

# PLANNING COMMITTEE AGENDA

Tuesday, 28th November 2023 at 7.15pm

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

**THIS MEETING IS OPEN TO THE PUBLIC**

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

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

---

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

Councillor J Abbott

Councillor J Beavis

Councillor L Bowers-Flint

Councillor T Diamond

Councillor M Fincken

Councillor J Hayes

Councillor D Holland (Vice-Chairman)

Councillor A Hooks

Councillor A Munday

Councillor I Parker (Chairman)

Councillor F Ricci

Councillor P Schwier

Councillor G Spray

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

Apologies: Members unable to attend the meeting are requested to forward their apologies for absence to the Governance and Members Team on 01376 552525 or email [governance@braintree.gov.uk](mailto: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](http://www.braintree.gov.uk)

## **Data Processing**

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

[https://www.braintree.gov.uk/info/200136/access\\_to\\_information/376/privacy\\_policy](https://www.braintree.gov.uk/info/200136/access_to_information/376/privacy_policy)

## **Mobile Phones**

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

## **Webcast and Audio Recording**

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

## **Comments and Suggestions**

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

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

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

**3 Minutes of the Previous Meeting**

To approve as a correct record the Minutes of the meetings of the Planning Committee held on 17th October 2023 and 7th November 2023 (copies to follow).

**4 Public Question Time**

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

**5 Planning Applications**

To consider the following planning applications.

**5a App. No. 23 00425 OUT - MDS Civil Engineering, 19 Fourth Avenue, Bluebridge Industrial Estate, HALSTEAD** **6 - 26**

**5b App. No. 23 00455 OUT - Land adjacent to Kitchen Hill, BULMER** **27 - 50**

**5c App. No. 23 01478 OUT - Towerlands, Panfield Road, BRAINTREE** **51 - 110**

**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.

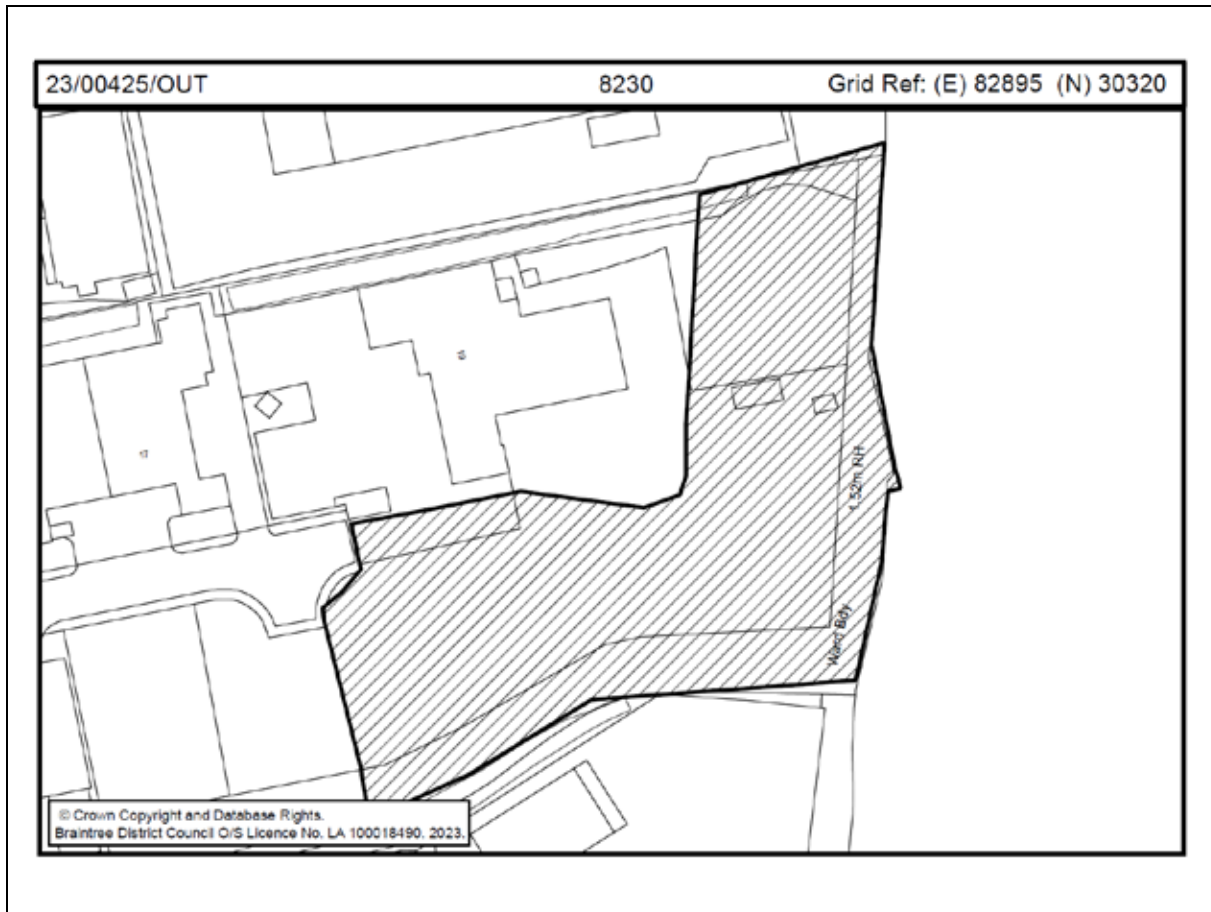
*At the time of compiling this agenda there were none.*

**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.

<b>Report to:</b> Planning Committee	
<b>Planning Committee Date:</b> 28th November 2023	
<b>For:</b> Decision	
<b>Key Decision:</b> No	<b>Decision Planner Ref No:</b> N/A
<b>Application No:</b>	23/00425/OUT
<b>Description:</b>	Outline planning application with all matters reserved, except access and scale, for the erection of mixed use industrial/commercial units with flexible use for Use Classes E(g), B2 and B8, and associated operational development, including a maximum of 5% total floorspace as ancillary trade counter(s)
<b>Location:</b>	MDS Civil Engineering, 19 Fourth Avenue, Bluebridge Industrial Estate, Halstead, Essex, CO9 2SY
<b>Applicant:</b>	Mr R Marfleet, Marfleet Civil Engineering, Carter Barns, High Street Green, Sible Hedingham, CO9 3LG
<b>Agent:</b>	Miss Heather Organ, Arcady Architects, Unit 4 Pillows Barns, Hammonds Road, Little Baddow, CM3 4BG
<b>Date Valid:</b>	29th March 2023
<b>Recommendation:</b>	It is RECOMMENDED that the following decision be made: § Application GRANTED subject to the completion of a Section 106 Agreement to cover the Heads of Terms outlined within the Recommendation section of this Committee Report, and subject to the Condition(s) & Reason(s) and Informative(s) outlined within Appendix 1 of this Committee Report.
<b>Options:</b>	The Planning Committee can: a) <b>Agree</b> the Recommendation b) <b>Vary</b> the Recommendation c) <b>Overturn</b> the Recommendation d) <b>Defer</b> consideration of the Application for a specified reason(s)
<b>Appendices:</b>	<b>Appendix 1:</b> Approved Plan(s) & Document(s) Condition(s) & Reason(s) and Informative(s)
	<b>Appendix 2:</b> Policy Considerations
	<b>Appendix 3:</b> Site History
<b>Case Officer:</b>	Carol Wallis For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2534, or by e-mail: <a href="mailto:carol.wallis@braintree.gov.uk">carol.wallis@braintree.gov.uk</a>

**Application Site Location:**



<b>Purpose of the Report:</b>	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.
<b>Financial Implications:</b>	<p>The application was subject to the statutory application fee paid by the Applicant for the determination of the application.</p> <p>As outlined above, it is recommended that the decision is subject to a Section 106 Agreement which seeks to mitigate the impact(s) arising from the proposed development. Any financial implications arising out of a Section 106 Agreement will be set out in more detail within the body of this Committee Report.</p> <p>Financial implications may arise should the decision be subject to a planning appeal or challenged via the High Court.</p>
<b>Legal Implications:</b>	<p>Any legal implications arising out of a Section 106 Agreement will be set out in more detail within the body of this Committee Report.</p> <p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either set out the relevant Conditions &amp; 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>
<b>Other Implications:</b>	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.
<b>Equality and Diversity Implications:</b>	Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:



	<p>a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act;</p> <p>b) Advance equality of opportunity between people who share a protected characteristic and those who do not;</p> <p>c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.</p> <p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
<p><b>Background Papers:</b></p>	<p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> <li>§ Application Form</li> <li>§ All Plans and Supporting Documentation</li> <li>§ All Consultation Responses and Representations</li> </ul> <p>The application submission can be viewed online via the Council's Public Access website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a> by entering the Application Number: 23/00425/OUT.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> <li>§ National Planning Policy Framework (NPPF)</li> <li>§ Braintree District Local Plan (2013-2033)</li> <li>§ Neighbourhood Plan (if applicable)</li> <li>§ Supplementary Planning Documents (SPD's) (if applicable)</li> </ul> <p>The National Planning Policy Framework can be viewed on the GOV.UK website: <a href="http://www.gov.uk/">www.gov.uk/</a>.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: <a href="http://www.braintree.gov.uk">www.braintree.gov.uk</a>.</p>

## 1. EXECUTIVE SUMMARY

- 1.1 The site is located at the eastern end of Fourth Avenue within the Bluebridge Industrial Estate in Halstead. It is situated within the town development boundary. Together with the wider industrial estate, it is designated as an Employment Policy Area on the Proposals Map of the Adopted Braintree District Local Plan (21013-2033).
- 1.2 The site is approximately 0.78ha in size and currently used as a service yard, storage and parking areas as well as vehicular turning space for the company.
- 1.3 The application seeks outline permission to erect 3 new buildings for a flexible use for Use Classes E(g), B2 and B8, with a maximum 5% total new floorspace areas for ancillary trade counter(s). Approval for access and scale are also sought under this application, with matters on appearance, landscaping, and layout to be reserved for future consideration.
- 1.4 An illustrative site plan has been provided showing the indicative site layout, the indicative unit type, and the possible car park layout with vehicular turning areas. A parameter plan is also submitted for consideration, restricting the scale of the development in terms of the maximum external width, depth, and height of built form, as well as the maximum Gross Internal Area which is proposed as 1,625sq.m.
- 1.5 The principle of development is supported as the proposed uses are in line with the employment allocation. Following revisions, the Applicant has slightly reduced the proposed scale of the buildings and re-designed the service yards serving Blocks A and B in the southern part. Officers are satisfied that the proposed quantum would be achievable subject to detailed design at Reserved Matters stage. No trees are proposed to be removed and the indicative site plan shows that there would be room for new street trees and new landscaping areas to be incorporated.
- 1.6 No objections have been received from statutory and technical consultees. The Highway Authority also has no objection to the proposed access arrangement. Subject to conditions to control surface water drainage, it is considered that there would be no adverse impacts resulting from the proposed development.
- 1.7 The proposal would deliver both economic and social benefits and is considered to constitute sustainable development. Consequently, the application is recommended for approval, subject to the completion of a S106 Agreement to secure a Workplace Travel Plan and monitoring fees, as well as an open space financial contribution towards the improvement of Halstead River Walk.

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 site is located at the eastern end of Fourth Avenue within the Bluebridge Industrial Estate in Halstead. It is situated within the town development boundary. Together with the wider industrial estate, it is designated as an Employment Policy Area on the Proposals Map of the Adopted Braintree District Local Plan (21013-2033).

5.2 The site is largely in a mirrored L-shaped form wrapping around the 3 sides of the host building (MDS Civil Engineering) at 19 Fourth Avenue. It is approximately 0.78ha in size and currently used as a service yard, storage and parking areas as well as vehicular turning space for the company. Some of the containers stored on site are vacant. A mature tree belt can be found in the eastern and southern part of the site.

5.3 To the immediate west of the site on the southern side of Fourth Avenue, outline planning permission was granted in March 2022 for a new mixed-use unit under Application Reference 21/03669/OUT. The wider area is within the Bluebridge Industrial Estate which comprises a mix of various commercial and industrial uses. Arable fields can be found further away wrapping the industrial estate to the north, east and south. River Colne is to the further south.

6. PROPOSAL

6.1 The Applicant is seeking outline permission to erect 3 new buildings for a flexible use for Use Classes E(g), B2 and B8, with a maximum 5% total new floorspace areas for ancillary trade counter(s). Details on access and scale are also sought under this application, with matters on appearance, landscaping, and layout reserved for future consideration.

6.2 Applications for outline planning permission seek to establish whether the nature of a proposed development would be acceptable to the LPA, before a detailed proposal is put forward. An illustrative site plan has been

provided showing the indicative site layout, the indicative unit type, and the possible car park layout with vehicular turning areas.

- 6.3 A parameter plan is also submitted for consideration, restricting the scale of the development in terms of the maximum external width, depth, and height of built form, as well as the maximum Gross Internal Area which is proposed as 1,625sq.m.
- 6.4 The proposed dimensions of the buildings are as follows:
- Sub-station: max. 4.1m x 4.8m x 4.6m (h), eaves height at 3m;
  - Block A: max. 25m (w) x 17.3m (d) x 9.6m (h), eaves height at 7.2m;
  - Block B: max. 49m (w) x 14.8m (d), eaves height at 7.2m; and
  - Block C: max. 12.8m (d), eaves height at 7.2m.
- 6.5 Fourth Avenue is proposed to be extended to provide a private internal access road with a width of 6.25m and a 2m wide footway along the southern side. Apart from Block C, the other proposed buildings would be located on the southern side of this new access road.
- 6.6 The indicative typical unit plan shows that each of the proposed unit would be about 162.1sq.m in size, with a roller shutter door, a separate pedestrian entrance door with front window, an accessible toilet and a small pantry. Fire escape door is provided at the rear.
- 6.7 The application is supported by a suite of documents which include:
- Biodiversity Checklist dated 25 January 2023
  - Covering letter dated 16 February 2023
  - Design and Access Statement
  - Flood Risk Assessment (FRA)
  - Sustainability Statement

## 7. SUMMARY OF CONSULTATION RESPONSES

### 7.1 Anglian Water

- 7.1.1 Assets affected: There are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development boundary that may affect the layout of the site.
- 7.1.2 Wastewater Treatment: The foul drainage from this development is in the catchment of Halstead Water Recycling Centre which currently does not have capacity to treat the flows the development site. Anglian Water are obligated to accept the foul flows from the development with the benefit of planning consent and would therefore take the necessary steps to ensure that there is sufficient treatment capacity should the Planning Authority grant planning permission.

7.1.3 Used Water Network: A full assessment cannot be made due to lack of information, the Applicant has not identified a connection point into the public network, or regime of discharge. Therefore, the development has the potential to have an unacceptable risk of flooding/or pollution from the network. Anglian Water will need to plan effectively for the proposed development if permission is granted. Therefore, request a condition requiring and on-site drainage strategy.

7.1.4 Surface Water Disposal: The surface water strategy/flood risk assessment submitted with the planning application relevant to Anglian Water is unacceptable due to no drainage strategy being included, Anglian Water require this to understand how surface water will be discharged. The Applicant is recommended to consult with Anglian Water. Further assessment is required to establish whether network reinforcement is required, this assessment and any necessary reinforcement work will be at the developers cost. An approval condition on drainage strategy is requested.

## 7.2 Essex Fire and Rescue Service

7.2.1 No objection. The fire service access to the proposed development appears sufficient, meeting the requirements of Section B5 Approved Document B Fire Safety Volume 2. More detailed observations on access and facilities for the Fire Service will be considered at Building Regulation consultation stage.

## 7.3 Essex Police

7.3.1 Whilst there are no apparent concerns with the layout to comment further, finer detail such as the proposed lighting, boundary treatments and physical security measures are required. Would welcome the opportunity to assist the developer to demonstrate their compliance with Policy LPP52 by achieving a Secured by Design (SBD) Commercial award. 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.

## 7.4 BDC Ecology

7.4.1 No objection. Given the scope and scale of the proposed works, and that it is considered that the site has no suitable habitat to support protected or priority species, the impacts of development to designated sites, protected species, priority species/habitats can be predicted. Informative are suggested to follow the general good practice during construction phase and to direct any external lighting away from trees and hedgerows to avoid disturbance to light sensitive wildlife.

## 7.5 BDC Environmental Health

7.5.1 No response at the time of writing.

7.6 ECC Highways

7.6.1 No objection. From a highway and transportation perspective, the impact of the proposal is acceptable to the Highway Authority, subject to conditions on construction traffic management plan, provision of the vehicular and pedestrian access, and a Workplace Travel Plan together with monitoring fees if there are 50 or more employees.

7.7 ECC SUDS – Lead Local Flood Authority

7.7.1 No objection, subject to conditions requiring detailed surface water drainage scheme, maintenance plan and yearly maintenance log book.

8. PARISH / TOWN COUNCIL

8.1 Halstead Town Council

8.1.1 No objection.

9. REPRESENTATIONS

9.1 None received.

10. PRINCIPLE OF DEVELOPMENT

10.1 The site is located in an area allocated as an Employment Policy Area. Policy LPP3 of the Adopted Local Plan states that in such areas the following uses will be considered appropriate and will be permitted and retained:

- a. Office use, research and development, and industrial processes (other than industrial processes falling within Class B2) (Use Class E (g))
- b. General industrial (use class B2) and storage and distribution (use class B8)
- c. Repair of vehicles and vehicle parts
- d. Waste management facilities as appropriate taking into account neighbouring uses.
- e. Services specifically provided for the benefit of businesses or workers based on the employment area.

Changes from B2 or B8 to E (other than E(g) Offices, Research and Development, Light Industrial) will not be permitted.

10.2 The proposed warehouses would provide additional commercial and business floorspace which is in line with the designated uses of the Employment Policy Areas. Following initial consultation, the Applicant has clarified that a maximum of 5% of the total floorspace would be used as ancillary trade counters. Therefore, the principle of development is considered acceptable, subject to conditions to restrict the percentage of ancillary trade counters and to remove permitted development rights to

control the future use of the buildings to ensure the development remains in compliance with the above policy.

## 11. SITE ASSESSMENT

### 11.1 Design, Appearance and Impact upon the Character and Appearance of the Area

11.1.1 Paragraph 126 of the NPPF states that good design is a key aspect of sustainable development. Policy SP7 of the Adopted Local Plan states that new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs.

11.1.2 Policy LPP52 of the Adopted Local Plan requires amongst other things that designs recognise and reflect local distinctiveness in terms of scale, density, height and massing of buildings, and be sensitive to the need to conserve local features of architectural and historic importance, and also to ensure development affecting the public realm shall be of a high standard of design and materials and use appropriate landscaping.

11.1.3 The layout and appearance of the proposed development will be considered at Reserved Matters stage. However, the Applicant has provided a parameter plan to control the scale of the proposed development, which is to be considered as part of this application.

11.1.4 Following discussions with Officers, the Applicant has slightly reduced the proposed scale of the buildings and has combined the service yards for Blocks A and B in the southern portion of the site. The revised maximum external width, depth and height of the blocks are considered to be compatible to the host building and the approved building to the immediate west.

11.1.5 More space is available for vehicular parking, turning space, potential landscaping areas and for street trees at the detailed design stage. Officers are satisfied that the indicative site plan demonstrates that flexibility has been provided and the revised scale would be able to be accommodated within the site without compromising the design requirements at a later stage. Therefore, it is not considered that there would be negative impact on the existing character and appearance of the local area.

### 11.2 Trees and Landscaping

11.2.1 Policy LPP52 of the Adopted Local Plan states that amongst other things that landscape development layouts must be appropriately designed to accommodate structural tree and hedge planting and ensure that future interference with highway safety, roads, pavements, services, and properties is minimised. Furthermore, Policy LPP65 of the Adopted Local Plan states that 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.

11.2.2 The Applicant proposes to retain all the trees along the site boundaries. Additional landscaping areas are included in the indicative site plan. Revised plans also demonstrate that there would be a reasonable distance from the existing trees. Detailed tree survey and tree protection measures would be expected to be submitted for consideration at Reserved Matters stage to demonstrate that there would be no encroachment into the Root Protection Areas of the existing trees within the site.

### 11.3 Ecology

11.3.1 Policy LPP66 of the Adopted Local Plan states that development proposals shall provide for the protection of biodiversity and the mitigation or compensation of any adverse impacts. Additionally, enhancement of biodiversity should be included in all proposals, commensurate with the scale of the development.

11.3.2 The Council's Ecology and Natural Conservation Officer has been consulted and raises no objection. Given the scope and scale of the proposed development, and that it is considered that the site has no suitable habitat to support or priority species, the impacts of development to designated sites, protected species, priority species/habitats can be predicted. The Applicant is advised to follow good practice mitigation during construction stage and to direct any external lighting away from trees and hedgerows to avoid disturbance to light sensitive wildlife. This would be a matter than would be fully considered at the Reserved Matters stage.

### 11.4 Highway Considerations

11.4.1 Policy LPP52 of the Adopted Local Plan amongst other things states that use of sustainable modes of transport are promoted in the design and layout of new development. The highway impact shall be assessed, and the resultant traffic generation and its management shall seek to address safety concerns. Developments which will result in a severe impact upon the highway network (taking into account cumulative impacts) will be refused unless they can be effectively mitigated.

11.4.2 The revised plans demonstrate that sufficient parking provision (including cycle parking) and vehicular turning areas could be accommodated for the proposed flexible commercial and industrial uses. The restriction on the retail element would also restrict a high traffic generation.

11.4.3 The Highway Authority has no objection to the proposal, subject to conditions. Following revision of the indicative site plan, the combined service yards for Blocks A and B in the southern portion appears to be more practical for the longer type of Heavy Goods Vehicles (HGVs) as well as a better potential for useable service yards.

11.4.4 Given the proposed flexible uses, the indicated parking provision as shown in the indicative site plan is considered acceptable. Notwithstanding the text



on the submitted parameter plan, all private car parking bays should not be less than the required size of 5.5m x 2.9m. Any subsequent Reserved Matters application(s) would be required to demonstrate that the Adopted Parking Standards could be provided together with adequate space for vehicular manoeuvring, for each of the plot(s)/parcel(s).

- 11.4.5 The Highway Authority has requested for a Workplace Travel Plan and a monitoring fee should there be 50 or more employees. As the end-users are not determined at outline stage, these will need to be secured by a S106 agreement, should approval be given.

#### 11.5 Impact upon Residential Amenity

- 11.5.1 The NPPF sets out that decisions should seek to ensure a high-quality amenity for all current and future occupiers of dwellinghouses. Policy LPP52 of the Adopted Local Plan states that development shall not cause undue or unacceptable impacts on the amenities of nearby residential properties. Unacceptable impacts are considered as any factors that can carry the potential to degrade the enjoyment of neighbouring properties such as overlooking, overshadowing, loss of light or loss of privacy.

- 11.5.2 The nearest residence would be the residential properties along Fenn Road to the further west of the site. In view of the separation distance, it is not considered that the proposal would have a detrimental impact upon the living conditions of nearby residents.

#### 11.6 Flooding and Drainage Strategy

- 11.6.1 Policy LPP76 of the Adopted Local Plan states that all new developments of 10 dwellings or more and major commercial development, car parks and hard standings will incorporate Sustainable Drainage Systems (SuDs) appropriate to the nature of the site.

- 11.6.2 The site is located within Flood Zone 1 with the least risk of flooding from rivers or the sea. However, the central part of the site together with Fourth Avenue are identified with low to medium risk of surface water flooding. The Applicant has submitted a Flood Risk Assessment in support of the application.

- 11.6.3 Permeable surface will be provided for the majority of the parking areas and rainwater from the roof would be diverted downwards to the filter drains connecting to a sub-base reservoir. ECC SUDS, the Lead Local Flood Authority (LLFA), together with Anglian Water have been consulted and have no objection to the proposal, subject to conditions on detailed surface water drainage scheme, maintenance arrangement and maintenance log book.

## 11.7 Climate Change and Resource Efficiency

- 11.7.1 Policy LPP71 of the Adopted Local Plan states that Applicants will be expected to demonstrate that measures to lower carbon emissions, increase renewable energy and adapt to the expected impacts of climate change have been incorporated into their schemes and adapt to the expected impacts of climate change have been incorporated into their schemes, other than for very minor development. Planning permission will only be granted for proposals that demonstrate the principles of climate change mitigation and adaptation into the development.
- 11.7.2 Furthermore, Policy LPP72 of the Adopted Local Plan states that the Local Planning Authority will encourage appropriate energy conservation and efficiency measures in the design of all new development.
- 11.7.3 The Applicant has supplemented the application with a Sustainability Statement to demonstrate how the requirements of Policies LPP71 and LPP72. The wider industrial estate is currently served by superfast broadband and infrastructure will be provided in construction to connect the new units and to allow for future upgrade to Ultrafast Broadband.
- 11.7.4 The development is designed to follow the energy hierarchy principles: Be Lean, Be Clean and Be Green. The Applicant has explained that the fabric first approach is not applicable in an industrial setting. The thermal efficiency requirements of the units would be dictated by the end users, which can add localised insulation and or heating/cooling equipment to meet their needs. However, the units are designed to be adaptable internally to meet the needs of different users across their lifetime.
- 11.7.5 Heat generated from industrial processes could also be harnessing through localised heat network to service multiple units. Subject to further design at Reserved Matters stage, renewable energy could be provided by implementing solar panels on the roof panels with battery storage. The end users will be encouraged to incorporate LED lighting fixtures, low flow toilets and water taps to conserve water. These could be considered at Reserved Matters stage.
- 11.7.6 At least 1 twin electric vehicle charging point will be provided for each of the block and at least 1 in 5 remaining parking spaces will be provided with cable routes for additional charging points to be provided in the future.
- 11.7.7 The proposal is considered to be acceptable in this regard.

## 12. PLANNING OBLIGATIONS

- 12.1 The total number of employees is unclear at the outline stage, a Workplace Travel Plan would be required should the overall employee number exceeds 50 and a monitoring fee of £6,760 would also be required. This will need to be secured by a S106 Agreement.

- 12.2 According to the Open Space SPD (2019), casual or informal open space and outdoor sports provision will be required from Use Classes B1, B2, and B8 development, subject to a minimum threshold of 1,000sq.m. The method of calculating the amount of financial contribution is based on the type of use, the employment density and cost per employee of providing, enhancing or maintaining open space. The amount of contribution equates to the commercial multiplier times the net increase in commercial floorspace divided by the average employment space per employee, ranging from 19 sq. m (for office use) to 50 sq. m (for B8 warehousing). The current rate of commercial multiplier is £241.17 (index linked).
- 12.3 The Applicant has agreed to the above required open space financial contribution, based on the type of use, towards surface and soft landscaping improvements to Halstead River Walk.

### 13. CONCLUSION

- 13.1 The proposal is considered to accord with the abovementioned policies in relation to the employment allocation. The proposal is also considered to be acceptable in terms of scale and access, subject to conditions to ensure appropriate detailing. The proposal would deliver both economic and social benefits and is considered to constitute sustainable development. Consequently, the application is recommended for approval, subject to conditions and a S106 Agreement to secure the required financial contributions.

### 14. RECOMMENDATION

- 14.1 It is therefore RECOMMENDED that subject to the Applicant entering into a suitable legal agreement pursuant to S106 of the Town and Country Planning Act 1990 (as amended) to cover the following Heads of Terms:
- § **Workplace Travel Plan** – Financial contribution of £6,760 (sustainability travel index linked) towards a 5-year period monitoring fee of a Workplace Travel Plan;
  - § **Open Space Contribution** – Financial contribution with a commercial multiplier of £241.17 towards surface and soft landscaping improvements to Halstead River Walk.

The Planning Development Manager or an authorised Officer be authorised to GRANT planning permission under delegated powers in accordance with the Approved Plans and Documents, and subject to the Condition(s) & Reason(s), and Informative(s) outlined within APPENDIX 1.

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

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

## APPENDIX 1:

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

#### Approved Plan(s) & Document(s)

<b>Plan Description</b>	<b>Plan Ref</b>	<b>Plan Version</b>
Parameter Drawing	19/39/16	B
Location Plan	19/39/10	N/A

#### Condition(s) & Reason(s)

Condition 1  
Details of the:

- (a) Appearance;
- (b) Landscaping; and
- (c) Layout

(hereinafter referred to as "the Reserved Matters") shall be submitted to and approved in writing by the Local Planning Authority before any development commences and the development shall be carried out as approved.

Application for approval of the Reserved Matters shall be made to the Local Planning Authority not later than 3 years from the date of this permission.

The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the Reserved Matters to be approved.

Reason: The particulars submitted are insufficient for consideration of the details mentioned and also pursuant to Section 92 of the Town and Country Planning Act 1990 (as amended).

#### Condition 2

The development hereby permitted shall only be implemented in accordance with the approved plan(s) / document(s) listed above.

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

#### Condition 3

No development except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority.

The scheme should include but not be limited to:

- Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in

accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753.

- Limiting discharge rates to 1.1l/s for all storm events up to and including the 1 in 100 year plus 45% allowance for climate change storm event. All relevant permissions to discharge from the site into any outfall should be demonstrated.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 45% climate change event.
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 45% climate change critical storm event.
- Final modelling and calculations for all areas of the drainage system. Sewer Network Design should be provided for the 1, 30 and 100-year storm events. The calculations should be in line with the Drainage Calculations Guide, including using a MADD Factor of 0. The manhole schedule should be provided.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753. As this is an industrial/commercial development the pollution hazard indices should be reviewed and revised reflective to the nature of the site.
- Detailed engineering drawings of each component of the drainage scheme. Where made ground is present, the SuDS features should be lined.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features. Each Hydrobrake should be labelled on the drainage plan with their corresponding restriction rates. CL's and IL's should be detailed, as well as the locations of the rainwater downpipes. The location of the rainwater harvesting system (Klargester AquaHarvest Commercial Pro or similar) should also be shown on the drainage plan.
- An updated drainage strategy incorporating all of the above bullet points including matters already approved and highlighting any changes to the previously approved strategy.

The scheme shall subsequently be implemented prior to occupation. No hard-standing areas to be constructed until the works have been carried out in accordance with the strategy. It should be noted that all outline applications are subject to the most up to date design criteria held by the LLFA.

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

Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

#### Condition 4

Prior to commencement of the development a Construction Traffic Management Plan, to include but shall not be limited to details of vehicle/wheel cleaning facilities within the site and adjacent to the egress onto the highway, shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be constructed in accordance with the approved Construction Traffic Management Plan.

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

#### Condition 5

Prior to the construction above damp proof course, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of any phase, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme.

Reason: To prevent environmental and amenity problems arising from flooding.

#### Condition 6

No occupation of the development shall take place until the vehicular and pedestrian access arrangement as shown in principle on the approved drawings have been completed and are available for use.

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

#### Condition 7

Prior to occupation, a management and maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, shall be submitted to and approved in writing by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long-term funding arrangements should be provided.

Reason: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk. Failure to provide the above required information prior to occupation may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

#### Condition 8

The applicant or any successor in title must maintain yearly logs of maintenance of the surface water drainage system which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a

request by the Local Planning Authority.

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

#### Condition 9

Notwithstanding the text of the submitted Parameter Plan, all private car parking spaces should have a minimum size of 5.5m x 2.9m.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided.

#### Condition 10

Any trade counters provided shall be a maximum of 5% of the total floor space of the unit that it serves.

Reason: In the interests of highway safety and to ensure compliance with Policy LPP3 of the Adopted Braintree District Local Plan.

#### Condition 11

The units hereby permitted shall not be used for any purpose other than purposes within Classes E(g), B2 and B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason: To ensure that no alternative use is made of the premises which would be detrimental to highway safety and to ensure compliance with Policy LPP3 of the Braintree District Local Plan.

#### Informative(s)

##### Informative 1

The applicant should refer to the detailed comments of the Essex Fire and Rescue Service dated 3 May 2023.

##### Informative 2

The applicant should refer to the detailed comments of the Lead Local Flood Authority dated 21 September 2023.

##### Informative 3

Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore, the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost under Section 185 of the Water Industry Act 1991. or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.

#### Informative 4

The applicant should refer to the detailed comments of Anglian Water dated 5 April 2023.

#### Informative 5

The applicant is advised to follow the general good practice mitigation to avoid ecological impacts during the construction phase. To avoid killing or injuring small animals which may pass through the site during the construction phase, it is best practice to ensure the following measures are implemented:

- a) Trenches, pits or holes dug on site should be covered over at night. Alternatively, ramps (consisting of a rough wooden plank) or sloped/stepped trenches could be provided to allow animals to climb out unharmed;
- b) materials brought to the site for the construction works should be kept off the ground on pallets to prevent small animals seeking refuge;
- c) rubbish and waste should be removed off site immediately or placed in a skip, to prevent small animals using the waste as a refuge.
- d) Should any bats or evidence of bats be found prior to or during the development, all works must stop immediately and a suitably qualified ecologist contacted for further advice before works can proceed. All contractors working on site should be made aware of the advice and provided with the contact details of a relevant ecological consultant.

#### Informative 6

Any external lighting should be directed away from trees and hedgerows to avoid disturbance to light sensitive wildlife, particularly bats, that may use these ecological features for foraging and commuting.

#### Informative 7

The applicant should refer to the detailed comments of ECC Highways dated 13 April 2023.

#### Positive and Proactive Statement

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



## APPENDIX 2:

### POLICY CONSIDERATIONS

#### National Planning Guidance

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

#### Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP5	Employment
SP6	Infrastructure & Connectivity
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP2	Location of Employment Land
LPP3	Employment Policy Areas
LPP42	Sustainable Transport
LPP43	Parking Provision
LPP46	Broadband
LPP47	Built and Historic Environment
LPP50	Provision of Open Space, Sport and Recreation
LPP52	Layout and Design of Development
LPP65	Tree Protection
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP70	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP71	Climate Change
LPP72	Resource Efficiency, Energy Generation and Energy Efficiency
LPP74	Flooding Risk and Surface Water Drainage
LPP76	Sustainable Urban Drainage Systems
LPP78	Infrastructure Delivery and Impact Mitigation
LPP77	External Lighting

#### Other Material Considerations

Essex County Council's Development Management Policies (2011)  
Essex Design Guide (2005)  
External Artificial Lighting Supplementary Document (2009)  
Open Space Supplementary Planning Document (2009)  
Parking Standards - Design and Good Practice (2009)

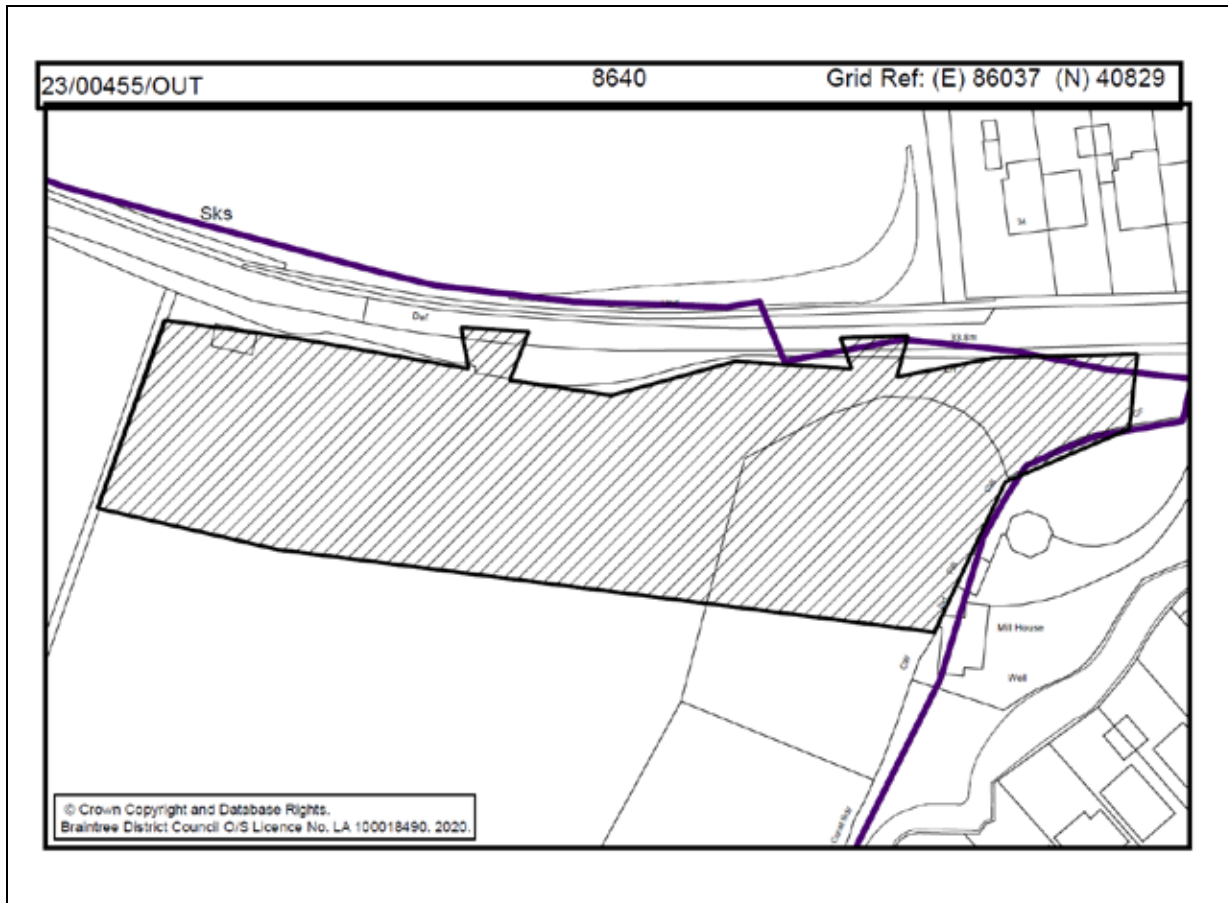
APPENDIX 3:

SITE HISTORY

<b>Application No:</b>	<b>Description:</b>	<b>Decision:</b>	<b>Date:</b>
00/01595/FUL	Erection of single storey pre-fabricated modular building	Granted	09.11.00
92/00772/FUL	Erection of single storey rear extension	Granted	24.08.92
08/01762/FUL	Proposed extensions to west and east elevations and demolition/removal of existing porta-cabin type offices and replacement with a secure compound, including car park amendments	Withdrawn	10.11.08
17/00237/FUL	First floor extension, changes to window and door openings, together with new external wall finishes.	Granted	30.03.17
21/03669/OUT	Outline application for erection of a building for use classes E, B2, B8 with permission sought for Access, Appearance, Layout, and Scale; with Landscaping reserved.	Granted	01.03.22

<b>Report to:</b> Planning Committee	
<b>Planning Committee Date:</b> 28th November 2023	
<b>For:</b> Decision	
<b>Key Decision:</b> No	<b>Decision Planner Ref No:</b> N/A
<b>Application No:</b>	23/00455/OUT
<b>Description:</b>	Outline planning application for 8no. dwellings with all matters reserved
<b>Location:</b>	Land Adjacent Kitchen Hill, Bulmer
<b>Applicant:</b>	Mr D Burke, C/O Agent
<b>Agent:</b>	Mr Sam Lees, Reeve Brown, Linkwood Stud, Halstead, CO92PE
<b>Date Valid:</b>	21st February 2023
<b>Recommendation:</b>	It is RECOMMENDED that the following decision be made: § Application REFUSED for the reasons outlined within Appendix 1 of this Committee Report.
<b>Options:</b>	The Planning Committee can: a) <b>Agree</b> the Recommendation b) <b>Vary</b> the Recommendation c) <b>Overturn</b> the Recommendation d) <b>Defer</b> consideration of the Application for a specified reason(s)
<b>Appendices:</b>	<b>Appendix 1:</b> Reasons for Refusal Submitted Plans / Documents
	<b>Appendix 2:</b> Policy Considerations
	<b>Appendix 3:</b> Site History
<b>Case Officer:</b>	Melanie Corbishley For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2527, or by e-mail: <a href="mailto:melanie.corbishley@braintree.gov.uk">melanie.corbishley@braintree.gov.uk</a>

**Application Site Location:**



<b>Purpose of the Report:</b>	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.
<b>Financial Implications:</b>	<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>
<b>Legal Implications:</b>	<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 &amp; 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>
<b>Other Implications:</b>	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.
<b>Equality and Diversity Implications:</b>	<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"> <li>a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act;</li> <li>b) Advance equality of opportunity between people who share a protected characteristic and those who do not;</li> <li>c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting</li> </ul>

	<p>understanding.</p> <p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
<p><b>Background Papers:</b></p>	<p>The following background papers are relevant to this application include:</p> <ul style="list-style-type: none"> <li>§ Planning Application submission: <ul style="list-style-type: none"> <li>§ Application Form</li> <li>§ All Plans and Supporting Documentation</li> <li>§ All Consultation Responses and Representations</li> </ul> </li> </ul> <p>The application submission can be viewed online via the Council's Public Access website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a> by entering the Application Number: 23/00455/OUT.</p> <ul style="list-style-type: none"> <li>§ Policy Documents: <ul style="list-style-type: none"> <li>§ National Planning Policy Framework (NPPF)</li> <li>§ Braintree District Local Plan 2013-2033</li> <li>§ Neighbourhood Plan (if applicable)</li> <li>§ Supplementary Planning Documents (SPD's) (if applicable)</li> </ul> </li> </ul> <p>The National Planning Policy Framework can be viewed on the GOV.UK website: <a href="http://www.gov.uk/">www.gov.uk/</a>.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: <a href="http://www.braintree.gov.uk">www.braintree.gov.uk</a>.</p>

1. EXECUTIVE SUMMARY

- 1.1 The site is situated outside of a defined development boundary and has no specific allocation on the proposals map in the Adopted Local Plan. It is to the south of Kitchen Hill and abuts the border with Babergh District Council, to the west of the settlement of Ballingdon, Sudbury.
- 1.2 This application seeks outline planning permission for 8 dwellings with all matters reserved.
- 1.3 The site is located within the AONB Stour Valley Project Area and an area of undulating topography. No site level details have been provided with the application to fully assess the impact of the proposal on the wider landscape and character. The proposed development would result in sporadic development, sprawling beyond any defined development boundary and eroding a substantial part of the existing open green gap between Ballingdon and the terrace of dwellings to the west of the site (referred to as Batt Hall). It would therefore have a detrimental effect upon the character and appearance of the countryside within which it would be situated.
- 1.4 When considering the planning balance and having regard to the adverse impacts and benefits, Officers have concluded that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. Consequently, it is recommended that planning permission is refused for the proposed development.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

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

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

5.1 The site is situated outside of any defined development boundary and has no specific allocation on the proposals map in the Adopted Local Plan, it is therefore deemed to be located within the open countryside. The site is situated to the south of Kitchen Hill and abuts the border with Babergh District Council, being to the west of Ballingdon. There is a terrace of dwellings to the west of the site (referred to as Batt Hall).

5.2 To the north east of the site is the town of Sudbury (approximately 2km/1.3 miles to the town centre).

5.3 The site is situated within the AONB project area and currently comprises part of a grass field with a gateway off the road. There are established hedgerows along the road frontage and site boundaries.

5.4 There is an undulating topography within the site. The Village of Bulmer is situated approximately 1 mile to the south west of the site. There are Public Rights of Way situated to the north, adjacent to the site, and a narrow footway runs along the northern side of Bulmer Road.

6. PROPOSAL

6.1 This application seeks outline planning permission for 8 dwellings with all matters reserved.

6.2 Applications for outline planning permission seek to establish whether the scale and nature of a proposed development would be acceptable to the Local Planning Authority, before a fully detailed proposal is put forward.

6.3 The application is supported by the following documents:

- § Planning Statement
- § Indicative Site Plan
- § Indicative Elevations



- § Indicative Roof Plan
- § Design and Access Statement
- § Landscape and Visual Impact Assessment
- § Preliminary Ecological Appraisal

## 7. SUMMARY OF CONSULTATION RESPONSES

### 7.1 AONB Officer

- 7.1.1 The following comment was made: a reduction in the number of dwellings, i.e. 7 dwellings would be more appropriate to avoid harm to the character of this part of Stour Valley Project Area.

### 7.2 Babergh District Council

- 7.2.1 No comment to make.

### 7.3 BDC Ecology

- 7.3.1 No objection subject to securing ecological mitigation and enhancement measures.

### 7.4 BDC Refuse

- 7.4.1 The access driveway needs to be adopted highway or built to adoptable standards so drag distance between where collection vehicle can safely stop and drag distance does not exceed 20 metres.

### 7.5 ECC Archaeology

- 7.5.1 No objection subject to condition.

### 7.6 ECC Highways

- 7.6.1 No objection subject to conditions.

## 8. PARISH COUNCIL

### 8.1 Bulmer Parish Council

- 8.1.1 Objection. In summary the following comments were made:

- § Outside of development boundary;
- § Coalescence with Sudbury and urban sprawl;
- § Highway concerns including, safety due to speeding, repair, and maintenance;
- § Not in keeping with neighbouring properties (layout and design);
- § Would be visible in landscape;
- § Not accessible by foot to public transport.

## 9. REPRESENTATIONS

9.1 A site notice was displayed adjacent to the site for a 21 day period and immediate neighbours were notified by letter. 26 objection representations were received. In summary the following comments were made:

- § Concern regarding speed of traffic. Entrances are within 60mph speed limit zone;
- § Poor visibility splays;
- § Road is a rat run during rush hours;
- § Access is not safe and on a blind summit;
- § Topography of the site is not reflected in submitted elevations;
- § Drainage for the field links to the water meadows concern regarding contamination;
- § Site was a historic horse field;
- § Concern regarding ribbon development;
- § Concern regarding noise pollution;
- § Unsustainable location;
- § The site is identified in Babergh Local Plan as protected for Sudbury Western By Pass;
- § Site is not within a reasonable walking distance of town centre, train station;
- § The site is undeveloped gap integral to the locally distinctive rural landscape approach to Sudbury;
- § Concern regarding removal of hedgerow and trees that characterise the area;
- § Concern regarding impact on wildlife;
- § Concern regarding impact on privacy;
- § Site is within AONB area;
- § Concern regarding vehicle movements during construction;
- § Affordable dwellings are needed;
- § Concern regarding drainage;
- § Poor access to public transport;
- § Light pollution;
- § Development does not accord with the Development Plan;
- § Will set precedent for further development.

## 10. PRINCIPLE OF DEVELOPMENT

### 10.1 National Planning Policy Framework (NPPF)

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

- 10.1.2 Paragraph 9 of the NPPF outlines that planning decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area. In addition, paragraph 38 of the NPPF prescribes that local planning authorities should approach decisions on proposed development in a positive and creative way and that decision-makers at every level should seek to approve applications for sustainable development where possible.
- 10.1.3 Paragraph 12 of the NPPF sets out that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making. In addition, paragraph 47 of the NPPF states that planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise.
- 10.1.4 The NPPF underlines the Government's objective of significantly boosting the supply of homes. In this regard, paragraph 60 of the NPPF highlights the importance of ensuring that there is a sufficient amount and variety of land that can come forward where it is needed, that specific housing requirements are met, and that land with permission is developed without unnecessary delay. Paragraph 74 of the NPPF outlines that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against (in the case of Braintree District) our 'local housing need' plus the relevant buffer.
- 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.

## 10.2 5 Year Housing Land Supply

- 10.2.1 The Council has an up-to-date Local Plan which has an approved minimum housing target of 716 new homes per year in the District between 2013 and 2033.
- 10.2.2 To this annual supply the Council must add the backlog which it has not delivered at that level since the start of the Plan period. This figure is recalculated each year and as of April 2022 stands at 1,169 across the 5 Year Housing Land Supply.
- 10.2.3 The Council must also apply a buffer to the housing land supply based on the results of the Housing Delivery Test. In the latest results published on the 14th January 2022, the Council had delivered 125% of the homes required. This means that the Council is required to apply the lowest level of buffer at 5%.

- 10.2.4 Taking the above into account, the Council's latest 5 Year Housing Land Supply position for 2022-2027 shows a supply of 4.86 years. This position is marginal and with a number of strategic sites starting to deliver homes alongside other permissions, that situation is likely to change.
- 10.2.5 Nevertheless, as the Council cannot demonstrate the required 5 Year Housing Land Supply, the 'tilted balance' pursuant to Paragraph 11d) of the NPPF is engaged. It also means that the most important Development Plan policies relevant to the provision of housing are out-of-date. However, this does not mean that Development Plan policies should be completely disregarded. It is for the decision-maker to determine the weight to be attributed to the conflict with those policies.
- 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 site is situated outside of the defined development boundary and has no specific allocation on the proposals map of the Adopted Local Plan. Policy LPP1 of the Adopted Local Plan states, '*development outside development boundaries will be confined to uses appropriate to the countryside whilst also protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils to protect the intrinsic character and beauty of the countryside*'.
- 10.3.3 As the site is situated outside of the defined development boundary the submitted proposal is considered to be contrary to the Adopted Local Plan.

## 11. SITE ASSESSMENT

### 11.1 Location and Access to Services and Facilities

- 11.1.1 The Adopted Local Plan states in paragraph 3.12, '*development boundaries provide a guide to where the Council believes new growth should be directed*.'
- 11.1.2 Paragraph 78 of the NPPF states that in order to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services.
- 11.1.3 Policy SP3 of the Adopted Local Plan states that existing settlements will be the principal focus for additional growth across the North Essex Authorities area within the Local Plan period. 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.

- 11.1.4 Bulmer is identified as a 'Third Tier' village in the Adopted Local Plan. The Adopted Local Plan states in paragraph 3.7, '*these are the smallest villages in the District and lack most of the facilities required to meet day to day needs. They often have very poor public transport links and travel by private vehicle is usually required*'.
- 11.1.5 However, Sudbury is the nearest town to the site approximately 2km (1.3 miles) offering a range of services and facilities, including a railway station. Therefore, it is reasonable to conclude that the site is not isolated in terms of its accessibility, and there is a bus stop on the A131 in Sudbury which is approximately a 10 minute walk away from the site.
- 11.1.6 Notwithstanding this, it should be noted that to access the bus stop, and services and facilities in Sudbury it would require future occupants of the dwellings to walk along a narrow unlit pavement on the opposite side of the road to and from the site. Therefore, there would be a strong reliance on the private vehicles to access services, facilities and employment, and this weighs against the proposal in the planning balance.
- 11.2 Design, Appearance and Impact upon the Character and Appearance of the Area
- 11.2.1 Paragraph 126 of the NPPF highlights 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 developments, creates better places in which to live and work and helps make development acceptable to communities.
- 11.2.2 Paragraph 130 of NPPF states that planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting.
- 11.2.3 Policy SP7 of the Adopted Local Plan states that all new development must meet high standards of urban and architectural design and provides a number of place making principles.
- 11.2.4 Policy LPP35 of the Adopted Local Plan requires, *inter alia*, that the density and massing of residential development will be related to the character of the site and its immediate surroundings, as well as the wider locality, existing vegetation including trees on the site and the necessity for further landscaping.
- 11.2.5 In addition, Policy LPP52 of the Adopted Local Plan require designs to recognise and reflect local distinctiveness in terms of scale, layout, height and massing of buildings. It also seeks high architectural quality and a proportion, composition, scale and orientation that enhances, activates and appropriately defines the public realm and comprise details and materials that complement, but not necessarily replicate the local architectural character.

- 11.2.6 Policy LPP35 of the Adopted Local Plan requires onsite amenity space to be provided in accordance with the adopted guidance and requires that all new development should be in accordance with the national technical housing standards.
- 11.2.7 Policy LPP52 of the Adopted Local Plan seeks a high standard of accommodation and amenity for all prospective occupants.
- 11.2.8 This is an outline application where layout, scale, appearance, access, and landscaping are reserved matters and thus are not considered as part of this application. The submitted plans are indicative and show how 8no dwellings could be laid out within the site and gives the local planning authority as idea as to whether the quantum of development proposed is feasible.
- 11.2.9 The indicative Site Plan identifies a mixture of semi-detached and detached dwellings with attached garages, set back from the road with car parking at the frontage. In its current layout, the development would be dominated by hardstanding, by virtue of the deep private drive extending behind the site's roadside boundary hedge, and the off-street parking spaces to be provided.
- 11.2.10 There would be a mixture of plot shapes with no defined building line which would be at odds with the prevailing character of development in the vicinity with the terraced dwellings to the west in the hamlet of Batt Hall and the pairs of single storey semi-detached dwellings to the east of the site, north of Bulmer Road (No. 16 to No. 34) where there is individually a strongly defined building line and pattern of development. The indicative elevations propose a mixture of dwelling types with different characters which would conflict with the distinctive uniform character of development evident nearby. The indicative elevations suggest a mix of render/brick work materials with protruding front gables for some of the plots and chimney features.
- 11.2.11 The NPPF refers to new development making a positive contribution to the local character and distinctiveness. It is not clear how the indicative design, layout and appearance would draw on these.
- 11.2.12 Critically for this outline planning application, the development of the site would be sporadic and contribute to a consolidation of ribbon development along Bulmer Road/Kitchen Hill. It would result in an increased suburbanisation of the area and erode a substantial part of the existing open green gap that currently provides separation between the edge of Ballingdon and Sudbury and the hamlet of Batt Hall. It would therefore have a detrimental effect upon the character and appearance of the countryside within which it would be situated, contrary to the policies listed above.

### 11.3 Landscape

- 11.3.1 The NPPF states in Paragraph 174 that planning policies and decisions should contribute to and enhance the natural and local environment recognising the intrinsic character and a beauty of the countryside.
- 11.3.2 Policy LPP1 of the Adopted Local Plan states, *'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 Policy LPP67 of the Adopted Local Plan further states, *'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. Development proposals which result in harm to the setting of the AONB will not be permitted'*.
- 11.3.4 The site is situated within the Stour Valley Project Area. The preamble to Policy LPP67 states in paragraph 6.27, *'The upper Stour Valley, adjoining the AONB is partly located along the north and east boundary of Braintree District and is an important and sensitive rural landscape, recognised by the fact that it is part of the wider project area covered by the Dedham Vale AONB and Stour Valley Project. The impact of development proposals in the upper Stour Valley will be particularly carefully assessed in light of the sensitive nature of this landscape. Proposed developments here should support the wider environmental, social and economic objectives as set out in the Dedham Vale AONB and Stour Valley Management Plan, and should not prejudice the long term aim to enlarge the area included within the AONB designation.'*
- 11.3.5 The Dedham Vale and AONB Stour Valley Project Area Officer has been consulted and raised concern regarding the scale of development proposed suggesting a reduction in the number of units stating, *'7 dwellings would be more appropriate at this site to avoid major harm to the character of this part of Stour Valley Project Area'*.
- 11.3.6 A 'Landscape and Visual Impact Assessment' (prepared by Courtauld & Co dated December 2012) has been submitted as supporting documentation with the application.
- 11.3.7 The assessment states, *'remarkably little overlooking of the site due to the location, existing trees and the rising ground to the eastern side of the site. The existing hedgerow will be maintained and improved to screen the new development as far as possible'*. However, it is noted that part of the hedgerow would need to be removed to facilitate the 'in' access proposed.
- 11.3.8 The site is also situated within the Stour River Valley as identified in the Council's Landscape Character Assessment (LCA). Key characteristics of

this area include, 'gentle rounded arable valley sides'. The LCA states, '*Sensitive key characteristics and landscape elements within this character area include the patchwork of pasture and woodland on the valley sides and meadows (divided by hedges and/or wet ditches) on the valley floor, which would be sensitive to changes in land management. The skyline of the valley slopes is visually sensitive, with potential new development being highly visible within views across and along the valley floor*'. It then goes on to state that, '*overall this character area has relatively high sensitivity to change.*'

- 11.3.9 The site itself is characterised by its undulating topography and no site level details have been provided with the application to fully assess the impact of the proposals on the wider landscape and its character. This has not been considered in the submitted Landscape and Visual Impact Assessment in terms of views of the proposed development from the wider countryside.
- 11.3.10 The site forms a piece of a jigsaw of the open countryside designated as such to prevent its unnecessary erosion. It is generally accepted that one of the founding principles of the planning system is to prevent urban sprawl and avoid unplanned coalescence between settlements and this is one of the principles that underpins Policy LPP1 of the Adopted Local Plan. The proposed development would result in sporadic development, extending beyond a defined development boundary into the open countryside, diluting its character and appearance, contrary to the abovementioned policies.

#### 11.4 Ecology

- 11.4.1 Policy LPP66 of the Adopted Local Plan requires that development proposals shall provide for the protection of biodiversity and the mitigation or compensation of any adverse impacts. Additionally, enhancement of biodiversity should be included in all proposals, commensurate with the scale of the development.
- 11.4.2 A Preliminary Ecological Appraisal (Prepared by T4 Ecology Ltd, December 2022) has been submitted as supporting documentation. During the life of the application a Reptile Survey Report (Prepared by T4 Ecology Ltd, July 2023) was submitted.
- 11.4.3 The Council's Ecologist is satisfied that sufficient ecological information is available for determination. This provides certainty for the LPA of the likely impacts on designated sites, Protected and Priority Species & Habitats and, with appropriate mitigation measures secured, the development can be made acceptable. Therefore, the mitigation measures as detailed in Preliminary Ecological Appraisal (T4 Ecology Ltd, December 2022), and the Reptile Survey Report (T4 Ecology Ltd, July 2023), must be secured and implemented in full. This is necessary to conserve protected and Priority species and habitats.
- 11.4.4 The Council's Ecologist also recommends that measurable biodiversity net gains should be secured for this application, as outlined within paragraph



174[d] of the NPPF 2021. This could be secured via the submission of a Biodiversity Enhancement Layout, following the recommendations as outlined in the Preliminary Ecological Appraisal (T4 Ecology Ltd, December 2022), and secured by condition. This would enable the LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.

## 11.5 Highway Considerations

- 11.5.1 Paragraph 111 of the NPPF states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residential residual cumulative impacts on the road network would be severe.
- 11.5.2 Policy LPP43 of the Adopted Local Plan requires that development will be required to provide vehicular and cycle parking in accordance with the Essex Vehicle Parking Standards.
- 11.5.3 Policy LPP52 of the Adopted Local Plan requires that, '*The development proposed should not have a detrimental impact on the safety of highways or any other public right of way, and its users*'.

### **Parking**

- 11.5.4 The application proposes 2 car parking spaces for each dwelling to accord with the Essex Vehicle Parking Standards. The Standards also require 1 visitor parking space per 4 new dwellings, and therefore two further spaces would be required. Two parking areas are shown on the indicative layout plan, which would also provide space for visitor parking.

### **Access**

- 11.5.5 The submitted outline planning application is for all matters reserved (including access) however, Officers still need to be satisfied that safe access can be achieved for the site. During the lifetime of the application, the access arrangements for the site have been altered from an 'in' and 'out' to a single access point, utilising the existing access point onto Kitchen Hill. The revised plans show visibility splays in both directions, that the Highways Authority are now satisfied with.
- 11.5.6 However in order to be able to achieve the required visibility, the existing hedgerow on both sides would need to be faced back significantly. Officers consider that the loss of this amount of vegetation required in order to create the vehicular visibility splays would give rise to a significant and detrimental impact on the rural character along this section of Kitchen Hill, in direct conflict with Policies LPP65 and LPP67 of the Adopted Local plan.

## 11.6 Trees

11.6.1 No arboricultural report has been submitted with the application so it is not possible to fully assess the impact of the proposed on existing landscape features, however as indicated above, the required visibility splays would necessitate the existing hedgerow to be faced back significantly.

## 11.7 Impact upon Neighbouring Residential Amenity

11.7.1 The NPPF requires a good standard of amenity for all existing and future occupants of land and buildings. Policy LPP52 of the Adopted Local Plan seeks to ensure that there is no unacceptable impact on the amenity of nearby properties including, privacy, overshadowing, loss of light and overbearing impact.

11.7.2 The Applicant is not seeking approval for the design and layout of the development at this stage and therefore the impacts upon neighbouring residential amenity cannot be fully assessed.

11.7.3 The nearest neighbouring property is at Mill House to the south east of the site (nearest to Plot 8). There is concern regarding the relationship between this neighbouring property and Plot 8, particularly given the undulating topography of the site. Site levels have not been provided with the application so it has not been possible to fully assess the impact of the proposal on neighbouring amenity in terms of overlooking, privacy etc., although these could have been requested had Officers been so minded to have recommended approval of the scheme.

## 11.8 Flooding and Drainage Strategy

11.8.1 Policy LPP74 of the Adopted Local Plan states that, '*new development shall be located on Flood Zone 1 or areas with the lowest probability of flooding, taking climate change into account and will not increase flood risk elsewhere*'.

11.8.2 Based on the submitted location plan (site red line) the site lies entirely in Flood Zone 1 (lowest risk of flooding). The submission of a flood risk assessment for the development is not required as the site is less than 1ha in Flood Zone 1.

11.8.3 Paragraph 167 of the NPPF states that when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere. It states that priority should be given to the use of sustainable drainage systems. The number of dwellings proposed is below the threshold (10 dwellings) whereby local planning policies are required to ensure that sustainable drainage systems for the management of run-off are put in place through consultation with the relevant lead local flood authority. However, an appropriate condition could be imposed if the application was recommended for approval.

11.9 Habitat Regulation Assessment (HRA/RAMS)

11.9.1 The application site is located outside of the Zone of Influence and therefore no contribution towards mitigation or Habitats Regulation Assessment is necessary.

12. CONCLUSION AND PLANNING BALANCE

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

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

12.2 As the Council cannot currently demonstrate a 5 Year Housing Land Supply, the 'titled balance' pursuant to Paragraph 11d) of the NPPF is engaged. As a consequence, the most important Development Plan policies relevant to the provision of housing are currently out-of-date due to a lack of 5 Year Housing Land Supply. However this does not mean that Development Plan policies should be completely disregarded. It is for the decision-maker to determine the weight to be attributed to the conflict with those policies. In this regard it is considered that Policy LPP1 of the Adopted Local Plan, which seeks to restrict development outside defined development boundaries to uses appropriate to the countryside, can only be afforded moderate weight. Similarly, it is considered that Policy SP3, which sets out the spatial strategy for North Essex, can only be afforded less than significant, but more than moderate weight.

12.3 In this case, it is not considered that pursuant to Paragraph 11d) (i) that the application of policies in the Framework provide a clear reason for refusing the proposed development.

12.4 As such, pursuant to Paragraph 11d) (ii) it is necessary to consider whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of the proposed development, when assessed against the policies in this Framework taken as a whole. Such an assessment must take account of the economic, social and environmental

impact of the proposed development and these matters must be considered in the overall planning balance.

12.5 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).

## 12.6 Summary of Adverse Impacts

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

### **Conflict with the Development Plan**

12.6.2 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”.

12.6.3 The proposed development would conflict with Policy LPP1 of the Adopted Local Plan as it proposes development outside of defined development boundaries and within the countryside. However, while the proposal is contrary to Policy LPP1 of the Adopted Local Plan, as the Council is currently unable to demonstrate a 5 Year Housing Land Supply, only moderate weight can be afforded to this conflict.

### **Location and Access to Services and Facilities**

12.6.4 The site is situated approximately 1.3 miles from the town of Sudbury where there are services and facilities. To access the town by foot or by

bus would require walking along a narrow unlit pavement from opposite the site. There would therefore likely be a heavy reliance on private vehicles to access employment, schools and other community facilities and services. However, given the proximity to the town and bus stops this harm is afforded limited to moderate weight.

### **Harm to the Character and Appearance of the Area and Landscape Character**

- 12.6.5 The site is situated within the AONB Stour Valley Project Area. It is situated within an area of undulating topography. No site level details have been provided with the application to fully assess the impact of the proposal on the wider landscape and character. The proposed development would result in sporadic development, sprawling beyond the defined development boundary into the open countryside and eroding the current green gap between Ballingdon and Batt Hall. In addition, when combined with the significant facing back of the existing hedgerow in order to create the required visibility splays, this would dilute the site's character and appearance further. This harm is afforded significant weight.

### 12.7 Summary of Public Benefits

- 12.7.1 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**

- 12.7.2 The development would deliver 8 market dwellings. However, this benefit is afforded limited weight given the scale of the development.

#### **Economic and Social Benefits**

- 12.7.3 The proposal would deliver economic benefits during construction period and economic and social benefits following occupation of the development in supporting local facilities. This is afforded limited weight given the scale of development.

### 12.8 Conclusion

- 12.8.1 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. 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, as indicated above, an important material consideration in this case is that as the Council cannot currently demonstrate a 5 Year Housing Land Supply, the 'titled balance' pursuant to Paragraph 11d) of the NPPF is engaged. As a consequence, the most important Development Plan

policies relevant to the provision of housing are currently out-of-date due to a lack of 5 Year Housing Land Supply.

- 12.8.2 In this regard, Policy LPP1 of the Adopted Local Plan, which seeks to restrict development outside defined development boundaries to uses appropriate to the countryside, can only be afforded moderate weight. Notwithstanding this, Officers consider that there are no material considerations, including the Council's 5 Year Housing Land Supply position, that indicate that a decision should be made other than in accordance with the Development Plan. The Planning Balance is concluded below.

12.9 Planning Balance

- 12.9.1 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 significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. Consequently, it is recommended that planning permission is refused for the proposed development.

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)

<b>Plan Description</b>	<b>Plan Ref</b>	<b>Plan Version</b>
Proposed 1st Floor Plan	13200 00	Plots 7-8
Proposed Elevations	50000 00	Plots 1-3
Location Plan	00100	02
Site Plan	00500	02
Existing Site Plan	10000	02
Roof Plan	10600	01
Parking Strategy	10625	01
Proposed Bin Collection Plan	10650	01
Other	10675	01
Ground Floor Plan	10700	01
First Floor Plan	10800	01
Site Plan	10500	01
Garage Details	10550	01
Visibility Splays	10630	02

#### Reason(s) for Refusal

##### Reason 1

The proposed development would result in sporadic development, sprawling beyond the defined development boundary into the open countryside and eroding the current green gap between Ballingdon and Batt Hall. In addition, when combined with the significant facing back of the existing hedgerow in order to create the required highway visibility splays, this would dilute the site's green character further. Consequently, the scheme would result in the intrusion of development into the surrounding landscape, giving rise to harm to the character and appearance of the area.

Further harm is created by the location of the site which lies approximately 2 km/1.3 miles from the town of Sudbury where there are services and facilities. To access the town by foot or by bus would require future occupants to walk along a narrow unlit pavement from opposite the site and therefore new residents would rely on private vehicles to access employment, schools and other community services and facilities.

The adverse impacts of the development are considered to outweigh the benefits and the proposal fails to secure sustainable development, contrary to the National Planning Policy Framework and Policies SP1, SP3, SP7, LPP1, LPP52 and LPP67 of the Braintree District Local Plan 2013 – 2033.

### Positive and Proactive Statement

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



## APPENDIX 2:

### POLICY CONSIDERATIONS

#### National Planning Guidance

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

#### Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP2	Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
SP3	Spatial Strategy for North Essex
SP4	Meeting Housing Needs
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP16	Housing Provision and Delivery
LPP31	Affordable Housing
LPP35	Housing Mix, Density and Accessibility
LPP42	Sustainable Transport
LPP43	Parking Provision
LPP46	Broadband
LPP47	Built and Historic Environment
LPP52	Layout and Design of Development
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
LPP71	Climate Change
LPP72	Resource Efficiency, Energy Generation and Energy Efficiency
LPP73	Renewable Energy Schemes
LPP74	Flooding Risk and Surface Water Drainage
LPP75	Surface Water Management Plan

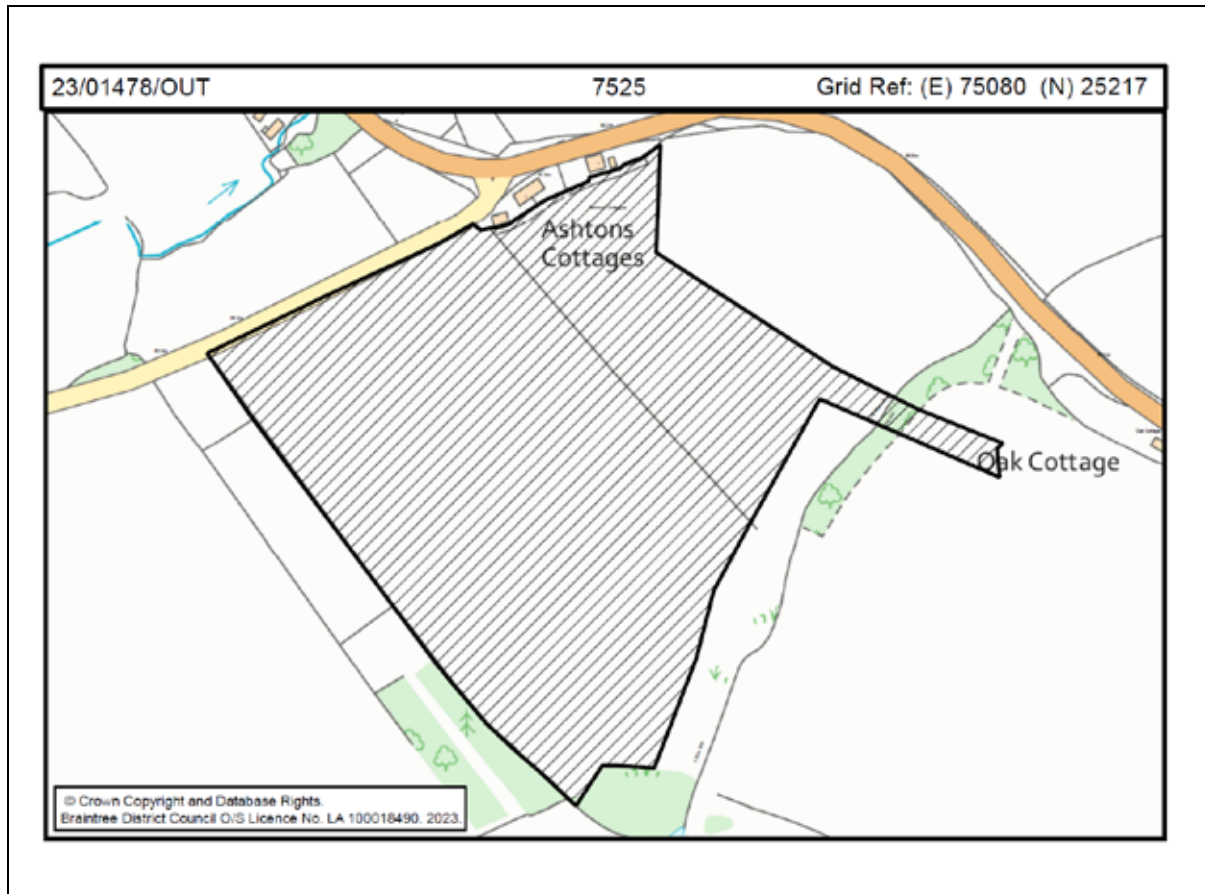
APPENDIX 3:

SITE HISTORY

<b>Application No:</b>	<b>Description:</b>	<b>Decision:</b>	<b>Date:</b>
23/00273/OUT	Outline planning application with all matters reserved for the erection of 9No. dwellings.	Withdrawn	10.02.23

<b>Report to:</b> Planning Committee	
<b>Planning Committee Date:</b> 28th November 2023	
<b>For:</b> Decision	
<b>Key Decision:</b> No	<b>Decision Planner Ref No:</b> N/A
<b>Application No:</b>	23/01478/OUT
<b>Description:</b>	Outline planning application with all matters reserved except access: for the erection of up to 150 dwellings with access to be considered at Towerlands Park Phase 2.
<b>Location:</b>	Towerlands, Panfield Road, Braintree
<b>Applicant:</b>	Mr Jason Parker, Parker Planning Services, Spire House, 13-15 Cathedral Street, Norwich, NR1 1LU
<b>Agent:</b>	Unex (No 10) Ltd, c/o Parker Planning Services, St Andrews Castle, Active Business Centre, 33 St Andrew's Street, Bury Saint Edmunds, IP33 3PH
<b>Date Valid:</b>	22nd June 2023
<b>Recommendation:</b>	It is RECOMMENDED that the following decision be made:  § Application REFUSED for the reasons outlined within Appendix 1 of this Committee Report.
<b>Options:</b>	The Planning Committee can:  a) <b>Agree</b> the Recommendation b) <b>Vary</b> the Recommendation c) <b>Overturn</b> the Recommendation d) <b>Defer</b> consideration of the Application for a specified reason(s)
<b>Appendices:</b>	<b>Appendix 1:</b> Reason(s) for Refusal Submitted Plan(s) / Document(s)
	<b>Appendix 2:</b> Policy Considerations
	<b>Appendix 3:</b> Site History
<b>Case Officer:</b>	Kathryn Oelman For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2524, or by e-mail: <a href="mailto:kathryn.oelman@braintree.gov.uk">kathryn.oelman@braintree.gov.uk</a>

**Application Site Location:**



<b>Purpose of the Report:</b>	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.
<b>Financial Implications:</b>	<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>
<b>Legal Implications:</b>	<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 &amp; 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>
<b>Other Implications:</b>	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.
<b>Equality and Diversity Implications:</b>	<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"> <li>a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act;</li> <li>b) Advance equality of opportunity between people who share a protected characteristic and those who do not;</li> <li>c) Foster good relations between people who share a protected characteristic and those who do not</li> </ul>

	<p>including tackling prejudice and promoting understanding.</p> <p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
<p><b>Background Papers:</b></p>	<p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> <li>§ Application Form</li> <li>§ All Plans and Supporting Documentation</li> <li>§ All Consultation Responses and Representations</li> </ul> <p>The application submission can be viewed online via the Council's Public Access website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a> by entering the Application Number: 23/01478/OUT</p> <p>Policy Documents:</p> <ul style="list-style-type: none"> <li>§ National Planning Policy Framework (NPPF)</li> <li>§ Braintree District Local Plan 2013-2033</li> <li>§ Neighbourhood Plan (if applicable)</li> <li>§ Supplementary Planning Documents (SPD's) (if applicable)</li> </ul> <p>The National Planning Policy Framework can be viewed on the GOV.UK website: <a href="http://www.gov.uk/">www.gov.uk/</a>.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: <a href="http://www.braintree.gov.uk">www.braintree.gov.uk</a>.</p>

## 1. EXECUTIVE SUMMARY

- 1.1 The site comprises 8.5 hectares of agricultural land that lies north-west of Braintree and south-east of the village of Panfield. It is located adjacent to and between these distinct settlements. The land is situated north of the existing Towerlands Park strategic housing site. The two sites are separated by a tree belt and associated land dedicated to an ecological mitigation area which also extends to the east. To the west lies another tree belt and to the north lies Church End where several dwellings are clustered around the junction with Panfield Road.
- 1.2 There are several listed buildings within the vicinity, including the Grade II\* listed church of St Mary the Virgin on the edge of Panfield and the Grade I listed Panfield Hall to the south-west, with its moated enclosure designated as a Scheduled Ancient Monument. A public right of way (PROW 68-42) is located to the south of Towerlands Park, travelling west from Panfield Lane towards Panfield Hall.
- 1.3 The application proposes to erect 150 dwellings on the site with all matters reserved, except for access. Access is proposed to be via the spine road within Phase 2 of the Towerlands Park site. This would necessitate the access road crossing the tree belt, open space and Ecological Land associated with Towerlands Park. The application is the subject of an Appeal Against Non-Determination under Section 78 of the Town and Country Planning Act 1990 (as amended).
- 1.4 The site is located within countryside, and due to its location, it would manifest as a poorly integrated urban incursion that would not conserve the setting of Braintree or Panfield. It would appear remote and fundamentally discordant with the prevailing character of the area.
- 1.5 Furthermore, the proposal would not be sympathetic with, or successfully integrate into, its landscape setting, particularly in relation to cross-valley views where it would give rise to lasting landscape and visual harm.
- 1.6 There is insufficient information to determine the impacts of the proposal in the following areas:
- a) Whether the quantum of development could otherwise be accommodated on the site in a policy compliant fashion, in particular regarding standards of urban design; provision of parking; open space; back-to-back distances; SuDS; street trees; impact upon existing trees; and required levels of biodiversity net gain, landscaping and ecological mitigation (for instance in relation to Priority bird species, great crested newts and bats).
  - b) Whether there would be an unacceptable impact upon highway safety, or the residual cumulative impacts on the road network would be severe.

- c) Whether the development would be harmful to the significance of the Grade I listed Panfield Hall and whether any conflict between the heritage assets conservation and the development would be minimised.
- 1.7 A Section 106 Agreement is also not in place to mitigate unacceptable impacts in several areas.
- 1.8 The application has attracted a high level of objection from residents and an objection from Panfield Parish Council. There are also objections from the Local Highway Authority, Essex County Council SuDS, the ECC Historic Buildings Consultant and the BDC Ecological Consultant.
- 1.9 In summary, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. The proposal would be contrary to the Framework when taken as whole. It would also be contrary to the Braintree District Local Plan 2013-2033 and related Supplementary Planning Documents and would not conform with the good design principles as set out in the National Design Guide.



2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

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

2.2 It should be noted that the Applicant has lodged an appeal for non-determination. Therefore, the Local Planning Authority (LPA) can no longer determine this application but is required to set out what the decision would have been if a decision had been made.

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

5.1 The site comprises 8.5 hectares of agricultural land, gently sloping down to the east, located north-west of the settlement of Braintree. To the south, the site immediately abuts an ecological mitigation belt and open space area to be provided within the Towerlands Park residential estate. Towerlands Park is currently under construction (Strategic Growth Location Reference BOCN137 allocated under Policy LPP16 of the Adopted Local Plan as 'Former Towerlands Park Site, Braintree' with permission granted under Application Reference 19/00786/OUT for up to 575 dwellings including 1.13ha site for childcare nursery, up to 250sq.m of local retail and 250sqm of community facilities).

5.2 Extensive tree belts border the site to the south and west. To the south and east is land that has been reserved as an ecological mitigation area in association with the housing site in the south, and beyond this to the east lies Panfield Road (B1053). Panfield Road bends west to also run along the northern boundary of the site and turns into Church End. There is a cluster of dwellings (Ashton's Cottages) located at the junction of the B1053 and Church End, and these dwellings back onto the site boundary.

5.3 Little Priory Farm and two separate barns; all Grade II listed, lie approximately 100m from the site to north of the junction. On the outskirts of Panfield lies The Grade II\* listed Church of St Mary the Virgin. 500m to the south-west of the site lies Panfield Hall; a Grade I listed building whose historically moated enclosure is designated as a Scheduled Ancient Monument. To the south of Towerlands Park, a Public Right of Way (PROW 68-42) travels west from Panfield Lane towards Panfield Hall.

- 5.4 The site is located in 'Countryside'; the development boundary of Braintree, has been extended under the new Local Plan to include the Towerlands Park site but does not include the ecological mitigation area. The settlement boundary of the Village of Panfield is located 380m to the west via Church End. There is a line of 19 Poplars which line the western side of the highway verge to Panfield Road and are subject to a group Tree Preservation Order (TPO) (20/2012-G1). A further line of 26 poplars extend along the southern side of the highway verge to Church End adjacent to the site boundary which are also subject to a group TPO (20/2012 – G2).
- 5.5 The site lies in Flood Zone 1. A high-pressure gas main (Braintree to Guestingthorpe Feeder) is located within the Towerlands Park site. The proposed access would fall within the Inner Zone, whilst most of the site would fall within the Outer Zone for the purposes of the consultation with the Health and Safety Executive. In terms of the wider countryside the site sits on high land beyond the main settlements of Braintree and Bocking, with Springwood Industrial Estate and the Panfield Lane development site (Strategic Growth Location Reference BOS6H allocated under Policy LPP16 of the Adopted Local Plan as 'North West Braintree – Panfield Lane', with permission granted for a residential-led scheme of up to 825 dwellings under Application Reference 15/01319/OUT) in the south. The land continues to rise towards Panfield village in the west but slopes down towards countryside forming the valley of the River Pant in the east.

## 6. PROPOSAL

- 6.1 Outline planning permission is sought with all matters reserved except access for up to 150 dwellings including provision of affordable housing, open space, and associated infrastructure. The application proposes to obtain access to the site via the existing Towerlands Park in the south, which in turn gains its access from Panfield Lane and the B1053 (Panfield Road). The application is the subject of an Appeal Against Non-Determination under Section 78 of the Town and Country Planning Act 1990 (as amended).
- 6.2 Parameter plans submitted to accompany the application indicate that the dwellings could be arranged around a central road loop road enclosing a 'village green', with the road diverting into cul-de-sac streets / private drives as it continues south. Areas of grassland containing SuDS features could be located opposite the neighbouring properties in the north and to the west of the access when entering the site. Indicative plans show a mix of 42 two-bedroom, 72 three-bedroom and 36 four-bedroom dwellings with smaller dwellings on the interior and larger dwellings on the perimeters.
- 6.3 Joint pedestrian and cycle routes are indicated around the edges of the site and connecting to those in the existing Towerlands Park Ecology Land and open space area in the south. A Green Infrastructure Strategy Plan has been submitted indicating where trees could be provided within the new streets and open space areas. An area of new woodland is shown in the north-west corner of the site.

- 6.4 The submitted Arboricultural Impact Assessment Report states that tree removals would be limited to the access road location where it passes through the tree belt along the southern boundary (G1- Cat B, comprised of a mixture of species). It argues that this loss is unavoidable in order to gain access and that mitigation could be provided to compensate for the loss at a recommended planting ratio 3:1 elsewhere on the site.
- 6.5 The application is accompanied by the following documents:
- Design & Access Planning Statement
  - Area Assessment Plans 1 & 2
  - Site Location Plan (23-003-0050 P1)
  - Parameter Plan – Built Form (23-003-0010 Rev P1)
  - Parameter Plan – Vehicular & Pedestrian Routes (23-003-0011 Rev P1)
  - Parameter Plan – Density (23-003-0013 Rev P1)
  - Indicative Masterplan (23-003-0100 P2)
  - Indicative Accommodation Plan (23-003-0200 P2)
  - Green Infrastructure Strategy Plan (JBA 23 041 SK01)
  - Arboricultural Impact Assessment Report
  - Heritage Impact Assessment
  - Landscape & Visual Impact Assessment
  - Noise Impact Assessment
  - Phase 1 Ecological Survey & Ecological Addendum
  - Residential Framework Travel Plan
  - Statement of Community Involvement
  - Transport Assessment
  - Phase 1 Contaminated Land Assessment
  - Flood Risk Assessment
- 6.6 The application has been screened under the Town & Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) and the Local Planning Authority (LPA) has concluded that the proposal would not have a significant impact of more than local importance upon the environment and therefore did not need to be accompanied by an Environmental Statement.
- 6.7 A degree of confusion has arisen because of the application description and accompanying documentation referred to the site as 'Phase 2' to Towerlands Park. Towerlands Park is to be brought forwards in five phases (numbered 0, 1, 2, 3 & 4). This site does not lie within the Towerlands Park boundary and would only be associated to it via its access connection to the spine road, therefore the development could not form 'Phase 2' to this development.

## 7. SUMMARY OF CONSULTATION RESPONSES

### 7.1 Active Travel England

- 7.1.1 Comment that, following a high-level review of the above planning consultation, they have determined that standing advice should be issued and encourage this to be considered as part of its assessment of the application. The standing advice can be found via this link:  
<https://www.gov.uk/government/publications/active-travel-england-sustainable-development-advice-notes>

### 7.2 Anglian Water

- 7.2.1 Do not object, confirm there are assets in, or within the vicinity of, the site which may be affected. Comment that foul drainage from the development would fall within the catchment of Bocking Water Recycling Centre which currently does not have capacity to treat the flows from the site. However, Anglian Water are obliged to provide capacity if permission were granted. A condition requesting a final drainage foul water strategy (specifying the discharge rate and connection point to the public network) are requested if permission were granted.

### 7.3 Cadent Gas

- 7.3.1 No comments received to date – any comments received will be reported to the Planning Committee.

### 7.4 Essex Fire & Rescue

- 7.4.1 Do not object, have provided a standard response with information for the Applicant regarding access, building regulations, water supplies and sprinkler systems.

### 7.5 Essex Police (Strategic Planning Team)

- 7.5.1 Do not object, issuing a standard strategic response. A specific response has also been received from the Designing Out Crime Officer which states that there are no apparent concerns with the layout, subject to further detail being provided at reserved matters stages.

### 7.6 Health & Safety Executive

- 7.6.1 The HSE Planning Advice Web App shows that the site access lies within the Inner Consultation Zone and most of the site within the Outer Consultation Zone. HSE confirms that they do not advise on safety grounds against the granting of planning permission in this case. It notes that the operator of the gas pipeline may have certain restrictions which they may place upon development within the zones.

7.7 NHS Mid & South Essex

7.7.1 Do not object. Confirm that the nearest GP Surgery does not have capacity for additional growth from this and cumulative development in the area, therefore a sum of £74,200 is required to mitigate the impact of the development secured by way of a planning obligation in the form of a Section 106 Agreement should permission be granted.

7.8 Natural England

7.8.1 Do not object. Confirm that the site lies within the zone of influence for Essex RAMS and, as it is anticipated that alone or in combination this development would give rise to significant effects such as recreational pressure. In their opinion there is a need for Habitats Regulation Assessment to be performed to ensure that the strategic measures (and any on site mitigation which may be required) are sufficient to mitigate this impact.

7.9 BDC Ecology

7.9.1 Holding objection due to insufficient information in the following areas:  
a) International and European designated sites (Blackwater Estuary SPA and Ramsar site and Essex Estuaries SAC);  
b) European Protected Species (Great Crested Newt and Bats); and  
c) Protected / Priority species (breeding birds).

[Please see Ecology section of this Report for further details]

7.10 BDC Environmental Health

7.10.1 Do not object subject to conditions relating to Environmental Management Plan covering issues of dust suppression including wheel washing; noise (including noise from radios, plant, and equipment); contaminated land; piling activities and hours of working.

7.11 BDC Housing Research & Development

7.11.1 No objection. Confirm that a suitable mix can be achieved on the site, stipulating a 70/30 split for rented over intermediate tenure and requesting that certain locational, accessibility and space principles are secured either through conditions or under the Section 106 Agreement.

7.12 BDC Landscape Services

7.12.1 At the time of writing this Report comments have not been received from the Councils Arboricultural Officer; should these be received, they will be reported to Planning Committee.

7.12.2 [Officer note: in this case, the services of a landscape consultant were employed to independently review the Landscape and Visual Impact

Assessment Report (LVIA) provided by the Applicant. Further detail on this is provided in the Section 11 of this report.]

7.13 BDC Waste Services

7.13.1 Do not object. They point out that the illustrative layout shows properties on shared private driveways which exceed the 20m drag distance for waste collection and that these properties would need to present their waste to collection points, the design and location of which are not currently provided. Further information on the specifications for waste collection, particularly for flats, is also noted.

7.14 ECC Archaeology

7.14.1 Do not object. They comment that the site lies within a historic landscape which is likely to be medieval or of earlier origin. Evidence for this survives within the field systems, road layout and surrounding settlements. Previous archaeological evaluations in connection with the adjacent Towerlands Park site yielded remains of Early Iron Age and Medieval origin as well as finds from a range of periods. It is considered that there could be good survival of archaeological remains within this site and consequentially, conditions are recommended requiring a programme of archaeological investigation, evaluation, assessment, and recording should permission be granted.

7.15 ECC Education

7.15.1 ECC Education have been consulted and their comments are anticipated by 23<sup>rd</sup> November 2023. Once received, these will be reported to the Planning Committee.

7.16 ECC Extra Living/Independent Care

7.16.1 No comments received (deadline expired).

7.17 ECC Highway Authority

7.17.1 Object, making the following comment:

*“From a highway and transportation perspective the impact of the proposal is NOT acceptable to the Highway Authority for the following reason:*

*The Transport Assessment which accompanies the planning application contains insufficient information to enable the Highway Authority to establish the likely impact of the proposal on highway capacity and safety. It also contains insufficient information regarding additional off-site works and/or contributions to encourage use of public transport, cycling and walking.*

*The proposal is therefore contrary to the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.*

*Note: Were the Applicant to submit a revised Transport Assessment the Highway Authority would be able to consider the planning application further."*

## 7.18 ECC Historic Buildings Consultant

### 7.18.1 Objection received 10<sup>th</sup> October 2023 with comment as follows:

*"This application follows on from previous applications for the multi-phased development of the area including 19/00786/OUT, which was accompanied by a Heritage Statement (Oxford Archaeology, July 2019).*

*Other than a short section on Archaeology and Historic Environment in the Design and Access Statement (Parker Planning Services page 32), this current application does not include a Heritage Impact Assessment.*

*In addition, the extent and location of the Phase 2 Site as shown in the 2019 Phasing Plan (revised drawing UNX003/PP/009 B 09.06.20, application 19/00786/OUT, submitted 19th June 2020) differs from that shown in the current application.*

*I also note that after the original Landscape Visual Impact Assessment (LVIA) by James Blake Associates was submitted in June 2023, the local authority commissioned an independent LVIA from Nigel Cowlin Ltd. This assessment has found different conclusions than those of the original James Blake Associates assessment. The Nigel Cowlin Ltd LVIA report finds that the proposed development of up to 150 dwellings would result in some landscape and visual harms to weigh in the planning balance. The accompanying Zone of Theoretical Visibility Map (Figure 1) from Nigel Cowlin Ltd suggests that there is potentially a degree of visibility between the current Phase 2 Site and the Grade I Listed Panfield Hall (List Entry Number: 1337833).*

*From my understanding, the position and extent of the Phase 2 site has altered since the original Heritage Impact Assessment was carried out in 2019. In addition, the Heritage Impact Statement from 2019 cites the now-superseded LIVA and states "the LVIA indicates that the proposed scheme will not be visible from the listed building or its immediate setting". I am concerned that given the apparent changes in the application Site since 2019, and the reassessment of the visual impact of the scheme, no corresponding reassessment of the visual impact on nearby heritage assets and their setting has been undertaken.*

*Should the Site be visible from Panfield Hall, it will be necessary to understand the importance of that view. Any functional, historical relationship between the Site and the Hall would increase the value and*

*importance of any corresponding views. This will provide a better understanding of any visual impacts and allow the timely consideration of potential mitigation measures.*

*At present, there is insufficient information to understand the potential impact of the scheme. Paragraph 194 of the NPPF states that when 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.*

*Therefore, I recommend that the Applicant undertakes an updated Heritage Impact Assessment, relevant to this current Site. This should include a revised assessment of the impact on views and the importance of the site within the setting of all the relevant heritage assets. In particular, I recommend that permission is sought by the Applicant, for access to Panfield Hall in order to assess the views from the Grade I listed building and its immediate setting."*

- 7.18.2 An e-mail was received on 25<sup>th</sup> October 2023 from the Historic Buildings Consultant, having reviewed the Heritage Impact Assessment (June 2023), and commenting that:

*"... There is not a viewpoint from the curtilage of Panfield Hall towards the Site. In addition, the Heritage Statement states that ... "Phase I had the potential to impact Bocking more than Panfield. Phase II has the potential to impact Panfield more than Bocking."*

*The 1836 Tithe Map information shows that the application Site and Panfield Hall were in the same ownership and occupancy, and I think more understanding is therefore needed as to the relationship between the two and if views between them are significant. The important thing from a heritage perspective is whether or not the view northeast from Panfield Hall towards the Site is a) a historically significant view (is it part of a designed, historic landscaped estate, etc) and b) what are the impacts on that view and how would the change affect our ability to appreciate the significance of the Hall in its setting.*

*The HIA does not address this issue and a more tailored approach, specific to the Phase II site is needed. While this could be addressed with a better HIA and more analysis of views and setting, at present it's not possible to fully understand the potential impact of the scheme. So, it fails to comply with Paragraph 194 of the NPPF."*

7.19 ECC SuDS

- 7.19.1 Holding objection giving following reasons;  
*"Currently the surface water design calcs do not include all of the SuDS features proposed upon the drainage layout drawings. This information is*



*required in order to determine how the whole system will function through each storm event, ensuring no detrimental effect from flooding occurs.”*

8. PARISH / TOWN COUNCIL

8.1 Panfield Parish Council

8.1.1 Comments received 19<sup>th</sup> July 2023 as follows:

*“On behalf of Panfield Parish Council, I am writing to lodge a formal objection to the aforementioned planning application. After careful consideration of the design and access statement submitted, we have identified several significant concerns and inaccuracies that call into question the credibility and compliance of the proposed development. Furthermore, we note that the application fails to acknowledge and respect the Panfield Design Statement, an official planning document held by Braintree Council, which is of paramount importance in guiding the development within the Parish boundary.*

*Firstly, the design and access statement includes statements that are misleading and inaccurate. It claims that early proactive engagement with the local community occurred through the distribution of a detailed leaflet to properties potentially affected by the proposal and by making both Panfield and Bocking Parish Councils aware of the application. However, we would like to clarify that Panfield Parish Council did not receive any direct correspondence regarding this application. It was only brought to our attention by a concerned resident. This lack of direct engagement and communication with the Parish Council raises concerns about the transparency and adequacy of the consultation process conducted by the Applicant.*

*Secondly, the design and access statement mentions that the Parish Council intends to discuss the proposal with the Applicant to ensure a thorough understanding and address any questions. Despite our efforts to contact the developer, we have not received any response or engagement from them. This lack of cooperation and communication hampers our ability to fully assess the proposal and voice the concerns of the local community effectively.*

*Furthermore, the application fails to acknowledge the Panfield Design Statement, a crucial planning document that should be considered when evaluating development within the Parish. The proposed development encroaches upon Panfield's boundary and must, therefore, adhere to the principles outlined in the design statement. According to the design statement, the village envelope is predominantly linear, centred around the main Kynaston Road, with domestic dwellings mainly along this road. Additional development in the form of "closes" radiates from Kynaston Road, and Hall Rd. represents the only other significant highway with notable building development, forming a loop around the village envelope to the south of Kynaston Road.*

*Contrary to the criteria set forth in the design statement, the proposed development does not conform to the established village setting. The application itself acknowledges that the site presents an opportunity to extend growth towards Panfield village, directly contradicting the design statement's guidance. Additionally, the proposed development encroaches upon the undeveloped agricultural area between the village envelope and Hall Road, an area that provides a sense of easily accessible open countryside from any point in the village. This encroachment threatens the preservation of the village's open aspect, as explicitly mentioned in the design statement.*

*Moreover, the design statement expresses concerns about the future implications of major developments planned for NW Braintree and the Towerlands site, particularly with regards to possible encroachment into the village. It emphasises the importance of maintaining an open aspect between the Parish of Panfield and Braintree. Unfortunately, the proposed development not only encroaches upon this open aspect but also actively encourages a link between Braintree and Panfield, eroding the independent status of our village. This directly contradicts the objectives and values set out in the design statement.*

*In conclusion, we strongly urge the Braintree Council to give due consideration to the objections raised by Panfield Parish Council in this letter. It is imperative that the application is re-evaluated in light of the concerns raised, the inaccuracies identified in the design and access statement, and the non-compliance with the Panfield Design Statement. The design statement is a product of proper processes and should be respected as a key guiding document for development within the Parish boundary. We firmly believe that the proposed development, along with its objectives, contravenes the values and aspirations of the Panfield community as outlined in the village design statement.*

*Thank you for your attention to this matter. We trust that you will conduct a thorough review of the planning application and take into account the objections raised by Panfield Parish Council and the concerns of our community.”*

8.1.2 Comments received 25<sup>th</sup> September 2023 as follows:

*“Panfield Parish Council wish to provide a further response to planning application 23/01478/OUT for the proposed erection of up to 150 dwellings for Phase 2 of the Towerlands development in Panfield. This comment is in addition to the previous comment.*

*Local Character and Village Design Statement:*

*Given this development is wholly in the Parish of Panfield, the Panfield Village Design Statement plays a crucial role in identifying the local character of our community, ensuring that any future development is in*

*harmony with its setting and contributes positively to the conservation and improvement of the local environment. Our community takes great pride in preserving its unique character, and we believe that this should be upheld. The delegates who attended the Parish Council meeting on September 5th highlighted that the proposed development would impact the local character, particularly leaving only a small buffer zone. The Parish Council firmly believes that preserving our local character is essential for the well-being of our community.*

#### *Pressure on Parish Council and Services:*

*The proposed development, given its scale in comparison to the existing parish outside of the village settlement, would put significant pressure on the Parish Council to deliver services to a non-connected community. We have concerns about the strain this would place on our resources and ability to provide essential services to both existing and new residents. It is essential that any development takes into account the capacity of local services and infrastructure.*

#### *Local Amenities and National Planning Policy:*

*Our local amenities are already under stress, and we believe it is crucial to adhere to national planning policies that require developments to set out an overall strategy for the pattern, scale, and design quality of places. The National Planning Policy sets out that a development must make sufficient provision for infrastructure, including transport, telecommunications, security, waste management, water supply, wastewater, flood risk, coastal change management, and the provision of minerals and energy. We believe that the proposed development should align with these principles and provide a clear plan for these critical aspects of community life.*

*In summary, the Parish Council has significant concerns regarding planning application 23/01478/OUT. We strongly believe that any development in Panfield should respect our local character, relieve pressure on the Parish Council, and align with national planning policies regarding infrastructure and services.*

*We respectfully request that these concerns be taken into consideration during the planning process and that appropriate measures are put in place to address them. We would welcome the opportunity to engage in further discussions or consultations to ensure that any development in our community is in the best interests of our residents and preserves the unique character of Panfield.”*

## 9. REPRESENTATIONS

- 9.1 At the time of writing this report, 69 objections and one letter of support have been received in relation to this application. A summary of the points made within these representations is provided below:

- Observed 150% increase in traffic and traffic potentially rat-running through Panfield and other rural villages to gain access to Stanstead Airport and larger settlements elsewhere.
- Ineffective transport mitigation measures and ability to achieve modal shift towards more sustainable alternative means of transport.
- Frequency of bus and train services, lack of availability at weekend or outside most popular hours, general unreliability and incidence of delays have not been factored in.
- Poor pedestrian connectivity, footpath flooding in inclement weather and routes to school which regularly experience pedestrian/HGV conflict.
- Risk of flooding to roads.
- Concern regarding safety of accesses relative to road speeds and proximity of bends.
- Poor connectivity of site to bus and rail connections.
- No cycle infrastructure in the vicinity and roads unsuitable for such.
- Related congestion and pollution in Braintree and Bocking from additional traffic generated by this development and Towerlands Park.
- Increase in speeding vehicles observed following Towerlands Park which will further increase as a consequence of the development proposed.
- General poor condition of roads in vicinity; damaged surfaces, narrow with excessive parking leading to unsafe conditions and blockages to flow of traffic.
- Need strategic planning to deliver a ring road in Braintree.
- Cumulative impacts of traffic in combination with planned development are severe.
- Misleading statements in Transport Assessment (TA) Report.
- Errors in TA: incorrect data, lack of data, incomplete data, out of date data, need for further surveys.
- Loss of water pressure due to inability of Anglian Water to meet demand.
- Concern that Fire Services recommendations cannot be met.
- Need to consider physical security measures, such as lighting and boundary treatments at outline stage.
- Pressure on facilities and infrastructure such as GPs, dentists, school places, health and social services.
- Need for Equality Impact Assessment of effects upon community due to pressure on services generated.
- Lack of provision of cultural facilities (as identified in Health Impact Assessment).
- Loss of tranquillity, green space and countryside character.
- Need to protect character and identity of the historic village of Panfield from urban sprawl of Braintree.
- Development would effectively create a 'village outside of a village'.
- Loss of green buffer between Braintree and Panfield.
- Poorly designed development contrary to Village Design Statement.

- Houses are too close together and no solar panels or alternative energy technologies proposed.
  - 'Building more houses and then providing 'green areas' within the new build development is not the same as maintaining greenfield sites as they exist'.
  - Wildlife barrier to Panfield village established by Towerlands Park is lost by the development proposed.
  - Displacement and loss of general wildlife supported by the site as well as protected and priority species.
  - Loss of wildlife corridors and habitats.
  - Loss of trees.
  - Noise and light pollution.
  - Lack of sensibly priced housing or social housing for local residents.
  - Inappropriate mix with excessively high proportion of larger properties.
  - Anecdotal evidence of lack of general market demand for properties (including those on Towerlands Park).
  - Negative impact / little or no advantage or benefit to the local community.
  - Limiting expansion of BMX Club on Deanery Hill due to lack of surrounding space for expansion, land for car parking or infrastructure to support the holding of larger events.
  - Lack of pre-application engagement.
- 9.2 Comments comparing the site to other proposals in the District, suggesting preferable alternatives and making bias allegations towards the Council do not constitute material considerations and have not therefore been reported in the summary above.

## 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 74 of the NPPF outlines that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against (in the case of Braintree District) our 'local housing need' plus the relevant buffer.
- 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 The Development Plan
- 10.2.1 Policy SP1 of the Adopted Local Plan requires the Local Planning Authority to take a positive approach to proposals that reflect the presumption in favour of sustainable development contained within the National Planning Policy Framework (NPPF).
- 10.2.2 In this case, the proposal is located outside of the Development Boundary of Braintree and Bocking as shown in the Adopted Local Plan. The proposal is therefore contrary to Policy LPP1 of the Adopted Local Plan which seeks to confine uses to those appropriate for the countryside. Due to the fundamental nature of this conflict, the proposal is also deemed to be contrary to the Development Plan as a whole and therefore, if consent were to be granted, material considerations must exist which indicate otherwise – i.e., to indicate that the plan should not be followed.
- 10.3 5 Year Housing Land Supply
- 10.3.1 The Council has an up-to-date Local Plan which has an approved minimum housing target of 716 new homes per year in the District between 2013 and 2033.
- 10.3.2 To this annual supply the Council must add the backlog which it has not delivered at that level since the start of the Plan period. This figure is

recalculated each year and as of April 2022 stands at 1,169 across the 5 Year Housing Land Supply.

- 10.3.3 The Council must also apply a buffer to the housing land supply based on the results of the Housing Delivery Test. In the latest results published on the 14th January 2022, the Council had delivered 125% of the homes required. This means that the Council is required to apply the lowest level of buffer at 5%.
- 10.3.4 Taking the above into account, the Council's latest 5 Year Housing Land Supply position for 2022-2027 shows a supply of 4.86 years. This position is marginal and with a number of strategic sites starting to deliver homes alongside other permissions, that situation is likely to change.
- 10.3.5 Nevertheless, as the Council cannot demonstrate the required 5 Year Housing Land Supply, the 'tilted balance' pursuant to Paragraph 11d) of the NPPF is engaged. It also means that the most important Development Plan policies relevant to the provision of housing are out-of-date. However, this does not mean that Development Plan policies should be completely disregarded. It is for the decision-maker to determine the weight to be attributed to the conflict with those policies.

## 11. SITE ASSESSMENT

### 11.1 Location and Access to Services and Facilities

- 11.1.1 'Braintree with Bocking and Great Notley' is classified as a 'Main Town' in the Adopted Local Plan and sits at the top of the settlement hierarchy alongside Halstead and Witham. The overarching spatial strategy implies that, in principle, the town is capable of accommodating a significant amount of development, representing one of the most sustainable locations in the District for new growth on account of the availability of local employment, services, facilities and transport links.
- 11.1.2 The approach is consistent with the objectives of Paragraph 105 of the NPPF which states that: *"The planning system should actively manage patterns of growth in support of these objectives. 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"*.
- 11.1.3 On a general level, Policy SP3 of the Adopted Local Plan establishes that development will be accommodated within or adjoining settlements according to their scale, sustainability, and existing role. The proposal is contrary to Policy LPP1 of the Adopted Local Plan as it lies outside the Town's development boundary and therefore is fundamentally contrary to the Development Plan as a whole.

11.1.4 If housing were consented on the site, it would be more remote than the existing and future housing to be provided within the strategic growth locations, which are better associated to the settlements in the south. Notwithstanding the lack of a five year housing supply, this Report details a number of reasons why the LPA consider this proposal would not represent sustainable development within the context of the NPPF, and therefore would also be contrary to this document as whole.

## 11.2 Access and Highways

11.2.1 Paragraph 110 of the NPPF states that, in assessing specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be- or have been- taken up, given the development and location;
- b) safe and suitable access to the site can be achieved for all users;
- c) the design of streets, parking areas and other transport elements reflects national guidance (including the National Design Guide and Model Design Code);
- d) any significant impacts from the development upon the transport network (in terms of capacity and congestion), or highway safety, can be cost effectively mitigated to an acceptable degree.

11.2.2 Paragraph 111 of the NPPF states that development should only be 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.

11.2.3 Policy LPP42 of the Adopted Local Plan states that development proposals should provide appropriate provision for pedestrians, cyclists, and public transport. Policy LPP52 of the Adopted Local Plan requires that developments are permeable and well-connected to walking and cycling networks, open spaces and facilities.

11.2.4 The submitted Transport Assessment (TA) predicts traffic generation from the development would be 76 two-way movements in the AM peak and 73 in the PM. The TA also works on the premise that 37% of total journeys would be made by sustainable modes of transport. Detailed drawings of the access road, its junction and associated visibility splays do not appear to have been included in the planning application documentation.

11.2.5 The TA notes that a range of enhancements are to be delivered in association with the Towerlands Park site. It argues that would have the effect of enhancing connections from Towerlands Park by foot and cycle to Braintree in the south. The TA also notes that a bus service is set to be re-routed from Panfield Road into the Towerlands Park site (9/9a Gt Notley-Gt Bardfield via Braintree, which runs hourly Monday-Friday from approx. 7am to 7pm). However, it is not proposed to bring the bus services into the development and users would instead be required to walk to a stop provided within a residential area on the Towerlands Park spine road.



- 11.2.6 Essex County Council Highway Authority has objected to the application, stating that the information within the Transport Assessment (TA) is not sufficient to enable the Highway Authority to establish the likely impact of the proposal upon highway safety and capacity, and contains insufficient information regarding off-site works and/or contributions to encourage use of public transport, cycling and walking.
- 11.2.7 Resident representation in relation to this application have raised detailed concerns and point out that the TA has not been based on updated data and instead relies on data collected in 2018 to support the original application for the Towerlands Park site. Officers also note that the modal share for sustainable transport modes is high given the location of the site and its relationship to sites in the south. Officers would seek to interrogate the accessibility of the site to services and facilities, particularly the distances stated in the TA. It is not known at this stage precisely which elements of the submission present an issue for the Highway Authority.
- 11.2.8 Officers observe that the proposed development would be entirely dependent upon the delivery of Towerlands Park to achieve any level of connectivity with the settlements in the south or mitigate its impact. The Towerlands Park site is required to deliver a range of highways mitigation works, including provision of a footway/cycleway to Churchill Road, bus stops within that site, reduction in the speed limit on Panfield Lane and funding for wider capacity improvements to the Rayne Road/Springwood Drive/Pods Brook roundabout to be implemented by the Highway Authority.
- 11.2.9 Without connectivity through the Towerlands Park site, those travelling on foot or cycle from the development would have to rely upon use of Panfield Road directly from the Towerlands Park northern entrance. This would present an obvious and significant highway safety risk given the speed, lack of footway, lack of streetlighting and presence of sharp bends on this road.
- 11.2.10 Delivery of the entirety of the internal spine road through the Towerlands Park site is being phased. The new Deanery Hill access, which both the approved Towerlands Park development and the current proposal would use is not required to be completed until the occupation of 200 dwellings on the Towerlands Park site. The delivery of residential elements, neighbourhood centre, education facilities and open space areas are not required as a whole to be delivered within any set period (i.e. the Towerlands Park development could progress very slowly if the Developer wished it to). In addition, there exists a restriction affected via Schedule 15, Clause 2.4 of the Section 106 Agreement preventing occupation of more than 50 dwellings on the Towerlands Park site until the third-party link from Panfield Lane to Springwood Drive (consented under permission 15/01319/OUT) on adjacent land within the Panfield Lane site is in use.
- 11.2.11 It is therefore reasonable to assume that it is likely that the proposed development would be subject to a strong tie to the delivery of

development/s and associated infrastructure in the south being delivered. Mechanisms for this, and any other highway mitigation necessary, are not presently in place. This is contrary to the aforementioned policy.

### 11.3 Landscape Effects

- 11.3.1 Paragraph 174 of the NPPF states that planning decisions should contribute to and enhance the natural environment by recognising the intrinsic character and beauty of the countryside. Paragraph 130(c) requires planning decisions ensure that developments are sympathetic to their landscape setting.
- 11.3.2 Policy LPP67 of the Adopted Local Plan requires that 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. It states that development which would not successfully integrate into the landscape will not be permitted.
- 11.3.3 The submitted Landscape and Visual Impact Assessment (LVIA) identifies the site as lying within the 'Pant River Valley (A5) Landscapes Local Character Area' (LCA) as identified in the Braintree Landscape Character Assessment. The application site occupies a transitional zone where the valley sides to the River Pant start to level out into plateau farmland between the valleys. The opposite side of the valley also falls within the LCA character area A5.
- 11.3.4 Landform contours within the LVIA demonstrate clearly that the site is situated on gently sloping ground which falls towards the River Pant valley in the east. Footpaths are present in and on the opposite side of the valley and therefore there is potential for cross valley views of the site within the context of surrounding settlements and historic assets. The Zone of Theoretical Visibility produced supports this point with the visual envelope extending extensively to the east to the opposite side of the valley and capturing the curtilage of listed buildings in the vicinity.
- 11.3.5 The LPA has commissioned an independent Landscape Consultant to evaluate the LVIA (Nigel Cowlin Ltd – NCL). The Report notes that the site's close landscape setting is ordinarily attractive countryside for north Essex areas and that the area falls within the 'Medium' level for landscape value. The landscape exhibits some qualities recognised as indications of landscape value and, in general, few detracting aspects. It also makes some contribution to the provision of a gap between the settlements.
- 11.3.6 The landscapes on the north side of this section of the Pant valley are more attractive and exhibit more interesting views and mix of features. The cross valley views in particular makes this adjacent landscape area more appropriately given a Medium/High landscape value. The sensitivity in relation to cross valley views is expressed in the text for the Braintree Landscape Character Assessment for character area A5. It states that:

*'The skyline of the valley slopes are visually sensitive to potential new development, with open views possible along across and along the river corridor.'*

- 11.3.7 District planning guidelines are that, to remain sympathetic to the character of this landscape, development should consider its visual impact upon the valley slopes, maintain cross-valley and characteristic views across/along the valley and, if located on the valley sides, remain 'small scale', using locally distinctive building styles.
- 11.3.8 In wider landscape views, the submitted LVIA acknowledges that rooflines and occasional gable ends could be visible across the valley and relies upon landscaping to conceal this. NCL highlights that a reduction in effects would be dependent upon the existing and proposed planting within the Ecological Land being permitted to grow to fruition and Officers note this planting does not lie within the site red line.
- 11.3.9 Notwithstanding this, the Report from NCL suggests that the development will be evident quite widely from within the landscape on the north side of the Pant Valley. Even after 15 years, NCL considers that the development is unlikely to be substantively hidden in the available cross valley views, resulting in a 'major/moderate' landscape effect; this is in contrast to the findings of the LVIA which conclude that these adverse effects would be 'minor'.
- 11.3.10 In terms of visual effects, NCL identified additional viewpoints on the Bovingdon Road on the northern side of the valley which had not been captured in the original LVIA. NCL concluded that the level of visual harm upon this receptor would be 'minor/moderate' at year 15.
- 11.3.11 NCL also differed in their findings that, in relation to the experience of walking along the Braintree and Bocking Footpath 25 on the other side of the Pant Valley (Viewpoints 13 -16 of LVIA - south of Hamblyn Wood), this would be 'major/moderate' at year 15 rather than the 'minor' adverse visual effect identified in the LVIA.
- 11.3.12 NCL suggests that the LVIA's findings "are based on rather shallow assessments of landscape effects, which fail to provide insight into how the proposed development would interact with the sensitivities of the location. For instance, it does not provide sufficient analysis in relation to the role of the area in providing a gap between the growing urban edges of Braintree and the rural village of Panfield. It also does not provide adequate analysis in relation to the position of the application site and the likely influence of the development in cross valley views from the north."
- 11.3.13 NCL has also questioned the quality and usefulness of the viewpoint photos provided by the Applicant as these are not compliant with Landscape Institute guidance. Officers separately note that in these views the proposed development presents as detached and distant from the wider settlement, and this is also particularly damaging in a general visual sense.

- 11.3.14 NCL considers that there would also be lasting ‘minor/moderate’ landscape effects within the more immediate context of the application site, but also admit that the classification regime does not fully capture the specific nature of the effects. Officers note that the tree belt relied upon to the west of the site to screen views when approaching along Church End from Panfield village is not within the control of the Applicant to retain and all the assessments depend upon this being present to reach those conclusions.
- 11.3.15 The Applicant has since submitted a revised version of the LVIA, providing some additional text in relation to the perception of the gap between settlements and the assessment of visual effects in relation to combined viewpoints. However, NCL have advised that, whilst this has been taken into account, this does not change the overall findings. As the development would not be sympathetic to the character of the landscape it is contrary to the aforementioned policy.
- 11.4 Appearance and Character of the Area
- 11.4.1 Paragraph 130(c) of the NPPF requires that decisions ensure that developments are sympathetic to local character. Paragraph 134 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies or government guidance on design, taking into account any local design guidance and supplementary planning guidance.
- 11.4.2 Paragraph 40 of the National Design Guide explains how well-designed places are integrated into their surroundings so that they relate well to them. Paragraph 43 of the Guide states that well-designed new development is integrated into its wider surroundings physically, socially and visually. Paragraphs 50 & 52 point out that well-designed places have a character that suits their context and respond [positively] to existing local character and identity.
- 11.4.3 Policy SP3 of the Adopted Local Plan requires that future growth be planned to ensure existing settlements maintain their distinctive character and role, to avoid coalescence between them and conserve their setting. 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.
- 11.4.4 The entrance to the Towerlands Park site, and its associated estate development being built along Panfield Road’s western side, is now evident when travelling out of Braintree. However, due to the setback layout; provision of additional landscaping (which has not been fully established yet); landform (where the bank rises up); existence of existing roadside tree belt and sporadic roadside dwellings, these factors will combine in time to mitigate any harsh contrast with the increasingly rural context. Equally, when approaching from the opposite direction, the northern access of the site would primarily be set within the open space/SuDS area and thus be

the first sign of a gradual intensification in the built form as you approach the settlement from the north.

- 11.4.5 Due to the position of the open space, woodland belt and Ecological Land at the far reaches of the Towerlands Park site, it would generally be perceived that beyond the site's northern access point, one had left the settlement of Braintree. Consequentially, the small cluster of dwellings which presently exist at the junction would retain their isolation and continue to be read in their true context; that of lying within 'countryside'. It should be noted that the presence of dispersed and occasional built form is not necessarily a feature that detracts from the intrinsic character and beauty of the countryside around Braintree; development and occasional clusters of dwellings are commonly encountered within this context and the dwellings around the junction are an example of this.
- 11.4.6 Currently Church End presents as a narrow rural road. Its bank with hedgerow, punctuated regularly with attractive poplar trees, provides an aesthetically pleasing composition which is consistent with its rural context. In this location, the sensation is one of being even more remote from the town and within an increasingly tranquil setting. The combination of all these elements helps to create a perception of separation gap between the settlements of Braintree and Panfield and generally comprise positive qualities which contribute to the conservation of their setting.
- 11.4.7 The proposed site would be located immediately east of land identified for preservation as a 'Green Buffer' from Braintree to the village of Panfield under Policy LPP68 of the Adopted Local Plan. The lack of inclusion of the site under this policy implies that preservation of the site is not essential to prevent coalescence and consolidation of the settlements. However, it does not necessarily follow that this area of land makes no contribution to the sense of separation between these settlements. Separate from this, the Local Plan makes no specific comment as to how the conservation of the setting of these settlements should be achieved.
- 11.4.8 Aside from the findings of technical landscape analysis, Officers remain concerned that the townscape implications of the development would be unacceptable. The urbanising impact of estate development on the site would be fundamentally discordant when viewed from the north and it would appear at odds with prevailing character of this area. The fact that it would not be 'read' as coalescing with either settlement is indicative of a separate problem; its remoteness would simply be alien and erode the setting for different reasons.
- 11.4.9 The LVIA suggests (Viewpoints 2 – 5 & 9) that, even if the site were set back, the presence of the estate would be visible when travelling along Church End despite augmentation of the woodland belt in the west. In an instance where the scale of development on the site were restricted, the urban grain of development would remain evident; conflicting and appearing incongruent in this context. Even if successfully hidden in a certain viewpoint, glimpses of the estate, its light, sounds and smells, would

be picked up as users pass kinetically through the environment and therefore its presence would not be convincingly concealed.

11.4.10 Officers are aware that an argument could be advanced that, if the site were buried within deep tree belts on all sides, a visual awareness of the estate could be entirely prevented. In Officer's opinion this approach would not represent good planning and would be arguably unsustainable in the long term. Furthermore, as the tree belt that is relied upon to the west is not within the Applicant's control its screening would need to be re-provided on the site and this would not be possible given the quantum of development proposed. In short, the location of the site, 'out on a limb' beyond the open space area of Towerlands Park, cannot avoid eroding the currently consistent perception of space between the settlement areas of Braintree and Panfield and appearing spatially remote and visually alien within this context. This is contrary to the aforementioned policy.

## 11.5 Quantum of Development

11.5.1 Paragraph 130 of the NPPF seeks to ensure, amongst other things, that developments function well and add to the overall quality of the area; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character and history, including the surrounding built environment and landscape setting, maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create distinctive places.

11.5.2 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. It requires that parking facilities are integrated as part of the overall design. The Policy also expects that Development Frameworks, Masterplans, Design Codes and other design guidance documents are prepared where needed to support this objective.

11.5.3 Policy LPP35 of the Adopted Local Plan requires, amongst other things, that the density and massing of residential development are related to the character of the site and its immediate surroundings, as well as the wider locality and that an appropriate standard of residential accommodation is provided for occupants. It states that housing mix should be in line with the local need as set out in the 2015 SHMA update (or its successor) unless material considerations indicate otherwise.

11.5.4 Policy LPP43 of the Adopted Local Plan requires parking to be in accordance with the Essex County Council Vehicle Parking Standards adopted SPD.

11.5.5 Policy LPP52 of the Adopted Local Plan establishes that the Council will seek a high standard of layout and design in all developments. Section (a) requires that the scale, layout, height and massing of buildings should reflect and enhance the area's local distinctiveness and shall be in harmony

with the character and appearance of the surrounding area. Section (p) requires that residential developments provide a high standard of accommodation and amenity for prospective occupants.

- 11.5.6 The current application is an Outline application with all matters reserved except access. However, the Applicant has volunteered Parameter Plans which could be used to govern any subsequent Reserved Matters applications if permission were granted.
- 11.5.7 Whilst a detailed access plan has not been submitted, the Parameters Plan - Vehicular and Pedestrian Routes (Drawing No. 23-003-0011 P1) confirms that access to the site is proposed via the northern access road provided within the Towerlands Park site, crossing land currently approved as open space and into the Ecological Land strip beyond. Whilst Officers are not specifically aware of any safety concerns regarding the access arrangements, the vehicle and pedestrian routes into the Ecological Land and north to Church End give rise to impacts which have not been sufficiently mitigated (as noted later in this Report). It is also concerning that this plan does not show the tree belt present south of the Ecological Land within Towerlands Park, therefore introducing uncertainty over its retention.
- 11.5.8 Gross density for 150 dwellings on the site would be 18dph. The Applicant has submitted a Parameter Plan – Density (Drawing No. 23-003-0013 P1), which indicates that net density would be below 29dph, varying only slightly to 23dph at the edges of the site. Officers consider this slight variation in densities would not be readily perceptible and therefore the Parameter Plan provides little benefit in this instance. The quantum and density are however inextricably linked to the estate character of the proposal which, for the reasons set out above, would be harmful to the areas prevailing character and setting, particularly when viewed from the north.
- 11.5.9 The application is accompanied by a Parameter Plan – Built Form (Drawing No. 23-003-0010 P1). Whilst the extent of built form is shown, the plan does not define a ‘developable envelope’ whereby it would be clearer that the Root Protection Areas of trees and open space areas would be preserved from other associated incursions, such as surfacing, paths, pavements, driveways and roads. A calculation for the area of open space is not given, nor is the location and quality of open spaces evident, therefore policy compliance on this level cannot also be assured.
- 11.5.10 The Built Form Parameters Plan shows a spine road which enters the estate from the east and loops around a central open space area. The road then diverges to create a series of cul-de-sacs. Focal buildings are indicated at prominent corners of the development and a ‘Home Zone Plaza’ is shown in one of the junctions to the east. Indicative SuDS basins are shown either side of the access road (locations of crate storage, permeable surfacing and Swales on the edges of the site are indicated on the Drainage Strategy Plan SK02 P1 provided within the Flood Risk Assessment Report).

- 11.5.11 An indicative Masterplan has been provided; however, this does not demonstrate that the development can be policy compliant in terms of its provision of parking, back-to-back distances, street trees in accordance with the Essex Design Guide SPD 2005 and Essex Parking Standards SPD 2009. There would also appear to be some doubt whether all the SuDS features have presently been accommodated in the layout. Again, the indicative masterplan does not detail important features such as the tree belt in the south or establish how the pedestrian connections through the Ecological Land would be achieved and their impacts mitigated. Areas of land are indicated to be enclosed adjacent neighbours in the north, and it may be desirable for these features to also be shown on the Parameters Plan(s).
- 11.5.12 The application submission is accompanied by copied pages from the Design Code which was approved on the Towerlands Park site. In Officers opinion the site's location and access arrangements prevent sufficient design integration with the Towerlands Park site and therefore, given the site is separate, the approach should not be to 'clone' the features of this development. The quantum of development proposed would not routinely result in the LPA requiring a Design Code for the site.
- 11.5.13 The application is accompanied by a Landscape and Green Infrastructure Strategy Plan (Drawing number JBA 23 041 SK01). This plan appears to show a different red line to that on the location plan. It suggests that isolated trees would be planted along the northern border of the development and a group of trees in the north-western corner of the site to 'screen and soften views from Church End'. It suggests that strategic planting 'will create a new landscape that is rural in character' and that nature and biodiversity will be encouraged within the planting strategy.
- 11.5.14 If the Planning Inspectorate were to consent to the development than the LPA would request that a Green Infrastructure Parameters Plan is provided which would show the extent and location of those vegetation screening features that are being relied upon visually, alongside sufficient mechanism to ensure their long-term retention and management. Such a plan is presently absent from the submission.
- 11.5.15 The application is also accompanied by an indicative accommodation plan. The indicative mix is 28% 2 bed, 48% 3 bed and 24% 4 bed, which is not compliant with the SHMAA which would need to be adjusted to provide 4% 1 bed, 2% more 2 bed, 3% less 3 bed and 4% less 4 bed properties. It is considered that, as this would require a higher provision of smaller properties, the Reserved Matters stages could provide opportunity to secure this in compliance with Policy LPP35 of the Adopted Local Plan.
- 11.5.16 In conclusion, whilst the quantum of development might subsequently be reduced to ensure compliance with the technical design standards of the Local Plan and associated Supplementary Planning Documents, this would still not result in a development which would add to the overall quality of the area, be sympathetic to local character (including its landscape setting), or



be in harmony with the appearance of the surrounding area for the reasons set out in the Sections above. This is contrary to the aforementioned policy.

## 11.6. Trees

- 11.6.1 Paragraph 131 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. This paragraph also states that planning decisions should ensure that new streets are tree lined, (unless, in specific cases, there are clear, justifiable, and compelling reasons why this would not be appropriate). Paragraph 174(b) of the NPPF requires decisions to recognise the wider benefits of trees and woodland.
- 11.6.2 Policy LPP65 of the Adopted Local Plan acknowledges that the quality of trees is a material consideration and that trees which make a significant positive contribution to the character and appearance of their surroundings will be retained unless there is a good Arboricultural reason for their removal. It also states that, 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.
- 11.6.3 The application is accompanied by an Arboricultural Impact Assessment Report (Oakfield Arboricultural Services, May 2023). The Report identifies 42 individual trees and six groups of trees within and immediately around the site. The Arboricultural Report states that all the trees are proposed to be retained with the exception of where the access road passes through the existing mixed deciduous and coniferous tree belt, planted circa 13 years ago, along the southern boundary of the site. A sporadic hedgerow planted in 2010 to divide the larger field into two, referred to in the Report, appears since to have been removed and wasn't present at the time the application was submitted.
- 11.6.4 It is recommended in the Report that the tree loss is mitigated in the form of replanting at a 3:1 ratio. The Landscape and Green Infrastructure Parameter Plan suggests that numerically enough trees could be provided to meet this target. The Report states that all the remaining trees can be retained, and no specialist construction methods of foundations or service installation are likely to be necessary given the proposed distances separating development from existing trees.
- 11.6.5 However, as the red line of the site has not been imposed on the Tree Survey and the Root Protection Areas of trees and existing features are not shown on the Plans, it has not been possible to confirm this. It has also not been possible to critically assess which trees might be adversely affected and whether it would have been possible to retain any of the trees proposed to be removed. The location of the site red line is not shown relative to the trees which are the subject of Tree Preservation Orders either. One obvious question is why the new access does not take

advantage of an existing break in the tree belt rather than punch through further east instead, potentially retaining these trees if possible.

- 11.6.6 Due to the lack of information it is not possible to ensure that the above principles have been observed relative to the quantum of development being proposed. For instance, there are many streets in the layout which are not wide enough to achieve meaningful tree planting and therefore the provision of tree lined streets is also not presently assured. It is not clear whether sufficient space can be provided around the existing trees, particularly to the west. Overall further detail is required to make a meaningful assessment regarding impacts upon trees. This is contrary to the aforementioned policy.

## 11.7 Heritage

- 11.7.1 Paragraph 194 of the NPPF states that when 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 Paragraph 195 of the NPPF states that Local Planning Authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.
- 11.7.3 Paragraph 199 of the NPPF advises that, when considering the impact of a proposed development upon the significance of a designated heritage asset, great weight should be given to the assets conservation (and the more important the asset, the greater the weight should be), irrespective of the level of harm to its significance.
- 11.7.4 Paragraph 202 of the NPPF states that, where a proposal will lead to '*less than substantial*' harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
- 11.7.5 Policy SP7 of the Adopted Local Plan requires that new development protect and enhance assets of historical value. Policy LPP47 of the Adopted Local Plan requires that, to protect and enhance the historic environment, all development respects and responds to local context. Policy LPP57 states that the Council will seek to preserve and enhance the settings of heritage assets by appropriate control over the development, design and use of adjoining land.

- 11.7.6 The Council has a duty under Section 66 (1) of the Planning (Listed Buildings & Conservation Areas) Act 1990, when considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses.
- 11.7.7 The submitted Heritage Impact Assessment explains how the site is technically outside of both villages (Bocking and Panfield), but historically formed open fields mainly used for agricultural purposes and associated with the wider Panfield Hall farmstead estate. There are several designated and non-designated heritage assets within the vicinity of the site including Grade II listed buildings to the north, the Grade II\* listed Church of St Mary the Virgin in Panfield and the Grade I listed Panfield Hall.
- 11.7.8 The Council's Historic Buildings Consultant advises that the Heritage Impact Assessment is inadequate in terms of its assessment of views between areas which comprise the setting of Panfield Hall and the site. Whilst there is an assessment of views from the footpath south of Panfield Hall, the LVIA indicates that there may be further viewpoints within the curtilage where the site may be seen. As there is insufficient information in this regard, it is not possible to ensure that any conflict between the heritage assets conservation and the development has been minimised. Nor is it possible to accurately reach conclusions regarding any heritage harm to be weighed in both the heritage balance and the wider planning balance in this case. This is contrary to the aforementioned policy.
- 11.8 Ecology
- 11.8.1 Paragraph 174 of the NPPF states that planning decisions should minimise impacts biodiversity, ensuring net biodiversity gains, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 11.8.2 Paragraph 180 of the NPPF states that if significant harm to biodiversity resulting from a development cannot be avoided or adequately mitigated, or as a last resort compensated for, then planning permission should be refused.
- 11.8.3 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.
- 11.8.4 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.

Additionally, enhancement of biodiversity should be included in all proposals, commensurate with the scale of development.

- 11.8.5 Policy LPP63 of the Adopted Local Plan requires that development proposals must take available measures to ensure the protection and enhancement of the natural environment, habitats and biodiversity of the District. It states that the Council will expect all development proposals to contribute towards the delivery of Green Infrastructure which enhances a network of multi-functional spaces and natural features and secure provision where deficiencies have been identified. Proposals which undermine these principles will not be acceptable.
- 11.8.6 The application is accompanied by a Preliminary Ecological Appraisal which identifies habitats of semi-improved grassland, scattered scrub, hedgerow, and boundary trees on the site, finding these capable of potentially supporting several protected and priority species including badgers, bats, hazel dormice, birds (including skylark), reptiles and amphibians (including great crested newts) and invertebrates.
- 11.8.7 Following the submission of an Ecological Addendum (September 2023), the Council's Ecological Consultant advised that they were satisfied that all the potential ponds in the vicinity of the development had been adequately surveyed for great crested newt. However, they raised concerns that the ecological connectivity between the Towerlands Park Ecological Land and the habitats to the west would be adversely affected due to the severance caused by the proposed site access. As a result, there is insufficient information to demonstrate that a coherent ecological network for great crested newt can be established across the landscape.
- 11.8.8 It is likely that, in order to counter this fragmentation of habitat, further carefully managed land will need to be identified to provide compensatory habitat, such as wet ditches, swales and scrub planting that would provide further breeding, commuting and terrestrial options towards the east of the site. This may have implications for the quantum of development that the site could support.
- 11.8.9 The potential of the Towerlands Park Ecological Land to support great crested newts and other species will increase as the ponds and habitat within it mature. If consent were granted, then controls may need to be applied to account for the fact that protected species may colonise this land and be present during construction phases. Furthermore, as the biodiversity value of this land will increase in future years, the effect the proposed development would have in curtailing this potential should form a material consideration.
- 11.8.10 An Ecological Management Company will maintain the Ecological Land at Towerlands Park. It is required under Schedule 6, Clause 5.2, of the Section 106 Agreement to only permit access to this land in accordance with the Biodiversity Enhancement Strategy and Landscape and Ecological Management Plan (LEMP) approved under Conditions 9 (Application

Reference: 21/03608/REM) and 39 (Application Reference: 23/00434/DAC) of the Outline permission. The Reserved Matters are also tied under Schedule 1, Clause 2.4 of the Section 106 Agreement to be in accordance with the agreed LEMP.

- 11.8.11 The LEMP and Biodiversity Strategies that have been approved are silent on access to the land. However, the Design and Access Statement provided with Phase 0 Reserved Matters for the Ecological Land explains how it has been passively designed not to encourage public access (see page 38 which states it is intended that “The whole of the phase will be used for ecological mitigation, with no public access”). As the proposed development does appear to actively encourage public access to this land by way of pathways as shown on the Parameters Plan for Vehicle and Pedestrian Routes (Drawing no. 23-003-0011 P1) this is likely to have an adverse effect upon the preservation of the habitats created and their appeal to species.
- 11.8.12 The mitigation package already agreed for Towerlands Park was negotiated on the basis that the Ecological Land would be of a certain biodiversity value. As a consequence of the development proposed, the related present (and future) losses would need to be carefully assessed and mechanisms agreed for their compensation. The Applicant has not explained whether this can be done without prejudicing delivery of the Towerlands Park site.
- 11.8.13 In relation to bats, the Ecological Addendum has provided further justification indicating that the two trees with ‘moderate’ bat potential (a mature Oak on the western boundary and a dead Oak on the northern boundary of the site) can be retained. However, there remains a difference of opinion on the extent of bat foraging and commuting habitat which will be lost as a result of development, given that it is likely that lighting will be required immediately adjacent the southern and western boundaries of the site and along the access road.
- 11.8.14 As a result, it is still recommended that a Bat Activity Survey is submitted in line with the standard methodology of the Bat Conservation Trust prior to determination of the application. Failure to determine the extent of likely impacts upon protected species before making a decision would be contrary to Paragraph 99 of the ODPM Circular 06/2005. Without this information the LPA cannot assess whether further mitigation measures may be required and whether this might affect the quantum of development proposed on the site.
- 11.8.15 Officers note that the conclusions of the Preliminary Ecological Appraisal downgraded the value of the grassland on account of its regular maintenance as a short sward. However, Officers visiting the site in summer found the meadow grassland to be waist high; these factors will affect the value of the site for commuting and foraging for bats as well as for other species, such as skylark, barn owls and reptiles. Even in the event of a lack of optimal habitat, the remaining habitats on site are likely to

provide some value, as well as for a range of other Priority bird species. As a result, Breeding Bird Surveys have been requested by the Councils Ecological Consultant prior to determination in order to allow assessment of the likely impacts upon the breeding bird assemblage and inform any potential mitigation strategies.

- 11.8.16 In regard to other species, badger activity was detected around the site, but no active sets were found. No evidence of hazel dormice was found albeit the species rich hedgerow along the western boundary of the site has the potential to provide suitable cover and foraging habitat for the species. Whilst no evidence of hedgehogs was found, it was noted that the site similarly provided a good habitat for this species due to the presence of scrub, hedgerow and hibernacula. Officers judge that suitable mitigation can be provided to ensure the development does not harm the long-term conservation or survival of populations of these particular species and that all appropriate avoidance and mitigation measures are capable of being incorporated into the development via conditions / alternative controls as necessary.
- 11.8.17 Overall, in addition to the failings identified above, the submission does not provide a Biodiversity Net Gain Assessment in line with the standard methodology to establish whether biodiversity net gains can be ensured, either through provision on site or a mechanism off-site. It cannot therefore be assumed that the quantum of development proposed would be policy compliant in this regard. This is contrary to the aforementioned policy.

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

- 11.9.1 Paragraph 182 of the NPPF states that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans and projects), unless an Appropriate Assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.
- 11.9.2 Policy LPP64 of the Adopted Local Plan states that proposals which are considered to have a likely significant effect on internationally protected sites will require an Appropriate Assessment (AA) and that developers should provide information sufficient to inform this assessment. Residential developments must contribute to the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy 2018-2038 (RAMS) where they fall within the Zones of Influence of international designations as defined in the RAMS, in accordance with Policy SP2 of the Adopted Local Plan.
- 11.9.3 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;
  - § Essex Estuaries Special Area of Conservation.

- 11.9.4 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. This is typically a combination of 'on-site' informal open space provision and promotion (i.e. in and around the development site) and 'off-site' visitor access management measures (i.e. at the Habitats Sites).
- 11.9.5 The LPA will need the developer to demonstrate that a Suitable Accessible Natural Green Space (SANGS) has been provided on site, following Natural England's Thames Basin Heaths. However, Natural England indicates that the following should be provided at a minimum:
- High-quality, informal, semi-natural areas;
  - Circular dog walking routes of 2.7m within the site/or with links to surrounding public rights of way (provided via a map of the existing PRow);
  - Dedicated 'dogs-off-lead' areas.
- 11.9.6 The Applicant should also agree in principle that they are happy to provide the following prior to determination:
- Signage/information leaflets to householders to promote these areas for recreation;
  - Dog waste bins;
  - A commitment to the long-term maintenance and management of these provisions.
- 11.9.7 In this case the Applicant has not paid the RAMS contribution towards visitor measures and a Section 106 Agreement is not in place to secure this. The Applicant has stated they will submit a 'shadow HRA' with sufficient information to inform the Appropriate Assessment, but at the time of writing no such information has been received. Nor has it currently been demonstrated how the aforementioned SANGS and other measures would be provided, for example accounted for in the layout and secured via Section 106 contribution.
- 11.9.8 The absence of information in this regard is contrary to Natural England guidance and the aforementioned policies. In short, it cannot be assured that sufficient mitigation measures are in place to rule out the possibility of causing an adverse effect on the integrity of the above European Designated sites. This is contrary to the aforementioned policy.
- 11.10 Impact upon Neighbouring Residential Amenity
- 11.10.1 Paragraph 130 of the NPPF seeks to ensure good standards of amenity for existing and future users whilst Paragraph 185 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.

- 11.10.2 Paragraph 185 of the NPPF recommends that planning decisions mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life (acknowledging advice contained within the Explanatory Note to the Noise Policy Statement for England (Department for Environment, Food & Rural Affairs, 2010)).
- 11.10.3 Policy SP7 of the Adopted Local Plan requires that all new development protect the amenity of existing and future residents and users with regard to noise, vibration, smell, loss of light, overbearing and overlooking.
- 11.10.4 Policy LPP52 highlights considerations of privacy, overshadowing, loss of light and overbearing impact as being key in the assessment of impacts upon nearby properties. Policy LPP70 of the Adopted Local Plan states that new development should prevent unacceptable risks from emissions and all other forms of pollution, including noise.
- 11.10.5 The Applicant has submitted a Noise Impact Assessment report which suggests that a good noise environment could generally be achieved inside all the properties. However, those properties on the eastern and southern perimeters of the indicative layout plan would need to rely upon mechanical whole dwelling ventilation systems as opening their windows would render them subject to intrusive traffic noise from the adjacent roads. Whilst this is not ideal, it is considered that, provided a condition ensuring sufficient noise mitigation measures were applied, these noise impacts can be acceptably minimised and compliance with policy achieved in this regard.
- 11.10.6 The Council's Environmental Health Officer raises no objection to the proposal and is satisfied that, in principle, considerations of noise impact, notably construction activities, can be controlled so as to protect the amenities of occupants and those in adjacent neighbouring properties, such as those in the north on Church End/Panfield Road.
- 11.10.7 Good separation distances are shown to be achievable within the indicative layout in respect to the privacy of existing properties in the north. However, as noted above, the submitted layout does not demonstrate sufficient back-to-back distances are achievable to protect the privacy of occupants in accordance with the recommendations in the Essex Design Guide. The Applicant has not therefore demonstrated that the quantum of development can be achieved on the site in a policy compliant fashion. This is contrary to the aforementioned policy.
- 11.11 Flooding Risk and Surface Water Drainage
- 11.11.1 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.



- 11.11.2 The submitted Flood Risk Assessment and Drainage Strategy notes that the site is at low risk of fluvial and tidal flooding (Flood Zone 1) and at low risk of flooding from other sources too. The report focuses on the management of localised surface water flooding from the site through the provision of Sustainable urban Drainage Solutions (SuDS).
- 11.11.3 The indicative layout shows the surface water drainage strategy to comprise a mixture of swales fed by filter strips on the site's periphery, geo-cellular attenuation storage tank under neath the central open space, detention basins either side of the main access and permeable surfacing of car park areas and driveways.
- 11.11.4 The Lead Local Flood Authority (Essex SuDS Team) however have raised objections to the proposal as the calculations do not include all of the SuDS features proposed and thus it is not possible to determine how the whole system will function in a storm event or that it is policy compliant. The Applicant has presently not provided any assurances that the outcome of this exercise would not have the potential to affect the quantum of development proposed and thus the principle of development on the site. This is contrary to the aforementioned policy.
- 11.11.5 Foul water drainage is most likely to comprise a gravity sewer system connecting to the new drainage network provided along the access road of the Towerlands Park scheme. Whilst Anglian Water has identified that it would be obliged to upgrade the existing wastewater treatment works to support the increased demand it does not raise objections on the basis that this would not be possible.
- 11.11.6 Representations anecdotally report a loss of water pressure following the building out of the Towerlands Park site. Whilst this is plausible, the water company is responsible for water pressure and is legally required to maintain this pressure at minimum of seven metres per static head. If the water company is not adhering to this guaranteed level, then legal action may be taken and, consequentially, as this matter is covered by alternative legislation it does not fall within the remit of the planning regime to resolve.

## 11.12 Land Contamination

- 11.12.1 Policy LPP70 of the Adopted Local Plan states development will be permitted where there is no unacceptable risk due to contamination. Paragraph 183 of the NPPF requires that planning decisions ensure that the site is suitable for its proposed use taking account of any risks arising from contamination.
- 11.12.2 The Council's Environmental Health Officer is satisfied with the submitted documentation and raises no objections to the proposal subject to conditions in relation to land contamination. With these conditions in place, policy compliance is achieved in this regard.

## 11.13 Archaeology

- 11.13.1 Policy LPP59 of the Adopted Local Plan states that where archaeological potential is identified, but there is no overriding case for any remains to be preserved in situ, development which would destroy or disturb potential remains will be permitted, subject to conditions being in place prior to development commencing that would ensure an appropriate programme of archaeological investigation, recording, reporting, and archiving.
- 11.13.2 The Archaeological Desk Based Assessment provided shows that the site may give rise to archaeological remains of settlement activity since Mesolithic times, notably the Medieval period given the proximity to historic buildings from this period. As such, if permission were granted, it should be subject to conditions requiring the investigation, evaluation and recording of archaeological assets in order to achieve compliance with the above policies.

## 11.14 Agricultural Land

- 11.14.1 Paragraph 174 of the NPPF requires that planning decisions recognise the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land. Paragraph 6.28 of the Adopted Local Plan notes that the majority of agricultural land in Braintree District is BMV, but seeks that development only uses BMV where necessary and uses areas of poorer quality in preference to that of higher quality.
- 11.14.2 The Applicant has not submitted an Agricultural Land Classification Report; therefore, detailed grading of the land has not been undertaken. However, the Natural England Agricultural Land Classification Map of East Anglia suggest that the land may well be Grade 2, possibly Grade 3 and that it is likely to fall within the Best and Most Versatile category.
- 11.14.3 Whilst the loss of BMV land as a consequence of this development would weigh negatively in the balance against this proposal, it would not necessarily rule out a grant of consent if, in the wider planning balance, it was found that sufficient material considerations indicated otherwise. The significance of such a loss would be mediated when appreciated in the wider context; that Braintree as a District overall has a proliferation of BMV land.

## 12. PLANNING OBLIGATIONS

### 12.1 Interaction with Strategic Sites

- 12.1.1 Paragraph 135 of the NPPF states that LPA's should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme.

- 12.1.2 Paragraph 55 of the NPPF requires that LPA's consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.
- 12.1.3 Paragraph 57 of the NPPF states that planning obligations must only be sought where they meet all of the following tests: a) necessary to make the development acceptable in planning terms; b) directly related to the development; c) fairly and reasonably related in scale and kind to the development.
- 12.1.4 Towerlands Park site was allocated under Policy LPP19 of the Adopted Local Plan to provide 575 new homes, early years and childcare nursery, local retail facilities and public open space. The site was a part previously developed site whose golf, equestrian and conference centre uses had ceased.
- 12.1.5 Outline consent was granted in April 2021 at Towerlands, Panfield Road, for the above development (Application Reference 19/00786/OUT). Reserved matters have since been approved for the Ecological Land, and Phases 1 and 2 of the residential parcels. It is understood that the Ecological Land and Phase 1 are currently being laid out. The developer has three years to submit the last reserved matters and two years to commence development following the approval of each phase.
- 12.1.6 The North West Braintree - Panfield Lane site was originally allocated in 2011 and taken forwards as a strategic growth location in the Adopted Local Plan under policy LPP20 for up to 825 new homes with 1ha of employment development, local centre, primary school and provision of a spine road connecting Springwood Drive to Panfield Lane. The policy also required that the development allow for the possibility of an extended spine road to serve development to the north (Towerlands Park) if required.
- 12.1.7 Hybrid consent was granted at Land West of Panfield Lane, Braintree in March 2020 (Application Reference 15/01319/OUT). This consisted of Outline permission for 636 residential units, up to 0.95ha of employment land, neighbourhood centre, 2ha of land for a Primary School and 2.88ha of land for community sports; alongside full planning permission for 189 residential units, new link road between Panfield Lane and Springwood Drive and a new roundabout at the junction of Panfield Lane and Churchill Road.
- 12.1.8 The developers of the Panfield Lane site have three years to complete the phase with full planning permission, nine years to submit the last reserved matters and two years to commence development following the approval of each phase. It is understood that the first phase of development has technically commenced, however, the spine road is not being built out and reserved matters have not been forthcoming yet for the other elements of development on the site.

12.1.9 As explained previously, whilst this proposed development could be set out to access the spine road in Towerlands Park, there is no guarantee that the associated facilities, services, and access connections through developments in the south would be present. Furthermore, a grant of consent for this site would materially diminish the quality of the Ecological Land and may result in a necessity for changes to be made to the permitted scheme at Towerlands Park.

12.1.10 Whilst Officers consider that the development would remain piecemeal in relation to the strategic sites, in the event of a grant of consent, due to the complexity of issues relating to off-site land, legal ties would need to be put in place to prevent the development being built out as a stand-alone element with no connections going south. A means would also need to be agreed to ensure adequate compensation for the diminished quality of the Ecological Land and any other controls applied to ensure that development of the site does not prejudice the delivery of the strategic sites or their quality generally. The Applicant has currently not set out how these ties would be achieved, nor has a mechanism to secure these been agreed. This is contrary to the aforementioned policy.

## 12.2 Highway Works

12.2.1 Policy SP7 of the Adopted Local Plan states that all new development must meet high standards of urban and architectural design and this includes creating well-connected places that prioritise the need of pedestrians, cyclists and public transport services above use of the private car.

12.2.2 Policy LPP42 of the Adopted Local Plan establishes that the Council will require that sustainable modes of transport should be facilitated through new developments to promote accessibility and integration into the wider community and existing networks. Policy LPP42 of the Adopted Local Plan states that highway works (s.278) and/or financial contributions (s.106) will be sought from development proposals, where appropriate and viable, towards achieving the stated policy objectives, which include appropriate provision for pedestrians, cyclists and public transport.

12.2.3 In this case, the Local Highway Authority consider the application contains insufficient information regarding additional off-site works and/or contributions to encourage use of public transport, cycling and walking and it is likely that such works/contributions may need to be secured via a Section 106 Agreement if permission were to be granted. This is contrary to the aforementioned policy.

## 12.3 Health and Education

12.3.1 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.

- 12.3.2 Policy LPP49 of the Adopted Local Plan requires that all new development over 50 residential units undertake a Health Impact Assessment (HIA) having regard to the Essex Design Guide and Supplementary Guidance on Health Impact Assessments and guidance of Public Health England. Negative health impacts identified in a HIA must be resolved in the development or mitigations secured through planning condition(s) and / or Section 106 Agreement.
- 12.3.3 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.
- 12.3.4 In this case a HIA has been submitted and Officers are satisfied that significant adverse health and wellbeing effects of the development can be suitably mitigated through the provision of open space areas and funding which meets the stated requirements of NHS England and that there is policy compliance in this regard.
- 12.3.5 NHS England state that the nearest GP Surgery does not have capacity for additional growth from this and cumulative development in the area, therefore a sum of £74,200 is required to mitigate the impact of the development, which would be secured by way of a planning obligation in the form of a Section 106 Agreement should permission be granted.
- 12.3.6 ECC Education have been consulted and any comments received will be reported to the Planning Committee, but it is likely that contributions would be required in this area too which would be secured via Section 106 Agreement and may include a contribution to support local libraries as well as provide school, early years childcare and nursery places.
- 12.3.7 Without the mitigation measures to secure these expanded facilities the proposal is contrary to the aforementioned relevant policies.

#### 12.4 Outdoor Sports, Allotments & Open Space Provision

- 12.4.1 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. 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.

- 12.4.2 Policy LPP50 of the Adopted Local Plan indicates that a development of this scale would be required to provide Amenity/Natural Green Space and Children's Play Space. The indicative layout does not currently indicate sufficient and suitable space for on-site children's play and, as area measurements have not been provided, it is difficult to judge precisely whether the minimum thresholds for provision of on-site open space have been exceeded (with or without SuDS provision).
- 12.4.3 Once assured that there would be sufficient space to accommodate these elements on the site alongside the quantum of development proposed, in the event of approval, the LPA would normally seek to secure the provision and maintenance of the on-site open space and play area via a Section 106 Agreement.
- 12.4.4 Contributions would also be required to fund allotment provision and outdoor sports (likely spend purposes including improvements to the Braintree BMX Track on Deanery Hill, Braintree; and/or Bocking Sports Club, Church Street; and/or The Four Releet Sports Ground, Church Street) in accordance with the Braintree Open Space Supplementary Planning Document (2009).
- 12.4.5 The lack of a Section 106 Agreement securing these elements is contrary to the aforementioned policy.
- 12.5 European Protected Sites
- 12.5.1 As part of the proposal, in compliance with Policy SP2 of the Adopted Local Plan, a financial contribution per dwelling is required to contribute towards off-site visitor management measures at the Blackwater Estuary Special Protection Area (SPA) and Ramsar, the Dengie SPA & Ramsar and Essex Estuaries Special Area of Conservation (SAC). This is in line with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy 2018-2038 (RAMS). At present an agreement is not in place to secure these contributions and this is contrary to the aforementioned policy.
- 12.6 Skylark Provision
- 12.6.1 Policy LPP64 of the Adopted Local Plan requires that, where priority habitats are likely to be adversely impacted by the proposal, the developer must demonstrate that adverse impacts will be avoided and impacts that cannot be avoided are mitigated on-site. Where residual impacts remain, off-site compensation will be required so that there is no net loss in quantity and quality of priority habitat in Braintree District.
- 12.6.2 As noted earlier in this report, provision of compensatory habitat for Skylarks may be required, and if this were so it could either be secured by condition or by legal agreement depending upon the circumstances. As these controls are not in place there is conflict with policy in this regard.

## 12.7 Affordable Housing:

- 12.7.1 Policy LPP31 of the Adopted Local Plan requires that Affordable Housing be directly provided by the developer within housing schemes. As the site would be directly adjacent to Braintree, the requirement would be that 30% of the total number of dwellings on the site are affordable, which translates to 45 dwellings. The policy requires that a mix of units are provided which reflect the current local need.
- 12.7.2 Policy LPP35 of the Adopted Local Plan sets accessibility standards for affordable homes. It requires that all new affordable homes on ground floor level must meet Category M4(2) or M4(3) and, as the site is adjacent to a Main Town, 5% of the homes are required to meet Category M4(3)(2)(a)/(b) – Wheelchair Accessible dwellings - of Building Regulations 2015, or as superseded, as appropriate.
- 12.7.3 The Council's Affordable Housing Enabling Officer has stated they are satisfied that a suitable affordable housing mix can be achieved on the site and has requested the tenure mix, clustering within two locations, accessibility and space standards are a pre-requisite. However, currently there is no Section 106 Agreement in place to secure the provision and delivery of affordable housing on this site and this is contrary to policy including the Affordable Housing SPD 2006.

## 13. PLANNING BALANCE AND CONCLUSION

- 13.1 The presumption in favour of sustainable development sits at the heart of the NPPF. The Framework is clear in its instruction at Paragraph 11d, that for decision-taking this means where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date (this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in Paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years), granting permission unless:
- i. The application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
  - ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 13.2 As the Council cannot currently demonstrate a 5 Year Housing Land Supply, the 'titled balance' pursuant to Paragraph 11d) of the NPPF is engaged. As a consequence, the most important Development Plan policies relevant to the provision of housing are currently out-of-date due to a lack of 5 Year Housing Land Supply. However, this does not mean that

Development Plan policies should be completely disregarded. It is for the decision-maker to determine the weight to be attributed to the conflict with those policies. In this regard it is considered that Policy LPP1 of the Adopted Local Plan, which seeks to restrict development outside defined development boundaries to uses appropriate to the countryside, can only be afforded moderate weight. Similarly, it is considered that Policy SP3, which sets out the spatial strategy for North Essex, can only be afforded less than significant, but more than moderate weight.

- 13.3 In this case, it is not considered that pursuant to Paragraph 11d) (i) that the application of policies in the Framework provide a clear reason for refusing the proposed development.
- 13.4 As such, pursuant to Paragraph 11d) (ii) it is necessary to consider whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of the proposed development, when assessed against the policies in this Framework taken as a whole. Such an assessment must take account of the economic, social and environmental impact of the proposed development and these matters must be considered in the overall planning balance.
- 13.5 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).

### 13.6 Summary of Adverse Impacts

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



### **Conflict with the Development Plan**

- 13.6.2 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”.
- 13.6.3 The proposed development would conflict with Policy LPP1 of the Adopted Local Plan as it proposes development outside of defined development boundaries and within the countryside. However, while the proposal is contrary to Policy LPP1 of the Adopted Local Plan, as the Council is currently unable to demonstrate a 5 Year Housing Land Supply, only moderate harm can be afforded to this conflict alone.
- 13.6.4 However, conflict has also been identified with Policies SP1, SP2, SP3, SP6, SP7, LPP1, LPP31, LPP35, LPP42, LPP43, LPP47, LPP50, LPP52, LPP57, LPP63, LPP64, LPP65, LPP66, LPP67, LPP76 and LPP78 and their related Supplementary Planning Documents. These policies are regarded to be consistent with the NPPF and as a consequence carry full weight. The conflict with the development plan would, in combination, give rise to substantial harms which are set out in more detail below.

### **Character and Appearance of the Area**

- 13.6.5 Due to its location, the proposed development would manifest as a poorly integrated urban incursion that would not conserve the setting of Braintree or Panfield. It would appear remote and fundamentally discordant with the prevailing character of the area. The harm to the character of the area is viewed by Officers to be determinative in this judgement and substantial enough to merit refusal of this application on these grounds alone.

### **Landscape Character**

- 13.6.6 The proposed development would not be sympathetic or successfully integrate into its landscape setting, particularly in relation to cross-valley views where it would give rise to significant lasting landscape and visual harm.

### **Insufficient Information**

- 13.6.7 There is insufficient information to demonstrate that the quantum of development can be accommodated on the site in a policy compliant fashion and to determine its highway and heritage impacts. As these factors are fundamental to the principle of the development, their absence could give rise to substantial harm.

### **Lack of Section 106 Agreement**

- 13.6.8 Currently a Section 106 Agreement (or other appropriate controls) have not been established to ensure that some of the inevitable impacts of development, which would otherwise be unacceptable, can be mitigated. In the absence of this mitigation, substantial harm could arise.

### **Loss of BMV Land**

- 13.6.9 The proposal is likely to give rise to the loss of BMV land, however, given the general proliferation of this land within the District, the harm in this regard would be minor.

### **Conflict with NPPF**

- 13.6.10 For the above reasons, the proposal is also contrary to Paragraphs 110, 111, 126, 130, 131, 134, 135, 174, 180, 182, 194, 195, 199, 202 and of the NPPF and the National Design Guide. This conflict attracts substantial weight.

### **13.7 Summary of Public Benefits**

- 13.7.1 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**

- 13.7.2 The application proposes 150 dwellings including a policy compliant level of affordable housing provision. Associated social and economic benefits would flow from this provision which are also recognised. However, if Officers were to adopt an approach that is consistent with that of the Inspectorate to date, they would have no choice but to conclude that there is doubt over the deliverability of this site within a five-year time frame.
- 13.7.3 Inspectors have generally viewed the delivery of the two strategic sites in the south to be curtailed as a consequence of the lack of evidence that the spine road, which is necessary to mitigate highway impacts of both sites and lies within the Panfield Lane allocation, will come forward in the required timeframe. As the proposed site could not conceivably ever be acceptable without Phase 2 of Towerlands Park being built it is thus, in turn, inextricably linked in the same way (possibly also likely to give rise to similar highway impacts which are thus subject to the same highway mitigation thresholds).
- 13.7.4 Whilst it does not sit well with Officers to have to downgrade the benefits of housing, (this otherwise being of significant benefit in the planning balance), in the present circumstances Officers must conclude that this site would not be viewed as contributing to the five-year land supply and thus would only be of minor benefit in the balance. However, in the wider planning balance, attributing either of these weights would result in the

same outcome; i.e. the adverse environmental impacts of granting permission would still significantly and demonstrably outweigh the benefits.

### 13.8 Conclusion

- 13.8.1 Taking into account the above, it is considered that the environmental harm would be substantial, the proposal would not be sustainable development and would conflict with the Development Plan as a whole. 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.
- 13.8.2 In this case, as indicated above, an important material consideration in this case is that as the Council cannot currently demonstrate a Five Year Housing Land Supply, the 'titled balance' pursuant to Paragraph 11d) of the NPPF is engaged. As a consequence, the most important Development Plan policies relevant to the provision of housing are currently out-of-date due to a lack of Five Year Housing Land Supply.
- 13.8.3 In this regard, Policy LPP1 of the Adopted Local Plan, which seeks to restrict development outside defined development boundaries to uses appropriate to the countryside, can only be afforded moderate weight. Notwithstanding this, Officers consider that there are no over-riding material considerations, including the Council's Five Year Housing Land Supply position, that indicate that a decision should be made other than in accordance with the Development Plan. The Planning Balance is concluded below.

#### Planning Balance

- 13.8.4 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 significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. Consequently, whilst the Planning Inspectorate will now determine this application, Officers recommend that Members resolve to refuse planning permission for the putative reasons set out below.

### 14. RECOMMENDATION

- 14.1 It is RECOMMENDED that the following decision be made:  
Had the local planning authority been in a position to determine the application that planning permission would have been 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)

<b>Plan Description</b>	<b>Plan Ref</b>	<b>Plan Version</b>
Location Plan	23-003-0050 P2	N/A
Parameter Drawing	23-003-0010 P1	N/A
Parameter Drawing	23-003-0013 P1	N/A
Parameter Drawing	23-003-0011 P1	N/A
Site Masterplan	230030100 P2	N/A
Other	230030200 P2	N/A
Landscape Masterplan	JBA 23 041 SK01	N/A

#### Reason(s) for Refusal

##### Reason 1

The site comprises 8.5 hectares of agricultural land located north-west of Braintree and south-east of the village of Panfield; it is located adjacent to and between these distinct settlements. The application proposes to erect 150 dwellings on the site with all matters reserved, except for access.

The site is located outside of a defined development boundary within countryside, and due to its location, it would manifest as a poorly integrated urban incursion that would not conserve the setting of Braintree or Panfield. It would appear remote and fundamentally discordant with the prevailing character of the area contrary to Policies SP1, SP3, SP7, LPP1, LPP52 of the Adopted Braintree District Local Plan 2013-2033, principles of the National Design Guide and Paragraphs 126, 130 and Paragraph 134 of the National Planning Policy Framework (NPPF).

##### Reason 2

The proposal would not be sympathetic with, or successfully integrate into, its landscape setting, particularly in relation to cross-valley views where it would give rise to lasting landscape and visual harm. This would be contrary to Policy LPP67 of the Adopted Braintree District Local Plan 2013-2033 and Paragraphs 130 and 174 of the NPPF.

##### Reason 3

There is insufficient information to determine the impacts of the proposal in the following areas:

- a) Whether the quantum of development could otherwise be accommodated on the site in a policy compliant fashion, in particular regarding standards of urban design; provision of parking; open space; back-to-back distances; SuDS; street trees; impact upon existing trees; and required levels of biodiversity net gain, landscaping and ecological mitigation (for instance in relation to Priority bird species, great crested newts and bats). This is contrary to Policies SP7, LPP35, LPP43, LPP52, LPP63, LPP64, LPP65, LPP66 and LPP76 of the Adopted Braintree District Local Plan 2013-2033, Paragraphs 130, 131, 174 and 180 of

the NPPF, the Essex Design Guide, Open Space SPD (2009), and the Essex Vehicle Parking Standards SPD (2009).

- b) Whether there would be an unacceptable impact upon highway safety, or the residual cumulative impacts on the road network would be severe. This is contrary to Policies LPP42 and LPP52 of the Adopted Braintree District Local Plan 2013-2033 and Paragraphs 110 and 111 of the NPPF.
- c) Whether the development would be harmful to the significance of the Grade I listed Panfield Hall and whether any conflict between the heritage assets conservation and the development would be minimised. This is contrary to Policies SP7, LPP47 and LPP57 of the Adopted Braintree District Local Plan 2013-2033 and Paragraphs 194, 195, 199 and 202 of the NPPF.

#### Reason 4

A Section 106 agreement has not been secured to mitigate unacceptable impacts in the following areas:

- a) Off-site Highway works and/or contributions to encourage use of public transport, cycling and walking.
- b) Habitats Regulations Assessment for related on-site and off-site mitigation provisions to avoid likely significant adverse effects upon the integrity of European Protected Sites.
- c) Health.
- d) Education.
- e) Allotments.
- f) Open Space.
- g) Outdoor Sports.
- h) Affordable Housing.
- i) Interaction, and means to retain compatibility, with the Strategic Sites, for example their quality and delivery of their associated elements.

This is contrary to Policies SP2, SP6, SP7, LPP31, LPP35, LPP42, LPP50, LPP63, LPP64 and LPP78 of the Adopted Braintree District Local Plan 2013-2033, the Essex Coast RAMS SPD (2020), the Affordable Housing SPD (2006) and Open Space SPD (2009), and Paragraph 135 of the NPPF.

#### Positive and Proactive Statement

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

## APPENDIX 2:

### POLICY CONSIDERATIONS

#### National Planning Guidance

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

#### Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP2	Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
SP3	Spatial Strategy for North Essex
SP4	Meeting Housing Needs
SP6	Infrastructure & Connectivity
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP16	Housing Provision and Delivery
LPP19	Strategic Growth Location - Former Towerlands Park Site
LPP20	Strategic Growth Location - North West Braintree
LPP31	Affordable Housing
LPP35	Housing Mix, Density and Accessibility
LPP42	Sustainable Transport
LPP43	Parking Provision
LPP45	New Road Infrastructure
LPP46	Broadband
LPP47	Built and Historic Environment
LPP48	An Inclusive Environment
LPP49	Health and Wellbeing Impact Assessment
LPP50	Provision of Open Space, Sport and Recreation
LPP52	Layout and Design of Development
LPP53	Conservation Areas
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
LPP68	Green Buffers
LPP70	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP71	Climate Change
LPP72	Resource Efficiency, Energy Generation and Energy Efficiency
LPP74	Flooding Risk and Surface Water Drainage
LPP75	Surface Water Management Plan
LPP76	Sustainable Urban Drainage Systems

LPP77  
LPP78

External Lighting  
Infrastructure Delivery and Impact Mitigation

APPENDIX 3:

SITE HISTORY

<b>Application No:</b>	<b>Description:</b>	<b>Decision:</b>	<b>Date:</b>
23/00085/NONDET	Outline planning application with all matters reserved, except access, for the erection of up to 150 dwellings for Phase 2.	Pending Consideration	
15/00007/SCO	Town & Country Planning Act 1990 (as amended), Town & Country Planning (Environmental Impact Assessment) Regulations 2011 - Screening & Scoping Opinion Request - Outline application for the site clearance and development of up to 1,150 homes, up to 5,000sq.m of B1 employment, and up to 3000sq.m of other commercial uses including a local centre with retail	Screening/ Scoping Opinion Adopted	30.06.15
17/00006/SCR	Town & Country Planning Act 1990 (as amended), Town & Country Planning (Environmental Impact Assessment) Regulations 2011 - Screening Opinion Request - Proposed residential-led, mixed-use development comprising: 1. Demolition of existing buildings and structures; 2. Construction of 600 new dwellings including affordable homes; 3. Primary school or contributions towards new primary school provision in the locality; 4. Stand-alone early years and childcare nursery (D1 use) on 0.13 hectares of land; 5. Local retail facilities; 6. Public open space and	Screening/ Scoping Opinion Adopted	08.08.17



	<p>formal and informal recreation including landscaping to the rural edge;</p> <p>7. Main access from Deanery Hill/Panfield Lane</p> <p>8. Potential additional vehicular access from the Growth Location to the south of the site;</p> <p>9. Associated engineering, drainage, access and other ancillary works.</p>		
18/00004/SCR	<p>Town &amp; Country Planning Act 1990 (as amended), Town &amp; Country Planning (Environmental Impact Assessment) Regulations 2011 - Screening Request</p> <p>- 1. Demolition of existing buildings and structures;</p> <p>2. Construction of 700 new dwellings including affordable homes;</p> <p>3. Contributions towards new primary school provision in the locality;</p> <p>4. Stand-alone early years and childcare nursery (D1 use) on 0.13 hectares of land;</p> <p>5. Local retail facilities;</p> <p>6. Public open space and formal and informal recreation including landscaping to the rural edge;</p> <p>7. Main access from Deanery Hill/Panfield Lane</p> <p>8. Potential additional vehicular access from the Growth Location to the south of the site;</p> <p>9. Associated engineering, drainage, access and other ancillary works.</p>	Screening/ Scoping Opinion Adopted	10.09.18
19/00786/OUT	<p>Outline planning application for up to 575 homes together with a 0.13ha site for early years and childcare nursery</p>	Granted with S106 Agreement	09.04.21

	(D1), Up to 250sqm of local retail (A1) and up to 250sqm of community facilities (D1), green infrastructure including formal/informal open space and amenity space, provision of ecological mitigation area to north-west of developable area, landscaping including woodland and hedgerow planting, new vehicular accesses from the B1053 and Panfield Lane, closure of existing access from Deanery Hill (south), footway and cycleway network, supporting infrastructure (utilities including gas, electricity, water, sewerage, telecommunications (and diversions as necessary), diversion of public right of way, sustainable drainage systems, any necessary demolition and ground remodelling.		
21/03231/REM	Application for approval of Reserved Matters for appearance, landscaping, layout and scale for Phase 1, comprising 168 no. two, three, four and five bedroom houses plus associated parking and landscaping, together with public open space, a play area, sustainable drainage infrastructure and the first section of the spine road from the Panfield Lane entrance, pursuant to outline planning permission 19/00786/OUT (Outline planning application for up to 575 homes together with a 0.13ha site for early	Granted	13.04.22

	<p>years and childcare nursery (D1), Up to 250sqm of local retail (A1) and up to 250sqm of community facilities (D1), green infrastructure including formal/informal open space and amenity space, provision of ecological mitigation area to north-west of developable area, landscaping including woodland and hedgerow planting, new vehicular accesses from the B1053 and Panfield Lane, closure of existing access from Deanery Hill (south), footway and cycleway network, supporting infrastructure (utilities including gas, electricity, water, sewerage, telecommunications (and diversions as necessary), diversion of public right of way, sustainable drainage systems, any necessary demolition and ground remodelling.)</p>		
21/03608/REM	<p>Application for approval of Reserved Matters for appearance, landscaping, layout and scale for the ecological mitigation area at the northern end of the site (Phase 0) pursuant to outline planning permission 19/00786/OUT (Outline planning application for up to 575 homes together with a 0.13ha site for early years and childcare nursery (D1), Up to 250sqm of local retail (A1) and up to 250sqm of community facilities (D1), green infrastructure including</p>	Granted	23.03.22

	formal/informal open space and amenity space, provision of ecological mitigation area to north-west of developable area, landscaping including woodland and hedgerow planting, new vehicular accesses from the B1053 and Panfield Lane, closure of existing access from Deanery Hill (south), footway and cycleway network, supporting infrastructure (utilities including gas, electricity, water, sewerage, telecommunications (and diversions as necessary), diversion of public right of way, sustainable drainage systems, any necessary demolition and ground remodelling.)		
22/01469/REM	Application for Approval of Reserved Matters (in respect of Appearance, Landscaping, Layout and Scale) pursuant to outline planning permission 19/00786/OUT granted 09.04.2021 for: Erection of 162 no. one, two, three, four and five bedroom houses, bungalows and apartments plus associated parking and landscaping, together with the second section of the spine road from the Deanery Hill entrance.	Granted	07.03.23
22/02084/FUL	Creation of a mixed-use building at the Neighbourhood Centre, comprising retail and community uses on the ground floor and office use on the two upper floors, plus an associated car	Withdrawn	20.07.23

	park, hard and soft landscaping, and a recycling centre.		
23/01357/VAR	Variation of Condition 1 (approved plans and documents ) of approved application 21/03231/REM granted 13/04/2022 for: Application for approval of Reserved Matters for appearance, landscaping, layout and scale for Phase 1, comprising 168 no. two, three, four and five bedroom houses plus associated parking and landscaping, together with public open space, a play area, sustainable drainage infrastructure and the first section of the spine road from the Panfield Lane entrance, pursuant to outline planning permission 19/00786/OUT (Outline planning application for up to 575 homes together with a 0.13ha site for early years and childcare nursery (D1), Up to 250sqm of local retail (A1) and up to 250sqm of community facilities (D1), green infrastructure including formal/informal open space and amenity space, provision of ecological mitigation area to north-west of developable area, landscaping including woodland and hedgerow planting, new vehicular accesses from the B1053 and Panfield Lane, closure of existing access from Deanery Hill (south), footway and cycleway network, supporting	Pending Consideration	

	<p>infrastructure (utilities including gas, electricity, water, sewerage, telecommunications (and diversions as necessary), diversion of public right of way, sustainable drainage systems, any necessary demolition and ground remodelling.)</p> <p>Variation would allow for: Update to the Knightswood house type Updated list of drawings preceding condition 1</p>		
23/02213/S106A	<p>Application made under Section 106a of the Town and Country Planning Act 1990 (as amended) and the Town and Country Planning (Modification and Discharge of Planning Obligations) Regulations 1992 (as amended) - Application to modify Schedule 10 (Affordable Housing) amending the definitions of 'Protected Tenant' ; 'Shared Ownership Lease'; 'Affordable Housing For Rent'; ' Nomination Rights' and insertion of a new Refuse Schedule containing obligations about access for the Council's refuse collection teams and the construction standards for roads to be used for refuse vehicles, of the Section 106 legal agreement relating to 19/00786/OUT.</p>	Pending Consideration	