appearance of the surrounding streetscene. The development would therefore be contrary to the National Planning Policy Framework, and Policies SP1, SP4, LPP1, LPP35, LPP52 and LPP67 the Braintree District Local Plan 2013-2033.

Reason 2

Insufficient ecological information has been submitted in order to assess the impact of the proposed development on a potential Priority Species (Bats) and as such, it is therefore considered that insufficient information has been submitted to fully assess the impact of the proposed development, contrary to Policy LPP64 of the Braintree District Local Plan 2013-2033.

Reason 3

The proposed dwellings would result in the loss of amenity to the proposed new dwelling approved to the west of the application site under Application Reference 22/00839/FUL, by virtue of overlooking from the first floor windows of Plot 1 into its private amenity area. The proposed amenity area for Plot 1 would also be overlooked from the Juliet style balcony to the rear of that new dwelling. The proposals would therefore harm future occupants of both dwellings through a loss of privacy, contrary to Policies LPP35 and LPP52 of the Braintree District Local Plan 2013-2033 and the National Planning Policy Framework.

Reason 4

Insufficient information has been submitted in order to assess the proposed access to the application site in terms of visibility splays and highway safety and as such, it is therefore considered that insufficient information has been submitted to fully assess the impact of the proposed development, contrary to Policy LPP52 of the Braintree District Local Plan 2013-2033.

Positive and Proactive Statement

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

APPENDIX 2:

POLICY CONSIDERATIONS

National Planning Guidance

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

Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP2	Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
SP4	Meeting Housing Needs
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP35	Housing Mix, Density and Accessibility
LPP40	Residential Conversion of Buildings in the Countryside
LPP42	Sustainable Transport
LPP43	Parking Provision
LPP47	Built and Historic Environment
LPP52	Layout and Design of Development
LPP64	Protected Sites
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP67	Landscape Character and Features

APPENDIX 3:

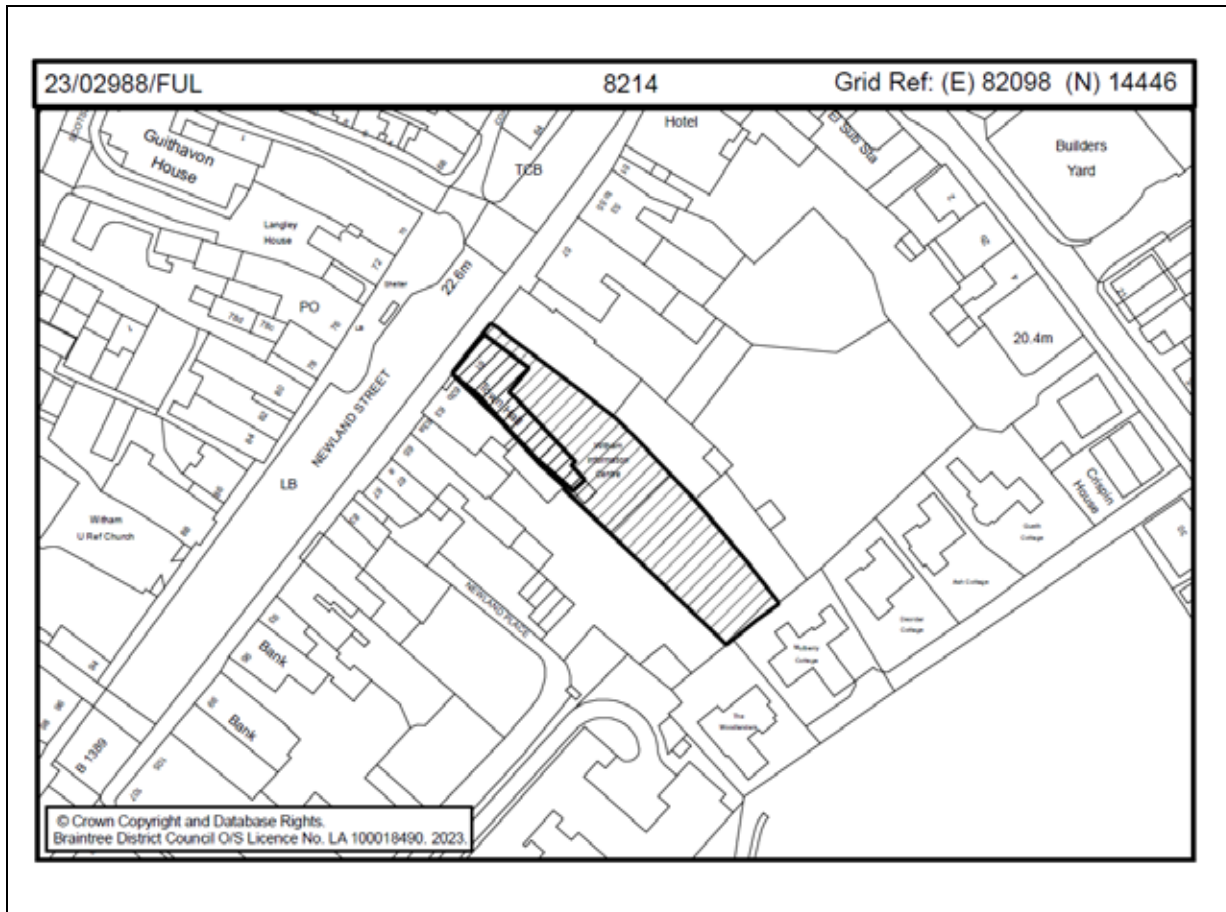
SITE HISTORY

Application No:	Description:	Decision:	Date:
17/00040/HOUSE	Erection of two storey side extension, single storey rear extension and erection of cart lodge	Appeal Allowed	29.09.17
23/00055/NONDET	Outline planning application with all matters reserved, except access, for up to 13 residential units (Use Class C3), associated car parking, landscaping and ancillary works and infrastructure. Access to be directly off Witham Road.		
15/00560/FUL	Provision of a new vehicle crossover	Withdrawn	25.06.15
16/01527/FUL	Erection of two storey side extension, single storey rear extension and detached cart lodge	Granted	03.11.16
16/01691/FUL	Retrospective application for new wall on frontage	Withdrawn	16.12.16
17/00023/FUL	Erection of two storey side extension, single storey rear extension and erection of cart lodge	Refused then allowed on appeal	28.03.17
17/01815/DAC	Application for approval of details reserved by condition no. 3 of approval 17/00023/FUL	Granted	20.10.17
21/03261/FUL	Erection of 1 x 5 bedroom two-storey detached dwellinghouse	Refused	14.03.22
22/00839/FUL	Erection of 1 x 3 bedroom two-storey detached dwellinghouse	Granted	10.06.22
23/00738/OUT	Outline planning application with all matters reserved, except access, for up to 13 residential units (Use Class C3), associated car parking, landscaping and ancillary works and infrastructure.		07.11.23

	Access to be directly off Witham Road.		
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Report to: Planning Committee	
Planning Committee Date: 13th February 2024	
For: Decision	
Key Decision: No	Decision Planner Ref No: N/A
Application No:	23/02988/FUL
Description:	Refurbishment of existing toilets and creation of new external door entrance with ramp.
Location:	Witham Town Council, Town Hall, 61 Newland Street, Witham, Essex, CM8 2FE
Applicant:	Braintree District Council
Agent:	Mr Joe Swinson, Macegreen Consulting, 73 Watling Street, London, EC4M 9BJ
Date Valid:	14th December 2023
Recommendation:	It is RECOMMENDED that the following decision be made: § Application GRANTED subject to the Condition(s) & Reason(s) and Informative(s) outlined within Appendix 1 of this Committee Report.
Options:	The Planning Committee can: a) Agree the Recommendation b) Vary the Recommendation c) Overtake the Recommendation d) Defer consideration of the Application for a specified reason(s)
Appendices:	Appendix 1: Approved Plan(s) & Document(s) Condition(s) & Reason(s) and Informative(s)
	Appendix 2: Policy Considerations
	Appendix 3: Site History
Case Officer:	Britney Lees For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2545, or by e-mail: britney.lees@braintree.gov.uk

Application Site Location:



Purpose of the Report:	The Committee Report sets out the assessment and recommendation of the abovementioned application to the Council's Planning Committee. The report sets out all of the material planning considerations and the relevant national and local planning policies.
Financial Implications:	<p>The application was subject to the statutory application fee paid by the Applicant for the determination of the application.</p> <p>The Applicant has paid a financial contribution pursuant to the Habitat Regulations as set out within the body of this Committee Report. Financial implications may arise should the decision be subject to a planning appeal or challenged via the High Court.</p> <p>There are no direct financial implications arising out of the decision, notwithstanding any costs that the Council may be required to pay from any legal proceedings. Financial implications may arise should the decision be subject to a planning appeal or challenged via the High Court.</p>
Legal Implications:	<p>Any legal implications arising out of a Section 106 Agreement will be set out in more detail within the body of this Committee Report.</p> <p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either set out the relevant Conditions & Reasons and any Informatives, or the Reasons for Refusal if applicable.</p> <p>All relevant policies are set out within the report, within Appendix 2.</p>
Other Implications:	The application has been subject to public consultation and consultation with relevant statutory and non-statutory consultees. All responses received in response to this consultation are set out within the body of this Committee Report.
Equality and Diversity Implications:	Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:

	<p>a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act;</p> <p>b) Advance equality of opportunity between people who share a protected characteristic and those who do not;</p> <p>c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.</p> <p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that ‘marriage and civil partnership’ is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
<p>Background Papers:</p>	<p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> § Application Form § All Plans and Supporting Documentation § All Consultation Responses and Representations <p>The application submission can be viewed online via the Council’s Public Access website: www.braintree.gov.uk/pa by entering the Application Number: 23/02988/FUL.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> § National Planning Policy Framework (NPPF) § Braintree District Local Plan 2013-2033 § Neighbourhood Plan (if applicable) § Supplementary Planning Documents (SPD’s) (if applicable) <p>The National Planning Policy Framework can be viewed on the GOV.UK website: www.gov.uk/.</p> <p>The other abovementioned policy documents can be viewed on the Council’s website: www.braintree.gov.uk.</p>

1. EXECUTIVE SUMMARY

- 1.1 The proposal concerns alterations to a twentieth century rear enlargement at Witham Town Hall. The external alterations would involve the removal of an existing window to facilitate the installation of an external rear door with ramp.
- 1.2 The proposal door would provide access into a changing spaces toilet which is also the subject of a linked application for listed building consent (Application Reference 23/02996/LBC).
- 1.3 The works are not considered to have a detrimental impact on the historic fabric of the listed building or significance of the Witham Town Centre Conservation Area. The proposal would also not result in an unacceptable impact to neighbouring amenity, nor would it alter current parking arrangements. The proposal is therefore compliant with relevant Local Plan policies and the objectives of the National Planning Policy Framework (NPPF)
- 1.4 Accordingly, it is recommended that planning permission is granted for the proposal.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

2.1 This application is being reported to Planning Committee in accordance with Part A of the Council's Scheme of Delegation as the Applicant is Braintree District Council.

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

5.1 The application site relates to Witham Town Hall, a Grade II listed building (List Entry Number: 1122592) located within the Witham Town Centre Conservation Area and in a prominent position along Newland Street. The building has been extended to the rear during the twentieth century and has access to a rear garden and a small area for parking.

6. PROPOSAL

6.1 The proposal concerns external alterations to the single storey rear extension. The existing window which currently serves the male toilet would be removed and replaced with an external door with ramp and handrails to provide step-free access into the changing spaces toilet from the rear of the building.

6.2 The proposed rear entrance door would be constructed of timber.

6.3 An application for listed building consent has also been submitted to the Council (Application Reference 23/02996/LBC) and is the subject of the report that follows within the agenda.

7. SUMMARY OF CONSULTATION RESPONSES

7.1 ECC Historic Buildings Consultant

7.1.1 The application concerns a small, single-storey rear extension, thought to date to the twentieth century. As a component of the building's overall special interest, the extension has little interest in itself and has been visibly modified in the past.

7.1.2 The installation of a rear entrance and new ramp are therefore acceptable in principle, as the works will not affect an area which makes a strong contribution to the significance of the building.

- 7.1.3 The ECC Historic Buildings Consultant requested clarification in regard to the proposed external door as several designs were submitted as part of the application. Following clarification, the Historic Buildings Consultant raised no objection to proposed external door.
- 7.1.4 Further information regarding cill details were also requested by the Historic Buildings Consultant. However, it was agreed that a compliance condition relating to materials be included in the decision notice given that information relating to the cills is included within the submitted drawing.
- 7.2 ECC Archaeology
- 7.2.1 The proposal is unlikely to have any significant impact on the heritage asset due to the nature and scale of development.
8. PARISH / TOWN COUNCIL
- 8.1 Witham Town Council
- 8.1.1 No comments due to the Town Council's interest in the application.
9. REPRESENTATIONS
- 9.1 A site notice was displayed outside the application site for 21 days and immediate neighbours were notified of the proposal by way of letter. No representations have been received in relation to this application.
10. PRINCIPLE OF DEVELOPMENT
- 10.1 The application site is located within the Witham development boundary wherein the principle of development is acceptable, as set out in Policy LPP1 of the Adopted Local Plan, provided it satisfies amenity, design, environmental, highway criteria and other material considerations.
- 10.2 Listed building consent was previously granted under Application Reference 23/00956/LBC for 'Internal refurbishments and the demolition of two internal walls to facilitate the installation of a changing places toilet facility.' The principle of the proposal has therefore previously been established and would be beneficial to the Town Hall.
11. SITE ASSESSMENT
- 11.1 Design, Appearance and Impact upon the Character and Appearance of the Area, including Heritage Matters
- 11.1.1 Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a general duty upon the Council in respect of listed buildings in the exercise of its planning functions. In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the

desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

- 11.1.2 Paragraph 131 of the National Planning Policy Framework (NPPF) communicates that good design is a core principle of sustainable development, and that the planning process should achieve high quality, beautiful and sustainable buildings, and places.
- 11.1.3 Paragraph 139 of the NPPF, explicitly states that poorly designed development should be refused.
- 11.1.4 Policy SP7 of the Adopted Local Plan states that all new development should respond positively to the local context and character of its setting, preserving, and enhancing the quality of existing places.
- 11.1.5 Policy LPP52 of the Adopted Local Plan requires designs to reflect or enhance the area's local distinctiveness and to be in harmony with the character and appearance of the surrounding area; including their form, scale and impact on the skyline and the building line.
- 11.1.6 Policy LPP53 of the Adopted Local Plan states that the Council will encourage the preservation and enhancement of the character and appearance of designated Conservation Areas and their settings. These include the buildings, open spaces, landscape and historic features and views into, out from and within the constituent parts of designated areas.
- 11.1.7 Policy LPP57 of the Adopted Local Plan states that works will be permitted where they do not harm the setting, character, structural stability, and fabric of the building (or structure), and will not result in the loss of, or significant damage to the building or structure's historic and architectural elements of special importance and include the use of appropriate materials and finishes.
- 11.1.8 The proposed door would replace an existing window which currently serves the male toilet. The external door would have a dimension of 1.1 metres by 2.1 metres and would be constructed of timber. The proposed style of door and material is considered appropriate in relation to the listed building.
- 11.1.9 There has been limited information submitted regarding the details of the external door. Therefore, a compliance condition is recommended to be included within the decision notice which would require the proposed door to be painted timber, single-glazed and without trickle vents or surface mounted glazing bars.
- 11.1.10 In regard to the metal handrail and ramp, this would enable step-free access into the toilet from the rear of the building and would represent a minor addition to the single storey rear extension.

11.1.11 The proposal is considered acceptable in terms of design and appearance and would have negligible impact on the significance of the listed building.

11.2 Highway Considerations

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

11.2.2 The proposal alterations would not make any changes to the current parking arrangement. The proposal is therefore in compliance with the Council's Adopted Parking Standards.

11.3 Impact upon Neighbouring Residential Amenity

11.3.1 Policy LPP52 of the Adopted Local Plan requires there to be no unacceptable adverse impact on the amenities of adjoining residential properties, including on privacy, overshadowing of light or an overbearing impact. The NPPF also sets out the importance of creating places with a high standard of amenity for existing and future users.

11.3.2 The proposed metal handrail and ramp would represent minor development and would not involve significant above ground work. The proposed external door would be inserted into an existing window opening.

11.3.3 The proposal would therefore not have a detrimental impact on neighbouring amenity and therefore complies with Policy LPP52 of the Adopted Local Plan.

12. CONCLUSION

12.1 Overall, there are no conflicts or departures from the Adopted Local Plan or adopted policy guidance that would necessitate a reason to refuse the application. The design and appearance are considered acceptable and there have been no unacceptable impacts identified in relation to the significance of the listed building. The proposal would not result in an unacceptable impact to neighbouring amenity, nor would it alter current parking arrangements. The principle of the proposal has previously been established and would be beneficial to the Town Hall.

13. RECOMMENDATION

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

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

APPENDIX 1:

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

Approved Plan(s) & Document(s)

Plan Description	Plan Ref	Plan Version
Location Plan	N/A	N/A
Site Plan	PL-499 REV A	N/A
Proposed Elevations and Floor Plans	PL-501 REV B	N/A
Section	HEAD SECTION	N/A
Section	JAMBS SECTION	N/A
Section	CILL SECTION	N/A
Section	MUNTIN AND PANEL SECTION	N/A

Condition(s) & Reason(s)

Condition 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.

Condition 2

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

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

Condition 3

The external materials and finishes shall be as indicated on the application form, except as follows:

The new external door shall be in painted timber, single glazed and without trickle vents or surface mounted glazing bars. The door shall be permanently retained as such.

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

Positive and Proactive Statement

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

APPENDIX 2:

POLICY CONSIDERATIONS

National Planning Guidance

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

Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP43	Parking Provision
LPP52	Layout and Design of Development
LPP53	Conservation Areas
LPP57	Heritage Assets and their Settings

APPENDIX 3:

SITE HISTORY

Application No:	Description:	Decision:	Date:
01/00326/LBC	Erection of 2 no. hanging basket brackets on columns each side of front door	Granted	10.05.01
01/01748/FUL	Erection of extension to form mess room	Granted	10.12.01
01/01749/LBC	Proposed removal of three existing temporary sheds and erection of extension to form mess room	Granted	10.12.01
03/00814/TPOCON	Notice of intent to carry out works to trees protected by The Conservation Area - Raise crown and thin 1 lime tree	Granted	28.05.03
81/00838/	Alterations conversion of rear garage and storage area to provide studio/office accomodation	Granted	22.07.81
81/01027/	Internal and external alterations including installation of new windows to rear, ground floor of building	Granted	09.10.81
82/00023/	Display of internally illuminated fascia sign	Refused	03.08.82
82/00033/	Display of individually illuminated lettering to fascia, two internally illuminated box signs within building	Granted	12.10.82
82/00538/	Display of internally illuminated fascia sign and refacing of entrance step	Refused	03.08.82
82/00849/	Display of individually illuminated lettering to fascia, two internally illuminated box signs within building and refacing of entrance steps	Granted	12.10.82
85/00019/	Same as 85/00654	Refused	16.07.85
85/00654/	Display of illuminated projecting hanging sign	Refused	16.07.85

86/00014/	Same as 86/00401	Refused	17.06.86
86/00401/	Display of externally illuminated projecting hanging sign	Refused	17.06.86
87/00002/P	Display of illuminated hanging projecting sign	Granted	10.02.87
87/00052/P1	Same as 87/0002/P	Granted	10.02.87
93/01308/COU	Change of use to Council Offices, Museum and Lunch Club and refurbishment	Granted	14.12.93
93/01314/LBC	Refurbishment of the existing premises together with internal alterations to provide a Council Chamber, Offices, Lunch Club for the elderly, Museum & Tourist Board Office and private function facility	Granted	14.12.93
74/00007P	Advertisements for the Clock House.		
81/00838/P	Alterations conversion of rear garage and storage area to provide studio/office accommodation.	Granted	
81/01027/P	Internal and external alterations including installation of new windows to rear, ground floor of building.	Granted	
82/00538/P	Display of internally illuminated fascia sign and refacing of entrance step.	Refused	
82/00023/P	Display of internally illuminated fascia sign.	Refused	
82/00849/P	Display of individually illuminated lettering to fascia, two internally illuminated box signs within building and refacing of entrance steps.	Granted	
82/00033/P	Display of individually illuminated lettering to fascia, two internally illuminated box signs within building.	Granted	

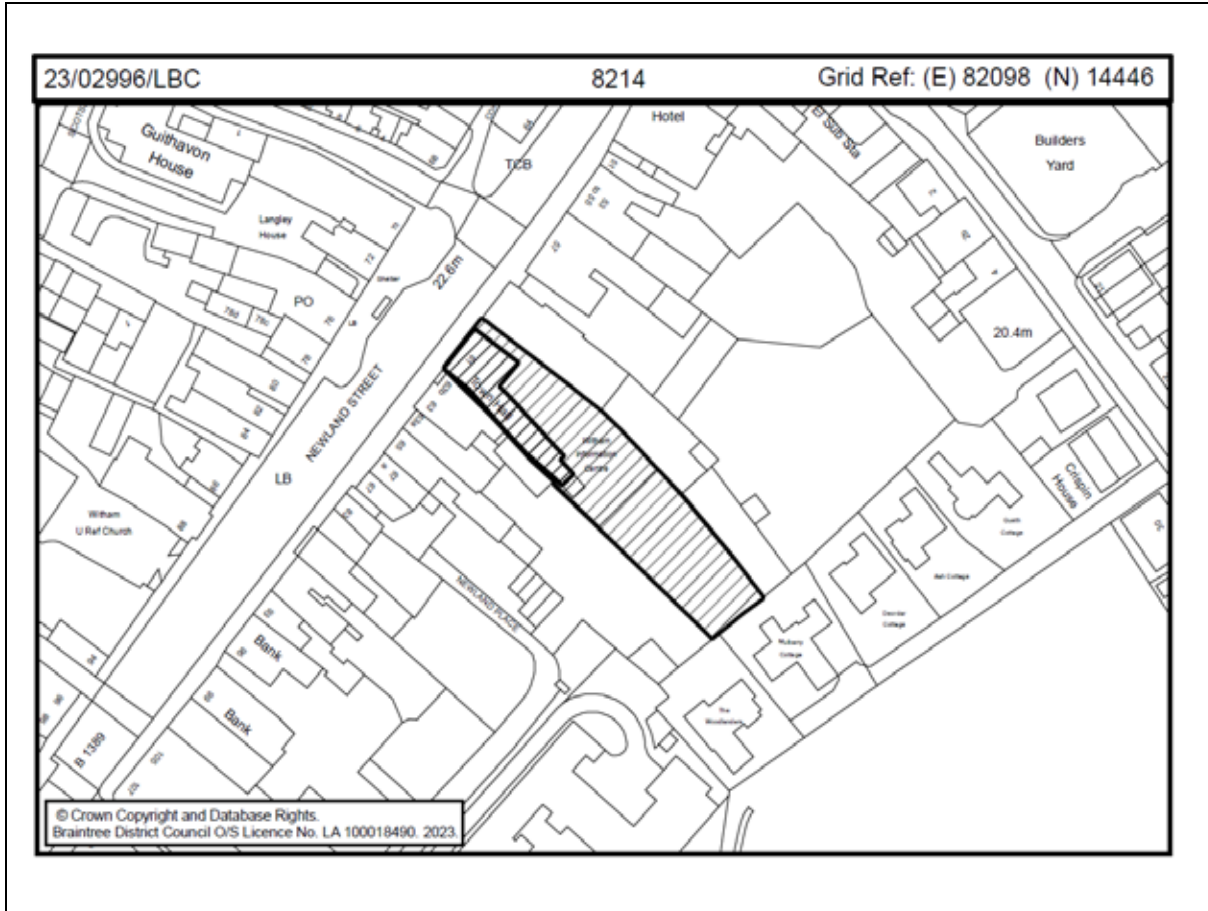
85/00654/P	Display of illuminated projecting hanging sign.	Refused	
85/00019/P	Display of illuminated projecting hanging sign.	Refused	
86/00401/P	Display of externally illuminated projecting hanging sign.	Refused	
86/00014/P	Display of external illuminated projecting hanging sign.	Refused	
87/00002/P	Display of illuminated hanging projecting sign.	Granted	
87/00052/P	Display of illuminated hanging projecting sign.	Granted	
78/00390P	Application to determine whether planning permission is required for, demolition of rear wall of premises to create vehicular access.	Granted	
78/01422P	Change of use of premises to workshop of upholstery making and repairs (buildings at rear of 62a).	Granted	
05/01683/TPOCON	Notice of intent to carry out works to trees protected by The Conservation Area - Fell and replace 1 Lime	Refused	02.11.05
06/02320/LBC	Erection of 2 no. flag poles to front of building	Granted	04.01.07
14/00848/FUL	Installation of air conditioning system to three offices on first floor. Installation of one condenser unit on flat roof of small extension behind the Town Hall	Granted	12.08.14
14/00849/LBC	Installation of air conditioning system to three offices on first floor. Installation of one condenser unit on flat roof of small extension behind the Town Hall	Granted	12.08.14
17/00863/LBC	Partial demolition and	Granted	30.06.17

	reconstruction of rear chimney to match original		
19/00058/TPOCON	Notice of intent to carry out works to carry out works to tree in a Conservation Area - Remove 1 Yew tree	Granted	17.04.19
20/00011/TPO	Notice of intent to carry out works to tree protected by Tree Preservation Order 15a/05 -T1 - Small leafed lime (<i>Tilia cordata</i>) to undergo full crown reduction - carry out a 2m reduction on all sides with a 5m reduction in height where possible. All appropriate pruning cuts to be made with suitable growth points, no stubs. Reasons for proposed works are; to help maintain the tree at a suitable size due to its location in a target rich area (in an attempt of reducing the risk of damage to person or property), The leaf litter and dead wood falling is in abundance. Targets consist of buildings, pedestrians and cars situated in car park. The tree will be kept in an aesthetically pleasing shape without compromising the health of the tree.	Granted	09.03.20
20/00186/LBC	Refurbishment to include replacement of interior doors and erection of new transparent partition.	Granted	31.03.20
21/00932/TPO	T1140 - Large over extended crown. Grey Poplar. Future prognosis is for this problem to be exaggerated caused by its phototropic nature	Withdrawn	14.04.21

	<p>subsequent to the over shadowing tree's. Potential for storm damage and failure high, suggest fell and replant. Extremely rich target area; railway, road, high pedestrian footfall.</p> <p>T1224 - 2x Grey Poplar Stems. Over stood Coppice stool, stress fractures in the adjoining buttress's resulted in failure of previous stems. Both stems are top loaded, one at a 45% angle. Chances of coppice stool cleaving are high. Target rich environment; foot bridge, seating areas, high pedestrian footfall. Fell and replant</p>		
21/02805/FUL	Removal of existing rear extension and 3 no. standalone sheds and erection of a two-storey rear extension. Extension of existing car park.	Refused	26.01.22
21/02806/LBC	Removal of existing rear extension and 3 no. standalone sheds and erection of a two-storey rear extension. Extension of existing car park.	Refused	26.01.22
23/00956/LBC	Internal refurbishments and the demolition of two internal walls to facilitate the installation of a changing places toilet facility.	Granted	11.07.23
23/02996/LBC	Refurbishment of existing toilets and creation of new external door entrance with ramp.	Pending Decision	

Report to: Planning Committee	
Planning Committee Date: 13th February 2024	
For: Decision	
Key Decision: No	Decision Planner Ref No: N/A
Application No:	23/02996/LBC
Description:	Refurbishment of existing toilets and creation of new external door entrance with ramp.
Location:	Witham Town Council, Town Hall, 61 Newland Street, Witham, Essex, CM8 2FE
Applicant:	Braintree District Council
Agent:	Mr Joe Swinson, Macegreen Consulting, 73 Watling Street, London, EC4M 9BJ
Date Valid:	14th December 2023
Recommendation:	It is RECOMMENDED that the following decision be made: § Application GRANTED subject to the Condition(s) & Reason(s) and Informative(s) outlined within Appendix 1 of this Committee Report.
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Case Officer:	Britney Lees For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2545, or by e-mail: britney.lees@braintree.gov.uk

Application Site Location:



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Other Implications:	The application has been subject to public consultation and consultation with relevant statutory and non-statutory consultees. All responses received in response to this consultation are set out within the body of this Committee Report.
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	<p>a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act;</p> <p>b) Advance equality of opportunity between people who share a protected characteristic and those who do not;</p> <p>c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.</p> <p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that ‘marriage and civil partnership’ is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
<p>Background Papers:</p>	<p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> § Application Form § All Plans and Supporting Documentation § All Consultation Responses and Representations <p>The application submission can be viewed online via the Council’s Public Access website: www.braintree.gov.uk/pa by entering the Application Number: 23/02996/LBC.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> § National Planning Policy Framework (NPPF) § Braintree District Local Plan 2013-2033 § Neighbourhood Plan (if applicable) § Supplementary Planning Documents (SPD’s) (if applicable) <p>The National Planning Policy Framework can be viewed on the GOV.UK website: www.gov.uk/.</p> <p>The other abovementioned policy documents can be viewed on the Council’s website: www.braintree.gov.uk.</p>

1. EXECUTIVE SUMMARY

1.1 The proposal concerns alterations to a twentieth century rear enlargement at Witham Town Hall. The alterations would involve the rearrangement of the existing toilets to facilitate the installation of a changing places toilet.

1.2 The works are not considered to have a detrimental impact on the historic fabric of the listed building. The proposal is therefore compliant with relevant Adopted Local Plan policies and the objectives of the National Planning Policy Framework (NPPF)

1.3 Accordingly, it is recommended that listed building consent is granted for the proposal.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

2.1 This application is being reported to Planning Committee in accordance with Part A of the Council's Scheme of Delegation as the Applicant is Braintree District Council.

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

5.1 The application site relates to Witham Town Hall, a Grade II listed building (List Entry Number: 1122592) located within the Witham Town Centre Conservation Area and in a prominent position along Newland Street. The building has been extended to the rear during the twentieth century and has access to a rear garden and a small area for parking.

6. PROPOSAL

6.1 The proposal concerns internal alterations to the single storey rear extension to facilitate the creation of a changing places toilet. The alterations would involve the removal of three internal walls to facilitate the rearrangement of the existing toilet facilities. The internal walls to be demolished are plastered brick-walls and were constructed as part of the early twentieth century rear extension. In addition, the existing window which currently serves the male toilet would be removed and replaced with an external door.

6.2 An application for planning permission has also been submitted to the Council (Application Reference 23/02988/FUL) which concerns the removal of a window to facilitate the installation of an external rear entrance door with ramp.

6.3 Listed building consent has previously been granted for the creation of a changing places toilet within the single storey rear extension (Application Reference 23/00956/LBC).

7. SUMMARY OF CONSULTATION RESPONSES

7.1 ECC Archaeology

7.1.1 The proposal is unlikely to have any significant impact on the heritage asset due to the nature and scale of development.

7.2 ECC Historic Buildings Consultant

7.2.1 The application concerns a small, single-storey rear extension, thought to date to the twentieth century. As a component of the building's overall special interest, the extension has little interest in itself and has been visibly modified in the past. Internally, there are no features of special interest within the rear extension. Externally, the extension is sensitive in appearance to the rest of the building.

7.2.2 The installation of a changing places toilet is therefore acceptable in principle, as the works will not affect an area which makes a strong contribution to the significance of the building.

8. PARISH / TOWN COUNCIL

8.1 Witham Town Council

8.1.1 No comments due to the Town Council's interest in the application.

9. REPRESENTATIONS

9.1 A site notice was displayed outside the application site for 21 days and immediate neighbours were notified of the proposal by way of letter. No representations have been received in relation to this application.

10. SITE ASSESSMENT

10.1 Heritage

10.1.1 Paragraph 205 of the National Planning Policy Framework (NPPF) states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be).

10.1.2 Paragraph 208 develops upon this further, noting that where a proposed development leads to substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including where appropriate, securing its optimum viable use.

10.1.3 Policy LPP57 states that works will be permitted where they do not harm the setting, character, structural stability, and fabric of the building (or structure), and will not result in the loss of, or significant damage to the building or structure's historic and architectural elements of special importance and include the use of appropriate materials and finishes.

10.1.4 The proposed internal alterations consist of the refurbishment and rearrangement of a toilet contained within a twentieth century rear extension.

- 10.1.5 The proposed internal alterations would involve the removal of three internal walls to facilitate the installation of a changing places toilet. The walls to be demolished are plastered brick-walls and were constructed as part of the early twentieth century rear extension.
- 10.1.6 These alterations would not affect an area which makes a strong contribution to the significance of the listed building. The proposals include the use of appropriate materials and finishes.
- 10.1.7 The proposed door would replace an existing window which currently serves the male toilet. The external door would have a dimension of 1.1 metres by 2.1 metres and would be constructed of timber. The proposed style of door and material is considered appropriate in relation to the listed building.
- 10.1.8 There has been limited information submitted regarding the details of the external door. Therefore, a compliance condition is recommended to be included within the decision notice which would require the proposed door to be painted timber, single-glazed and without trickle vents or surface mounted glazing bars.
- 10.1.9 The Council's Historic Buildings Consultant has raised no objection to these internal alterations. The proposal is therefore considered compliant with the abovementioned policies and the objectives of the National Planning Policy Framework.

11. CONCLUSION

- 11.1 Overall, there are no conflicts or departures from the Adopted Local Plan or adopted policy guidance that would necessitate a reason to refuse the application. There have been no unacceptable impacts identified in relation to the significance of the listed building. Accordingly, it is recommended that listed building consent is granted for the proposal.

12. RECOMMENDATION

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

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

APPENDIX 1:

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

Approved Plan(s) & Document(s)

Plan Description	Plan Ref	Plan Version
Location Plan	N/A	N/A
Site Plan	PL 499 A	N/A
Proposed Elevations and Floor Plans	PL-501 B	N/A
Section	Head Section	N/A
Section	Jambs Section	N/A
Section	Cill Section	N/A
Section	Muntin _ Panel Section	N/A

Condition(s) & Reason(s)

Condition 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.

Condition 2

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

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

Condition 3

The external materials and finishes shall be as indicated on the application form, except as follows:

The new external door shall be in painted timber, single glazed and without trickle vents or surface mounted glazing bars. The door shall be permanently retained as such.

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

APPENDIX 2:

POLICY CONSIDERATIONS

National Planning Guidance

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

Braintree District Local Plan 2013 - 2033

LPP57 Heritage Assets and their Settings

APPENDIX 3:

SITE HISTORY

Application No:	Description:	Decision:	Date:
01/00326/LBC	Erection of 2 no. hanging basket brackets on columns each side of front door	Granted	10.05.01
01/01748/FUL	Erection of extension to form mess room	Granted	10.12.01
01/01749/LBC	Proposed removal of three existing temporary sheds and erection of extension to form mess room	Granted	10.12.01
03/00814/TPOCON	Notice of intent to carry out works to trees protected by The Conservation Area - Raise crown and thin 1 lime tree	Granted	28.05.03
81/00838/	Alterations conversion of rear garage and storage area to provide studio/office accomodation	Granted	22.07.81
81/01027/	Internal and external alterations including installation of new windows to rear, ground floor of building	Granted	09.10.81
82/00023/	Display of internally illuminated fascia sign	Refused	03.08.82
82/00033/	Display of individually illuminated lettering to fascia, two internally illuminated box signs within building	Granted	12.10.82
82/00538/	Display of internally illuminated fascia sign and refacing of entrance step	Refused	03.08.82
82/00849/	Display of individually illuminated lettering to fascia, two internally illuminated box signs within building and refacing of entrance steps	Granted	12.10.82
85/00019/	Same as 85/00654	Refused	16.07.85
85/00654/	Display of illuminated projecting hanging sign	Refused	16.07.85

86/00014/	Same as 86/00401	Refused	17.06.86
86/00401/	Display of externally illuminated projecting hanging sign	Refused	17.06.86
87/00002/P	Display of illuminated hanging projecting sign	Granted	10.02.87
87/00052/P1	Same as 87/0002/P	Granted	10.02.87
93/01308/COU	Change of use to Council Offices, Museum and Lunch Club and refurbishment	Granted	14.12.93
93/01314/LBC	Refurbishment of the existing premises together with internal alterations to provide a Council Chamber, Offices, Lunch Club for the elderly, Museum & Tourist Board Office and private function facility	Granted	14.12.93
74/00007P	Advertisements for the Clock House.		
81/00838/P	Alterations conversion of rear garage and storage area to provide studio/office accommodation.	Granted	
81/01027/P	Internal and external alterations including installation of new windows to rear, ground floor of building.	Granted	
82/00538/P	Display of internally illuminated fascia sign and refacing of entrance step.	Refused	
82/00023/P	Display of internally illuminated fascia sign.	Refused	
82/00849/P	Display of individually illuminated lettering to fascia, two internally illuminated box signs within building and refacing of entrance steps.	Granted	
82/00033/P	Display of individually illuminated lettering to fascia, two internally illuminated box signs within building.	Granted	

85/00654/P	Display of illuminated projecting hanging sign.	Refused	
85/00019/P	Display of illuminated projecting hanging sign.	Refused	
86/00401/P	Display of externally illuminated projecting hanging sign.	Refused	
86/00014/P	Display of external illuminated projecting hanging sign.	Refused	
87/00002/P	Display of illuminated hanging projecting sign.	Granted	
87/00052/P	Display of illuminated hanging projecting sign.	Granted	
78/00390P	Application to determine whether planning permission is required for, demolition of rear wall of premises to create vehicular access.	Granted	
78/01422P	Change of use of premises to workshop of upholstery making and repairs (buildings at rear of 62a).	Granted	
05/01683/TPOCON	Notice of intent to carry out works to trees protected by The Conservation Area - Fell and replace 1 Lime	Refused	02.11.05
06/02320/LBC	Erection of 2 no. flag poles to front of building	Granted	04.01.07
14/00848/FUL	Installation of air conditioning system to three offices on first floor. Installation of one condenser unit on flat roof of small extension behind the Town Hall	Granted	12.08.14
14/00849/LBC	Installation of air conditioning system to three offices on first floor. Installation of one condenser unit on flat roof of small extension behind the Town Hall	Granted	12.08.14
17/00863/LBC	Partial demolition and	Granted	30.06.17

	reconstruction of rear chimney to match original		
19/00058/TPOCON	Notice of intent to carry out works to carry out works to tree in a Conservation Area - Remove 1 Yew tree	Granted	17.04.19
20/00011/TPO	Notice of intent to carry out works to tree protected by Tree Preservation Order 15a/05 -T1 - Small leafed lime (<i>Tilia cordata</i>) to undergo full crown reduction - carry out a 2m reduction on all sides with a 5m reduction in height where possible. All appropriate pruning cuts to be made with suitable growth points, no stubs. Reasons for proposed works are; to help maintain the tree at a suitable size due to its location in a target rich area (in an attempt of reducing the risk of damage to person or property), The leaf litter and dead wood falling is in abundance. Targets consist of buildings, pedestrians and cars situated in car park. The tree will be kept in an aesthetically pleasing shape without compromising the health of the tree.	Granted	09.03.20
20/00186/LBC	Refurbishment to include replacement of interior doors and erection of new transparent partition.	Granted	31.03.20
21/00932/TPO	T1140 - Large over extended crown. Grey Poplar. Future prognosis is for this problem to be exaggerated caused by its phototropic nature	Withdrawn	14.04.21

	<p>subsequent to the over shadowing tree's. Potential for storm damage and failure high, suggest fell and replant. Extremely rich target area; railway, road, high pedestrian footfall.</p> <p>T1224 - 2x Grey Poplar Stems. Over stood Coppice stool, stress fractures in the adjoining buttress's resulted in failure of previous stems. Both stems are top loaded, one at a 45% angle. Chances of coppice stool cleaving are high. Target rich environment;foot bridge, seating areas, high pedestrian footfall. Fell and replant</p>		
21/02805/FUL	Removal of existing rear extension and 3 no. standalone sheds and erection of a two-storey rear extension. Extension of existing car park.	Refused	26.01.22
21/02806/LBC	Removal of existing rear extension and 3 no. standalone sheds and erection of a two-storey rear extension. Extension of existing car park.	Refused	26.01.22
23/00956/LBC	Internal refurbishments and the demolition of two internal walls to facilitate the installation of a changing places toilet facility.	Granted	11.07.23
23/02988/FUL	Refurbishment of existing toilets and creation of new external door entrance with ramp.	Pending Decision	

Report to: Planning Committee	
Planning Committee Date: 13th February 2024	
For: Decision	
Key Decision: No	Decision Planner Ref No: N/A
Application No:	07/2023/TPO
Description:	To consider an Objection to a TPO (Tree Preservation Order) Ref: 07/2023/TPO
Location:	Old Magistrates Court, Witham, CM8 2FT
Landowners:	<p>1 Old Magistrates Court, Witham CM8 2FT 5 Old Magistrates Court, Witham CM8 2FT 7 Old Magistrates Court, Witham CM8 2FT 8 Old Magistrates Court, Witham CM8 2FT 9 Old Magistrates Court, Witham CM8 2FT - JOHN and HILDA BURKIN - 9 Old Magistrates Court, Witham CM8 2FT. 11 Old Magistrates Court, Witham CM8 2FT Land East Side of Newland Street, Witham - OLD MAGISTRATES COURT WITHAM MANAGEMENT COMPANY LIMITED of 3 Old Magistrates Court, Witham CM8 2FT and of 4 Old Magistrates Court, Witham CM8 2FT.</p>
Date Served:	TPO Provisionally Served on 23rd August 2023
Recommendation:	<p>It is RECOMMENDED that the following decision be made:</p> <p>§ To confirm the provisional Tree Preservation Order (TPO) in the interests of amenity.</p>
Options:	<p>The Planning Committee can:</p> <p>a) Agree the Recommendation b) Modify the Recommendation c) Overtturn the Recommendation d) Defer consideration of the Application for a specified reason(s)</p>
Appendices:	A summary of the Appendices is included at the end of this Committee Report.
Case Officer:	<p>Andrew Digby, Tree and Landscaping Officer For more information about this Application please contact the above Officer on: 01376 312556, or by e-mail: andrew.digby@braintree.gov.uk</p>

Purpose of the Report:	This report considers objection(s) to the making of a Tree Preservation Order (TPO).
Financial Implications:	The cost of making the Tree Preservation Order (TPO) has been met from existing budgets.
Legal Implications:	<p>The Council is required to follow the legislative framework in place for making a Tree Preservation Order (TPO). The proposals set out within this report are in line with that legislative framework.</p> <p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>If the Recommendation to confirm the provisional Tree Preservation Order (TPO) is agreed by the Planning Committee, the TPO will be subsequently confirmed by the Local Planning Authority (LPA).</p> <p>All relevant policies are set out within the report.</p>
Other Implications:	<p><u>Consultation</u> The application has been subject to public consultation and consultation with relevant statutory and non-statutory consultees. All responses received in response to this consultation are set out within the body of this Committee Report.</p> <p><u>Climate Change</u> If the Order is not confirmed there is a risk that the visual amenity of the area will be diminished, and the tree(s) contribution of carbon sequestration will be lost.</p> <p><u>Risk</u> Compensation rights could arise if the Council subsequently refuses an application for tree work and the tree or part of it then fails or causes damage.</p>
Equality and Diversity Implications:	<p>Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:</p> <ol style="list-style-type: none"> a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act; b) Advance equality of opportunity between people

	<p>who share a protected characteristic and those who do not;</p> <p>c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.</p> <p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that ‘marriage and civil partnership’ is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
<p>Background Papers:</p>	<p>The following background papers are relevant to this application include:</p> <ul style="list-style-type: none"> § Copy of Tree Preservation Order (TPO including site location plan) § Copy of TEMPO Assessment § Photos § Representations Received <p>(See Appendix for copies of the above)</p> <ul style="list-style-type: none"> § Part VIII of the Town and Country Planning Act 1990 (as amended) § The Town and Country Planning (Tree Preservation) (England) Regulations 2012 § Section 192 of the Planning Act 2008 § Part 6 of the Localism Act 2011 <p>§ Policy Documents:</p> <ul style="list-style-type: none"> § National Planning Policy Framework (NPPF) § National Planning Policy Guidance (NPPG) § Braintree District Local Plan 2013 - 2033 § Braintree District Council Tree Strategy <p>The National Planning Policy Framework can be viewed on the GOV.UK website: www.gov.uk/.</p> <p>The other abovementioned policy documents can be viewed on the Council’s website: www.braintree.gov.uk.</p>

1. Purpose of the Report

1.1 This report considers the objections raised by Mr Burkin to the making of Tree Preservation Order 07/2023.

2. Recommendations

2.1 That the Tree Preservation Order No. 07/2023 at Old Magistrates Court, Witham, CM8 2FT is confirmed, to ensure that the visual amenity is retained by securing the protection of the trees.

3. Background

3.1 A Section 211 notice for tree work in a Conservation Area (Application Reference 23/02095/TPOCON) for the removal of a Sycamore tree (marked T6 on TPO Plan & Schedule – Appendix 1) was submitted by a Mr Steed – An prospective buyer of 9 Old Magistrates Court on 15 August 2023 and validated on 15th August 2023 and a determination deadline date of 26th September 2023.

3.2 This notification prompted a site visit by Ana Patriarca, Tree and Landscape Officer for Landscape Services (Ana Patriarca has since left the Council's employment). The Sycamore tree and others in the area also considered worthy of Tree Preservation Order (TPO) protection were viewed from publicly accessible areas. A TEMPO assessment was carried out on the trees deemed suitable for protection (Appendix 2) and the scores corroborated, the trees listed within the TPO schedule were all considered worthy of a Tree Preservation Order (TPO). It was considered they had high amenity value and contributed significantly to local landscape and should be retained.

3.3 A provisional Tree Preservation Order (TPO) was served under the reference number 07/2023 dated 23rd August 2023 (Appendix 1).

3.4 A provisional TPO comes in effect on the day the authority makes it. It must be confirmed or modified and then confirmed within six months of the date of the order. If the order is not confirmed within 6 months it expires and is no longer valid.

3.5 A copy of the provisional order was sent to the owners and neighbours of the protected trees.

3.6 As part of the consultation process for the above Section 211 notice (Reference 23/02095/TPOCON), a letter was received from Witham Town Council dated 7th September 2023. The letter (Appendix 3) advised that:

'Members of the Witham Town Council's Planning & Transport Committee had considered the application and recommended refusal as the tree now subject of a tree preservation order and could be managed; subject to the advice of the District Council's Landscape Officer.'

3.7 A letter of objection to the provisional TPO was received on 11th September 2023 from Mr Burkin, of 9 Old Magistrates Court, Witham (Appendix 4).

4. Representations

4.1 After the provisional TPO was served, 'persons interested in the land affected by the Order' were notified and provided at least 28 days for representations to be received. To summarise; 2 No. properties supported the TPO and 1 No. property Objected to the TPO (Appendix 4).

4.2 Support was received from 7 Amiger Way, Witham dated 25 August 2023 and from 1 Old Magistrates Court, Witham dated 14 October 2023.

4.3 Objections were received from Mr Burkin of 9 Old Magistrates Court, Witham dated 30 August 2023, stating that the property is for sale and the prospective buyer enquired as to whether the tree could be removed, due to concerns about damage it could cause.

4.4 Mr Burkin states: the concerns are that Sycamore (T6) has fine shallow aggressive roots which can cause building subsidence and also damage to the water, sewage and paving infrastructure.

4.5 Mr Burkin states: the Sycamore tree could grow up to 30m and can span 22m. It should be at least 17m from any dwelling (T6 is 4.5m from dwelling and 3m from the patio, also T6 is marked wrong on plan) and because Sycamore is a fast growing tree, with shallow roots, it's a potential hazard in strong winds and its heavy seed and leaf fall can cause damage to flora/grass underneath the tree.

4.6 Mr Burkin further states: We are all in favour of preserving our environment but as this is Not a native tree in Britain and mainly planted in large recreation grounds, woodlands and hedgerow, which is another reason for it to be removed from a small garden, due to its close proximity in a residential dwelling.

4.7 Mr Burkin states lastly: We seriously believe that the Sycamore (T6) tree should have been removed when planning permission was granted, because of the abovementioned issue.

5. Assessment

5.1 Tree Preservation Order 07/2023 includes 12 individual deciduous trees.

5.2 The trees are located within the rear gardens, front gardens and on open amenity space land on the grounds of Old Magistrates Court. The site is located within the Witham Conservation Area.

- 5.3 All trees are visible from publicly accessible areas along Newland Street, Chess Lane, Footpath from Amiger Way and within Old Magistrates Court itself. Trees are also visible from the adjacent properties.
- 5.4 The trees are all established and with some being relatively young with long retention spans. It is considered that all trees are in fair or good condition, all are medium or large trees with public visibility. All tree individually, have good amenity value and contribute to the local landscape, collectively they play a greater importance to the amenity of the locality contributing now and in the future to the areas canopy cover.
- 5.5 A Section 211 Notice, Tree Works Application Reference 23/02095/TPOCON was submitted by the prospective buyer – Mr Steed. In the context of this application Mr Steed proposed the Sycamore tree T6 is cut down and removed *“because of excessive shading (and Low - even no amenity value) it is also badly positioned in the middle of a tiny garden. The tree is in a tiny back garden approximately 9mx8m and the tree is only 3.7m from the house. The branches extend from the house to the back fence and from just over the fence of No.7 on one side of the garden to within a metre or so of the fence on the other side. A tree at No.7 (Less than a metre from the fence) has branches which also spread over the garden of No.9 adding to the darkness effect, allowing little sunlight to get in.”*
- 5.6 On 21st August 2023, TEMPO assessments were carried out on all 12 tree (Appendix 2) and the scores corroborated the trees were worthy of Tree Preservation Order. It was considered the trees all contributed significantly to the sense of place, biodiversity and local character and that the felling of one tree in this setting would set a precedent for other trees on the same site to be removed which was unwarranted and unacceptable considering the tree is relatively young and its crown can be managed effectively through maintenance pruning of its crown to control its size and spread.
- 5.7 A Tree Preservation Order (TPO) is a mechanism that protects specific trees or a particular woodland from deliberate damage or destruction, as stated by the Town and Country Planning Act 2012 Regulations. TPOs can be placed on any tree with high amenity or high conservation value, independently of its species. Most protected trees in landscaped areas are non-natives and many woodlands also enjoy the TPO protection status.
- 5.8 The provisional Tree Preservation Order plan had an error in the property numbering whereby property number labelled as No.9 should show as No.11. This error was a result of OS Mapping data which has been reported on the 24th August 2023. A new plan has been provided with correct numbering and this will be served if confirmed to all previously issued. Due to the error not relating to the details of the TPO's tree species and schedule it is considered minor and does not require re-issuing.
- 5.9 The Council does not support the excessive pruning or removal of protected trees for shading reasons alone and on the basis that the tree

could cause damage to property without satisfactory evidence to base this on. Healthy and attractive trees are an asset to the environment and providing a number of ecosystem service benefits as well as providing habitat value and connectivity for species not discounting the amenity contribution. The reasons for removal from a prospective buyer rather than the owner were not sufficient justification for the tree to be removed.

- 5.10 The Council does not support the excessive pruning or removal of a protected tree to mitigate or reduce the complaints of falling leaves/needles, seeds, or fruits from either the homeowners or third-party land. Although they can be an inconvenience, falling leaves & debris are not regarded as a 'nuisance' in law and legally cannot be claimed to cause 'damage' to grass/flora.
- 5.11 It is normally up to the landowner whether they own a tree or not to undertake their own routine 'property maintenance' if for example, they need to clear paths, lawns, driveways, or gutters. These tasks are part of a natural seasonal cycle to be expected when living in proximity to trees or other vegetation and are not considered to be sufficient reason for removal of a protected tree.
- 5.12 The designation of a Tree Preservation Order does not exclude maintenance works to the tree with prior consent. Although it is understood that this Order adds an extra layer of work to the regular tree maintenance operations, it is considered that the public benefit of protecting the proposed trees outweighs the inconvenience. The potential loss of this tree would have a negative impact on the local landscape.
- 5.13 National Planning Practice Guidance states that in considering an application to undertake works to protected trees, the Local Planning Authority should assess the impact of the amenity of the area and whether the proposal is justified, having regard to the reasons and additional information put forward in support of it. It should also consider whether any loss or damage is likely to arise if consent is refused or granted subject to conditions, and whether any requirements apply in regard to protected species.
- 5.14 The reasons for the proposed work are not part of the requirement for considering Section 211 notices for tree works/removal, however can help the Council form a decision. In this case the Applicant stated potential for the tree to cause damage through three separate potential causes; 1. Subsidence 2. Direct root damage due to shallow roots 3. Due to storms and proximity of the tree.
- 5.15 The reasons for removal have been taken into account and are not considered substantive. No further evidence has been provided to support the claim that the Sycamore T6 could cause subsidence. Government guidance specifies that a report by an engineer or surveyor is required. The same applies in respect of direct root damage.

5.16 Regarding the claim it could cause damage due to a storm and its proximity, the tree has been assessed under the TEMPO criteria considering its condition and suitability for a TPO as well as its potential life span. Whilst this is not considered to be a full safety condition survey, at the time of assessment the Sycamore tree (T6) was noted to be of fair quality with no external visible conditions that would suggest it was likely to fail or part of it to fail. Again, the presence of a TPO does not preclude the tree owner or an Applicant from carrying out necessary maintenance works to the tree to ensure it stays in a satisfactory condition.

6. CONCLUSION

6.1 Whilst the objections received are noted, in this case and following further assessment, it is concluded that the trees are all worthy of protection.

6.2 If the Tree Preservation Order is confirmed, and supplementary evidence in the form of a report came to light in the form of a tree work application that further supports the previous objection reasons stated by Mr Burkin for Sycamore tree (T6) or any other tree listed within this Tree Preservation Order, removal will be carefully considered. The Tree Preservation Order will subsequently provide powers to the Council (above those of a Section 211 notice) to impose a condition if deemed necessary for replacement planting of an agreeable species and location.

7. Options

7.1 The options are:

- 1) To confirm the provisional Tree Preservation Order in the interests of amenity.
- 2) Not to confirm the provisional Tree Preservation Order and allow the owner(s) to prune/fell the tree(s) as they see fit.
- 3) Confirm the TPO with modifications.

8. RECOMMENDATION

8.1 It is RECOMMENDED that the following decision be made:

To confirm the provisional Tree Preservation Order in the interests of amenity.

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

APPENDIX:

Contents:

Appendix 1: Copy of 07/2023/TPO

Appendix 2: Copy of TEMPO assessments

Appendix 3: Witham Town Council objection letter S211 notice for removal of T6 Sycamore

Appendix 4: Representations Received in relation to TPO

APPENDIX 1:

Copy of 07/2023/TPO

**THE TOWN AND COUNTRY PLANNING (TREE PRESERVATION) (ENGLAND)
REGULATIONS 2012**

**Town and Country Planning Act 1990
TPO 07/2023/TPO**

The Braintree District Council, in exercise of the powers conferred on them by sections 198 of the Town and Country Planning Act 1990 make the following Order: Old Magistrates Court, Witham, Essex,

Citation

1. This Order may be cited as TPO 07/2023/TPO

Interpretation

2. (1) In this Order "the authority" means the Braintree District Council.
(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012

Effect

3. (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.
(2) Without prejudice to subsections (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners), and subject to the exceptions in regulation 14, no person shall—
- (a) cut down, top, lop, uproot, wilfully damage or wilfully destroy; or
 - (b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition

4. In relation to any tree identified in the first column of the Schedule by the letter "C", being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provisions for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 23rd day of August 2023

"The Common Seal of BRAINTREE DISTRICT COUNCIL was hereunto affixed in the presence of:

[Redacted signature]

Authorised Signatory



SCHEDULE

SPECIFICATION OF TREES

Trees specified individually
(encircled in black on the map)

REF. ON MAP	DESCRIPTION	SITUATION
T1	Silver Maple	Rear garden on 1 Old Magistrates Court, Witham
T2	Sweet Gum	Grassed area in front of 5 Old Magistrates Court
T3	Rowan	Grassed area in front of 7 Old Magistrates Court
T4	Sycamore	Rear garden on 7 Old Magistrates Court, Witham
T5	Oak	Rear garden on 7 Old Magistrates Court, Witham
T6	Sycamore	Rear garden on 9 Old Magistrates Court, Witham
T7	Silver Maple	Rear garden on 11 Old Magistrates Court, Witham
T8	Silver Maple	Rear garden on 11 Old Magistrates Court, Witham
T9	Oak	Northeast of 8 Old Magistrates Court, Witham
T10	Sweet Gum	Grassed area in front of 9 Old Magistrates Court
T11	Sweet Gum	Grassed area in front of 6 Old Magistrates Court
T12	Oak	Communal parking area south of nos 4 and 6

Trees specified by reference to an area
(within a dotted black line on the map)

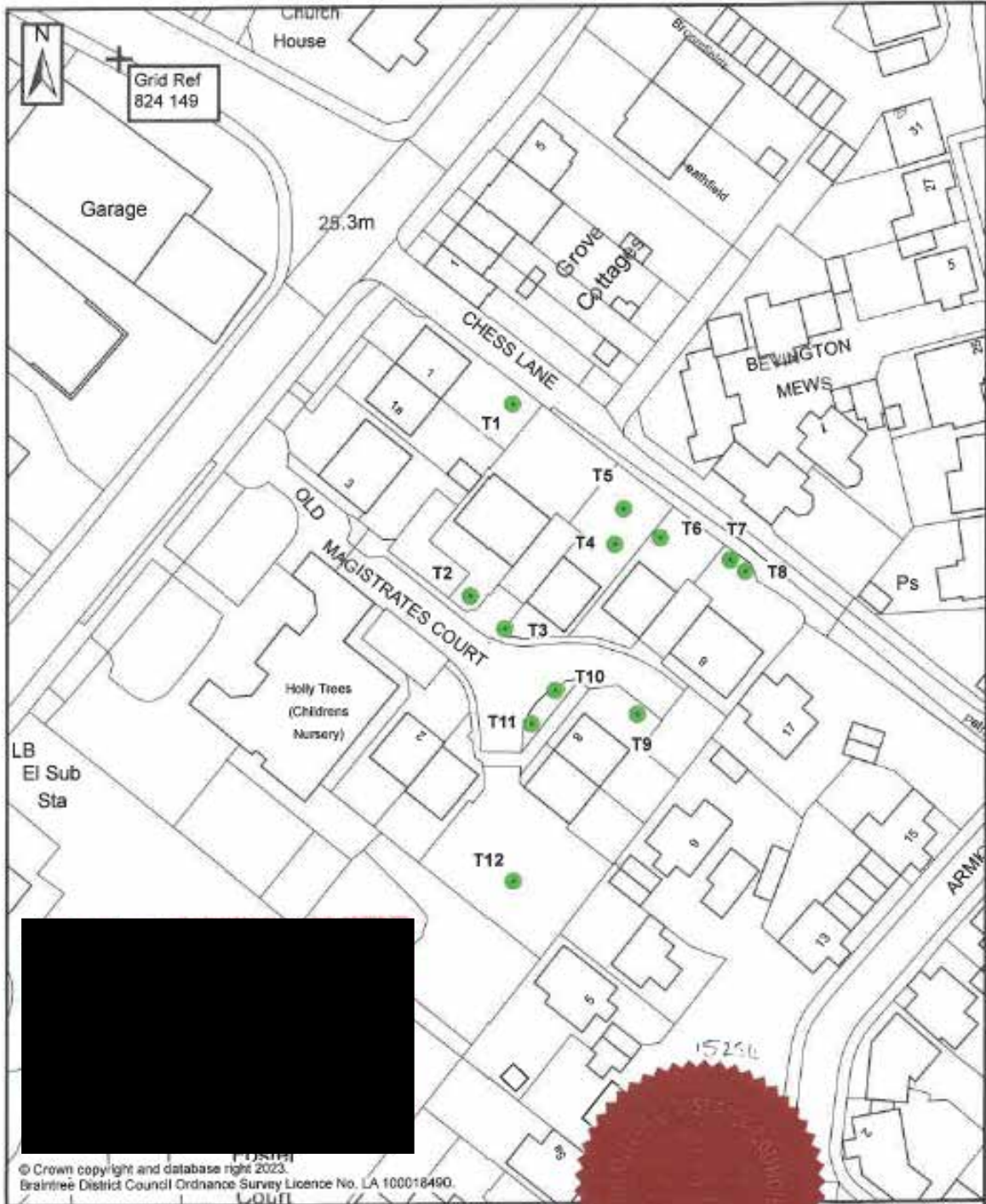
REF. ON MAP	DESCRIPTION	SITUATION
	NONE	

Groups of trees
(within a broken black line on the map)

REF. ON MAP	DESCRIPTION	SITUATION
	NONE	

Woodlands
(within a continuous black line on the map)

REF. ON MAP	DESCRIPTION	SITUATION
	NONE	



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Planning Department

Date: AUGUST 2023	TREE PRESERVATION ORDER 07/2023
Ref: 116-4-962	OLD MAGISTRATES COURT
Drawn: DF	WITHAM
Scale: 1:750 TL 8214	CM8 2FT



Authorised Signatory
Braintree District Council

APPENDIX 2:

Copy of TEMPO assessments:

TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO)

SURVEY DATA SHEET & DECISION GUIDE

Date:	21/8/2023	Surveyor:	Ana Patriarca
Tree details		TPO Ref (if applicable):	07/2023
Tree/Group No:	T1	Species:	Silver Maple
Owner (if known):	Location: 1 Old Magistrates Court Witham		

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO

- | | |
|---------------------|-------------------------|
| 5) Good | Highly suitable |
| 3) Fair | Suitable |
| 1) Poor | Unlikely to be suitable |
| 0) Dead | Unsuitable |
| 0) Dying/dangerous* | Unsuitable |

Score & Notes
3 - fair quality tree, no visible defects

* Relates to existing context and is intended to apply to severe irremediable defects only

b) Retention span (in years) & suitability for TPO

- | | |
|-----------|-----------------|
| 5) 100+ | Highly suitable |
| 4) 40-100 | Very suitable |
| 2) 20-40 | Suitable |
| 1) 10-20 | Just suitable |
| 0) <10* | Unsuitable |

Score & Notes
4 - young tree with good life expectancy

* Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

- | | |
|---|---------------------|
| 5) Very large trees with some visibility, or prominent large trees | Highly suitable |
| 4) Large trees, or medium trees clearly visible to the public | Suitable |
| 3) Medium trees, or large trees with limited view only | Suitable |
| 2) Young, small, or medium/large trees visible only with difficulty | Barely suitable |
| 1) Trees not visible to the public, regardless of size | Probably unsuitable |

Score & Notes
3 - visible from PRow and adj properties.

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- | |
|--|
| 5) Principal components of arboricultural features, or veteran trees |
| 4) Tree groups, or members of groups important for their cohesion |
| 3) Trees with identifiable historic, commemorative or habitat importance |
| 2) Trees of particularly good form, especially if rare or unusual |
| 1) Trees with none of the above additional redeeming features |

Score & Notes
1

Part 2: Expediency assessment

Trees must have accrued 9 or more points to qualify

- | |
|-------------------------------|
| 5) Immediate threat to tree |
| 3) Foreseeable threat to tree |
| 2) Perceived threat to tree |
| 1) Precautionary only |

Score & Notes
1 - this tree is part of the original LS and it's in private ownership

Part 3: Decision guide

- | | |
|-------|-----------------------|
| Any 0 | Do not apply TPO |
| 1-6 | TPO indefensible |
| 7-10 | Does not merit TPO |
| 11-14 | TPO defensible |
| 15+ | Definitely merits TPO |

Add Scores for Total:
12

Decision:
TPO defensible

TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO)

SURVEY DATA SHEET & DECISION GUIDE

Date: 21/8/2023	Surveyor: Ana Patriarca
-----------------	-------------------------

Tree details		
TPO Ref (if applicable): 07/2023	Tree/Group No: T2	Species: Sweet Gum
Owner (if known):	Location: 5 Old Magistrates Court Witham	

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO

- | | |
|---------------------|-------------------------|
| 5) Good | Highly suitable |
| 3) Fair | Suitable |
| 1) Poor | Unlikely to be suitable |
| 0) Dead | Unsuitable |
| 0) Dying/dangerous* | Unsuitable |

Score & Notes 5 - good quality tree, no visible defects
--

* Relates to existing context and is intended to apply to severe irremediable defects only

b) Retention span (in years) & suitability for TPO

- | | |
|-----------|-----------------|
| 5) 100+ | Highly suitable |
| 4) 40-100 | Very suitable |
| 2) 20-40 | Suitable |
| 1) 10-20 | Just suitable |
| 0) <10* | Unsuitable |

Score & Notes 4 - young tree with good life expectancy

*Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

- | | |
|---|---------------------|
| 5) Very large trees with some visibility, or prominent large trees | Highly suitable |
| 4) Large trees, or medium trees clearly visible to the public | Suitable |
| 3) Medium trees, or large trees with limited view only | Suitable |
| 2) Young, small, or medium/large trees visible only with difficulty | Barely suitable |
| 1) Trees not visible to the public, regardless of size | Probably unsuitable |

Score & Notes 3 - visible from PRoW and adj properties.
--

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- | |
|--|
| 5) Principal components of arboricultural features, or veteran trees |
| 4) Tree groups, or members of groups important for their cohesion |
| 3) Trees with identifiable historic, commemorative or habitat importance |
| 2) Trees of particularly good form, especially if rare or unusual |
| 1) Trees with none of the above additional redeeming features |

Score & Notes 1

Part 2: Expediency assessment

Trees must have accrued 9 or more points to qualify

- | |
|-------------------------------|
| 5) Immediate threat to tree |
| 3) Foreseeable threat to tree |
| 2) Perceived threat to tree |
| 1) Precautionary only |

Score & Notes 1 - this tree is part of the original LS and it's in private ownership

Part 3: Decision guide

- | | |
|-------|-----------------------|
| Any 0 | Do not apply TPO |
| 1-6 | TPO indefensible |
| 7-10 | Does not merit TPO |
| 11-14 | TPO defensible |
| 15+ | Definitely merits TPO |

Add Scores for Total: 14

Decision: TPO defensible

TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO)

SURVEY DATA SHEET & DECISION GUIDE

Date: 21/8/2023	Surveyor: Ana Patriarca
-----------------	-------------------------

Tree details		
TPO Ref (if applicable): 07/2023	Tree/ Group No: T3	Species: Rowan
Owner (if known):	Location: 7 Old Magistrates Court Witham	

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO

5) Good	Highly suitable	Score & Notes 5 - good quality tree, no visible defects
3) Fair	Suitable	
1) Poor	Unlikely to be suitable	
0) Dead	Unsuitable	
0) Dying/dangerous*	Unsuitable	

** Relates to existing context and is intended to apply to severe irremediable defects only*

b) Retention span (in years) & suitability for TPO

5) 100+	Highly suitable	Score & Notes 4 - young tree with good life expectancy
4) 40-100	Very suitable	
2) 20-40	Suitable	
1) 10-20	Just suitable	
0) <10*	Unsuitable	

** Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality*

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

5) Very large trees with some visibility, or prominent large trees	Highly suitable	Score & Notes 3 - visible from PRow and adj properties.
4) Large trees, or medium trees clearly visible to the public	Suitable	
3) Medium trees, or large trees with limited view only	Suitable	
2) Young, small, or medium/large trees visible only with difficulty	Barely suitable	
1) Trees not visible to the public, regardless of size	Probably unsuitable	

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

5) Principal components of arboricultural features, or veteran trees	Score & Notes 1
4) Tree groups, or members of groups important for their cohesion	
3) Trees with identifiable historic, commemorative or habitat importance	
2) Trees of particularly good form, especially if rare or unusual	
1) Trees with none of the above additional redeeming features	

Part 2: Expediency assessment

Trees must have accrued 9 or more points to qualify

5) Immediate threat to tree	Score & Notes 1 - this tree is part of the original LS and it's in private ownership
3) Foreseeable threat to tree	
2) Perceived threat to tree	
1) Precautionary only	

Part 3: Decision guide

Any 0	Do not apply TPO	Add Scores for Total: 14	Decision: TPO defensible
1-6	TPO indefensible		
7-10	Does not merit TPO		
11-14	TPO defensible		
15+	Definitely merits TPO		

TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO)

SURVEY DATA SHEET & DECISION GUIDE

Date: 21/8/2023	Surveyor: Ana Patriarca
-----------------	-------------------------

Tree details	TPO Ref (if applicable): 07/2023	Tree/ Group No: T4	Species: Sycamore
Owner (if known):	Location: 7 Old Magistrates Court Witham		

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO

- | | |
|---------------------|-------------------------|
| 5) Good | Highly suitable |
| 3) Fair | Suitable |
| 1) Poor | Unlikely to be suitable |
| 0) Dead | Unsuitable |
| 0) Dying/dangerous* | Unsuitable |

Score & Notes 3 - fair quality tree, no visible defects (a bit leggy due to the Oak's proximity)
--

* Relates to existing context and is intended to apply to severe irremediable defects only

b) Retention span (in years) & suitability for TPO

- | | |
|-----------|-----------------|
| 5) 100+ | Highly suitable |
| 4) 40-100 | Very suitable |
| 2) 20-40 | Suitable |
| 1) 10-20 | Just suitable |
| 0) <10* | Unsuitable |

Score & Notes 4 - young tree with good life expectancy
--

* Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

- | | |
|---|---------------------|
| 5) Very large trees with some visibility, or prominent large trees | Highly suitable |
| 4) Large trees, or medium trees clearly visible to the public | Suitable |
| 3) Medium trees, or large trees with limited view only | Suitable |
| 2) Young, small, or medium/large trees visible only with difficulty | Barely suitable |
| 1) Trees not visible to the public, regardless of size | Probably unsuitable |

Score & Notes 3 - visible from PRoW and adj properties.

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- | |
|--|
| 5) Principal components of arboricultural features, or veteran trees |
| 4) Tree groups, or members of groups important for their cohesion |
| 3) Trees with identifiable historic, commemorative or habitat importance |
| 2) Trees of particularly good form, especially if rare or unusual |
| 1) Trees with none of the above additional redeeming features |

Score & Notes 1

Part 2: Expediency assessment

Trees must have accrued 9 or more points to qualify

- | |
|-------------------------------|
| 5) Immediate threat to tree |
| 3) Foreseeable threat to tree |
| 2) Perceived threat to tree |
| 1) Precautionary only |

Score & Notes 5 - TPOCON application received

Part 3: Decision guide

- | | |
|-------|-----------------------|
| Any 0 | Do not apply TPO |
| 1-6 | TPO indefensible |
| 7-10 | Does not merit TPO |
| 11-14 | TPO defensible |
| 15+ | Definitely merits TPO |

Add Scores for Total: 16

Decision: TPO worthy

TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO)

SURVEY DATA SHEET & DECISION GUIDE

Date: 21/8/2023	Surveyor: Ana Patriarca
-----------------	-------------------------

Tree details		
TPO Ref (if applicable): 07/2023	Tree/ Group No: T5	Species: Oak
Owner (if known):	Location: 7 Old Magistrates Court Witham	

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO

5) Good	Highly suitable	Score & Notes 5 - good quality tree, form typical of its species, no visible defects
3) Fair	Suitable	
1) Poor	Unlikely to be suitable	
0) Dead	Unsuitable	
0) Dying/dangerous*	Unsuitable	

** Relates to existing context and is intended to apply to severe irremediable defects only*

b) Retention span (in years) & suitability for TPO

5) 100+	Highly suitable	Score & Notes 5 - +100
4) 40-100	Very suitable	
2) 20-40	Suitable	
1) 10-20	Just suitable	
0) <10*	Unsuitable	

**Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality*

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

5) Very large trees with some visibility, or prominent large trees	Highly suitable	Score & Notes 4 - very visible from PRoW and adj properties.
4) Large trees, or medium trees clearly visible to the public	Suitable	
3) Medium trees, or large trees with limited view only	Suitable	
2) Young, small, or medium/large trees visible only with difficulty	Barely suitable	
1) Trees not visible to the public, regardless of size	Probably unsuitable	

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

5) Principal components of arboricultural features, or veteran trees	Score & Notes 1
4) Tree groups, or members of groups important for their cohesion	
3) Trees with identifiable historic, commemorative or habitat importance	
2) Trees of particularly good form, especially if rare or unusual	
1) Trees with none of the above additional redeeming features	

Part 2: Expediency assessment

Trees must have accrued 9 or more points to qualify

5) Immediate threat to tree	Score & Notes 5 - TPOCON application received
3) Foreseeable threat to tree	
2) Perceived threat to tree	
1) Precautionary only	

Part 3: Decision guide

Any 0	Do not apply TPO	Add Scores for Total: 20	Decision: TPO worthy
1-6	TPO indefensible		
7-10	Does not merit TPO		
11-14	TPO defensible		
15+	Definitely merits TPO		

TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO)

SURVEY DATA SHEET & DECISION GUIDE

Date: 21/8/2023	Surveyor: Ana Patriarca
-----------------	-------------------------

Tree details		
TPO Ref (if applicable): 07/2023	Tree/ Group No: T6	Species: Sycamore
Owner (if known):	Location: 9 Old Magistrates Court Witham	

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO

5) Good	Highly suitable	Score & Notes 3 - fair quality tree, no visible defect (but slightly one-sided due to the Oak's proximity)
3) Fair	Suitable	
1) Poor	Unlikely to be suitable	
0) Dead	Unsuitable	
0) Dying/dangerous*	Unsuitable	

* Relates to existing context and is intended to apply to severe irremediable defects only

b) Retention span (in years) & suitability for TPO

5) 100+	Highly suitable	Score & Notes 4 - young tree with good life expectancy
4) 40-100	Very suitable	
2) 20-40	Suitable	
1) 10-20	Just suitable	
0) <10*	Unsuitable	

* Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

5) Very large trees with some visibility, or prominent large trees	Highly suitable	Score & Notes 4 - very visible from PRoW and adj properties.
4) Large trees, or medium trees clearly visible to the public	Suitable	
3) Medium trees, or large trees with limited view only	Suitable	
2) Young, small, or medium/large trees visible only with difficulty	Barely suitable	
1) Trees not visible to the public, regardless of size	Probably unsuitable	

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

5) Principal components of arboricultural features, or veteran trees	Score & Notes 1
4) Tree groups, or members of groups important for their cohesion	
3) Trees with identifiable historic, commemorative or habitat importance	
2) Trees of particularly good form, especially if rare or unusual	
1) Trees with none of the above additional redeeming features	

Part 2: Expediency assessment

Trees must have accrued 9 or more points to qualify

5) Immediate threat to tree	Score & Notes 5 - TPOCON application received
3) Foreseeable threat to tree	
2) Perceived threat to tree	
1) Precautionary only	

Part 3: Decision guide

Any 0	Do not apply TPO	Add Scores for Total: 17	Decision: TPO worthy
1-6	TPO indefensible		
7-10	Does not merit TPO		
11-14	TPO defensible		
15+	Definitely merits TPO		

TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO)

SURVEY DATA SHEET & DECISION GUIDE

Date: 21/8/2023	Surveyor: Ana Patriarca
-----------------	-------------------------

Tree details
TPO Ref (if applicable): 07/2023 Tree/ Group No: T7 and T8 Species: Silver Maple
Owner (if known): Location: 11 Old Magistrates Court Witham

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO

5) Good	Highly suitable	Score & Notes 3 - fair quality trees, no visible defects
3) Fair	Suitable	
1) Poor	Unlikely to be suitable	
0) Dead	Unsuitable	
0) Dying/dangerous*	Unsuitable	

** Relates to existing context and is intended to apply to severe irremediable defects only*

b) Retention span (in years) & suitability for TPO

5) 100+	Highly suitable	Score & Notes 4 - young trees with good life expectancy
4) 40-100	Very suitable	
2) 20-40	Suitable	
1) 10-20	Just suitable	
0) <10*	Unsuitable	

** Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality*

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

5) Very large trees with some visibility, or prominent large trees	Highly suitable	Score & Notes 3 - visible from PRow and adj properties.
4) Large trees, or medium trees clearly visible to the public	Suitable	
3) Medium trees, or large trees with limited view only	Suitable	
2) Young, small, or medium/large trees visible only with difficulty	Barely suitable	
1) Trees not visible to the public, regardless of size	Probably unsuitable	

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

5) Principal components of arboricultural features, or veteran trees	Score & Notes 1
4) Tree groups, or members of groups important for their cohesion	
3) Trees with identifiable historic, commemorative or habitat importance	
2) Trees of particularly good form, especially if rare or unusual	
1) Trees with none of the above additional redeeming features	

Part 2: Expediency assessment

Trees must have accrued 9 or more points to qualify

5) Immediate threat to tree	Score & Notes 1 - these trees is part of the original LS and it's in private ownership
3) Foreseeable threat to tree	
2) Perceived threat to tree	
1) Precautionary only	

Part 3: Decision guide

Any 0	Do not apply TPO	Add Scores for Total: 12	Decision: TPO defensible
1-6	TPO indefensible		
7-10	Does not merit TPO		
11-14	TPO defensible		
15+	Definitely merits TPO		

TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO)

SURVEY DATA SHEET & DECISION GUIDE

Date: 21/8/2023	Surveyor: Ana Patriarca
-----------------	-------------------------

Tree details	
TPO Ref (if applicable): 07/2023	Tree/ Group No: T10 and T11 Species: Sweet Gum
Owner (if known):	Location: Land East Side of Newland Street Witham

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO

5) Good	Highly suitable	Score & Notes 5 - good quality tree, no visible defects
3) Fair	Suitable	
1) Poor	Unlikely to be suitable	
0) Dead	Unsuitable	
0) Dying/dangerous*	Unsuitable	

** Relates to existing context and is intended to apply to severe irremediable defects only*

b) Retention span (in years) & suitability for TPO

5) 100+	Highly suitable	Score & Notes 4 - young tree with good life expectancy
4) 40-100	Very suitable	
2) 20-40	Suitable	
1) 10-20	Just suitable	
0) <10*	Unsuitable	

** Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality*

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

5) Very large trees with some visibility, or prominent large trees	Highly suitable	Score & Notes 3 - visible from PRoW and adj properties.
4) Large trees, or medium trees clearly visible to the public	Suitable	
3) Medium trees, or large trees with limited view only	Suitable	
2) Young, small, or medium/large trees visible only with difficulty	Barely suitable	
1) Trees not visible to the public, regardless of size	Probably unsuitable	

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

5) Principal components of arboricultural features, or veteran trees	Score & Notes 1
4) Tree groups, or members of groups important for their cohesion	
3) Trees with identifiable historic, commemorative or habitat importance	
2) Trees of particularly good form, especially if rare or unusual	
1) Trees with none of the above additional redeeming features	

Part 2: Expediency assessment

Trees must have accrued 9 or more points to qualify

5) Immediate threat to tree	Score & Notes 1 - the tree is part of the original LS
3) Foreseeable threat to tree	
2) Perceived threat to tree	
1) Precautionary only	

Part 3: Decision guide

Any 0	Do not apply TPO	Add Scores for Total: 14	Decision: TPO defensible
1-6	TPO indefensible		
7-10	Does not merit TPO		
11-14	TPO defensible		
15+	Definitely merits TPO		

TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO)

SURVEY DATA SHEET & DECISION GUIDE

Date: 21/8/2023	Surveyor: Ana Patriarca
-----------------	-------------------------

Tree details		
TPO Ref (if applicable): 07/2023	Tree/ Group No: T12	Species: Red Oak
Owner (if known):	Location: Land East Side of Newland Street Witham	

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO

5) Good	Highly suitable	Score & Notes 5 - good quality tree, no visible defects
3) Fair	Suitable	
1) Poor	Unlikely to be suitable	
0) Dead	Unsuitable	
0) Dying/dangerous*	Unsuitable	

** Relates to existing context and is intended to apply to severe irremediable defects only*

b) Retention span (in years) & suitability for TPO

5) 100+	Highly suitable	Score & Notes 5 - +100
4) 40-100	Very suitable	
2) 20-40	Suitable	
1) 10-20	Just suitable	
0) <10*	Unsuitable	

** Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality*

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

5) Very large trees with some visibility, or prominent large trees	Highly suitable	Score & Notes 4 - very visible from PRow, Armiger Way and adj properties.
4) Large trees, or medium trees clearly visible to the public	Suitable	
3) Medium trees, or large trees with limited view only	Suitable	
2) Young, small, or medium/large trees visible only with difficulty	Barely suitable	
1) Trees not visible to the public, regardless of size	Probably unsuitable	

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

5) Principal components of arboricultural features, or veteran trees	Score & Notes 1
4) Tree groups, or members of groups important for their cohesion	
3) Trees with identifiable historic, commemorative or habitat importance	
2) Trees of particularly good form, especially if rare or unusual	
1) Trees with none of the above additional redeeming features	

Part 2: Expediency assessment

Trees must have accrued 9 or more points to qualify

5) Immediate threat to tree	Score & Notes 1 - the tree is part of the original LS
3) Foreseeable threat to tree	
2) Perceived threat to tree	
1) Precautionary only	

Part 3: Decision guide

Any 0	Do not apply TPO	Add Scores for Total: 16	Decision: TPO worthy
1-6	TPO indefensible		
7-10	Does not merit TPO		
11-14	TPO defensible		
15+	Definitely merits TPO		

APPENDIX 3:

Witham Town Council objection letter S211 notice for removal of T6 Sycamore



Witham Town Council
Town Hall
61 Newland Street
Witham
Essex
CM8 2FE

Planning Department
Braintree District Council
Causeway House
Bocking End
Braintree
Essex
CM7 9HB

7th September 2023

REF: 23/02095/TPOCON - 9 Old Magistrates Court, Witham

Members of Witham Town Council's Planning & Transport Committee have had the opportunity to consider the above planning application and recommend refusal as the tree is now subject to a tree preservation order and could be managed; subject to the advice of the District Council's Landscape Officer.

Yours faithfully

Geraldine Kennedy
Planning Officer

townclerk@witham.gov.uk | 01376 520627 | witham.gov.uk



APPENDIX 4:

Representations Received

7 ARMIGER WAY, WITHAM, CM8 2UY

29 AUG 2023

Your ref 07/2023/TPO

Ana Patriarca

25th August 2023

Dear Sir/Madam

TOWN AND COUNTRY PLANNING – TREE PRESERVATION ORDER NO. 07/2023/TPO

Old Magistrate Court, Witham CM8 2FT

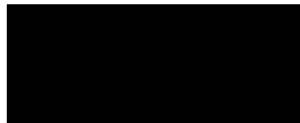
Thank you for your notification re the above

We completely support any tree preservation schemes in the area.

However we do have some concerns regarding trees planted along the rear boundary of our property very close to the old wall separating our garden from the car park area of the bungalow development. These trees (an Acer and a Silver Birch I believe) were planted as part of that development. At the time we were told that this boundary would consist of native hedging.

We do have concerns about damage to the wall itself as they are planted approx 30 cm away from the wall. These trees are now roof height and do shade our garden. Possible damage aside we are happy to see these trees but would like to see some maintenance to height and width from time to time and would like to know who would be responsible for this and who we should contact.

Yours faithfully,



Christine Othen (Mrs)

14 October 2023

20 OCT 2023

BRAINTREE DISTRICT COUNCIL
DEVELOPMENT MANAGER
SUSTAINABLE DEVELOPMENT
BRAINTREE DISTRICT COUNCIL
CAUSEWAY HOUSE
BRAINTREE
ESSEX CM7 9HB

REF: 07/2023/TPO
ANA PATRIARCA AND CHRISTOPHER PAGGI

Dear Ana and Chris, I am the owner of 1, Old Magistrates Court, Witham CM8 2FT.

I have heard from my mother, who lives in the above property, that there has been a TPO applied which covers a tree in her back garden. (Ref T1 Silver Maple on TPO Map)

Apologies for the lateness of my formal response, [REDACTED] when the formal notice letter was delivered to her address on 23rd August. Also, I have not received a formal letter (as owner of the property my address is available at Land Registry but I was not notified directly). I hope in the circumstances you will formally accept this letter and comments as part of the process for making the TPO permanent.

I support preservation of trees and the amenity they provide, indeed protection of trees in the Old Magistrates Court development is included in our property deeds. However, I do have some questions regarding this TPO, as I had already planned to replace this tree and need your advice about how to proceed. I would like to clarify the process for arranging a replacement prior to this order being given permanent status. I did try to the guidance on the link you provided but there were multiple routes so I was not clear how to proceed.

[REDACTED] we had agreed to an appropriate hard and soft landscaping plan which included replacement of the current tree with an appropriate alternative. We had discussed a native tree – perhaps crabapple, rowan, medlar on dwarf rootstock or holly.

The current tree was planted as part of the development in 2016. I enclose a picture of it when newly planted, which shows the extensive repair to the ancient wall beside it. I understand much of this wall fell when scrub and hedgerow were being uprooted as part of the development. The wall in my garden is mostly still original and we need to be careful not to damage it further.

In 2019 a strong side shoot split away from the trunk, threatening the health of the tree. We corrected this by bolting the two stems together as a temporary measure to prevent disease and hazard from a falling limb. The mend has been successful to date but we intended to replace the tree with something healthier and more future-proof. Unfortunately, events conspired against this plan, first the covid lockdowns, [REDACTED] [REDACTED] this year we were due to start work after the summer holidays but put plans on hold when she broke her hip.

I hope if a TPO officer were to visit the tree he would agree that the trunk now leans towards the wall and both the roots and branches will now pose a threat to the wall if not replaced promptly. I have tried to call Landscape Services on extension 2686 but have not yet been successful. I'm happy to discuss further on the phone if you wish, my number is [REDACTED] [REDACTED]

YOURS SINCERELY

TRACEY HILTON

29, CROMWELL AVENUE
BILLERICAY
ESSEX
CM12 0AG



11 SEP 2023

Mr Burkin
No.9
Magistrates Court
Witham
Essex
Cm82ft

Date:30/08/2023

Ref: 07/2023/TPO
To the Development Manager,
Sustainable development,
Braintree District Council,
Causeway House,
Braintree
Essex
CM7 9HB

Dear Sir or Madam

We would like to make an objection to your recent letter, regarding the removal of the Sycamore tree (T6) located at the rear garden of no.9 Magistrates Court Witham.

As the property is for sale (Due to the recent death of our parent) the client intending to purchase the property inquired if the tree could be removed, due concerns about damage the tree could cause to the property.

We contacted Braintree council on behalf of the future client and was advised to look at the Braintree protective trees list.

The Sycamore tree T6 was not on the above list and we confirmed this to intending Client.

After receiving your letter on the 23/08/2023 this matter has now changed.

Our concerns are that a Sycamore tree has fine shallow aggressive roots which can cause building subsidence and also damage to the water, sewage and paving infrastructure.

The Sycamore tree could grow up to 30m and can span 22m. It should be at least 17m from any dwelling (T6 is 4.5m from dwelling and 3m from patio, also T6 is marked wrong on plan) and because the Sycamore is a fast growing tree, with shallow roots, it's a potential hazard in strong winds and it's heavy leaf and seed fall can cause damage to the flora/grass underneath the tree.

We are all in favour of preserving our environment but as this is Not a native tree in Britain and mainly planted in large recreation grounds, woodlands and hedgerows, which is another reason for it to be removed from a small garden, due to its close proximity in a residential dwelling.

We seriously believe that the Sycamore (T6) tree should have been removed when planning permission was granted, because of the above mentioned issue.

Sincerely
Mr Burkin