

PLANNING COMMITTEE AGENDA

Tuesday, 9th July 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 K Bowers
Councillor L Bowers-Flint
Councillor T Diamond
Councillor M Fincken
Councillor D Holland (Vice-Chairman)

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

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

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

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

Mobile Phones

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Webcast and Audio Recording

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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

PUBLIC SESSION

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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 28th May 2024 (copy previously circulated).

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 00706 FUL - Land North of New Street, HALSTEAD	5 - 34
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5b	App. No. 23 02534 FUL - Land West of Mill Lane, CRESSING	35 - 105
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6 Urgent Business - Public Session

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

7 Exclusion of the Public and Press

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

At the time of compiling this agenda there were none.

PRIVATE SESSION

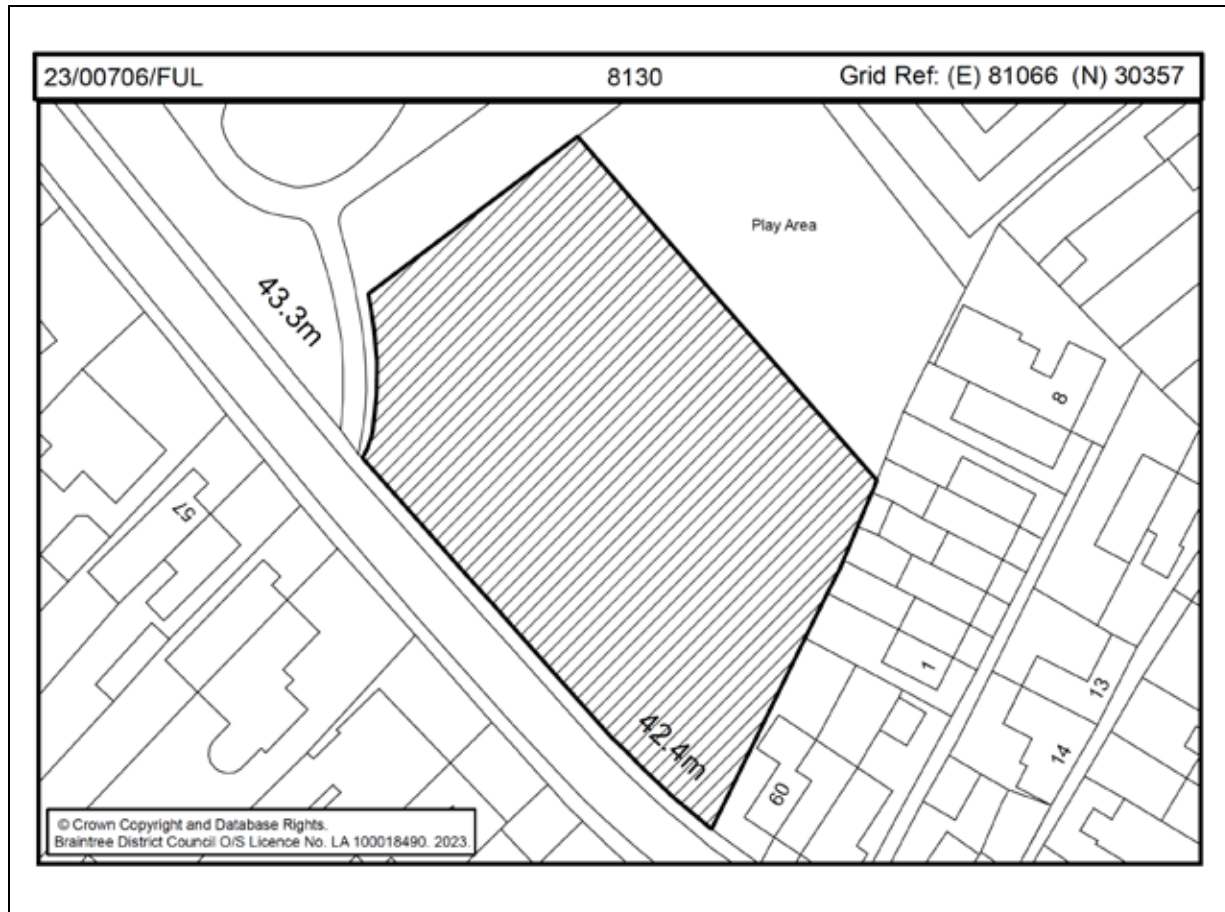
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8 Urgent Business - Private Session

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

Report to: Planning Committee		
Planning Committee Date: 9th July 2024		
For: Decision		
Key Decision: No		Decision Planner Ref No: N/A
Application No:	23/00706/FUL	
Description:	Erection of 4no Detached Dwellings	
Location:	Land North of New Street Halstead	
Applicant:	Mr Paul Bartholomew, 3 Driberg Way, Braintree, CM7 1NB	
Agent:	Mr Robert Pomery, Pomery Planning Consultants Ltd, Pappus House, Tollgate West, Stanway, Colchester, CO3 8AQ	
Date Valid:	11th April 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) Overturn 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>
Background Papers:	<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: 23/00706/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 site is 0.18 hectares in size and is located to the north east of New Street, Halstead. The site is just south of the town centre of Halstead and is located within the development boundary. The site has housing development to its south and east, and to the north and west is Halstead Public Gardens. The land was previously used by Age UK before they moved to the High Street and the buildings on the site were demolished in 2016. There are no Listed Buildings in the general vicinity, however, the site lies adjacent to the Halstead Conservation Area.
- 1.2 Along the frontage of the site are 5 category A lime and horse chestnut trees, 1 category B horse chestnut tree, 3 category C, lime, horse chestnut and cypress trees and 1 category U horse chestnut tree. To the rear of the site there are number of significant trees, which are located in the Public Gardens. These include two category A trees (beech and lime), 1 category B tree (Norway spruce) and 1 category C tree (holly).
- 1.3 The application is seeking full planning permission for the erection of four detached houses. Each property would have four bedrooms, three bathrooms, utility room, open plan lounge, kitchen, and dining room and snug, spread over three floors.
- 1.4 As the application site is located within the Town Development Boundary, new development is considered acceptable in principle pursuant to Policy LPP1 of the Adopted Local Plan.
- 1.5 Officers consider that the bulky and bland design of the four dwellings is not appropriate for the existing street scene and fails to provide sufficient private amenity space due to the close proximity of existing trees, in conflict with the guidance contained within Policies SP7 and LPP52 of the Adopted Local Plan.
- 1.6 The proposals also fail to comply with Policy LPP65 of the Adopted Local Plan, as suitable distances have not been retained to ensure the continued wellbeing of the trees to remain. It is considered that the proposals could result in an unacceptable level of loss or harm to the existing trees within the site, which add significantly to the character of this part of Halstead. Additional harm would be caused by the lack of specialist ecological information in support of the application.
- 1.7 Accordingly, the application is recommended for refusal.

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 site is owned by 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 site measures 0.18 hectares in size and is located to the north east of New Street, Halstead. The site is just south of the centre of Halstead and is located within the development boundary.
 - 5.2 The site has housing development to its south and east, and to the north and west is Halstead Public Gardens.
 - 5.3 The land was previously used by Age UK before they moved to the High Street and the buildings on the site were demolished in 2016.
 - 5.4 There are no Listed Buildings in the general vicinity, however, the site lies adjacent to the Halstead Conservation Area.
 - 5.5 Along the frontage of the site are 5 category A lime and horse chestnut trees, 1 category B horse chestnut tree, 3 category C, lime, horse chestnut and cypress trees and 1 category U horse chestnut tree. To the rear of the site there are number of significant trees, which are located in the Public Gardens. These include two category A trees (beech and lime), 1 category B tree (Norway spruce) and 1 category C tree (holly).
6. PROPOSAL
 - 6.1 The application is seeking full planning permission for the erection of four detached houses. Each property would have four bedrooms, three bathrooms, utility room, open plan lounge, kitchen and dining room and snug, spread over three floors.
 - 6.2 Each property would have two parking spaces, in tandem. The existing vehicle access from New Street would be utilised and used to provide access for all four properties.

7. SUMMARY OF CONSULTATION RESPONSES

7.1 Essex Fire and Rescue

- 7.1.1 Access - Access for Fire Service purposes has been considered in accordance with the Essex Act 1987 - Section 13. The proposal itself does not affect fire service access to existing premises in the vicinity. Fire service access to the proposed development appears sufficient, meeting the requirements of Section B5 Approved Document "B" Fire Safety Volume 1. More detailed observations on access and facilities for the Fire Service will be considered at Building Regulation consultation stage.
- 7.1.2 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).
- 7.1.3 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.
- 7.1.4 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.

7.2 BDC Ecology

- 7.2.1 Holding objection due to insufficient ecological information.

7.3 BDC Environmental Health

- 7.3.1 No objection. A number of conditions suggested.

7.4 BDC Landscape Services

7.4.1 Objection on arboricultural grounds - more details set out below.

7.5 BDC Waste Services

7.5.1 From the proposed site layout documents provided, it is not clear where the access road is for this proposed development. The 4 dwellings will need to present their waste to within 20 metres from where the waste collection vehicle can safely stop. The path between the properties and the point where the collection vehicle can stop needs to be level, free from shingle, and have drop kerbs installed where necessary.

7.6 ECC Highways

7.6.1 No objection subject to conditions requiring the submission of a construction management plan and the provision of residential travel packs for new occupiers.

7.7 Historic Buildings Consultant

7.7.1 While I have no objection in principle to the development of the site, the scheme does not sufficiently respond to or respect, the historic character of New Street. As a result, the scheme would stand out in contrast to the surrounding area and would not make a positive contribution to local character and distinctiveness, contrary to Paragraph 197c of the NPPF. (Comments made prior to December 2023 and publication of the new NPPF).

Updated comments on revised scheme

7.7.2 Considerable changes have been made to the materials, the orientation, design and the fenestration in the revised scheme. The dwellings have been rotated ninety degrees, with gables to the side to conform to the established development pattern. Red brick, instead of buff brick is now proposed, which is appropriate. The proportions of the front fenestration have been based on classical ratios and a sash window form is proposed at first floor. The round arched entrance and first floor window have been influenced by nearby examples. The balconies have been removed and stone detailing and a bay window have been incorporated. The integral garages have been replaced with a carport, with sedum roof. The appearance of the cartlodge is not clear in the drawings or the photo rendered images, but it appears to be open fronted. The lack of integral garages and garage doors in this design is a beneficial change. Welsh slate is proposed for the roof, along with aluminium windows (apparently replicating a sash form to the front at first floor) and black, cast iron rainwater goods. In general, the quality of the proposed materials is good and would be appropriate for the area.

7.7.3 As a result, the proposal is a markedly more considered and thoughtful response to the immediate area's local character, within the setting of the Conservation Area. The sedum roof is still perhaps incongruous, while the rear, west facing rooflight is somewhat large, yet on balance, the appearance of the development, is an improvement on the previous scheme, as it responds better to the local character. Regarding landscaping and boundaries, the boundary with New Street currently has mature trees, hedges and in particular, a set of iron railings. This form of boundary treatment is ideal for the immediate setting of the Conservation Area and in general, the drawings and photo-rendered images suggest this would be retained.

7.7.4 The revised proposal is a more fitting response to the historic character of New Street and while it would be identifiable as a contemporary development, it would not overtly contrast with the character and distinctiveness of the surrounding area. Therefore, I have no further objections. A number of conditions are requested.

8. PARISH / TOWN COUNCIL

8.1 Halstead Town Council

8.1.1 Halstead Town Council objected to the application on the grounds that it would represent inappropriate development not in keeping with the area and overlooking other properties.

9. REPRESENTATIONS

9.1 10 representations received from 9 addresses making the following comments:

- Insufficient car parking provision.
- Loss of on street parking.
- Disruption during construction (noise and dust).
- Where would contractors park?
- The application site should be used for parking for local residents.
- New Street is used as a 'rat run'.
- Loss of wildlife from the site.
- Will improvements be made to New Street?
- Concern about overlooking to children's play area to rear.
- Insufficient health facilities in the area.
- Local schools are over-subscribed.
- Concerned if mature trees along the road frontage were to be lost.
- Development is not in keeping with the wider Conservation Area.
- Development not in keeping with existing development along New Street.
- Loss of privacy.

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 year supply.
- 10.2.4 The Council acknowledges that a Planning Inspector has recently concluded that the Council had not evidenced 5 years housing land supply. The Planning Inspector agreed that sufficient evidence had been provided as part of the planning appeal for Land South of Springfields (Appeal Reference APP/Z1510/W/24/3338229) to evidence 4.9 years supply, with a shortfall of 67 dwellings. Officers are engaged in the process of obtaining further evidence to demonstrate the deliverability of some of the sites that the Planning Inspector excluded from the supply. The Council are confident that the additional evidence which is being secured will address the Inspectors concerns and provide the clear evidence required of a 5 year supply of housing land. As the Council maintains that it 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.

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 spatial strategy set out in the Adopted Local Plan within Policy SP3 is to concentrate growth in the most sustainable locations i.e. that promotes development in areas 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 Consequently, as 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 it is considered to be in a sustainable location which weights in favour of the development.

11.2 Heritage

- 11.2.1 Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states, *‘In the exercise, with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area’*.
- 11.2.2 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.
- 11.2.3 Paragraph 208 of the NPPF states that where a development proposal would 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.
- 11.2.4 Policy LPP47 of the Adopted Local Plan seeks to secure a high standard of design and layout in all new development and the protection and enhancement of the historic environment in order to respect and respond to

local context where development may affect the setting of listed buildings, conservation areas.

11.2.5 Policy LPP53 of the Adopted Local Plan encourages the preservation and enhancement of the character and appearance of designated Conservation Areas and their settings.

11.2.6 During the processing period of the application, the scheme has been amended with regard to its appearance and the Historic Buildings Consultant is now satisfied that from a heritage point of view the proposals would not be harmful. Officers have been given no substantive reason to come to a different conclusion on this matter and therefore conclude that the character and appearance of the Conservation Area would be preserved.

11.3 Urban Design

11.3.1 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.

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

11.3.3 Paragraph 139 of the NPPF 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.

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

11.3.5 Policy LPP52 of the Adopted Local Plan establishes that the Council will seek a high standard of layout and design in all developments and that there shall be no unacceptable impact upon the amenity of nearby properties. Policy LPP43 of the Adopted Local Plan requires parking to be in accordance with the Essex County Council Vehicle Parking Standards adopted SPD.

11.3.6 New Street is an eclectic mix of house types and sizes, including Victorian detached villas, modest Victorian semi-detached houses and simple terrace housing. All of these properties are two storey in height only. The proposals at hand are seeking planning permission for four large detached 2.5 storey properties which are considered to be an alien addition to the existing street scene of New Street. The houses would have roof with a much steeper

pitch than those that surround the site and would be considered to be out of keeping with the character of the area.

- 11.3.7 Officers consider that only the front elevation of the four dwellings appears to have been reasonably well designed, as the other parts of the dwellings lack articulation between elements. The single storey element at the back of the proposed dwellings shouldn't be as wide as the main range and therefore there would be no articulation between them and the rear gable projection and its side walls, which would be flush with the main body of the dwelling, giving rise to overly large bland flank elevations.
- 11.3.8 Officers conclude that the bulky, bland design of the four dwellings is not appropriate for the existing street scene, would represent poor design and therefore conflict with Policies SP7 and LPP52 of the Adopted Local Plan, as well as the NPPF.

11.4 Arboricultural Impacts

- 11.4.1 Policy LPP65 of the Adopted Local Plan acknowledges that the quality of trees is a material consideration and that where trees are to be retained, suitable distances should be provided to ensure their continued wellbeing.
- 11.4.2 Paragraph 136 of the NPPF states that trees make an important contribution to the character and quality of urban environments and that existing trees are retained wherever possible. Paragraph 180(b) of the NPPF requires decisions to recognise the wider benefits of trees and woodland.
- 11.4.3 The application is accompanied by an Arboricultural Impact Assessment (AIA) which concludes with the following:

All surveyed trees have been categorised in accordance with British Standard 5837 2012. Visual tree amenity value of the surveyed tree features is good, the trees can be seen from the publicly maintained highway and public open space / formal gardens. The trees are prominent features within the street scene. Occasional trees are in poor condition and as such their longer-term viability as an amenity asset is reduced – T2, T8, T9, T10 and T12. The tree features provide good landscape value, the trees help screen the site and reduce the perceptual load of the built form and hard roof line at and beyond the site boundaries. The trees do not form part of the historical landscape (hedgerow, pollards, coppice) or landform (ditches, ponds, woodland edge remnant etc), the trees are recent landscape additions. Although not historical / aged features, trees T1, T3, T4, T5, T6 and T7 are relatively old specimens and provide the street scene with a mature green infrastructure not often found within residential spaces. The wildlife value is reasonable, the structural diversity and connectivity is reasonable, with reasonable ground, sub and higher canopy layers which improves foraging, breeding, migratory and navigational opportunity for less mobile fauna. The trees are a mix of native and nonnative specimens, non -native trees tend to have limited numbers of

associated native insects. The trees range from early mature to mature specimens with a limited number of microhabitats, these tend to favour older / veteran specimens. No significant defects were noted during the site survey. Typical defects observed were ivy clad stems, small pruning and decay pockets, some of the Horse chestnut were affected by leaf blotch and showed symptoms of bleeding canker disease.

Supervised mechanical and hand excavation within sections of the RPA of T1, T3, T4, T5, T6, T7 and T14 will be required for the removal of existing hard surfaces and the preparation of levels for the no-dig construction of the access / parking and hard landscaping. The access is to be constructed as a starting phase of development and form part of the tree protection arrangements for trees T1, T3, T4, T5, T6 and T7, the finished surface may be left until after the intensive phase of development. The overring aim is to protect the rooting environment of the trees whilst allowing development access. A suitable method statement for hand and mechanical excavation is provided to limit the impact that would otherwise occur resulting in tearing of roots, soil compaction and unnecessary root loss. Tree works are recommended to trees T1, T2, T3, T4, T5, T6, T7 and T11 to improve crown clearance for the construction access and end use amenity spaces. The tree works are limited to basal clearance, crown lifting of sublateral and severing ivy, the works are considered routine and will not reduce the visual amenity provided or cause detriment to tree health No further tree works are required to facilitate construction of the proposal or access to the site. The trees can be adequately protected using temporary barriers and the no-dg construction, constructed as a starting phase of development to provide ground protection. Following development, the trees will not be further obscured from view, the development is therefore considered to have a low impact upon visual amenity value.

Tree protection and method statements have been provided within this report to reduce the risk of direct and indirect development related damage that may otherwise occur to the retained trees. In conclusion, assuming the method statements and tree protection are implemented as part of the development, the proposal can be constructed with reduced disturbance to the trees.

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

The impacts identified by the report are:

Tree removals – limited tree loss is required to facilitate the proposed development. T9 and G2 are proposed to be removed.

Root Protection Areas (RPAs) – *The proposal involves encroachment into the RPA of 8 trees (T1-7 inclusive, and T14). The level of encroachment stated ranges from new patio within 2.7% of T14, to 19.8% of T6 – extremely close to the maximum 20% advised.*

The encroachment is from new surfacing, with the building footprint entirely outside of RPAs.

With regard to RPA encroachment in general, I would reference BS5837:2012 Clause 5.3.1:

“The default position should be that structures are located outside the RPAs of trees to be retained. However, where there is an overriding justification for construction within the RPA, technical solutions might be available that prevent damage to the tree(s)... If operations within the RPA are proposed, the project arboriculturist should:

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

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

Pruning requirements – *it is not clear exactly what pruning would be required to facilitate the proposal, but there are references to cyclical pruning for almost all trees. I note the canopy of T11 is within metres of the proposed rear wall so it is unclear how this could be constructed without pruning.*

Other impacts – *the report provides limited detail on services/utilities, it is stated these should avoid RPAs where possible, and via trenchless methods if not. There is no specific detail given on construction working room, site storage etc. although a site storage area is shown on the TPP. The report states that the post development pressure on the trees will be low, despite noting the size, proximity of trees, and potential for issues with shade and leaf litter. The likely dominance of trees over rear gardens is not explored.*

Mitigation measures:

The report states that new surfacing will be no dig and a generic method statement is provided. Details of Tree Protection Fencing are also provided.

BDC Landscaping disagree with the conclusion of the report in several instances. With regard to the level of encroachment, the report shows the RPA of trees as the theoretical circle, with equal spread in all directions, but does not address the significant constraint of the road to the SW of T1-10 inclusive. BDC Landscaping also consider the report over estimates the extent and construction of existing surfacing within the site – it is highly likely that these trees will be using the site preferentially for root growth, which would potentially increase the impact from the proposal.

Further, the report states that the site has minimal level change which is crucial for successful use of no-dig surfacing, but no cross sections or additional information on existing /proposed levels is provided.

The lack of working room consideration is also a concern – the proposed TPF positioning does not appear viable, and works would appear to be

directly abutting the stem of T6 – the plans do not allow confidence that trees could be adequately protected during construction.

Finally, BDC Landscaping consider the report significantly underplays the post development relationship between trees and the proposal. The 4 large dwellings as proposed will have their gardens and outlook dominated by several large trees, and consider the pressure to unsympathetically prune or remove these trees will significantly increase.

The proposal appears overdevelopment of the site in terms of arboricultural balance, would refer to Policy LPP65 Tree Protection:

“Where trees are to be retained on new development sites there must be a suitable distance provided between the established tree and any new development to allow for its continued wellbeing and ensure it is less vulnerable to pressures from adjacent properties for its removal”. This has not been adequately demonstrated, and taking all the above concerns into account and BDC Landscaping believe the proposal has potential for significant arboricultural harm.

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

11.5 Ecology

- 11.5.1 Policy LPP66 of the Adopted Local Plan states that if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or as a last resort, compensated for, then planning permission should be refused.
- 11.5.2 Policy LPP64 of the Adopted Local Plan requires that where there is a reasonable likelihood of protected or priority species being present on or immediately adjacent to the development site, the developer undertakes an ecological survey to demonstrate that an adequate mitigation plan is in place to ensure no harm or loss to such species.
- 11.5.3 Paragraph 180(d) of the NPPF requires that proposals minimise their impacts on, and providing net gains for, biodiversity. Paragraph 186 requires that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or as a last resort compensated for, then planning permission should be refused.
- 11.5.4 The Council's Ecologist has reviewed the documents submitted with this application and it is noted that no ecological assessment has been provided to determine impacts on protected and Priority Species/Habitats and identification of proportionate mitigation. Therefore, the Council's Ecologist conducted a Desk Study by reviewing the Magic Maps, non-statutory

designated sites, site photos and BDC aerial images, to help assess the likely impacts of the development on designated sites, protected and Priority species and habitats.

Statutory Designated Sites

- 11.5.5 The desk study confirms that the application site is located within the 22km Zone of Influence (ZOI) for the Blackwater Estuary Special Protection Area (SPA) & Ramsar site and the Essex Estuaries Special Area of Conservation (SAC). Therefore, Natural England's standard advice should be followed to ensure compliance with the Habitats Regulations. As a result, the LPA is advised that a financial contribution should be secured in line with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS), which would need to be secured by a legal agreement or S111 payment which has been paid. The LPA also need to prepare a Habitat Regulations Assessment - Appropriate Assessment record prior to determination to identify any adverse effects on site integrity and secure the developer contribution for delivery of visitor management at the Habitats sites. The Council's Ecologist notes that this has been completed. Further, the proposed development is within the Impact Risk Zone (IRZ) of Belchers and Broadfield Woods Special Scientific Interest (SSSI) and Chalkney Wood SSSI. However, the proposal does not trigger further consultation with Natural England, and as the proposed development site is located a sufficient distance away from the designated sites, no further mitigation measures are required, and no further consideration is required for this statutory designated site.

European Protected Species (Great Crested Newt)

- 11.5.6 The desk study also confirms that there is a pond located approximately 80 metres north west of the application site. Therefore, a Habitat Suitability Index assessment for Great Crested Newts (GCN) should be conducted for all ponds within 500 metres to determine the likelihood of the site supporting the species. Further surveys should then be conducted if any ponds are considered likely to support the species, unless reasonable judgement can be made why further surveys are not required. This should preferably include reference to the Natural England Rapid Risk Assessment Calculator, to justify the likelihood of an offence occurring for this European Protected Species. Any GCN surveys conducted should be completed prior to determination of this planning application to ensure that LPA has certainty of impacts for this Protected Species. If the presence of GCN is identified, then the Applicant's ecologist should demonstrate that the mitigation hierarchy has been applied and whether an EPS mitigation licence will be required from Natural England to allow the development to lawfully proceed.

European Protected Species (Bats)

- 11.5.7 Any trees proposed to be lost to development would need to be assessed for Potential Roost Features for Bats and any not scoped out would require

at height inspection or emergence survey to provide certainty of likely impacts on Bats. Additionally, the impacts of any proposed lighting should be considered in respect of foraging and commuting bats, and other light sensitive species.

UK Protected Species (Reptiles)

- 11.5.8 It is recommended that an ecological assessment should include assessment of the likelihood of reptile species being present within the site. If the habitat affected is considered suitable, then a reptile presence / likely absence survey may be required for this application, to establish the presence/population size of reptiles present on site and inform appropriate mitigation and compensation measures.

Priority Species (Hedgehog)

- 11.5.9 The site appears to contain suitable foraging habitat for hedgehogs. Therefore, further ecological information should be submitted to identify the likely impacts of the proposal upon these species. If impacts are considered possible, then precautionary measures should be outlined to avoid potential killing and injury of these species.

Priority Habitat

- 11.5.10 Considerations for Priority habitats should be undertaken within the ecological assessment, even if they are subsequently scoped out.

Nesting Birds

- 11.5.11 The Council's Ecologist also advises that consideration should be given to the potential presence of nesting birds due to the suitability of habitat on the application site which may be affected by the development proposals through clearance and/or removal. The Applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning permission for a development does not provide a defence against prosecution under this act.
- 11.5.12 Trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are not present.
- 11.5.13 Any report accompanying a planning application should follow CIEEM guidelines (these also comply with BS42020). Guidelines include Preliminary Ecological Appraisal Report, Guidelines for Ecological Impact Assessment and Ecological Report Writing. Consequently, this further information is required to provide the LPA with certainty of impacts on

legally protected and Priority species and enable it to demonstrate compliance with its statutory duties, including its biodiversity duty under s40 NERC Act 2006.

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

11.6 Amenity for Future Occupiers

- 11.6.1 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 of the Adopted Local Plan requires all new development to be in accordance with the Nationally Described Space Standards (NDSS). Policy SP7 of the Adopted Local Plan states that development should protect the amenity of existing and future residents and users with regard to noise, vibration, smell, loss of light, overbearing and overlooking.
- 11.6.2 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 a four bedroom, 7 person occupancy house spread over three floors, a minimum floor area of 121sq.m is required. Based on the submitted floor plans, each property would have a floor area that exceeds this.
- 11.6.3 The Essex Design Guide 2005 sets out that each dwelling with three or more bedrooms should have a garden of 100sq.m as a minimum. Whilst the submitted plans indicate that each property would be served by a garden of 100sq.m, Officers consider that these spaces would be unacceptably compromised by the existing mature trees to the rear of the site, located in the Public Gardens. Officers consider that these north facing gardens would have significantly reduced outlook and light due to the position of the existing trees, and this would highly likely lead to future pressure to reduce the crowns or remove the mature trees in the Public Gardens altogether.
- 11.6.4 Officers also consider that given the maturity of the existing trees to be retained along the frontage of the site, the outlook and light serving the front elevations of the proposed dwellings would be compromised to a point that the future living conditions of the development’s occupants would be deemed to be unacceptable.
- 11.6.5 The proposals would therefore result 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.

11.7 Impact upon Neighbouring Residential Amenity

- 11.7.1 Policy LPP52 of the Adopted Local Plan highlights considerations of privacy, overshadowing, loss of light and overbearing impact as being key in the assessment of impacts upon nearby properties. Policy SP7 of the Adopted Local Plan states that development should protect the amenity of existing and future residents and users with regard to noise, vibration, smell, loss of light, overbearing and overlooking.
- 11.7.2 Paragraph 135 of the NPPF seeks to ensure good standards of amenity for existing and future users whilst Paragraph 191 seeks to ensure that new development is appropriate for its location taking into account the likely effects on living conditions including noise and light pollution.
- 11.7.3 To the east of the application site is a terrace of properties known as Brook Place, which lie perpendicular to New Street. Nos 1 to 3 Brook Place have rear gardens that are approximately 8m in depth and their outlook would be dominated by a blank two storey flank elevation with a depth of 9.5m close to their rear boundaries. The eastern corner of the proposed Plot 4 dwelling would be as close as 3m from the rear garden boundaries of these properties. This distance increases to 5.3m, but overall is considered unacceptably close and contrary to the minimum 15m building to building distance advocated by the Essex Design Guide.
- 11.7.4 Clearly the rear outlook from these properties in Brook Place would change following the introduction of the new dwellings, and Officers consider that an insufficient distance would be maintained between the two to ensure that the amenity of the existing residents would not be materially harmed, in conflict with Policies SP7 and LPP52 of the Adopted Local Plan.

11.8 Highway Considerations

- 11.8.1 Paragraph 115 of the NPPF states that “Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.” Paragraph 116 of the NPPF states that within this context, development should “*give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas...*” and “*...create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles.*”
- 11.8.2 The Highway Authority have raised no objection to the scheme, subject to conditions relating to submission of a construction management plan and the provision of a travel pack for each new property.
- 11.8.3 Policy LPP43 of the Adopted Local Plan seeks to ensure sufficient vehicle/cycle parking is provided within new developments.

- 11.8.4 The Essex Parking Standards 2009 require a minimum of two spaces per four bedroom house, which results in a requirement for 8no spaces. In addition to this 1no visitor parking space would be required. The plans indicate that 8no car parking spaces would be provided, along with one visitor space.
- 11.8.5 The parking standards state that the preferred bay size for cars would be 5.5m by 2.9m, and all of the proposed parking spaces would meet this requirement.
- 11.8.6 Comments made by local residents raise concerns about the impact the development would have on the existing on-street parking situation in New Street. A number of nearby properties, given their age and proximity to the road, do not have off-street car parking and their occupiers are reliant upon parking their vehicles along New Street.
- 11.8.7 Although the proposal cannot address current parking issues, any new development should not contribute to a rise in on-street parking. Officers consider that the parking provision complies with Policy LPP43 of the Adopted Local Plan and is acceptable in this regard.
- 11.9 Habitat Regulations Assessment (HRA / RAMS)
- 11.9.1 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.
- 11.9.2 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.
- 11.9.3 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.
- 11.9.4 The proposed mitigation measures would consist of the securing of a financial contribution of £163.86 per dwelling erected towards offsite visitor management measures at the above protected sites.
- 11.9.5 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

12.1.1 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).

12.1.2 The presumption in favour of sustainable development sits at the heart of the NPPF. The Framework is clear in its instruction at Paragraph 11d, that for decision-taking this means where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date (this includes, for applications involving the provision of housing, situations where: (a) the local planning authority cannot demonstrate a five year supply (or a four year supply, if applicable, as set out in Paragraph 226) of deliverable housing sites (with a buffer, if applicable, as set out in Paragraph 77) and does not benefit from the provisions of Paragraph 76; or (b) where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirement over the previous three years), granting permission unless:

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

12.1.3 As indicated above, the Council's latest 5 Year Housing Land Supply position for 2023-2028 shows that the Council has a 5.8 year supply. Whilst the appeal decision Land South of Springfields (Appeal Reference APP/Z1510/W/24/3338229) saw the Planning Inspector conclude that the Council had only been able to provide sufficient evidence to demonstrate a

4.9 years supply, the assessed shortfall was just 67 dwellings. Since the appeal decision Officers have been working to obtain further evidence to demonstrate the deliverability of some of the sites that were excluded from the supply. Officers remain confident that additional evidence is being secured which will provide the required clear evidence of a 5 year supply of housing land in the District. On the basis that the Council can demonstrate an up to date 5 year housing land supply, and because the most important policies for determining the application are not out of date, the presumption (at Paragraph 11d of the Framework) is not engaged. Consequently, and given that the Plan has only been relatively recently adopted, the policies within the Development Plan are considered to have full weight in decision making.

12.2 Development Boundary Designation within the Development Plan

12.2.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Paragraph 15 of the NPPF emphasises that the planning system should be “genuinely plan led”.

12.2.2 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, 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.

12.3 Summary of Adverse Impacts

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

Harm to the Character and Appearance of the Area

12.3.2 The proposals would introduce four bulky and blandly designed dwellings that are not appropriate for the existing street scene. Furthermore, the proposal fails to demonstrate that the development could be accommodated within the site without significant harm to the existing mature trees that line the frontage, and their loss would be harmful to the character and appearance of the area, contrary to Policies SP7, LPP52 and LPP65 of the Braintree District Local Plan 2013-2033 and the National Planning Policy Framework. Significant weight is attached to these harms.

Harm to living conditions of future occupiers

12.3.3 The proposed development would fail to provide sufficient quality internal living environments or private amenity space to future occupants, due to

the close proximity of existing trees to the front and rear of the new dwellings, which would likely give rise to overshadowing and poor outlook. This is in conflict with Policies SP7 and LPP52 of the Adopted Braintree District Local Plan (2013-2033) and the National Planning Policy Framework. Significant weight is attached to these harms.

Harm to living conditions of existing residents

- 12.3.4 By virtue of the close proximity of the south east flank elevation of the proposed Plot 4 dwelling and the rear elevations and gardens of Nos 1-3 Brook Place, it is considered that an insufficient distance would be maintained between them, and existing residents would be materially harmed by way of a loss of outlook, in conflict with Policies SP7 and LPP52 of the Adopted Local Plan. Significant weight is attached to this harm.

Harm to Protected Species

- 12.3.5 The proposal fails to provide sufficient information regarding ecological features within the site, contrary to Policy LPP64 of the Braintree District Local Plan 2013-2033 and the National Planning Policy Framework. Significant weight is attached to this harm.

12.4 Summary of Public Benefits

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

Delivery of Market and Affordable Housing

- 12.4.2 The development would deliver 4no market dwellings. The LPA can demonstrate a 5 year housing land supply, therefore only limited weight is assigned to this benefit due to the limited scale of development.

Location and Access to Services and Facilities

- 12.4.3 There would be a limited environmental impact, resulting from the site's sustainable location which is set close to the centre of Halstead town and within reasonable and safe walking/cycling distance to services and facilities. This meets the objectives of Policies SP7 and LPP42 and can be afforded moderate weight in the planning balance.

Economic and Social Benefits

- 12.4.4 The development would accrue social benefits with the provision of dwellings and economic benefits during the construction period and thereafter from the expenditure of future occupiers in the local economy. However, given the scale of development only moderate weight is assigned to this.

12.5 Conclusion and Planning Balance

- 12.5.1 Taking into account the above, while the proposal complies with some Development Plan policies which weigh in favour of the proposal, it is considered that the proposal conflicts with the Development Plan as a whole. Officers consider that the proposals would be contrary to Policies SP7, LPP52, LPP64, LPP65 and LPP66.
- 12.5.2 As set out within Paragraph 47 of the NPPF, planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In this case, an important material consideration is whether the Council can demonstrate a 5 Year Housing Land Supply and consequently, whether Paragraph 11d) of the NPPF is engaged.
- 12.5.3 As indicated above, the Council is currently able to demonstrate a 5 Year Housing Land Supply and therefore Paragraph 11d) of the NPPF is not engaged.
- 12.5.4 When considering the planning balance and having regard to the adverse impacts and benefits outlined above, Officers have concluded that the adverse impacts of granting permission would outweigh the benefits, when assessed against the policies in this Framework taken as a whole. Consequently, Officers consider that there are no material considerations that indicate that a decision should be made other than in accordance with the Development Plan. It is therefore recommended that planning permission is refused for the proposed development.
- 12.5.5 Notwithstanding the above, if the 'tilted balance' was engaged, it is considered that the adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Against this context, it would be recommended that planning permission be refused for the proposed development.

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
Proposed Site Plan	0971_A_SC_04	B
Proposed Ground Floor Plan	0971_A_SC_05	B
Street elevation	0971_A_SC_06	B
House Types	0971_A_SC_11	B
3D Visual Plan	0971_A_SC_CGI_01	N/A
Proposed Elevations	0971_A_SC_12	B
Location Plan	0971_A_SC_01	N/A
Existing Site Plan	0971_A_SC_03	N/A

Reason(s) for Refusal

Reason 1

The proposed development would introduce four bulky and blandly designed dwellings that are not appropriate to the existing street scene. Furthermore, the Applicant has not demonstrated that the site could satisfactorily accommodate the 4no dwellings proposed without causing significant harm to the existing mature trees along the road frontage, the loss of which would have a detrimental impact on the character and appearance of the area. The scheme conflicts with Policies SP7, LPP52 and LPP65 of the Adopted Braintree District Local Plan (2013-2033) and the National Planning Policy Framework.

Reason 2

The proposed development would fail to provide sufficient quality internal living environments or private amenity space to future occupants, due to the close proximity of existing trees to the front and rear of the new dwellings, which would likely give rise to overshadowing and poor outlook, with consequent detrimental effects upon residential amenities. This is in conflict with Policies SP7 and LPP52 of the Adopted Braintree District Local Plan (2013-2033) and the National Planning Policy Framework.

Reason 3

By virtue of the close proximity of the south east flank elevation of the proposed plot 4 dwelling and the rear elevations and gardens of Nos 1-3 Brook Place, it is considered that an insufficient distance would be maintained between them and existing residents would be materially harmed by way of a loss of outlook, in conflict with Policies SP7 and LPP52 of the Adopted Local Plan.

Reason 4

The proposal fails to provide sufficient information regarding ecological features within the site, contrary to Policies LPP64 and LPP66 of the Braintree District Local Plan 2013-2023 and the National Planning Policy Framework.

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)
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
LPP35	Housing Mix, Density and Accessibility
LPP42	Sustainable Transport
LPP43	Parking Provision
LPP47	Built and Historic Environment
LPP52	Layout and Design of Development
LPP53	Conservation Areas
LPP64	Protected Sites
LPP65	Tree Protection
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity

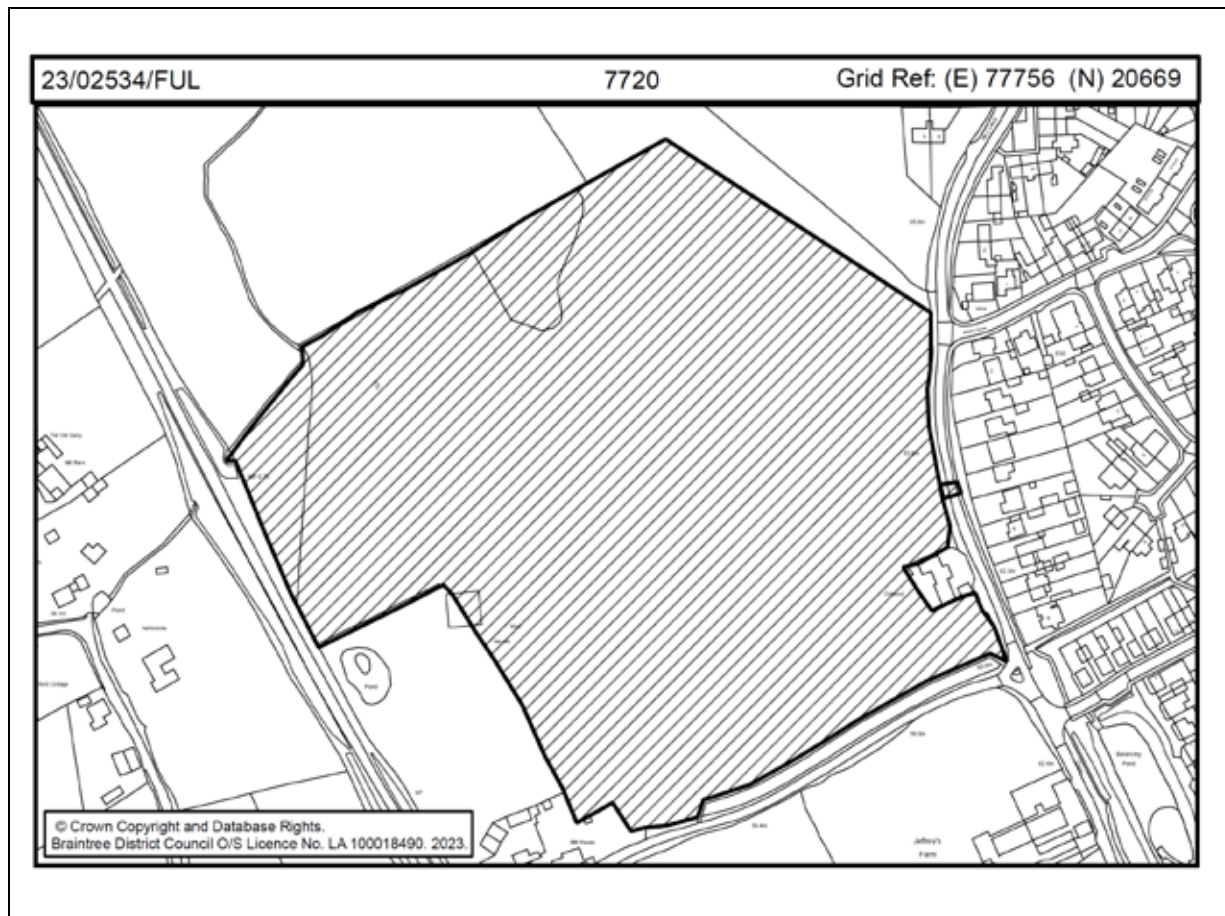
APPENDIX 3:

SITE HISTORY

Application No:	Description:	Decision:	Date:
12/00787/PDEM	Application for Prior Notification of Proposed Demolition - Demolition of building	Permission Required	29.06.12

Report to: Planning Committee		
Planning Committee Date: 9th July 2024		
For: Decision		
Key Decision: No		Decision Planner Ref No: N/A
Application No:	23/02534/FUL	
Description:	Development of 78 bungalows consisting of bungalows for market sale with an age restriction (over-55's) and affordable housing bungalows with no age restriction; with the provision of public open space, including allotments, community building, associated works and the change of use of land from agricultural to domestic garden (resubmission of 21/00749/FUL).	
Location:	Land West of Mill Lane, Cressing	
Applicant:	M Scott Properties Ltd, Suite 5, Oyster House, Severalls Lane, Colchester, CO4 9PD	
Date Valid:	12th October 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) Overturn 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:	Neil Jones For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2523, or by e-mail: neil.jones@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>
Background Papers:	<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: 23/02534/FUL.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> § National Planning Policy Framework (NPPF) § Braintree District Adopted Local Plan Review (2013-2033) § Cressing Neighbourhood Plan § 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 policy documents can be viewed on the Council's website: www.braintree.gov.uk</p>

1. EXECUTIVE SUMMARY

- 1.1 The application site comprises approximately 9.15 hectares of agricultural which is located to the west of Mill Lane and to the north of Bulford Mill Lane, Tye Green, Cressing.
- 1.2 The site consists of large irregular shaped field with a small copse and pond on the western edge. The site is mainly bounded by established hedgerows with some trees. On the north east side there is an open boundary defined by a footpath (PRoW 20); and a single bungalow, known as Colwood, is located projecting into the boundary on Mill Lane.
- 1.3 A high voltage pylon run and overhead electricity cables cross the site, and along the Bulford Mill Lane boundary, a path has recently been constructed providing improved pedestrian access for part of the route between Tye Green and Cressing station. Both Bulford Mill Lane and Mill Lane to the south of their respective junction are identified as Protected Lanes in the adopted Braintree District Local Plan 2013-2033, adopted July 2022.
- 1.4 Full planning permission is sought for the development of 78 bungalows consisting of bungalows for market sale (47no) with an age restriction (over-55's) and affordable housing bungalows (31no) with no age restriction; with the provision of public open space, including allotments, a community building, associated works and the change of use of land surrounding Colwood from agricultural to domestic garden.
- 1.5 The scheme constitutes a resubmission of planning application 21/00749/FUL which was withdrawn in October 2023, to allow for amendments to be made to the scheme, including the correct service of land ownership certificates. It also constitutes a reduction in the total number of units by 2no.
- 1.6 The proposed development would essentially comprise two distinct elements: the eastern parcel, which would amount to the residential zone, including its internal road layout leading from a new vehicular access provided off Mill Lane; and the western parcel (measuring approximately 4ha) is designed to deliver environmental and social infrastructure for both new residents of the scheme and existing residents in Tye Green, Cressing.
- 1.7 The residential element of the scheme has been designed to meet the needs of older people whilst recognising that not all older people want or need extra care accommodation or sheltered housing.
- 1.8 Notwithstanding the above, the site falls outside of the Tye Green settlement development boundary and the proposal is not a use appropriate to the countryside. It is therefore deemed to be unacceptable as a matter of principle, pursuant to Policy LPP1 of the Braintree District Local Plan 2013 – 2033. The principle of the proposed development is also contrary to Policy LPP33 of the Adopted Local Plan, which stipulates that

new specialist housing sites in the countryside will not be supported, and Policy 7(C) of the Cressing Parish Neighbourhood Plan 2017-2033 which indicates that proposals for new housing outside of settlement boundaries should be an exception and comprise small-scale self-build or custom-build schemes. In addition, whilst not constituting a reason for refusal in its own right the development of this site is not considered to be a logical extension to the settlement and would run counter to the prevailing pattern of development within the locality, with the development urbanising an area that currently constitutes a positive part of the rural setting of the village. The loss of a 35m length of established hedgerow, and localised visual effects particularly during the early years following development all result in harm that would weigh against the development in the planning balance.

- 1.9 Officers do not consider that there are any material considerations that should lead the Council to make a decision that is contrary to the Development Plan and consequently planning permission is recommended for refusal.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

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

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

- 5.1 The application site comprises approximately 9.15 hectares of agricultural which is located to the west of Mill Lane and to the north of Bulford Mill Lane, Tye Green, Cressing.
- 5.2 The site consists of large irregular shaped field with a small copse and pond on the western edge. The site is mainly bounded by established hedgerows with some trees. On the north east side there is an open boundary defined by a footpath (PRoW 20) which runs immediately parallel but outside the site boundary; and a single bungalow, known as Colwood, is located projecting into the boundary on Mill Lane.
- 5.3 A high voltage pylon run and overhead electricity cables cross the site, and along the Bulford Mill Lane boundary, a path has recently been constructed providing a pedestrian access for part of the route between Tye Green and Cressing station. Both Bulford Mill Lane and Mill Lane to the south of their respective junction are identified as Protected Lanes in the adopted Braintree District Local Plan 2013-2033, adopted July 2022.
- 5.4 To the west, open fields separate the site from the Braintree to Witham railway line which runs in a north-south direction some 300-400m from the site boundary. The railway is in a slight cutting as it leaves Cressing Station to the south of the site. Further west, the River Brain meanders along its valley floor with some sporadic woodland at the side of the watercourse. The village of Black Notley and the hamlet of The Green lie to the west and south west of the river respectively, with the Notleys Golf Club intervening, approximately 0.5km to the south west of the site. To the south east, on the opposite side of the Mill Lane/Bulford Mill Lane junction is the recent 118no. dwelling Bellway development, Crozier Drive, with more established housing from the 1970's due north of that, and on the other side of Mill Lane to the application site.
- 5.5 The site is located on the rising slopes to the north east of the valley of the River Brain. The 60m contour runs through the centre of the site in a north -

south orientation. The River Brain itself is located at this point at 30-35m AOD. The valley slopes continue to the west of the site with the village of Tye Green being at approximately 65m on the western side of the settlement. To the west of the site, the contours rise on the west side of the valley up to the settlements of Black Notley and The Green at approximately 1km from the site.

- 5.6 There are a number of listed buildings in the vicinity of the site: Jeffrey's Farm, Bulford Mill, Bulford Mill House, Bulford Mill barns and farmhouse are all Grade II listed and are within 2km of the site.

6. PROPOSAL

- 6.1 Full planning permission is sought for the development of 78 dwellings consisting of bungalows for market sale (47no) with an age restriction (over-55's) and affordable housing bungalows (31no) with no age restriction; with the provision of public open space, including allotments, a community building, associated works and the change of use of land surrounding Colwood from agricultural to domestic garden. The scheme constitutes a resubmission of planning application 21/00749/FUL which was withdrawn in October 2023, to allow for amendments to be made to the scheme, including the correct service of land ownership certificates. This application also constitutes a reduction in the total number of units by 2no. compared to the 2021 application.
- 6.2 The proposed development would essentially comprise two distinct elements: the eastern parcel, which would amount to the residential zone, including its internal road layout leading from a new vehicular access provided off Mill Lane; and the western parcel (measuring approximately 4ha) is designed to deliver environmental and social infrastructure for both new residents of the scheme and existing residents in Tye Green, Cressing.
- 6.3 The residential element of the scheme has been designed to meet the needs of older people, whilst recognising that not all older people want or need extra care accommodation or sheltered housing. The bungalows would be capable of adapting to changing circumstances and features of them would include:
- § Secured by Design accreditation (such as that achieved by the Applicant for the Coulson Gardens development on the former Braintree College site in Bocking);
 - § Care Call System wiring installed; which can be activated by the occupier if, and when, the need arises; and
 - § 'B' rated energy efficiency construction with Air Source Heat Pumps for space heating and hot water, integrated low energy appliances and wiring for electric vehicle (EV) charging points.

- 6.4 Reference has been made by the Applicant to the Government's Planning Practice Guidance (PPG) entitled 'Housing for older and disabled people.' The PPG states that 'Older people' are defined in the NPPF as:

"People over or approaching retirement age, including the active, newly retired through to the very frail elderly; and whose housing needs can encompass accessible, adaptable general needs housing through to the full range of retirement and specialised housing for those with support or care needs."

- 6.5 The Applicant proposes that occupation of the market house is restricted to people aged over 55. It could be said however that persons between the age of 55 and mid to late 60's are not 'older people', particularly because of the state pension age currently being 67 years old, which is likely to be extended in the future to 68+. Therefore, it is quite possible that a proportion of the proposed dwellings could accommodate future residents not falling within that category and which could be considered to be general needs housing, at least when occupied by them. Further it is noted that the application is not seeking planning permission for a C2 Residential Institutional or Specialist Housing use, simply 47no. open market bungalows which could (Officer emphasis) be adapted to meet the changing needs of their occupants for example through the installation of a Care Call System.

- 6.6 The Applicant's design approach has been to implement a wide range of variable house types from 1no bed to 4no beds; from a mix of detached, semi-detached, and terraced 'almshouse' style properties. A palette of materials is proposed, with red and buff brick, weatherboard and render being the main solution to the external elevations and a mix of grey and brown roof tiles. The proposed mix of housing is:

	Market	Affordable	Total
1-Bed	-	11	11
2-Bed	15	18	33
3-Bed	29	2	31
4-Bed	3	-	3
TOTAL	47	31	78

- 6.7 With regard to the western parcel within the site, this aspect of the proposals include the provision of space for allotment plots; a dog exercise area; enhanced/alternative pedestrian links to Cressing railway station; the enhancement of mature vegetation and creation of wildlife habitat/corridors; the provision of amenity green space as public open space; along with areas of landscaped water bodies (i.e. ponds) to provide surface water attenuation for the residential element. A community building is also proposed to be provided adjacent to the proposed allotments.
- 6.8 Officers have continued to maintain a dialogue with the Applicant during the processing period of the planning application and a number of further revisions have been made, as follows:

- § Removal of short length of private drive adjacent to site entrance;
- § Introduction of additional pedestrian crossing point to north of Site access;
- § Carriageway details including:
 - § Raised tables; and
 - § 500mm no build areas to the sides of shared surface streets.
- § Addition of larger turning heads to facilitate emergency vehicular access;
- § Conservatories removed to regularise private gardens;
- § Layout of allotments and boundary treatment; and
- § Architectural and layout alterations including:
 - § Increased natural surveillance to public open spaces from dwellings;
 - § Reduction in roof pitch;
 - § Introduction of a plinth to all properties;
 - § Increased use of render; and
 - § Community building design

6.9 A suite of revised plans were submitted in April 2024 which covered the issues listed above. During review of the revised plans it was noted that the Arboricultural Survey Implications Assessment had not been updated to reflect changes to the site access required by the Highway Authority. The Applicant produced an updated report and as a consequence the Applicants landscape consultant also produced an addendum statement with revised wireline images to reflect the increased extent of hedge that would need to be removed. The submission of the revised plans and documents were subject to publicity, to allow interested parties to comment, in April and May 2024.

6.10 The following documents have been submitted as forming part of the planning application, including those revised since the previous scheme was withdrawn and during the determination period of the current one:

- § Planning application forms and covering letter;
- § Design and Access Statement;
- § Design Response Update;
- § Site Location Plan;
- § Topographical Survey;
- § Masterplan Layout;
- § Garden Sizes & Plot Distances Plan;
- § Housing Mix and Tenure Plan;
- § Building Heights Plan;
- § Highways Visibility and Amendments Plans;
- § Lighting Strategy Plan;
- § Parking Plan;
- § Refuse Strategy Plan;
- § Materials Plan;
- § Materials Schedule;
- § Plans and Elevations for each house type and garages;

- § Community building floor plans & elevations;
- § Planning Statement;
- § Statement of Community Involvement;
- § Transport Assessment;
- § Landscape & Visual Appraisal and Addendums;
- § Update Ecology letter, including originally submitted Preliminary Ecological Assessment, Breeding Bird Survey and eDNA Technical Note;
- § Biodiversity Net Gain Feasibility Report;
- § Arboricultural Survey Implications Assessment;
- § Flood Risk Assessment and Addendum;
- § Built Heritage Statement;
- § Archaeological Desk-Based Assessment;
- § External Lighting Strategy; and
- § Contaminated Lane Phase 1 Desk Study and Addendum.

7. SUMMARY OF CONSULTATION RESPONSES

7.1 Anglian Water

7.1.1 No objection.

7.1.2 The foul drainage from this development is in the catchment of White Notley 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 permission and would therefore take the necessary steps to ensure that there is sufficient treatment capacity should planning permission be granted.

7.1.3 The sewerage system at present does have available capacity for the flows emanating from the development.

7.1.4 From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets. As such, they are unable to provide comments in the suitability of the surface water management.

7.2 Cadent Gas

7.2.1 No objection. However, they state that there is a High pressure gas pipeline that is in close proximity to the development, no buildings are permitted to be sited within 3m of it.

7.3 Essex County Fire and Rescue

7.3.1 No objection. Access for Fire Service purposes has been considered in accordance with the Essex Act 1987 and Building Regulations requirements. More detailed observations on access and facilities for the Fire Service will be considered at Building Regulation consultation stage.

7.4 Essex Police

- 7.4.1 No objection. Braintree District Local Plan 2022 Policy LPP52 states new development should promote a safe and secure environment, crime reduction and prevention, with the maximum amount of natural surveillance incorporated into schemes; appropriate lighting; and should not have a detrimental impact on the safety of highways or any other public right of way.
- 7.4.2 Essex Police have worked with this Applicant on other developments where they have successfully achieved Secured by Design Gold awards. The Applicant is currently in consultation with the Police with the intention of achieving the same award for this development. An SBD award is only achieved by compliance with the requirements of the relevant Design Guide, ensuring that risk commensurate security is built into each property and the development as a whole benefitting both the resident and wider community.
- 7.4.3 They have also reviewed the content of the application and provided comment on how the proposed development impacts upon the Essex Police policing priorities and provides initial considerations to development and infrastructure proposals.

7.5 National Highways

- 7.5.1 No objection.

7.6 National Grid

- 7.6.1 No objection. The proposal is in close proximity to a High Voltage Transmission Overhead Line – Electricity Tower, Overhead Electricity Line, Low Pressure Gas Mains, Medium Pressure Gas Mains, Local High Pressure Gas Mains, Above Ground Gas Installation but no objection is raised.

7.7 Network Rail

Initial Consultation Response (31st Jan 2024)

- 7.7.1 Holding Objection - Network Rail strongly recommends the developer complies with the following comments and requirements to maintain the safe operation of the railway and protect Network Rail's infrastructure: It is expected that the development would lead to an increase in the usage of Raffels public footpath level crossing which is used by approximately seven pedestrians per day. The footpath over this crossing provides a circular walk and have concerns regarding the expected increase in the usage of Raffels crossing and would like to urge the developer to work with them to agree on a strategy to mitigate the potential risks. One possible solution could be the installation of Miniature Stop Lights (MSLs).

Updated Consultation Response (21st May 2024)

7.7.2 Network Rail would like to request input into the Travel Pack for new residents to raise awareness of level crossing safety and additionally suggest improvements to railway boundary fencing alongside the development may be required.

7.8 NHS

7.8.1 No objection subject to a financial contribution being secured. The proposed development would likely have an impact on the services of the Surgeries which operate within the vicinity of the application site. The Primary Care Network (PCN) that operates within the vicinity of the application site does not have capacity for the additional growth resulting from this development and cumulative development in the area. Therefore, the proposed development would likely have an impact on the NHS funding programme for the delivery of primary healthcare provision within the area and specifically within the health catchment of the development. The ICS would therefore expect these impacts to be fully assessed and mitigated.

7.8.2 When taken together, the PCN practices do not have capacity to accommodate the additional growth resulting from the proposed development. The development could generate approximately 187 new residents and subsequently increase demand upon existing constrained services.

7.8.3 Consequently, using the accepted standards, the capital required to create additional floorspace 12.8 sq.m. for support the population arising from the proposed development is calculated to be £38,600, which should be secured through a planning obligation.

7.9 BDC Housing

7.9.1 They are content that this application for 78 residential dwellings, including 31 affordable homes, meets the requirements of Affordable Housing Policy LPP31. The affordable unit and tenure mixes shown below and illustrated on the submitted Housing Mix and Tenure plan is considered appropriate to match evidence of housing need.

Type	Number	Affordable Rent	Shared Ownership
1 bed 2 person bungalow – Category M4(2)	11	9	2
2 bed 4 person bungalow – Category M4(2)	18	11	7
3 bed 5 person bungalow – Category M4(3)(b)	2	2	0
	31	22	9

- 7.9.2 Consequently they are supportive of this application because it provides an opportunity for a significant number of new affordable homes to be delivered and assist the Council in addressing housing need.
- 7.10 BDC Environmental Health
- 7.10.1 No objection. They raise no concerns subject to standard conditions being applied covering: The hours within which site clearance, demolition or construction work can take place on the site, including starting of machinery and delivery of materials; The submission of a dust and mud control management scheme; The prohibition of the burning of refuse, waste materials and vegetation; No piling to be undertaken on the site unless a system of piling and resultant noise and vibration levels has been submitted to and agreed in writing by the Local Planning Authority; and the submission of a preliminary contaminated land risk assessment.
- 7.11 BDC Waste Services
- 7.11.1 No objection. Refuse strategy complies with requirements to carry out waste and recycling collection operations.
- 7.12 ECC Archaeology
- 7.12.1 No objection, subject to the imposition of conditions requiring a programme of archaeological investigation to be carried out prior to commencement of development. The Essex Historic Environment (HER) Record shows that the proposed development lies within an area of potential for below ground archaeological remains. A Desk Based Assessment has been submitted with the application which highlights the potential of the site to contain Late Iron Age (LIA), Roman and medieval remains based on the significant findings in the surrounding fields. There are recorded cropmark features within the development site that appear agricultural in origin. Finds recovered from the surface of the adjacent field suggest building remains of Roman date which may represent a villa site.
- 7.12.2 Recent excavations off Mill Lane have uncovered a sizable LIA/Roman settlement and possible temple site which may have been associated with a nearby villa. The proposed site lies between these two areas of LIA and Roman activity and is highly likely to contain further evidence associated with the settlement activity.
- 7.13 ECC Ecology (Place Services)
- 7.13.1 No objection subject to securing: a) a financial contribution in line with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy; and b) ecological mitigation and enhancement measures.
- 7.13.2 They have reviewed the submitted documents for this application, relating to the likely impacts of development on designated sites, protected and Priority species / habitats and the identification of proportionate mitigation

measures. In addition, they have reviewed the Biodiversity Net Gain Feasibility Report. They are satisfied that sufficient ecological information is available for determination of the application and which allows the LPA to demonstrate compliance under paragraph 180d and 186d of the NPPF.

- 7.13.3 They recommend that conditions be imposed that require the enhancement and mitigation measures are secured via: a Construction Environmental Management Plan; submission of a wildlife sensitive lighting design scheme; given that measurable biodiversity net gains are not a mandatory requirement for this application under the Environment Act 2021, they recommend that a bespoke Biodiversity Net Gain Plan is secured alongside the finalised planting scheme; a Landscape Ecological Management Plan should also be secured for general landscape aftercare, with consideration of the on-site reptile receptor and should reflect the recommendations of the Biodiversity Net Gain Plan. In addition, bespoke biodiversity enhancement measures (e.g. integral bird boxes (including provisions for Swift), integral bat boxes, insect bricks / boxes, hedgehog highways, log piles and hibernacula) as outlined within the Preliminary Ecological Appraisal should be provided via Biodiversity Enhancement Strategy.

7.14 ECC Education

- 7.14.1 No objection, subject to planning obligations to mitigate the impact of the development. ECC have assessed the number of children that could live in the development based on the number of dwellings that are suitable to accommodate children. One-bedroom units and elderly accommodation are excluded from the education calculation. The development is expected to generate the need for up to 0.9 Early Years and Childcare (EY&C) places; 3 Primary School places, and 2 Secondary School places.
- 7.14.2 Early Years and Childcare - there are currently sufficient places available in the area, to meet the demand generated by this proposed development. Therefore, will not be seeking a contribution on this occasion.
- 7.14.3 Primary Education - The Priority Admissions Area primary school for this area is Cressing Primary. The school is currently full in most year groups including Reception. For pupil place planning purposes, the school is grouped with Silver End Academy. Forecasts for this area suggest that additional capacity will be required. Therefore, a half form entry expansion project at Cressing Primary is planned. The demand generated by this development would require a contribution towards the creation of additional places. A developer contribution of £58,275 (index linked) is sought.
- 7.14.4 Secondary Education - The Priority Admissions Area secondary school for Cressing is Alec Hunter in Braintree. The school is currently full in all but the oldest year group (Year 11). Forecasts suggest that growth across the town will generate excess demand for Year 7 places by around 2027/28 and there could be a deficit of up to thirty-three places per cohort by 2033/34. A developer contribution of £56,192 (index linked) is sought.

- 7.14.5 School Transport - Primary Education – no school transport contribution requested. ECC recommend that a Secondary School Transport contribution is paid as there are no current safe walking routes from the proposed development to the nearest Secondary School. The cost of providing this is £11,894 (Index Linked).
- 7.14.6 Libraries - ECC may seek contributions to support the expansion of the Library Service to meet customer needs generated by residential developments of 20+ homes. A developer contribution of £6,068.40 (index linked) is therefore considered necessary to improve, enhance and extend the facilities and services provided.
- 7.15 ECC Highways
- 7.15.1 No objection: From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to conditions for construction traffic management; detailed drawings to show the footway transitions extended beyond the raised table ramp adjacent to Plots 13 & 24; no occupations until the site access on the planning drawings is provided; upgrade of 2no. bus stops on Mill Lane; a residential travel plan to promote more sustainable modes of transport and ECC travel plan monitoring fee; and provision of a residential travel pack to the first occupier of each new dwelling.
- 7.16 ECC Historic Buildings Consultant
- 7.16.1 No objection. They agree with the conclusions of the Applicant's heritage statement; although there are a number of heritage assets in close proximity to the site, their physical and associative separation from the site would result in negligible impact upon the heritage assets' setting and significance. This lack of impact is reinforced by the nature of the proposals, including planting and low building height, which would minimise the impact upon the surrounding landscape. Whilst there would of course be an impact on the wider setting of the heritage assets through the change in land use and increased movement around the site, this would not constitute harm to the setting of listed buildings.
- 7.17 ECC SUDS
- 7.17.1 No objection, subject to the imposition of conditions on detailed surface water drainage scheme, a scheme to minimise the risk of offsite flooding during construction works and prevent pollution, a maintenance plan for surface water drainage system and yearly logs of maintenance.

8. PARISH / TOWN COUNCIL

8.1 Cressing Parish Council

- 8.1.1 The Parish Council object to the application. The Parish Council have been consulted on several occasions and a summary of their responses is set out below.

Initial consultation response (20th November 2023)

- 8.1.2 The Parish Council repeats its strong objections and feels it appropriate to reiterate the points raised in its objections of 17th September 2021 and 19th May 2021. Those comments remain very relevant:

- § The site is not included within the BDC Local Plan;
- § The site is not included as a possible development site within the adopted Cressing Neighbourhood Plan;
- § The site is outside the village development boundary;
- § The site supports an abundance of wildlife, much of which has already had to find new habitats following the development of 118 dwellings at the Avondale site on Mill Lane and the Countryside site currently being developed between Braintree Road and Mill Lane;
- § The area around the site (and by default, the site) suffers serious flooding issues, damaging land, and property; To remove more grassland and open fields, covering them with non-porous surfaces for housing and associated surfaces, will exacerbate this situation and have serious financial implications for residents;
- § Most of the properties in Bulford Mill Lane and Bulford Lane are listed and have great historic value; These properties already suffer from the water run-off from Avondale and Countryside sites developed or under development, causing serious flooding to the narrow Bulford Mill Lane which has seen numerous vehicles abandoned, accidents and detrimental erosion of verges;
- § The huge increase in traffic if this site proceeds will seriously affect local residents – Bulford Mill Lane and Mill Lane are narrow country roads which, in many places are not sufficiently wide enough for two vehicles to pass;
- § The developer previously anticipated that it would take four years to build the development, that would be four more years of heavy goods vehicles and builders' machinery using Mill Lane, a road that is already badly damaged due to the Avondale site and is still awaiting reinstatement to an acceptable standard. The lives of Cressing residents have been affected by development for the last six years, they should not be disrupted for yet another four;
- § There is a sufficient supply of bungalows in the parish and the need for more has not been evidenced;
- § The developer states that this is a prime location due to its location close to Cressing Station; There cannot be many residents in a development of 48 age-restricted properties that will be using the station to commute, so this cannot be described a community benefit. It is not

unrealistic to assume that a development of 11 x 1-bedroom, 33 x 2 bedroom, 31 x 3 bedroom and 3 x 4 bedroom, with a provision of 197 parking spaces, could result in more than 250 additional domestic journeys daily using the inadequate road network that serves this Parish;

- § The parish has limited existing community facilities, e.g. the social club, hall and playing field off Jeffrey's Road, as well as St Barnabas Hall and the Evangelical Hall, both of which are available for community hire and events – none of which are fully booked at the same time. The Jeffrey's Road hall cannot be classed as "community" as it is hired for various club activities;
- § Whilst the Parish Council agrees that a community building should be provided on the site, this should include the provision of health and medical services, i.e. a regular doctor's surgery, managed from Silver End Surgery, and a full pharmacy not only to fill prescriptions, but also to operate as a commercial shop. It is well known that residents have difficulty in registering with, obtaining an appointment with, and travelling to the existing Silver End and Braintree surgeries that serve Cressing. Some residents cannot register due to lists being full and a lack of doctors and space at these surgeries. Any such provision should be funded by the developer for a period of at least ten years after completion of the site;
- § By the very nature of age-restrictions, potential residents of this development may be unable to walk any distance to the local post office (although this has been closed for several months and scheduled to open later 2023)/general store or to the limited bus services. The location is not served by any public services;
- § Before any consideration is given to this proposal there should be in depth studies of public services and in particular the huge increase in traffic on the roads through Cressing, some of which are used as "short cuts" or "alternative routes" to avoid congestion on the A12, A120 and B1018. None of these roads are suitable for the amount of traffic that is now using them;
- § Once again, Cressing is being subjected to a potential development that is not needed nor wanted in this area. They request BDC to give conscious thought to the effect on Cressing residents and instead of undertaking a paper exercise to make a decision, come to Cressing and spend some time experiencing this detrimental effect on our residents, meet and speak with them and listen to their concerns; and
- § Finally, they would like to remind Planning Officers and the Planning Committee that the impact on a small rural community by more than doubling its housing stock in six years without any accompanying infrastructure, be it health or educational provision, transport links, suitable road network, drainage systems (domestic, foul, and surface) and other facilities is unacceptable. For this reason alone, this application should be refused.

Second Response (19th April 2024)

- 8.1.3 In response to the consultation on the revised plans, they request that the many objections previously submitted by residents of Mill Lane must be taken into consideration. The Parish Council hopes the Committee will look at this application with a wider perspective and see that the lack of infrastructure within Cressing prevents any more developments being approved. There has already been one development that remains unfinished due to the developer getting into financial troubles and this should be a warning to any more speculative developments.
- 8.1.4 The most recent Local Plan does not prove a need for additional housing. Cressing's rural community and once prime agricultural land is being eroded by development, whether for housing or solar farms. The Planning Committee must take this into account when making a decision and take heed of the feelings so clearly expressed by Cressing residents since the proposal was first submitted in 2021.

Third Response (21st May 2024)

- 8.1.5 The Parish Council continues to object to this planning application and is very concerned that plans and other documents are being re-submitted and question whether this is a way to cheat the normal application process. This newly proposed access to the site is in contravention of the assurances given by Scott Properties when the scheme was first shared with Councillors and residents at an open meeting.
- 8.1.6 The developer is now looking to remove yet more hedgerow that contains some maturing trees. An excellent case for protecting the hedge has been made by Dr David Morgan.
- 8.1.7 Removal of the hedge will allow more surface water to flow into and across the site which is already prone to flooding. Development will interrupt natural drainage / flood processes and is likely to adversely affect residents living along the lower part of Bulford Mill Lane.

9. REPRESENTATIONS

- 9.1 56no. individual letters of representation have been received during the course of the application. Some households have submitted several representations in response to the three consultations. A summary of the main grounds of objection are listed below:

9.2 Principle of Development

- § The land is not included in the Cressing Neighbourhood Plan nor in the Local Plan, it is outside the settlement boundary;
- § Loss of a green field outside defined settlement boundary;
- § The fundamental vision of the Neighbourhood Plan is that the Parish's rural setting be maintained;

- § Cressing, a small community, has made sufficient contribution to new housing already;
- § There is already a significant number of bungalows in the village;
- § Two thirds of The Westerings, Heycroft Drive, Coronation Way and Forfields Way are bungalows, predominately occupied by those aged 65 and over;
- § People are not moving within the Parish because their properties already cater for their needs;
- § Suggest that most people living in Cressing would unlikely be able to afford the new bungalows; more suited to people who have larger properties to sell closer to and in London;
- § Tye Green has an above average age population and does not need a new bungalow estate development for over 55s;
- § Far better to integrate different ages and abilities into the community, rather than to isolate them in an area where they may find it is not easy to access the facilities they need;
- § Due to the government pension age being under review, there is no forced state pension age, people in this age category are still working full time;
- § People are living longer and having children later in life, so are not moving to small accommodation;
- § It is exceptionally difficult for young people to get a step onto the housing ladder, because of this those fortunate to be able to do so will choose larger, new developments, which offer a variety of schemes to make it achievable;
- § The scheme does not constitute sustainable development;
- § BDC can now demonstrate a five year supply of housing land;
- § Tye Green has been subjected to enough development in recent years;
- § There is nothing to indicate any changes that would make the proposed development more acceptable to the many local residents who have already expressed very strong opposition to the previous application; and
- § The application would create a new segregated and isolated community living in a very congested new estate.

9.3 Urban Design

- § Too many properties are proposed;
- § Space between the dwellings and boundary fences proposed appears in many cases to be 1.0m, just about wide enough to manoeuvre a standard 0.5m refuse bin between the frontage (for collection) and the very small back gardens;
- § Inadequate soft landscaping in the public realm along streets;
- § Spacing between principal elevations and the highway too uniform, giving rise to a straight alignment and an overbearing street scene;
- § Rear gardens too small in many cases and conservatories have been removed, which would be well suited to the over 55's; and
- § Inadequate internal space for more than two people, likely giving rise to future pressures to extend/add a conservatory.

9.4 Trees & Ecology

- § The land has been minimally maintained as part of a larger field for at least 20 years as meadow with parts as unimproved grassland;
- § The EIA (Agriculture) Regulations require that semi-natural land, uncultivated for 16 years, cannot be destroyed without prior assessment and authorisation;
- § The landowner had been content for many years prior to 2019 to allow the wider field area to become a diverse and significant habitat for flora and fauna, no doubt taking financial advantage of “set aside” and later initiatives to encourage biodiversity;
- § “Set aside” commenced in 1988 and from the recollections of older long term residents of Tye Green, it is likely that the field has not been cultivated for agricultural crops, probably as far back as then;
- § No SUDS is going to replace that, and the Council should be forcing the landowner to return it back to meadow land;
- § No longer see Kestrels hunting in the field, because small mammal nesting sites and foraging routes have been destroyed and made impassable by the ploughing;
- § The Applicant's Ecology Assessment carried out after the ploughing clearly points out that much of the biodiversity has been destroyed, preventing them from accurately assessing and documenting the current status;
- § One of their findings was the lack of reptiles despite a favourable location, the author identified ploughing as the cause;
- § Loss of hedgerow and wildlife, including skylarks, kites, and barn owls;
- § The revised proposals will result in the removal of three smaller trees and 50m of deep hedgerow. This part of Mill Lane is dominated by the large overhanging hedge and trees, it's loss will entirely change the street scene;
- § Amended site access will also result in changes to the site entrance will eradicate 50m of this hedge and put the large Oaks trees at risk;
- § Whilst mature oak trees are not proposed for removal the development will result in increased pressure / risk to the retained trees, either through the excavation work required to remove the hedge on the north of the site entrance potentially impacting on the roots and surroundings of tree T3 (mature Oak tree), and creation of a pinch point on Mill Lane will cause traffic to pass even closer to the hedgerow and potential conflict with the Category A Oak trees T1, T2 and T3;
- § The entire 210m of our current hedgerow contains fruit, shelter, and habitat for the wildlife in the village; and
- § The high hedge interspersed with trees on the west side of Mill Lane offers hedgerow birds both habitat and food, opening an access road with visibility splays, plus second pedestrian facility to cross Mill Lane, would remove a large section of this.

9.5 Highways, Public Transport, Cycling & Walking

- § Concerns raised over the visibility afforded from the proposed access, suggest moving it closer to opposite Jeffrey's Road would be safer;

- § There are pinch points on either side of the development on Mill Lane, neither of which allow two cars to pass, let alone Heavy Goods Vehicles. Mill Lane is also blocked by residents of the new estate parking on it;
- § The proposal will give rise to a further increase in traffic and speeding through the village, including Mill Lane and Bulford Mill Lane exacerbating existing issues with traffic rat runs between the A120, Black Notley and Witham;
- § Traffic and congestion around Galleys Corner and the B1018 will increase further;
- § The public right of way running diagonally across the field has been regularly used by the public, but the whole field has been a public amenity area, and informal paths were established over the years. The development would be highly visible to users of the Public Right of Way passing the site;
- § There is now a public footpath parallel to Bulford Mill Lane constructed as part of the Avondale project, but it is for many commuters less useful than the informal paths they were accustomed to being able to use;
- § The bus service only runs twice per hour between Witham and Braintree which often does not run on time or even turn up sometimes;
- § The site is remote from the bus route;
- § There are no safe or accessible footpaths that would allow people to walk to Freeport, the Garden Centre or even Notley Golf Course, the walking times given for these journeys are significantly underestimated;
- § Future residents with limited movement, sight and/or hearing would be more vulnerable when crossing Mill Lane;
- § Less able residents will have problems crossing Mill Lane safely; and
- § The new pavements and crossing points on Mill Lane will narrow the carriageway to a narrow strip of road, creating a pinch point on Mill Lane where it will become a single file road where only one vehicle can drive at a time.

9.6 Residential and Visual Amenities

- § People along Mill Lane have enjoyed uninterrupted views of the countryside for decades, this development will be overlooked by both Cressing and Black Notley residents;
- § The proposal takes away the only green space that the village has enjoyed recreationally by all residents;
- § An additional 100+ cars entering and exiting onto the lane each day would have a hugely detrimental effect on the quality of life of those living along it;
- § The bungalows would take an estimated four years to build, another four years of construction vehicles and plant & machinery using a country lane causing pollution, noise, and misery to the those living there;
- § Mill Lane and Bulford Mill Lane are used as a 'rat run' between the Coggeshall Road (A120) and Black Notley and from the Chelmsford Race Course roundabout via Bakers Lane and the A120 to Coggeshall / Colchester. This development would only make this situation worse

and would cause further deterioration of these historic protected lanes;
and

§ Erosion of the character of the area around Bulford Mill.

9.7 Community Infrastructure

- § The proposed community centre would stand empty;
- § Cressing already has two community centres (St Barnabus church and the sports and social club), neither of which are used to full capacity;
- § There is no health centre in Tye Green. The suggestion that the community centre could be used as an outreach centre for the Silver end Surgery is laughable; it would be naive to expect that the additional funding proposed to extend the surgery would provide more Doctors or Nurses;
- § The only doctor's surgery taking on new patients is Church Lane which is on the other side of town and therefore would mean travelling either by car or train then taxi from the station;
- § No dental or other healthcare provision within the village;
- § No play school/nursery in the village;
- § No clubs or support centres for children exist;
- § To allow this development would create an isolated community of elderly residents, who would have to use personal vehicles to get about, would have limited access to the services they need and would open the floodgates to speculative developments that the council would have no basis to stop;
- § This development provides nothing to the local community, not even commercial benefits (such as a Public House/restaurant or small supermarket, both of which a village that is now the size it is should have);
- § The village has lost its Post Office;
- § There is a lack of leisure facilities within the village for those retired;
- § The intention to free up properties for families will only put more pressure on the local school, which already cannot accommodate all the parish's existing children;
- § Older generations choose to remain in their homes to help support younger family members who may fall onto hard times and need temporary accommodation;
- § Given the current economic state with rates of unemployment at a high, many people might look to their older members of their family for support;
- § Mains water supplies are at minimum pressure;
- § There are frequent cuts to water and power supply in the village; and
- § If future maintenance of the public open space falls to a management company that would not be a welcome prospect for the target occupants, being an ageing population facing income reduction as they move into retirement.

9.8 Flooding

- § Increased surface water flooding, particularly to the west/Bulford Mill area;
- § Lack of sewerage capacity and concerns over sewage pollution in rivers; and
- § The lower part of the field gets boggy.

9.9 Other Matters

- § No Applicant engagement with the occupants of Mill House, notwithstanding their claim; and
- § Loss of food growing agricultural land.

9.10 Ramblers Association

- 9.10.1 Object. Public footpaths, desire line paths and the off-road footway along part of Bulford Mill Lane are noted in the LVIA document. Paragraph 10.27 notes a "high size/ scale of visual effect" on users of Cressing public footpath 20 which is stated as running along the north-east edge of the site. The increased permeability of the site to the public footpath and to the footway that runs part of the way along Bulford Mill Lane is welcome. Both of these provide additional points of pedestrian access onto Mill Lane and hence to the shop and the bus stops.
- 9.10.2 As people get older, walking speeds get slower. As such the 3mph /80m per minute walking speed assumed in the Transport Assessment is not likely to be achieved by a proportion of over-55 year olds, especially as the site is on a slope so to reach Mill Lane residents will have to walk up-hill. As such a distance of 500 metres to a local shop and 400 or 500 metres to a bus stop is likely to take most 55 year olds significantly longer than 5-6 minutes. Walking the 800 metres to the primary school is also likely to take longer than 10 minutes with primary school age children. It is noted that there is no GP in Cressing.
- 9.10.3 On balance, the Ramblers consider that this site is not in a sustainable location and would not encourage active travel. In addition, the site is outside the village envelope and is not allocated in the BDC Local Plan.

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 addressed, and that land with permission is developed without unnecessary delay. Within the context of establishing need, paragraph 63 of the NPPF requires the size, type and tenure of housing needed for different groups in the community to be assessed and reflected in planning policies. Those groups include older people and those who require affordable housing. As explained below, the planning policies in the Local Plan reflect, and make provision for, the needs of these groups. In addition, it is noted that there is no requirement in the NPPF that local planning authorities must meet the housing needs of the groups specified in Paragraph 63.
- 10.1.5 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.
- 10.1.6 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 as well as 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 year supply.

10.2.4 The Council acknowledges that a Planning Inspector has recently concluded that the Council had not evidenced 5 years housing land supply. The Planning Inspector agreed that sufficient evidence had been provided as part of the planning appeal for Land South of Springfields (Appeal Reference APP/Z1510/W/24/3338229) to evidence 4.9 years supply, with a shortfall of 67 dwellings. Officers are engaged in the process of obtaining further evidence to demonstrate the deliverability of some of the sites that the Planning Inspector excluded from the supply. The Council are confident that the additional evidence which is being secured will address the Inspectors concerns and provide the clear evidence required of a 5 year supply of housing land. As the Council maintains that 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 and the Cressing Parish Neighbourhood Plan 2017-2033 adopted February 2020.

10.3.2 The application site is located outside of any identified town, village or commercial development boundary and lies within the countryside for planning purposes.

- 10.3.3 Policy LPP1 of the Adopted Local Plan states that development outside development boundaries will be strictly controlled to uses appropriate within the countryside in order to protect, amongst other things, the intrinsic character and beauty of the countryside. A major housing development of 74 dwellings is not an appropriate use in the countryside. The general principle of development is therefore not supported by Policy LPP1 of the Adopted Local Plan which should be afforded full weight in the determination of the planning application.
- 10.3.4 It should also be noted that Policy LPP33 of the Adopted Local Plan states that new specialist housing on unallocated sites in the countryside will not be supported. The definition of Specialist Housing in the policy includes “accommodation which has been specifically designed and built to meet the needs of the elderly ... and may include some elements of care and support for everyone who lives there.” Accordingly, as a matter of principle, the development of specialist housing accommodation for the elderly in this location is contrary to Policy LPP33.
- 10.3.5 Policy SP3 of the Adopted Local Plan indicates that development will be accommodated within or adjoining settlements according to their scale, sustainability and exiting role. It is recognised that this site adjoins the settlement boundary of Cressing. However, SP3 is a broad policy from part 1 of the Adopted Local Plan which establishes the spatial strategy across North Essex. It set the strategic framework for part 2 of the Local Plan which implemented that strategy for Braintree, by allocating sites and adopting District-specific policies. Accordingly, the general strategic approach in SP3 must be considered together with, and does not override, the policies in part 2 of the Adopted Local Plan, including Policies LPP1 and LPP33.
- 10.3.6 Furthermore, Policy 7 (section C) of the Adopted Cressing Neighbourhood Plan stipulates that development proposals for new housing outside settlement boundaries should be an exception and only comprise small-scale self-build or custom-build schemes. It goes on to state that they should be:
- i. Located adjacent to an existing settlement or hamlet;
 - ii. Contribute towards maintaining its future viability and sustainability;
 - iii. Sympathetic to the character of the open countryside; and
 - iv. Have minimal visual and environmental impact;
- 10.3.7 The original application submission did not reference that dwellings would be provided as 'Custom Build', however during the course of the application the Applicant has indicated that they believe the dwellings could be considered custom-build as the initial purchasers of the market dwellings would be able to customise internal elements of the dwellings, for example purchasers might agree modification to the kitchens or bathrooms, for example the provision of a wet room, or the specification of the kitchen fittings. The Housing and Planning Act 2016 defines self-build and custom housebuilding as “the building or completion by individuals, associations of

individuals, or persons working with or for individuals or associations of individuals, of houses to be occupied as homes by those individuals... [but] does not include the building of a house on a plot acquired from a person who builds the house wholly or mainly to plans or specifications decided or offered by that person.” Whilst Officers acknowledge that part of the developer ‘offer’ is to allow purchasers to input to fitting out of the dwellings, the application seeks full planning permission which mainly establishes the plans and specifications for the dwellings and as such Officers are not persuaded that the Market Housing should be considered to be Custom-Built. Irrespective of this fact the Council do not consider this to be a small-scale development, so it is clear that the principle of development is also contrary to Policy 7 of the Cressing Neighbourhood Plan.

- 10.3.8 The proposed development is therefore, as a matter of principle, considered to be contrary to both the adopted Local Plan and Neighbourhood Plan, which combine to form the Development Plan.

10.4 Call for Sites

- 10.4.1 The site was the subject of a Call for Sites submission prior to the adoption of the Braintree District Local Plan (2013-2033), it formed part of a larger tranche of land identified as CRESS191 and which extended behind the existing housing on the western side of Mill Lane, north of the application site.

- 10.4.2 At the meeting of the Local Plan Sub-Committee on 9 May 2016, it was resolved that the land not be allocated for residential development. The reasons for this included: *“The area is identified as being of low to medium landscape capacity (2b). Constraints include a gas pipeline and the site is within an overhead electrical cables consultation zone. It is close to a railway station, but access by foot would be difficult due to the narrow nature of Bulford Mill Lane. The site would not be a natural extension to development in Tye Green Cressing.”*

- 10.4.3 The site has been submitted to the Council as part of the recent Call for Sites for the next review of the Local Plan. As the Call for Sites has only just closed no assessment or consideration of the site has been made yet by the Planning Policy team, or Local Plan sub-committee.

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.

It does however state that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.

- 11.1.2 On considering development proposals, paragraph 114 of the NPPF stipulates that it should be ensured that, amongst other things, that appropriate opportunities to promote sustainable transport modes can be or have been taken up, given the type of development and its location.

- 11.1.3 Paragraph 116 of the NPPF states that applications for development should, *inter alia*:

“a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;

b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport; and

c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles...”

- 11.1.4 The Adopted Local Plan (Section 1) sets out the spatial strategy for North Essex in Policy SP3 which stipulates that existing settlements will be the principal focus for additional growth and development will be accommodated within or adjoining settlements according to their scale, sustainability, and existing role both within each individual district and, where relevant, across the wider strategic area. Re-use of previously developed land within settlements is an important objective, although this will be assessed within the broader context of sustainable development principles, particularly to ensure that development locations are accessible by a choice of means of travel.

- 11.1.5 Policy SP3 of the Adopted Local Plan highlights that Section 2 of the Local Plan identifies a hierarchy of settlements where new development will be accommodated according to the role of the settlement, sustainability, its physical capacity, and local needs. Beyond the main settlements the authorities will support diversification of the rural economy and conservation and enhancement of the natural environment.

- 11.1.6 Section 2 of the Adopted Local Plan, in paragraphs 3.1 to 3.3, states that the Spatial Strategy directs development towards the most sustainable locations and provides the framework in which the Local Plan growth is provided. This District specific spatial strategy follows on from that which is set out in the Local Plan Section One and completes the picture of the role and functions of different areas within the District. The settlement hierarchy ranks areas of the District in order of their sustainability merits and the size, function, and services that each of the areas can offer. Whilst large parts of

the District are rural, by focusing future development on highly accessible locations this will reduce the need to travel. Good accessibility means that the communities can meet their needs easily and without always needing a car. Accessibility can be improved by locating development at accessible locations and improving public transport, walking, and cycling facilities and services.

- 11.1.7 The Adopted Local Plan identifies Cressing Tye Green as a 'Second Tier' village with the following definition set out within its paragraph 3.6: *"Second tier villages are those which may not serve a wider hinterland but provide the ability for some day to day needs to be met, although they lack the full range of facilities of Key Service Villages. Development of a small scale may be considered sustainable within a second tier Village, subject to the specific constraints and opportunities of that village."*
- 11.1.8 Policy LPP42 of the Adopted Local Plan states that sustainable modes of transport should be facilitated through new developments to promote accessibility and integration into the wider community and existing networks.
- 11.1.9 Cressing Tye Green has been the subject of significant residential expansion in recent years, with a number of developments giving rise to the addition of over 600 dwellings (including those with planning permission, but yet to be constructed) since 2015. As Members will be aware a number of these planning permissions were granted on appeal by Planning Inspectors. Consequently, in general terms, the village has been considered to be a reasonably sustainable location for new housing, although it is to be noted that these permissions were made within the context of when the 'tilted balance' of NPPF paragraph 11. d) ii. applied, due to the Council being unable to demonstrate a 5 year housing land supply at the time of the determination of the relevant applications.
- 11.1.10 The proposal seeks to restrict the occupation of the open market units on the development to persons over 55 years of age, or a person who has a disability, which means that it could give rise to potential issues surrounding mobility and accessibility to community services and facilities that may not be so apparent in an unfettered scheme with a broader (younger) age range of residents.
- 11.1.11 A Transport Assessment (TA) has been submitted with the application, and which sets out the distances between the site and a number of local services and facilities, including bus stops and Cressing railway station.
- 11.1.12 The Chartered Institution of Highways and Transportation (CIHT) document 'Providing for Journeys on Foot' includes table 3.2 which suggests acceptable walking distances for those who are not mobility impaired. The document sets out that walking distances for services including shops and leisure facilities, 400m is desirable, 800m is acceptable, and 1.2km is the preferred maximum.

- 11.1.13 Tye Green convenience store (within which the former Post Office was located) is approximately 500m away, along with the bus stops located on either side of Claud Ince Avenue which provide access to the no38/38A bus service which connects Witham to Halstead via Braintree town centre. The Cressing Sports and Social Club is a similar distance with a hairdressers and beauty salon being enroute to it, at approximately 320m, along with Easy Mobility Services on Jeffreys Road. The St Barnabus church building at the junction of Claud Ince Avenue and Longacre Road, just over 500m from the site and which provides a number of social, art and craft activities to the community. These distances are also in accordance with Manual for Streets which, at para.4.4.1, indicates that “walkable neighbourhoods” are typically characterised as having a range of services within 10 minutes (800m).
- 11.1.14 In terms of supermarkets, the nearest food superstore is Tesco, Marks Farm which would be at least 3.4km away on foot, with no direct bus link, although the no38/38A bus service does go into Braintree town centre where the main Tesco and Sainsburys stores are located. It is also acknowledged that there is a M&S Simply Food store at the Braintree Retail Park, although the bus service to Braintree Freeport is less frequent (hourly as opposed to half hourly for the majority of the services), and to walk there would in Officers opinion amount to a fairly unpleasant walk of over 2km adjacent to the B1018, where currently there is no formal footway in places. The Braintree Garden Centre at Galleys Corner is approximately 1.5km and would involve crossing the B1018 with the same relatively unattractive walking route. It is however acknowledged that supermarket and other home delivery services are available to future occupants.
- 11.1.15 However, there are no healthcare facilities within the village and therefore future residents would have to travel outside of Tye Green to reach them. The nearest doctor’s surgery and pharmacy is in Silver End which is accessible by the no38/38A bus. In terms of dental provision, Officers have been informed that currently none of the surgeries in Braintree are taking on new patients. There are 2no. dental surgeries in Witham currently taking on new adult patients: Dental Wizards, Lockram Lane and Cairn Brae, Maldon Road which could be accessed via the same bus service.
- 11.1.16 Reference has been made within the application submissions to the proximity of the site to Cressing railway station, however Bulford Mill Lane is largely unlit and local residents refer to its use as a ‘rat run’ for vehicles travelling east-west and vice versa, connecting the B1018 to Black Notley and the A131/A120 beyond. There is no dedicated footway the whole way from the site to the station and pedestrians have to travel within a section of narrow carriageway to reach the latter. Consequently, it is considered that the route does not provide what all residents would consider an attractive walking route, particularly for the mobility impaired and those less confident of walking within the carriageway; bearing in mind the lack of frequent train services, as a benefit to the scheme the proximity to the station is therefore given limited weight.

- 11.1.17 In light of the above Officers consider, on balance, that it would be difficult to substantiate a reason to refuse planning permission on the grounds of inaccessibility, particularly bearing in mind past planning decisions in favour of schemes within the village. Nonetheless, the relatively poor accessibility of the site, and particular the fact that Tye Green is not directly served by any healthcare facilities, reduces the weight that can be attached to any benefit of providing housing for the over 55's and older people in the planning balance.

11.2 Highway & Railway Safety Considerations

- 11.2.1 Paragraph 115 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 11.2.2 Amongst other things, Policy LPP42 of the Adopted Local Plan is concerned with sustainable modes of transport which should be facilitated through new developments to promote accessibility and integration into the wider community and existing networks. Priority should be given to cycle and pedestrian movements and access to public and community transport. Developers may be required to produce Travel Plans, Transport Assessments and Statements as considered appropriate by the Local Planning Authority. Development which would adversely affect the character of or result in loss of existing or proposed rights of way, will not be permitted unless alternative provision or diversions can be arranged which are at least as attractive, safe, and convenient for public use. This will apply to rights of way for pedestrian, cyclist, or horse rider use.
- 11.2.3 In addition, one of the criteria of Policy SP7 of the Adopted Local Plan requires schemes to include parking facilities that are well integrated as part of the overall design and are adaptable if levels of private car ownership fall.
- 11.2.4 As with any new development, it is inevitable that additional road traffic, including from Electric Vehicles (EVs) would be generated, however the key is to provide other options, such as those discussed in the section above, so that future residents are given the opportunity to travel by more sustainable means, such as walking, cycling and public transport.
- 11.2.5 Residents have raised concerns regarding traffic conditions in the local area, including the capacity of the local road network, with the perception being that the increase in vehicles from the development would exacerbate the current issues experienced.
- 11.2.6 Since the application was originally submitted, there have been discussions between the Applicant and Officers of both the District and County Councils in respect of highway related matters.

- 11.2.7 Essex County Council in its capacity as the local highway authority has reviewed the submitted Transport Assessment and state that they have no objection to the proposed development, being satisfied that the access and junction arrangements proposed are acceptable. Planning Officers have highlighted specific concerns raised in representations, including the concerns about the perceived narrowing of the carriageway near the proposed site entrance and whether users, including older people, will be able to cross Mill Lane safely. The Highway Authority Officer has confirmed that they are content that pedestrians would be afforded sufficient visibility at both proposed crossing points. With regards the carriageway width the planning application drawings have not been taken to show a narrowing of the carriageway at the proposed site access and corresponding pair of uncontrolled crossing points. The Highway Authority Officer has confirmed that they would be unlikely to support the narrowing of the carriageway in this location and that the detailed design of the highway works would be covered through the Section 278 process which will mean that they will be able to ensure the carriageway is not narrowed, were planning permission to be granted. With this in mind, it is recommended that the proposal is not refused on highway safety grounds.
- 11.2.8 In terms of parking provision, the scheme is proposed to be delivered in accordance with the parking standards as stipulated within the Essex County Council Parking Standards (2009), adopted by Braintree District Council as a Supplementary Planning Document. Secure cycle parking could be provided via garages or in the rear gardens and be secured by way of planning condition in the event that Members were so minded to grant planning permission.
- 11.2.9 As previously noted the site is located close to Cressing railway station. This means that future occupants of the development will be living close to the level crossing at Bulford Mill Lane, which is used by vehicles and pedestrians, and the Raffels public footpath level crossing.
- 11.2.10 Network Rail were consulted on the application as they have overall responsibility for the safe operation of the railway. No concerns were raised regarding any potential increased use of the Bulford Mill Lane crossing, but concerns were raised about the potential increased use of the Raffels public footpath level crossing. Officers subsequently met with the Liabilities Negotiation Manager and Level Crossing Manager at Network Rail, who confirmed that the Raffles crossing is currently used by approximately seven pedestrians per day. It was agreed that the crossing did not provide a route that would be used by future occupants of the development to access to shops, schools, and services, so any increased use would be as a result of leisure walkers. Network Rail concluded that even if there was an increase in use the number of additional crossings would be very low and as the crossing has good visibility in both directions it would not increase their assessed level of risk at the crossing. As a result, they confirmed that Network Rail did not object to the application and that they would not require the developer to carry out any improvements at the Raffles Level Crossing. Officers requested that Network Rail confirm their

holding objection was withdrawn but at the time of writing this report that written confirmation has not been received.

11.3 Landscape Character

- 11.3.1 Paragraph 180 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by, amongst other things, recognising the intrinsic character and beauty of the countryside, in a manner commensurate with their statutory status or identified quality in the Development Plan. It is acknowledged that the application site is not located within a valued landscape for the purposes of paragraph 180(a).
- 11.3.2 Policy SP3 of the Adopted Local Plan states that beyond the main settlements the Council will support diversification of the rural economy and conservation and enhancement of the natural environment. This ties in with the wording of Policy LPP1 of the Adopted Local Plan, the second paragraph of which 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.
- 11.3.3 Furthermore, Policy LPP67 of the Adopted Local Plan (Landscape Character and Features) states that in its decision-making on applications, the Local Planning Authority will take into account the different roles and character of the various landscape areas in the District, and recognise the intrinsic character and beauty of the countryside, in order to ensure that any development permitted is suitable for the local context.
- 11.3.4 At a landscape scale, Braintree is located primarily in the South Suffolk and North Essex Clayland National Character Area and this character assessment is relevant in considering applications for development. Policy LPP67 of the Adopted Local Plan goes on to state that proposals for new development should be informed by, and be sympathetic to, the character of the landscape as identified in the District Council's Landscape Character Assessments. Proposals which may impact on the landscape such as settlement edge, countryside or large schemes will be required to include an assessment of their impact on the landscape and should not be detrimental to the distinctive landscape features of the area such as trees, hedges, woodlands, grasslands, ponds, and rivers. Development which would not successfully integrate into the local landscape will not be permitted.
- 11.3.5 Policy 2 of the Cressing Neighbourhood Plan (Protection of Special and Sensitive Landscapes) states that development proposals likely to have a significant impact on, in this case, the Silver End Farmland Plateau Landscape Character Area should demonstrate that the proposal will:

- i. Protect and enhance the special features and the overall character of the Landscape Character Area;
- ii. Protect and where possible improve access to open countryside within the Landscape Character Area for recreation; and
- iii. Protect and enhance the biodiversity of the natural environment within the Landscape Character Area.

11.3.6 The site falls within the area of a number of Council commissioned landscape studies which have been used to provide a baseline for assessment of landscape character and capacity for accommodating development. The most relevant studies are the *Braintree Landscape Character Assessment* (2006), which identifies the application site as being within the *Silver End Farmland Plateau* character area and the *Braintree Settlement Fringes Landscape Area Evaluation* (2015) where the site is identified within *Landscape Setting Area B2*.

11.3.7 The Braintree Landscape Character Assessment (LCA) provides a local description of the site and its surrounding landscape as part of the Silver End Farmland Plateau (landscape character area B18). Key characteristics include:

- Gently undulating farmland;
- Irregular predominantly large arable fields marked by sinuous hedgerows;
- Many small woods and copses provide structure and edges in the landscape;
- Scattered settlement pattern, with frequent small villages;
- Network of narrow winding lanes; and
- Mostly tranquil character away from the major roads.

11.3.8 In addition to the Landscape Character Assessment, the further studies relevant to the assessment of this site in terms of the likely impact of development are:

- The Braintree District Settlement Fringe Landscape Capacity Analysis for Halstead (Chris Blandford Associates 2007); and
- The Braintree District Settlement Fringes Evaluation of Landscape Analysis Study for Halstead (The Landscape Partnership 2015).

These studies were commissioned by the Council to provide an evidence base for the Adopted Local Plan.

- 11.3.9 With regard to the 2007 analysis, Chris Blandford Associates (CBA) placed the site within area B2 and assessed it overall to have a medium-low capacity for development. This study judged the application site and surrounding area to have a medium to high landscape character sensitivity and a medium to high visual sensitivity which was described as follows:

“A landscape of overall medium to high visual sensitivity due to the open nature of the area, the visual prominence of upper slopes of river valley and its visibility in filtered views from road/rail corridors and in open views from public footpaths and housing;

- *Transmission towers and power lines that traverse the area and dominate the skyline, reduce the overall visual sensitivity;*
- *Reduced sensitivity in lower parts due to enclosure provided by landform and vegetation lining the railway corridor.”*

- 11.3.10 The CBA study also comments on the landscape value of the area, noting that it has no national designation, but holds value in terms of:

- A number of well-used public footpaths;
- Moderate sense of tranquillity;
- Special Landscape Area designation (Note; this designation is no longer in place).

This document is not considered in the Landscape and Visual Appraisal (LVA) submitted as part of the planning application, but the later, more fine-grained evaluation and recent study by The Landscape Partnership (TLP) is referenced within it.

- 11.3.11 The TLP study provides a more detailed analysis of the settlement fringe around Braintree and sub-divides the B2 setting area into smaller parcels, in this case area 2b which is assessed to have a **medium-low** capacity for development. The report outlines the following guidelines for development and mitigation measures within the area:

- Development should be concentrated to the east of the parcel to form a relationship with development in Tye Green and avoid too much encroachment on the intervening farmland between Tye Green and Black Notley. Development would also need to be offset to the east of the electricity pylons;
- Woodland to the west should be retained and enhanced to form a buffer to development to reinforce the separation between the settlements;
- Presents an opportunity to improve the settlement edge of Tye Green and improve parts of the parcel in a poor condition and strengthen the character of the area;

- Open space could be incorporated into the development proposals and public right of way networks improved into enhance links between the settlements and the neighbouring river valley landscape.

11.3.12 The application is supported by a Landscape & Visual Assessment (LVA) which has assessed the impact of the development on Landscape Character, and their assessment concluded that the proposed development would give rise to a modest level of landscape effect and that the development would accord with the general pattern of development in the local area. When the first application was submitted in 2021, the Council's appointed Landscape Consultant reviewed the Applicants LVA. The Council's Landscape Consultant reached a similar overall conclusion stating that in landscape character terms, although the site has been assessed as medium low capacity for development and defined as part of a landscape which is sensitive to change, the spatial layout proposed for the new homes is not uncharacteristic (that is, the proposed buildings will be on the plateau rather than the valley slopes) and therefore could not be assessed to cause undue landscape character harm. Officers agree with this assessment and do not consider that harm to Landscape Character would be a grounds for refusal.

11.4 Visual Effects

11.4.1 The LVA acknowledges that the proposed development would be visible and that there would be visual receptors. The extent of the predicted levels of impact range from major for users of Public Right of Way (PRoW) 20 (along the north eastern boundary of the site); a moderate effect on the Bulford Mill Lane footpath users; through to minor or negligible effects from other wider viewpoints in the landscape. At least until any planting was established in selected cross-valley views: The site would be discernible from The Notleys Golf Club; Witham Road at The Green; and PRoWs 2 and 5 in Black Notley and Pole Lane, but only as part of a wide panoramic view where the existing development at Tye Green is also visible. In terms of change to the view, the effect would be minor from these viewpoints.

11.4.2 With the existing roadside hedge being well established, and forming a visual barrier to the site, the opening up of a vehicular entrance would clearly affect the view for people travelling along Mill Lane and those living within properties opposite. Therefore, the most likely visual impacts would be for such individuals, as well as users of the immediately local footpaths. Therefore, the visual effects of any magnitude have been appraised as being local to the site rather than widespread in the broader surrounding landscape. The Council's Landscape Consultant conclusion in respect of visual effects was that the proposed development will have a localised visual impact on the countryside but that this can be successfully mitigated through a sensitive and well-designed landscaping scheme, which could include planting of trees including woodland belts and copses and hedgerows.

- 11.4.3 During the course of this application plans have been revised for the site access on Mill Lane, to address Highway Authority requirements. The amended vehicular access will necessitate the removal of additional hedgerow, extending the length removed to 35m. The Applicants Landscape Consultant has produced an addendum statement which sets out their landscape assessment if the additional hedgerow were removed. The Council's Landscape Consultant has assessed the revised information and concluded that the additional hedge removal represents a limited increase in landscape effects and not to the extent of changing the overall predicted level of effect.
- 11.4.4 Consequently, in terms of visual effects, having reviewed the application information, the advice of the Council's Landscape Consultant, is that whilst the development would result in some harm to landscape character and result in some adverse visual effect, the levels of harm arising would not be sufficient to warrant refusal of the application solely on landscape grounds. This conclusion was subject to suitable landscaping to mitigate the impacts of the development. Officers agree with the conclusion that the predicted level of harm would not warrant refusal of the application, however there would be harm that would need to be considered as part of the planning balance, particularly in the early years post development when landscaping needs to grow and become established.
- 11.5 Design and Impact upon the Character and Appearance of the Area
- 11.5.1 As highlighted within the preceding section of this report, Paragraph 180 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by, amongst other things, recognising the intrinsic character and beauty of the countryside. Paragraph 131 the NPPF states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 11.5.2 Paragraph 135 of the NPPF states that planning decisions should ensure that developments will function well and add to the overall quality of the area, not just for the short term, but over the lifetime of the development. It also requires developments are visually attractive as a result of good architecture, layout, and appropriate and effective landscaping; as well as being sympathetic to local character and history, including the surrounding built environment and landscape setting. In addition, paragraph 135 stipulates that proposals should maintain a strong sense of place, whilst optimising the potential of the site; and creating places that are safe, inclusive and accessible, and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

- 11.5.3 NPPF 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.
- 11.5.4 As previously referred to, Policy SP3 of the Adopted Local Plan states that future growth will be planned to ensure existing settlements maintain their distinctive character and role, to, amongst other things, conserve their setting; and that beyond the main settlements the Council will support the diversification of the rural economy and conservation and enhancement of the natural environment.
- 11.5.5 Policy SP7 of the Adopted Local Plan requires all new development to meet high standards of urban and architectural design, and which should reflect a number of place shaping principles as set out therein. These include: Responding positively to local character and context to preserve and enhance the quality of existing places and their environs; Providing buildings that exhibit individual architectural quality within well-considered public and private realms; Protecting and enhancing assets of historical or natural value; Incorporating biodiversity creation and enhancement measures; Creating well-connected places that prioritise the needs of pedestrians, cyclists and public transport services above use of the private car; Providing a mix of land uses, services and densities with well-defined public and private spaces to create sustainable well-designed neighbourhoods; Enhancing the public realm through additional landscaping, street furniture and other distinctive features that help to create a sense of place; Providing streets and spaces that are overlooked and active and promote inclusive access; and Including parking facilities that are well integrated as part of the overall design.
- 11.5.6 To reiterate Policy LPP1 of the Adopted Local Plan stipulates that schemes 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.
- 11.5.7 Policy LPP35 of the Adopted Local Plan states that development shall 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. The density and massing of residential development will be related to all the following criteria: a. The character of the site and its immediate surroundings, as well as the wider locality; b. The adequacy of the access and the local road system to accommodate the traffic likely to be generated; c. The existing vegetation, including trees on the site and the necessity for further landscaping; d. On-site amenity space to be provided in accordance with the adopted guidance; and e. An appropriate standard of residential accommodation is provided for the occupants. It goes on to say that housing mix should be in line with the identified local need as set out in the 2015 SHMA update (or its successor) unless material

considerations indicate otherwise; and that all new development should be in accordance with the national technical housing standards. A minimum of 10% of new market homes on sites of 10 or more dwellings must meet Category M4(2) or Category M4(3)(2)(a)/(b) – Wheelchair Accessible dwellings of Building Regulations 2015, or as superseded, as appropriate.

- 11.5.8 Policies LPP47 and LPP52 of the Adopted Local Plan also seek to secure a high standard of design and layout in all new development. Policy LPP47 also requires proposals to respect and respond to the local context, as well as them being capable of meeting the changing future needs of occupiers. Further, with regard to the latter policy, amongst other things, the scale, layout, height and massing of buildings and overall elevation design should reflect or enhance the area's local distinctiveness and shall 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.
- 11.5.9 Policy 8 of the Adopted Crossing Neighbourhood Plan is concerned with 'Design, Layout, Scale, Character, and Appearance of New Development' and largely reflects the sentiments of the above policies.
- 11.5.10 There is some ribbon development along the western side of Braintree Road due north of its junction with Mill Lane (north), and along the western side of Mill Lane itself, but on the whole the core built up area of Tye Green falls within the area bounded by Mill Lane and the B1018, including the recently completed Bellway Avondale development and the Countryside Properties scheme which is under construction to the east of the Avondale development, and adjacent to the Primary School. Beyond the area bounded by Mill Lane and the B1018 development tends to comprise housing that is more sporadic in nature, as well as residential barn conversions, agricultural, equestrian, and other low key commercial uses.
- 11.5.11 Indeed, the site currently comprises arable farmland that has been 'set aside' for many years, and until recently was put to grass and mown/topped on an occasional basis until it was ploughed. Nonetheless the land has regenerated with grasses, thistles, dandelions, creeping buttercup and other 'weed' species. Therefore, notwithstanding its rather unkempt appearance at times, its character is that of a green field which forms an important part of the undeveloped rural setting to Tye Green on the western side of Mill Lane, and as noted elsewhere the hedge and trees along the Mill Lane frontage currently provide a positive rural edge to the settlement.
- 11.5.12 Aside from an isolated dwelling known as Colwood, existing development along the western side of Mill Lane ceases where the road kinks at no's 55 & 57; and the rear gardens of the ribbon due north of which broadly create an alignment with the edge of the public highway which borders the site's road frontage. The Council has previously approved significant housing developments on land off Braintree Road (225 dwellings currently being built out by Countryside – 16/02144/OUT) and land east of Mill Lane (118 dwellings, now built out at Crozier Drive opposite the site – 16/00397/OUT). Whilst these were significant developments they were considered to relate

to the existing settlement pattern, falling within an area bound by the Braintree Road to the east and Mill Lane to the west. Whilst there was development beyond these roads' development was focussed inside the roads and development outside was more dispersed and often isolated. The proposed development is not considered to be a logical extension to the settlement and would run counter to the prevailing pattern of development within the locality, through the creation of a built nucleus that would give rise to a harmful incursion into the rural area, out of character with its surroundings. The consequent urbanisation of the countryside in this location beyond a defined built-up edge would be accentuated by the loss of approximately 35 metres of mature hedgerow to facilitate the creation of the site access, footways and required visibility splays. The loss of hedge would also further erode the green edge and rural setting of the village. The proposal is therefore contrary to the spirit of the NPPF (paragraph 180) and in conflict with Policies SP3, SP7, LPP1 and LPP47 of the Adopted Local Plan, as well as Policy 7 of the Adopted Crossing Neighbourhood Plan.

Detailed design matters

- 11.5.13 In terms of detailed matters of the design and layout of the scheme, many of those that would affect its character and appearance, in urban design terms also have implications for the quality of the living environment for future occupants.
- 11.5.14 During the processing period of the planning application (and the previously withdrawn proposal pursuant to 21/00749/FUL) the Applicant has worked proactively with Officers and the Highway Authority to create a detailed design and site layout that would provide a good quality living environment for the future occupants and satisfy the Highway Authority's requirements for highway adoption. A number of revisions have been made, including:
 - § Removal of private drive adjacent to site entrance;
 - § Introduction of additional pedestrian crossing point to north of Site access;
 - § Carriageway details including:
 - § Raised tables; and
 - § 500mm no build areas to the sides of shared surface streets.
 - § Addition of larger turning heads to facilitate emergency vehicular access;
 - § Conservatories removed to regularise private gardens;
 - § Layout of allotments and boundary treatment; and
 - § Architectural and layout alterations including:
 - § Increased natural surveillance to public open spaces;
 - § Reduction in roof pitch;
 - § Introduction of plinths to all properties;
 - § Increased use of render; and
 - § Community building design

- 11.5.15 As set out within section 6 above, the proposed development would essentially comprise two distinct elements: the eastern parcel, which would amount to the residential zone, including its internal road layout leading from a new vehicular access provided off Mill Lane; and the western parcel (measuring approximately 4ha) which is designed to deliver environmental and social infrastructure for both new residents of the scheme and existing residents in Tye Green, Cressing.
- 11.5.16 To be able to create the vehicular access to the site the Applicant proposes the removal of a length of hedgerow on Mill Lane, identified in the Applicant's Arboricultural assessment as G1 and consisting of Field Maple, Pendunculate Oak, Hazel, Blackthorn and Hawthorn, with a recorded height of up to 7 metres. The Applicant's arboriculturist assesses the affected length of hedge to be Category C (low quality). The initial layout proposed the removal of circa 20 metres of hedge on Mill Lane. The Highway Authority required a footway be provided on the northern side of the entrance and the Applicant produced revised plans to accommodate this. Officers requested that the Arboricultural Assessment be updated to reflect this change, and this revealed that just under 35 metres of hedge would need to be removed, and a further 12 metres of hedge faced back, to accommodate the enlarged site access and visibility splays. Smaller and less prominent lengths of hedge G2 (Blackthorn and Field Maple) and G4 (Hazel, Beech, and Blackthorn), also assessed by the Applicant as Category C quality, within the site are proposed to be removed to accommodate the development. Objectors have raised concerns that one of the positive aspects of Mill Lane's character are the hedge and trees and that the removal will detract from this. The removal of the hedge would diminish the strength of this characteristic. This has not been identified as a particular concern by the Council's Landscape consultant, but Officers consider this could contribute harm when considering the planning balance.
- 11.5.17 The residential element of the scheme has been designed to meet the needs of older people whilst recognising that not all older people want or need extra care accommodation or sheltered housing. Consequently, it constitutes a residential scheme falling within Use Class C3 (Dwellinghouses), as opposed to a Specialist category and/or Use Class C2 (Residential Institutions). Notwithstanding this, it is acknowledged that the proposed bungalows would be capable of adapting to meet the changing circumstances of their occupants.
- 11.5.18 The Applicant's design approach has been to implement a range of variable house types ranging in size from 1no bed to 4no beds and with a mix of detached, semi-detached, and terraced 'almshouse' style provisions. As set out in the table below the proposed mix of market housing is broadly consistent with the required mix specified in the SHMA and is considered appropriate for the context of this application. A palette of materials is also proposed, with brick, weatherboard and render being the main external wall cladding and a mix of roof tiles.

No. of bedrooms	% of New Market Dwellings required by SHMA	Mix of Market Housing Required by SHMA	Application Proposed Market Housing Mix
1	4%	2	0
2	31%	15	15
3	45%	21	29
4	20%	9	3

- 11.5.19 Members may be aware that the Applicant developed part of the former Braintree College following the demolition of some of the college buildings. That development consisted of the erection of a 75 bedroom care home and 19 No. age-restricted LifeLong Homes for those 55 years of age and over, and/or those living with, or supporting someone with a disability (App. Ref. 19/01743/FUL). A number of those dwellings comprise bungalows of a design not too dissimilar to what is proposed for the subject site.
- 11.5.20 Whilst the design of the proposed bungalows would be relatively simple, nonetheless they would form a cohesive whole, whilst not being unduly out of character with the architecture of Tye Green, where there are a significant number of bungalows and where buff brick and render panels are identified as some of the settlements defining characteristics.
- 11.5.21 The Council has adopted the Essex Design Guide (2005) as a Supplementary Planning Document. This indicates that dwellings with one or two bedrooms should be provided with a private rear garden of 50sq.m or more, and three bedroom dwellings should be provided with 100sq.m or more. All of the proposed dwellings would be provided with a sufficient amount of private garden space, and therefore accord with the minimum garden sizes from the Essex Design Guide. It is noted that several objectors refer to gardens being undersized, but the development complies with the Councils policy and may be borne out of a misunderstanding given the relatively large footprint of a bungalow relative to a standard house. All units would be single storey, with no first floor living accommodation, and the relationship between the properties is considered acceptable in terms of back to back distances and arrangements. Furthermore, the outlook and amenity afforded to each new dwelling would be acceptable. The scheme would also comply with the Nationally Described Space Standards for internal living space.
- 11.5.22 With regard to the western parcel within the site, this aspect of the proposals include the provision of allotment space; a dog exercise area; enhanced/alternative pedestrian links to Cressing railway station; the enhancement of mature vegetation and creation of wildlife habitat/corridors; the provision of amenity green space and public open space to residents to meet/socialise and exercise; along with areas of landscaped water bodies (i.e. ponds) to provide surface water attenuation for the residential element. A community building is also proposed to be provided adjacent to the proposed allotments.

- 11.5.23 With regard to the relationship of the site to the railway line there is a reasonable buffer distance between it and the proposed housing, to prevent significant noise impacts affecting future occupiers. It must also be recognised that the train services are infrequent and pass the site at a relatively low speed.
- 11.5.24 Given the above, Officers conclude, on balance, that the site would provide an acceptable living environment for future occupants and in urban design terms.
- 11.6 Impact on Neighbouring Residential Amenity
- 11.6.1 Paragraph 135 of the NPPF states that planning decisions should ensure that developments create places with a high standard of amenity for existing and future users.
- 11.6.2 Policy LPP52 of the Adopted Local Plan states that the Council will seek a high standard of layout and design in all developments in the District, and amongst other things, seeks to ensure that there shall be no unacceptable impact on the amenity of any nearby properties including on privacy, overshadowing, loss of light and overbearing impact. Policy 8 of the Adopted Crossing Neighbourhood Plan states that development proposals should ensure that the design reflects and responds positively to the scale, design, density, height, and layout of existing development in the surrounding area and would not result in significant harm to neighbouring residential amenity.
- 11.6.3 The relationship between the site and existing houses on the opposite side of Mill Lane would not give rise to a material loss of outlook, privacy or light to their occupiers, due to the degree of separation and the single storey form of the proposed dwellings. Views from some existing dwellings on Mill Lane near the proposed site access would be changed but as Members will be aware there is no right to a view in planning. The new vehicular access would generate some noise and disturbance from its operation, although bearing in mind the relatively low traffic flows envisaged to emanate from the proposal, these would not be significant.
- 11.6.4 Environmental Health do however state that a Construction Management Plan should be submitted on any grant of planning permission, to confirm measures to control and limit noise and air pollution at the time of site clearance and construction of the development. They also recommend hours for construction activities and that if any piling is proposed then details of noise control measures should also be provided prior to commencement of such operations. Officers consider that the imposition of such conditions would be reasonable if they were so minded to recommend the grant of planning permission.
- 11.6.5 Clearly the bungalow known as Colwood would be more directly affected by the development, but the application proposes that the owners of Colwood will be offered at nil cost the transfer of land adjacent to their existing

garden to its north, west and southern boundaries, this would create an enlarged garden / green buffer and separate the existing dwelling from the rear gardens of the bungalows proposed on plots 1-3, 18 & 19 and 32. Further, by virtue of their single storey form, the proposal would protect the living conditions of Colwood's occupants from a loss of privacy and outlook.

- 11.6.6 Therefore on this issue, the proposal would not give rise to demonstrable harm to the amenities of the occupants of surrounding residential properties.

11.7 Built Heritage

- 11.7.1 Paragraph 195 of the NPPF states that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. In determining planning applications, Paragraph 200 of the NPPF states that in determining applications, local planning authorities should require an Applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance.
- 11.7.2 Policy LPP52 of the Adopted Local Plan (criterion e.) states that designs shall be sensitive to the need to conserve and enhance local features of architectural, historic and landscape importance, particularly within Conservation Areas and in proximity to heritage assets. Policy 4 of the Adopted Crossing Neighbourhood Plan reflects these sentiments whilst being more prescriptive.
- 11.7.3 The Planning (Listed Buildings and Conservation Areas) Act 1990 is concerned with the protection of the historic environment. Section 66 of the Act imposes a statutory duty upon local planning authorities to consider the impact of proposals upon listed buildings and their settings, and to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest that it possesses.
- 11.7.4 There are a number of listed buildings within relatively close proximity to the application site, those closest include: Jeffreys Farmhouse to the opposite (southern) side of Bulford Mill Lane; Bulford Farmhouse and Bulford Barns to the west which are all dwellings.
- 11.7.5 The Council's Historic Buildings Consultant (HBC) has stated that they agree with the conclusions of the Applicant's heritage statement; although there are a number of heritage assets in close proximity to the site, their physical and associative separation from the site would result in negligible impact upon the heritage assets' setting and significance. This lack of impact is reinforced by the nature of the proposals, including planting and low building height, which would minimise the impact upon the surrounding landscape.

11.7.6 Consequently, and in accordance with the HBC's advice, it is considered that the proposal would not cause harm to the setting of listed buildings.

11.8 Archaeology

11.8.1 Leading on from built heritage, in its glossary, the NPPF highlights that *"There will be archaeological interest in a heritage asset if it holds, or potentially holds, evidence of past human activity worthy of expert investigation at some point"*. Policy 4 of the Adopted Cressing Neighbourhood Plan states that any proposals which could impact upon important archaeological remains should submit the outcomes of an archaeological evaluation of the site as part of the application, providing a proportionate assessment of the character, importance, and extent of the archaeological remains.

11.8.2 The Essex Historic Environment Record shows that the proposed development lies within an area of potential for below ground archaeological remains. A Desk Based Assessment has been submitted with the application which highlights the potential of the site to contain Late Iron Age, Roman and medieval remains based on the significant findings in the surrounding fields. There are recorded cropmark features within the development site that appear agricultural in origin. Finds recovered from the surface of the adjacent field suggest building remains of Roman date which may represent a villa site.

11.8.3 Recent excavations off Mill Lane have uncovered a sizable Late Iron Age/Roman settlement and possible temple site which may have been associated with a nearby villa. The proposed site lies between these two areas of LIA and Roman activity and is highly likely to contain further evidence associated with the settlement activity.

11.8.4 Consequently, there would be no objection to the proposal on this basis, subject to the imposition of conditions requiring a programme of archaeological investigation to be carried out prior to the commencement of development.

11.9 Ecology

11.9.1 Part 15 of the NPPF indicates that development should contribute to and enhance the natural environment and that impacts on biodiversity should be minimised and net gains provided.

11.9.2 Amongst other things, Policy SP7 of the Adopted Local Plan requires proposals to protect and enhance assets of natural value, incorporate biodiversity creation and enhancement measures. Policy LPP64 of the Adopted Local Plan requires that where there is a reasonable likelihood of protected or priority species being present on or immediately adjacent to the development site, the developer undertakes an ecological survey to

demonstrate that an adequate mitigation plan is in place to ensure no harm or loss to such species.

- 11.9.3 Policy LPP66 of the Adopted Local Plan states that, if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or as a last resort, compensated for, then planning permission should be refused.
- 11.9.4 To begin with it has been highlighted by some local residents that the land in question was ploughed in 2019, and then again in 2021. Whilst the land has been deemed to be arable 'set aside' land in respect of farm subsidy payments, it does not appear that prior to its ploughing, that it had been cultivated in over 15 years. On this basis the Environmental Impact Assessment (Agriculture) (England) (No.2) Regulations 2006 would have applied and the land owner (as opposed to the Applicant) should have applied to Natural England for a screening decision to assess whether the ploughing would have likely had a significant effect upon the environment before ploughing the field.
- 11.9.5 When the matter was raised on the previous planning application (21/00749/FUL) Officers sought advice from Natural England on this issue who stated that the ploughing event was outside of their two year enforceable window. Therefore, Natural England concluded that they would not be able to take further action in this matter. It is understood however that Natural England issued letters to the landowner regarding these activities: a warning letter (with the understanding that the event is unenforceable) for 2019, and an informational letter (stating that the work was considered outside the Regs) for further ploughing in 2021.
- 11.9.6 Beyond the issue of the EIA Regulations, the application has been supported by an update Ecology letter, including the originally submitted Preliminary Ecological Assessment, Breeding Bird Survey and eDNA Technical Note; and a Biodiversity Net Gain Feasibility Report.
- 11.9.7 The Council's Ecological Consultant have reviewed the submitted documents relating to the likely impacts of development on designated sites, protected and Priority species/habitats and the identification of proportionate mitigation measures. In addition, they have reviewed the Biodiversity Net Gain Feasibility Report. They are satisfied that sufficient ecological information is available for determination of the application and which allows the LPA to demonstrate compliance under paragraph 180d and 186d of the NPPF.
- 11.9.8 They raise no objection subject to securing a financial contribution in line with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy; and ecological mitigation and enhancement measures. They recommend that conditions be imposed that require the: mitigation measures are secured via a Construction Environmental Management Plan; submission of a wildlife sensitive lighting design scheme; a Landscape Ecological Management Plan should also be secured for

general landscape aftercare, with consideration of the on-site reptile receptor and should reflect the recommendations of the Biodiversity Net Gain Plan. In addition, bespoke biodiversity enhancement measures (e.g. integral bird boxes (including provisions for Swift), integral bat boxes, insect bricks / boxes, hedgehog highways, log piles and hibernacula) as outlined within the Preliminary Ecological Appraisal should be provided via Biodiversity Enhancement Strategy.

- 11.9.9 The application includes a Biodiversity Net Gain (BNG) Report, despite the fact that there is no statutory BNG requirement as the application was submitted prior to the legislation being implemented. Having assessed the current ecological baseline value of the site (not the biodiversity value of the site prior to the field being ploughed in 2019) the application indicates that in excess of 10% BNG could be delivered on-site through the delivery of additional hedgerow and habitat area units. The Council's Ecologist has advised that given that measurable biodiversity net gains are not a mandatory requirement for this application under the Environment Act 2021, they recommend that a bespoke Biodiversity Net Gain Plan is secured alongside the finalised planting scheme. This and the other matters above could all be secured by planning conditions and obligations.

11.10 Habitat Regulations Assessment (HRA / RAMS)

- 11.10.1 In terms of the wider ecological context, the application site sits within the Zone of Influence for the following:

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

- 11.10.2 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 protected sites.

- 11.10.3 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 Designated Sites.

- 11.10.4 The proposed mitigation measures would consist of the securing of a financial contribution of £163.86 per dwelling (index linked) which would contribute towards the funding of strategic 'off-site' measures identified in the adopted Essex Coast RAMS SPD, which includes off-site visitor management measures at the above protected sites.

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

11.11 Agricultural Land

- 11.11.1 Policy LPP1 of the Adopted Local Plan restricts development outside development boundaries to uses appropriate to the countryside whilst also protecting and enhancing, *inter alia*, soils to protect the intrinsic character and beauty of the countryside. This sentiment is reflected with paragraph 180. a) of the NPPF, as well paragraph 180. b) which that planning decisions should recognise the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land.
- 11.11.2 Natural England has published Agricultural Land Classification maps, showing the quality of agricultural land at a regional level. The map for the Eastern Region identifies the general area in which this site is located as being mostly Grade 3b with parts as Grade 3a. The submitted Soils and Agricultural Land Quality report confirms this, with 47% of the cultivated land being Subgrade 3a and 53% 3b; and states the heavy clay loam topsoil would provide a moderate resource for gardens and landscape areas if the site is developed, provided it is managed well during construction.
- 11.11.3 As Members will be aware the majority of agricultural land within this part of Essex falls within grade 2 or grade 3 agricultural land, which means that the majority of the agricultural land in the District will fall within the definition of Best and Most Versatile Agricultural Land (Grade 1, 2 & 3a). Officers acknowledge that this fact does not diminish the value of the Best and Most Versatile land, but national planning policy does not direct LPAs to refuse development that would result in the loss of this land. Local and national policies encourage the use of 'Brownfield' sites but there are a limited number of such sites within the District. In such circumstances, the loss of this particular site to agricultural use is not considered to represent a sufficient basis for resisting the development, notwithstanding a preference for developing 'Brownfield' sites wherever possible, however the loss of Best and Most Versatile Agricultural Land would be an adverse aspect of the development that would need to be considered in any assessment of the planning balance.

11.12 Flood Risk and Drainage

- 11.12.1 Paragraph 175 of the NPPF strongly encourages a sustainable drainage system (SuDs) approach to achieve these objectives. SuDs offer significant advantages over conventional piped drainage systems by either reducing flood risk by reducing the quantity of surface water run-off from a site, or managing the rate at which surface water is discharged from the site, either to surface water drains or to water courses, promoting groundwater recharge, and improving water quality and amenity. Part H of the Building Regulations also prioritises discharges of surface water to the ground or where this is not possible to a watercourse, with discharge to a sewer only

to be considered when both infiltration and discharge to a watercourse is not reasonably practicable.

- 11.12.2 Policy LPP76 of the Adopted Local Plan requires all new development of ten dwellings or more to incorporate SuDS to provide optimum water runoff rates and volumes taking into account relevant local or national standards and the impact of the Water Framework Directive on flood risk issues, unless it can be clearly demonstrated this is impracticable.
- 11.12.3 The proposal site lies in Flood Zone 1 with a low risk of fluvial, groundwater or surface water flooding and sewer flood risk across the site overall. The soil types beneath the site possess little infiltration capacity and are not considered sufficient for the practical use of infiltration devices, hence it is proposed that surface water is attenuated through twin basins in the west of the site. The proposed basins would be 600 mm deep with 1 in 3 side slopes and would share the same invert level so they would be able to operate as a single facility. These would then be managed via a restricted discharge to the ditch along the north western boundary at an agreed rate with the Lead Local Flood Authority – Essex County Council (LLFA) which ultimately flows to the water course below, the River Brain. The discharge rate would be restricted to the annual greenfield rate and attenuation will be provided in order to manage the 1 in 100 annual probability storm inclusive of 40 % climate change allowance and 10 % creep.
- 11.12.4 Having reviewed the proposals and associated documents which accompanied the planning application, the LLFA confirm that, subject to the imposition of reasonable conditions, the proposal would provide appropriate measures to manage surface water through the implementation of SuDS and other engineered hydrological measures.

11.13 Older Persons Housing

- 11.13.1 Paragraph 60 of the NPPF states that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed; and that the needs of groups with specific housing requirements are addressed. The overall aim should be to meet as much of an area's identified housing need as possible, including with an appropriate mix of housing types for the local community.
- 11.13.2 Paragraph 63 of the National Planning Policy Framework states that within this context of establishing need, the size, type, and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. These groups should include (but are not limited to) those who require affordable housing and older people (including those who require retirement housing).
- 11.13.3 The glossary within the NPPF (Annex 2) defines 'Older people' as *"People over or approaching retirement age, including the active, newly retired through to the very frail elderly; and whose housing needs can encompass*

accessible, adaptable general needs housing through to the full range of retirement and specialised housing for those with support or care needs.”

This is clearly a broad church, and whilst the open market dwellings proposed as part of this application are for the over 55's, in reality with a state pension age of 67, one could reasonably surmise that someone 'approaching retirement age' would in fact be in their mid-60's, especially in view of the fact that there is no longer a forced retirement age set by the Government and many people are working longer. Consequently whilst Officers acknowledge that there are people who wish to reside in a scheme occupied predominantly by people aged over 55 years of age, it is considered that the weight that can be given to the provision of housing for older people would be limited to moderate, especially when other open market housing developments, such as those recently constructed and under construction within Tye Green would also be attractive to many of that age cohort i.e. those between 55 and in their mid-60's.

- 11.13.4 Notwithstanding the above, the Planning Practice Guidance (PPG) states that the need to provide housing for older people is critical. People are living longer lives and the proportion of older people in the population is increasing. In mid-2016 there were 1.6 million people aged 85 and over; by mid-2041 this is projected to double to 3.2 million. Offering older people a better choice of accommodation to suit their changing needs can help them live independently for longer, feel more connected to their communities and help reduce costs to the social care and health systems. Therefore, an understanding of how the ageing population affects housing needs is something to be considered throughout the planning process, from the early stages of plan-making through to decision-taking.
- 11.13.5 With reference to the NPPF's definition of older people, the PPG recognises that the health and lifestyles of older people will differ greatly, as will their housing needs, which can range from accessible and adaptable general needs housing to specialist housing with high levels of care and support.
- 11.13.6 The Planning Practice Guidance identifies four broad types of housing specifically designed for older people – Age-restricted general market housing; Retirement living / sheltered housing; Extra Care housing or housing with care; Residential care homes and nursing homes. These broad types of housing are helpful when considering how the Council plans to provide appropriate levels of housing for older people.
- 11.13.7 In support of their proposals, the Applicant refers to the need for specialist housing for older people identified in the Strategic Housing Market Assessment (SHMA) covering the District. The SHMA assessed that there was a requirement for 1,730 additional specialist units over the period 2014-2037 in the Braintree District, consisting of 1,682 “sheltered housing” units and 89 units of “Extracare Living”. This was in addition to the existing 1,601 units of specialist housing for older people that were identified within the District's housing stock in 2014.

11.13.8 Having assessed the need for specialist housing for older people in the SHMA, the Local Plan then reflected that need in its policies. In particular, the Local Plan includes several policies and allocations that are sources of suitable housing for older people, which include:

- Policy LPP35 of the Adopted Local Plan which specifies minimum levels of new housing which must meet either Building Regulations standard Part M4(2) Accessible & Adaptable housing, or Part M4(3) wheelchair accessible/adaptable dwellings. The requirement to provide market and affordable housing to these standards will improve the housing stock and access to housing that will allow older people to live in them for longer due to the enhanced accessibility and adaptability.
- Paragraph 4.103 of the Adopted Local Plan, in the preamble to LPP 35, highlights that homes which are more adaptable and accessible will ensure that people can live safely in their homes for longer and may prevent accidents in the home which could lead to injuries such as hip fractures, which confirms that this policy was part of the Council's response to providing housing for older people.
- Policy LPP33 of the Adopted Local Plan, which is concerned with the provision of specialist housing, including housing that has been specifically designed and built to meet the needs of the elderly (paragraph 4.89). The policy seeks to do this through the allocation of two sites specifically for specialist housing, as well as through windfall provision resulting from the policy supporting the provision of specialist housing within development boundaries, where certain criteria are met and the expansion of existing facilities in the countryside. There is evidence of windfall sites delivering specialist housing schemes such as the Churchills development on the former Bramstons Sports Centre site in Witham (Application Reference 18/02304/FUL) and the Care Home on the Braintree College Site (Application Reference 19/01743/FUL) that have recently been built out, and the Care Home that forms part of the development on Land North of London Road, Kelvedon (Application Reference 17/00679/OUT).

11.13.9 It should also be noted that many older people do not want or need housing that has been designed or is managed specifically to house older people. For many older people general market housing, or existing Affordable Housing stock, continues to meet their needs for most, or all their lives. The Council has significantly increased housing land supply and housing delivery in the District, and this is contributing to meeting the housing needs of much of the community, including older people.

11.13.10 The Applicant refers to the need for Sheltered Housing that was identified in the SHMA, however the proposal is not what the Council would consider to be a Sheltered Housing scheme. As the Applicant's Planning Statement explains, the residential element of the scheme before Members has been "designed to meet the needs of older people; recognising that not all older people want or need extra care accommodation or sheltered housing."

11.13.11 The bungalows would be capable of adapting to changing circumstances, but ultimately the scheme falls squarely within a C3 (Dwellinghouses) use and therefore the proposal is far more akin to a standard (albeit age restricted) open market housing scheme, as opposed to 'sheltered housing', where there would usually be some form of care available on-site. Indeed, the affordable housing element of the proposal would not be age restricted and therefore some 40% of the units would not be restricted for occupation by older persons in any case.

11.13.12 The Applicant has not presented evidence that there is a need for this particular type of age-restricted market housing, and without this evidence Officers do not consider a need for this type of housing to be an over-riding consideration in the determination of this application.

12. PLANNING OBLIGATIONS

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

12.2 Policy LPP78 of the Adopted Local Plan directs that permission is only granted where it can be demonstrated there is sufficient appropriate infrastructure capacity to support the development and that such capacity can be delivered by the proposal. Where a development proposal requires additional infrastructure capacity, to be deemed acceptable, mitigation measures must be agreed with the Council which can include financial contributions towards new or expanded facilities Policy LPP78.

12.3 Policy LPP63 of the Adopted Local Plan establishes that the Council will expect all development proposals, where appropriate, to contribute towards the delivery of new Green Infrastructure, defined (amongst other things) to include open spaces, parks, and allotments. Policy LPP50 of the Adopted Local Plan states that, where a deficit of one type of open space or sports provision has been identified by the Council, planning conditions or obligations may be used to secure this.

12.4 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 (but are not limited to):

- 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.

- 12.5 Developers 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.
- 12.6 The following section identifies those matters that the District Council would seek to secure through a planning obligation if planning permission were to be granted.

Age Restriction (Market Housing)

- 12.7 The Applicants state that one of the benefits of the scheme would be the provision of market housing that is intended to provide housing that will help meet the demand for this type of housing for older people. To ensure that this benefit is captured the Section 106 agreement controls the people who can occupy the market dwellings, restricting this to people who are aged 55 or older; or a person who has a disability; or a surviving spouse or co-habiting partner of a person who was aged 55 or over or a person who has a disability; or a surviving dependent of a qualifying person who had lived at the property.

Affordable Housing

- 12.8 In accordance with Policy LPP31 of the Adopted Local Plan, affordable housing should be provided on-site. In this location a development of 78 residential dwellings requires 40% of the dwellings to be provided as affordable housing which would equate to 31 homes.
- 12.9 Over the course of this and the previous application there has been extensive discussions between the Applicant and Officers regarding the provision of Affordable Housing. Officers have required that a policy compliant level of Affordable Housing is provided on-site – this is 40% of dwellings, with 70% provided as Affordable Rent & 30% as Shared Ownership. Officers have also required that the Affordable Housing is provided without an age restriction, to allow the Affordable Housing to be let more readily and allow greater flexibility in letting. The Council's Housing Enabling Officer has set out the mix of Affordable Housing that they consider is appropriate to meet local housing need. The Applicant has agreed to the Council's requirements in all these respects and the following mix of Affordable Housing would be provided.

Type	No.	Affordable Rent	Shared Ownership
1 bed 2 person bungalow – Category M4(2)	11	9	2
2 bed 4 person bungalow – Category M4(2)	18	11	7
3 bed 5 person bungalow – Category M4(3)(b)	2	2	0
Total	31	22	9

- 12.10 Given that the development is of a novel basis for the District, Officers have also taken steps to ensure that there can be confidence that a Registered Provider (RP) would be willing to take the Affordable Housing secured as part of the development. The Applicant has approached a range of Registered Providers and sought expressions of interest for the Affordable Housing. Officers are satisfied that there is a reasonable level of RP interest, such that there can be confidence that the Affordable Housing would be provided with the resulting public benefits.

Buffer Land

- 12.11 As identified on the layout plan, and referenced within the description of development, the Section 106 agreement includes an obligation that the Applicant will offer the buffer land around the property known as Colwood for a nominal fee to the owners of that property. After transfer, the owner of Colwood would be able to use the transferred either an extension to their existing garden or maintained as a landscaped buffer to the development.

Health

- 12.12 The Integrated Care Board have confirmed that existing practices serving the area do not have capacity to accommodate the additional patients who would need access to health services as a result of the development.
- 12.13 A financial contribution of £38,600 (index linked to January 2022) in order to increase capacity for the benefit of patients of the primary care network operating in the area. This contribution could be used to provide additional capacity at practices within the Primary Care Network. This could be achieved through any combination of extension, reconfiguration, or relocation of premises.
- 12.14 It has been suggested that the proposed Community Hall could be used for a GP Practice to operate a satellite surgery which local residents could use to access healthcare facilities. Officers have discussed this with representatives of the Integrated Care Board who advise on planning applications. They have confirmed that there would be a number of logistical and practical reasons that it would not be feasible to operate a satellite surgery in a community building here. They did however reference the growing importance of social prescribing to help support health and well-being and that if access could be provided to a new community facility this could assist with the delivery of some of these services.

Open Space

- 12.15 Policy LPP50 of the Adopted Local Plan states that all developments will be expected to provide new open spaces in line with the requirements set out in the Open Spaces SPD. The Councils Open Space SPD sets out details on how standards will be applied. A development of this size would be expected to make provision onsite for informal and amenity open space and an outdoor equipped play area. There is also a requirement to secure the ongoing management and maintenance of any public open space provided on site and amenity areas within the site.
- 12.16 The Cressing Neighbourhood Plan states that whilst the quality of existing open space within the Parish is considered to be good, there are identified deficiencies in the area relating to allotments, amenity green space, children's play space and youth play space, concluding that the 'in comparison to other areas of the District, Cressing Parish has a significant need for investment into these kinds of community facilities'.
- 12.17 Policy 11 of the Adopted Cressing Neighbourhood Plan states that developers of residential development should contribute towards local infrastructure needs specified in Table 4 and Table 5 (the Neighbourhood Plan Action Plan). Infrastructure listed in the tables includes the provision of allotments, additional amenity green space, dog exercise area and new children's play space.
- 12.18 Whilst the Neighbourhood Plan requests financial contribution towards these Open Space improvements within the Parish given that there is currently no land available to provide these facilities the Applicant proposes that the development provides allotments, additional amenity green space, dog exercise area and new children's play space within the development within the 4 hectares of Open Space shown in the plans.
- 12.19 The Section 106 agreement specifies that the Open Space will be set out in accordance with an agreed specification, including the 0.26 hectares identified on the layout plan as allotments. The agreement specifies that the allotment plots would be offered to Cressing Parish Council for a nominal sum. If the Parish Council decline to accept the transfer of the land then the developer would be obligated to provide the Council with alternative arrangements for the future ownership and management of the allotments. The remainder of the Open Space would be transferred to a Management Company which would be funded by the occupants of the new dwellings.

Community Building

- 12.20 Policy 11 of the Adopted Cressing Neighbourhood Plan states that developers of residential development should contribute towards local infrastructure needs specified in Table 4 and Table 5 (the Neighbourhood Plan Action Plan). Infrastructure listed in the tables includes the provision of a new Community Hall.

- 12.21 Whilst the Neighbourhood Plan requests financial contribution towards a new Community Hall the Applicant is aware that objectors to previous applications for housing development have complained that financial contributions are not helpful and that what was required was a developer to build a new hall for the community. As a result of the Neighbourhood Plan and those previous comments the application proposes that a new Community Building would be provided as part of the development, and the application shows the location and design of the proposed building.
- 12.22 Notwithstanding the Adopted Cressing Neighbourhood Plan, Cressing Parish Council in their consultation response state that a new Community Hall is not required as there are existing halls which are sufficient to meet demand.
- 12.23 The Section 106 agreement that has been drafted commits the developer to provide the proposed Community Building within the development, subject to Cressing Parish Plan agreeing that they will accept the transfer of the completed build for a nominal fee and that they will be responsible for its on-going management and maintenance. In the event that the Parish Council decline to accept the offer of the building the developer will not be obliged to provide the Community Hall, and instead the land that the Community Hall would have stood on would be offered as additional allotment plots to the Parish Council. If the Parish Council do not want to take ownership of more allotment plots the Section 106 agreement requires that the developer agree a scheme with the Council to set the space out as additional public open space.

Education

- 12.24 The Education Authority, Essex County Council (ECC), have estimated the number of children that this new housing development would generate. ECC takes account of the number of houses and flats that are suitable to accommodate children. Dwellings with one-bedroom units and dwellings subject to an age restriction for older people are excluded from the education calculation. ECC advise that they anticipate this development could be expected to generate the need for up to 0.9 Early Years and Childcare (EY&C) places; 3 Primary School places, and 2 Secondary School places.
- 12.25 It is advised that there is insufficient capacity at existing primary and secondary schools to accommodate the additional number of children who are expected to live on the development. ECC have requested financial contributions towards creating additional capacity. The County Council have indicated that the contribution for primary education would be £58,275, and for secondary education £56,192 (contributions index linked to Q1 2024).
- 12.26 ECC state that a Secondary School Transport contribution will be required as there is currently no safe walking routes from the proposed development

to the nearest Secondary School – the Alec Hunter school. The cost of providing secondary school transport for five years is advised to be £11,894 (Index Linked to Q4 2023).

- 12.27 The Applicant has pointed out that the housing development at Long Green will, when built, continue the existing footway on the B1018 through to the existing footway at Galleys Corner. Once these highway works are completed by Persimmon a safe walking route will be available for children walking to the Alec Hunter school. BDC Officers agree with the Applicant that it would be unreasonable for the developer to have to pay the contribution for secondary school transport if a safe walking route is available for use by the time that any of the non-age restricted dwellings are occupied. BDC Officers consider that this matter could either be dealt with through a restriction on occupation of the dwellings until the safe walking route is available, and / or secures a contribution for secondary school transport in the event that a safe walking route is not available when the dwellings are occupied.

Library Contribution

- 12.28 Essex County Council recommend that a financial contribution of £6,068.40 (index linked) is secured to allow the library service to improve existing facilities at the local library which could include additional furniture, technology, or stock, which would mitigate the increased demand arising from the development.

Refuse Vehicle Access

- 12.29 To ensure that private roads within the development can be accessed by the Council so that refuse crews can pass and repass over these roads in order that they can collect refuse and recycling.

Habitat Regulations Assessment (HRA / RAMS)

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

S106 Conclusion

- 12.31 Subject to the above matters being incorporated into a Section 106 legal agreement, the development would be made acceptable in these respects. A draft agreement has been prepared by the Council's solicitor and the Applicant has provided comment on the draft agreement, accepting the broad heads of terms. Whilst Officers believe that it would be possible to reach an agreed Section 106 agreement with the Applicant, following further drafting and discussion, at the time of writing this report an agreement has not been completed and therefore the development

currently fails to satisfactorily mitigate the impacts of the development on local infrastructure and is contrary to Policies SP2, LPP31, LPP50 and LPP78 of the Adopted Local Plan.

12.32 At the time of preparing this report Officers therefore must report that the planning obligations are not agreed and that there is no Section 106 Agreement that secures these. As Members will be aware from previous applications that have been recommended for refusal, the absence of an agreement to secure planning obligations is an additional reason for refusal, notwithstanding the fact that there is broad agreement between Officers and the Applicant.

12.33 The weight that Officers consider should be attributed to the planning obligations in the drafted Section 106 agreement is set out within the Planning Balance section of this report.

Additional Land

12.34 Concerns have been raised locally that land to the north of the application site, which is owned by the same landowner could also be developed for housing at a later date. The Applicant has sought to address this concern by stating that they will provide a separate legal agreement that the 5.5 hectares of land, identified by the blue line on the location plan, will be offered to the Parish Council for a nominal fee for community use as publicly accessible open space. If the Parish Council decline the offer of the land then the landowner would be released from the obligation and retain ownership of the land.

12.35 There is no planning policy justification for the landowner to offer this additional land to the Parish Council, so unlike the Section 106 agreements listed above Officers do not believe that the offer of the additional land would not comply with the CIL Regulations. For this reason, Members should not give any weight to the public benefits that would arise from the land becoming public open space owned by the Parish Council.

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 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications must be determined in accordance with the Development Plan unless material planning considerations indicate otherwise
- 13.1.3 One important material consideration is the NPPF. The presumption in favour of sustainable development sits at the heart of the NPPF. The Framework is clear in its instruction at Paragraph 11d, that for decision-taking this means where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date (this includes, for applications involving the provision of housing, situations where: (a) the local planning authority cannot demonstrate a five year supply (or a four year supply, if applicable, as set out in Paragraph 226) of deliverable housing sites (with a buffer, if applicable, as set out in Paragraph 77) and does not benefit from the provisions of Paragraph 76; or (b) where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirement over the previous three years), granting permission unless:
- i. The application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 13.1.4 As indicated above, the Council's latest 5 Year Housing Land Supply position for 2023-2028 shows that the Council has a 5.8 year supply. Whilst the appeal decision Land South of Springfields (Appeal Reference APP/Z1510/W/24/3338229) saw the Planning Inspector conclude that the Council had only been able to provide sufficient evidence to demonstrate a 4.9 years supply, the assessed shortfall was just 67 dwellings. Since the appeal decision Officers have been working to obtain further evidence to demonstrate the deliverability of some of the sites that were excluded from the supply. Officers remain confident that additional evidence is being secured which will provide the required clear evidence of a 5 year supply of

housing land in the District. On the basis that the Council can demonstrate an up to date 5 year housing land supply, and because the most important policies for determining the application are not out of date, the presumption (at Paragraph 11d of the Framework) is not engaged. Consequently, and given that the Plan has only been relatively recently adopted, the policies within the Development Plan are considered to have full weight in decision making.

13.2 Summary of Adverse Impacts

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

Conflict with the Development Plan

- 13.2.2 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Paragraph 15 of the NPPF emphasises that the planning system should be “*genuinely plan led*”.
- 13.2.3 The proposed development would conflict with Policy LPP1 of the Adopted Local Plan as it proposes development outside of any defined development boundary and is not a use appropriate to the countryside. The proposed development is also contrary to Policy LPP33 of the Adopted Local Plan, which stipulates that new specialist housing sites in the countryside will not be supported, and Policy 7(C) of the Cressing Parish Neighbourhood Plan 2017-2033 which indicates that proposals for new housing outside of settlement boundaries should be an exception and comprise small-scale self-build or custom-build schemes.
- 13.2.4 It follows that the principle of development is not supported by the Development Plan and that the proposal conflicts with the Development Plan as a whole. Substantial weight should be given to this conflict.

Harm to the Character and Appearance of the Area

- 13.2.5 It is considered that the proposed development would be unacceptable as a matter of principle and would not constitute a logical addition to the settlement, conflicting with the prevailing pattern of development within Tye Green. The development of the site would result in a loss of a stretch of established hedgerow, the loss of open farmland which cause demonstrable harm to the character and appearance of the area. There would be some localised adverse visual effects, particularly in the early years which new mitigation landscaping establishes and matures. In this respect the proposal is contrary to Policies SP3, SP7, LPP1 and LPP47 of the Adopted Local Plan as well as Policy 7 of the Adopted Cressing Neighbourhood Plan (section C), these policies are consistent with the NPPF and can be afforded full weight. Overall, the harm that would be

caused to this issue is considered to carry substantial weight in the planning balance.

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 and Affordable Housing

- 13.3.2 The development proposes 78 dwellings of which 40% would be affordable housing. Due to the need for Affordable Housing in the District Officers would normally attribute significant weight to the benefits arising from the provision of new Affordable Housing. The occupation of the open market units would be restricted to the over 55's, or households with a disabled member, and this would go some way to providing more housing that would be attractive to some older persons in the District, however due to the relatively poor accessibility of the site, particularly in relation to healthcare facilities, significant weight is attributed to the benefits arising from the provision of Affordable and Market Housing.

Economic and Social Benefits

- 13.3.3 The provision of this housing would deliver associated economic and social benefits, some of these would only exist during the construction phases, whereas others would be sustained, such as the increased patronage of those services and facilities that exist in the local area, including the convenience store and the bus service. Due to the scale of the development, only limited weight is attributed to this benefit.

Section 106 agreement, including Public Open Space and Community Facilities

- 13.3.4 Assuming a suitably drafted Section 106 were agreed and completed which secured the above obligations the development would comply with the Council's policy requirements and mitigate the impact of the development in respect of affordable housing; healthcare; education, libraries; HRA/RAMS contribution. These benefits arising from these elements of the Section 106 are considered to be neutral, and not afforded any beneficial weight, as these obligations would only be mitigating the impacts of the development in accordance with planning policy.
- 13.3.5 It must however be acknowledged that the proposals presented by the Applicant exceed the minimum requirements to comply with the Development Plan policies in some respects. The application proposes that open space would be provided which exceeds the minimum policy requirements. This over provision is in part due to the constraints of the site with utility easements and the needs for SuDs attenuation, but the fact remains that almost half the application site would be set out and managed as open space. The Applicant has also responded to the Cressing

Neighbourhood Plan which at paragraph 4.4.12 refers to the need 'address identified deficiencies within the Parish related to the provision of allotments, amenity green space, children's play space ...' Paragraph 4.4.10 also states Cressing Parish Council will support proposals which enhance existing or create new open spaces for amongst other things dog exercise areas. Paragraph 4.4.6 states there are existing deficiencies in the provision of allotments, amenity green space, children's play space and youth play space. In comparison to other areas of the District, the Neighbourhood Plan states that there is 'a significant need for investment into these kinds of community facilities.' The proposed development would go some way to addressing existing facilities as well as providing for the needs of future occupants of the development. As the Neighbourhood Plan refers to 'a significant need' substantial weight should be attributed to these benefits.

- 13.3.6 The Council has secured financial contributions from other developments in Cressing, with the intention that these could contribute towards the provision of a new community facility as the Jeffries Road Recreation Ground. Unfortunately, it has not been possible for that project to come forward, however the Cressing Neighbourhood Plan still refers to the need for a new Community Hall. The Applicant has responded to this aspiration in the Neighbourhood Plan, and the fact that it has so far proven to be impossible to deliver a new Community Building using financial contributions secured through Section 106 agreements. The Applicant proposes that they will provide a new Community Hall as part of the development, subject to the Parish Council agreeing to take on the ownership and management of the building. The offer to provide a new community building, identified in the Neighbourhood Plan, is a further benefit of the scheme. The building will however only be provided if the Parish Council agree to take on ownership and management. Given this introduces a degree of uncertainty about whether the benefits will be realised the offer to provide a community hall is given moderate weight.
- 13.3.7 As noted above, Officers do not believe any benefit should be attributed to any potential benefits arising from the offer of the 'Additional Land' to the north of the application site to the Parish Council.

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. In addition to being contrary to Policy LPP1, Officers also consider that the proposals are contrary to Policies SP3, SP7, LPP1, LPP33 and LPP47 of the Adopted Local Plan as well as Policy 7 of the Adopted Cressing Neighbourhood Plan.
- 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 the 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.

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
Flood Risk Assessment	CCE/Y421/FRA-03	N/A
Flood Risk Assessment	Addendum	02
Other	4032,EC,DS/PEA/KL,RF/01.03 .21/V4	N/A
Biodiversity Details	6620, ec, ar, bng, sj, ac, kl-14- 07-23 v3	N/A
Other	1216, ds, ec, ar/desk/ab/11-06- 15/v1	N/A
Transport Plan	Cce/y421/ta/02	N/A
Lighting Plan	March 2024	N/A
Tree Plan	6620,ec,ar,aia,tc,rf,ac,09-05- 24, v7	N/A
Visibility Splays	36-47	N/A
Visibility Splays	36-48	N/A
Other	36-25	E
Access Details	Y421_PL_SK_201	H
Materials Details	Schedule - March 2024	N/A
Other	36-38	C
House Types	36-AZA-07	N/A
House Types	36-AZA-08	N/A
House Types	36-2B-03	B
House Types	36-2B-07	N/A
House Types	36-3B-02	A
House Types	36-BLO-08	N/A
Garage Details	36-GAR-02	N/A
Garage Details	36-GAR-03	N/A
House Types	36-JAS-08	N/A
House Types	36-JAS-13	B
House Types	36-JAS-14	N/A
House Types	36-JUN-05	N/A
House Types	36-LIL-10	N/A
House Types	36-MAG-07	N/A
House Types	36-VIB-07	B
House Types	36-11	F
Tenure Plan	36-12	F
Parking Strategy	36-14	F
Refuse Information	36-15	F
Garden Study	36-16	G
Materials Details	36-17	F
Boundary Treatment	36-18	H
Site Masterplan	36-22	F
Other	36-27	C

Location Plan	36-32	A
House Types	36-AZA-02	B
House Types	36-BEG-04	B
House Types	36-BLO-01	B
House Types	36-BLO-02	B
House Types	36-BLO-04	B
House Types	36-CAM-01	B
House Types	36-CAM-02	A
House Types	36-COM-01	B
Garage Details	36-GAR-01	B
House Types	36-JAS-10	B
House Types	36-JAS-11	B
House Types	36-JAS-13	B
House Types	36-JUN-02	C
House Types	36-LIL-09	N/A
House Types	36-LIL-04	B
House Types	36-MAG-02	B
Street elevation	36-SS-01	B
House Types	36-VIB-04	C
House Types	36-WIS-07	B
Site Survey	BBS-BB-EGL-SU-00	N/A
Site Survey	BBS-BB-EGL-SU-01	N/A
Site Survey	BBS-BB-EGL-SU-010	N/A
Site Survey	BBS-BB-EGL-SU-011	N/A
Site Survey	BBS-BB-EGL-SU-012	N/A
Site Survey	BBS-BB-EGL-SU-02	N/A
Site Survey	BBS-BB-EGL-SU-03	N/A
Site Survey	BBS-BB-EGL-SU-04	N/A
Site Survey	BBS-BB-EGL-SU-05	N/A
Site Survey	BBS-BB-EGL-SU-06	N/A
Site Survey	BBS-BB-EGL-SU-07	N/A
Site Survey	BBS-BB-EGL-SU-08	N/A
Site Survey	BBS-BB-EGL-SU-09	N/A

Reason(s) for Refusal

Reason 1

The proposed development is located outside of any settlement boundary. In such locations, only proposals that are compatible with and appropriate to the countryside will be permitted, and the proposal is not one of those forms of development. Policy LPP33 of the Adopted Braintree District Local Plan also states that new specialist housing sites in the countryside will not be supported, and Policy 7(C) of the Cressing Parish Neighbourhood Plan 2017-2033 only supports new housing outside of settlement boundaries that comprise small-scale self-build or custom-build schemes. The proposed development would therefore be contrary to Policies SP1, SP3, and LPP1 of the Adopted Braintree District Local Plan (2013-2033).

In addition to the above, the proposed development would also give rise to a number of harms including the adverse impact the development would have on the character

and appearance on the area, including: the loss of established and open farmland both of which contribute positively to the rural setting of the village, localised adverse visual effects particularly within the early years following development, and failing to constitute a logical addition to the settlement, conflicting with the prevailing pattern of development within Tye Green.

Consequently, it is concluded that the harms arising from the development, including the harm arising from the conflict with the Development Plan, would outweigh the stated benefits, such that planning permission should be refused in line with the Development Plan. The proposed development would be contrary to the NPPF, and Policies SP1, SP3, SP7, LPP1, LPP47, and LPP52 of the Adopted Braintree District Local Plan (2013-2033).

Reason 2

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

- Occupancy restriction on the Market Housing, so that the dwellings can only be occupied by a qualifying occupier (someone aged 55 years or older, or someone has a disability), or is a permitted occupier (someone who is a spouse, or co-habiting or dependent relative or carer of a qualifying occupier);
- Provision of Allotments on-site, subject to the nominated body (Cressing Parish Council) accepting the transfer of the allotment land;
- Provision of the Community Building, fitted out to an agreed specification, subject to the nominated body (Cressing Parish Council) accepting the transfer of the Community Building;
- Provision of on-site informal and amenity open space and an outdoor equipped play area plus arrangements for ongoing management and maintenance of the Open Space and Amenity Areas;
- On-site Affordable Housing - 31 dwellings with no age restriction (22 Affordable Rent & 9 Shared Ownership);
- A financial contribution towards primary education, secondary education, and library improvements (index linked), and secondary school transport in the event that a safe walking route is not available to the Alec Hunter School prior to the first occupation of any Affordable Dwelling on-site;
- A financial contribution for the NHS to increase capacity at local health centres serving the development;
- A financial HRA contribution (index linked);
- Refuse vehicle access;
- Buffer land - to offer the owner of Colwood House the buffer land for a nominal fee;
- Monitoring fees.

These requirements would need to be secured through a S106 planning obligation. At the time of issuing this decision no agreement has been completed. In the absence of securing such planning obligations the proposal is contrary to Policies SP2, SP6, LPP31, LPP50 and LPP78 of the adopted Braintree District Local Plan (2013-2033), the Open Space Supplementary Planning Document (2009) and Essex County Council Developers' Guide to Infrastructure Contributions.

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)
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
LPP33	Specialist Housing
LPP35	Housing Mix, Density and Accessibility
LPP42	Sustainable Transport
LPP43	Parking Provision
LPP47	Built and Historic Environment
LPP48	An Inclusive Environment
LPP50	Provision of Open Space, Sport and Recreation
LPP52	Layout and Design of Development
LPP57	Heritage Assets and their Settings
LPP59	Archaeological Evaluation, Excavation and Recording
LPP63	Natural Environment and Green Infrastructure
LPP64	Protected Sites
LPP65	Tree Protection
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP67	Landscape Character and Features
LPP69	Protected Lanes
LPP70	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP72	Resource Efficiency, Energy Generation and Energy Efficiency
LPP74	Flooding Risk and Surface Water Drainage
LPP76	Sustainable Urban Drainage Systems
LPP77	External Lighting
LPP78	Infrastructure Delivery and Impact Mitigation

Cressing Parish Neighbourhood Plan 2017 - 2033

- 1 Protecting and Enhancing the Natural Environment
- 2 Protection of Special and Sensitive Landscapes
- 3 Maintaining the Character and Integrity of the Parish
- 4 Protecting the Historic Environment
- 5 Infrastructure, Services, and Utilities
- 6 Protecting and Enhancing Community Facilities and Public Open Spaces
- 7 Housing
- 8 Design, Layout, Scale, Character, and Appearance of New Development
- 10 Provision of Electric Vehicle Charging Points
- 11 Developer Contributions

APPENDIX 3:

SITE HISTORY

Application No:	Description:	Decision:	Date:
21/00749/FUL	Development of 80 no. age-restricted (to over-55s) bungalows; with provision of c. 4 ha of public informal open space incorporating, allotments, dog exercising area and potential land for community facility.	Withdrawn	26.10.23