

# PLANNING COMMITTEE AGENDA

**Tuesday 13th December 2022 at 7.15pm**

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

## **THIS MEETING IS OPEN TO THE PUBLIC**

*(Please note this meeting will be broadcast via the Council's YouTube Channel, webcast and audio recorded) [www.braintree.gov.uk](http://www.braintree.gov.uk)*

This is a decision making public meeting of the Planning Committee, which may be held as a hybrid meeting. Members of the Planning Committee and Officers will be in attendance in the Council Chamber, Causeway House, Braintree and members of the public may also choose to attend the meeting. Members of the public will also be able to view and listen to this meeting via YouTube.

*To access the meeting please use the following link: <http://www.braintree.gov.uk/youtube>*

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

### **Membership:-**

Councillor J Abbott	Councillor F Ricci
Councillor Mrs J Beavis	Councillor Mrs W Scattergood (Chairman)
Councillor K Bowers	Councillor P Schwier
Councillor H Johnson	Councillor Mrs G Spray
Councillor D Mann	Councillor Mrs S Wilson
Councillor A Munday	Councillor J Wrench
Councillor Mrs I Parker (Vice-Chairman)	

Substitutes: Councillors T Cunningham, A Hensman, D Hume, Mrs A Kilmartin, P Thorogood, Vacancy *(Substitutes who wish to observe the meeting will be required to do so via the Council's YouTube Channel).*

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 one hour before the start of the meeting.

**D GASCOYNE**  
Chief Executive

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

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

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

### **Public Question Time – Registration to Speak on a Planning Application/Agenda Item:**

The Agenda allows for a period of up to 30 minutes for Public Question Time. Members of the public wishing to speak are requested to register by contacting the Governance and Members Team on 01376 552525 or email [governance@braintree.gov.uk](mailto:governance@braintree.gov.uk) by **midday on the second working day** before the day of the Committee meeting. For example, if the Committee 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.

**Members of the public who have registered to speak during Public Question Time are requested to indicate when registering if they wish to attend the Planning Committee meeting ‘in person’ at Causeway House, Bocking End, Braintree, 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.**

Members of the public may speak on any matter listed on the Agenda for this meeting. Registered speakers will be invited to speak immediately prior to the relevant application/item. All registered speakers will have three minutes each 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 Planning Committee has discretion to extend the time allocated to registered speakers and the order in which they may speak.

All registered speakers are requested to send a written version of their question/statement to the Governance and Members Team by E-Mail at [governance@braintree.gov.uk](mailto:governance@braintree.gov.uk) by no later than 9.00am on the day of the meeting. In the event that a registered speaker is unable to connect to the virtual meeting, or if there are any technical issues, their question/statement will be read by a Council Officer.

**Public Attendance at Meeting:** The Council has reviewed its arrangements for this decision making meeting of the Planning Committee in light of the Covid pandemic. In order to protect the safety of people attending the meeting, Councillors and Officers will be in attendance at Causeway House, Bocking End, Braintree. Members of the public may also attend the meeting ‘in person’, but priority will be given to those people who have

registered to speak during Public Question Time. Members of the public will be able to view and listen to the meeting either as a live broadcast, or as a recording following the meeting, via the Council's YouTube channel at <http://www.braintree.gov.uk/youtube>

**Health and Safety/Covid:** Causeway House is a Covid secure building and arrangements are in place to ensure that all visitors are kept safe. Visitors are requested to follow all instructions displayed around the building or given by Officers during the course of their attendance. All visitors will be required to wear a face covering, unless an exemption applies.

Visitors are asked to make themselves aware of the nearest available fire exit. In the event of an alarm sounding visitors must evacuate the building immediately and follow all instructions provided by staff. Visitors will be directed to the nearest designated assembly point where they should stay until they are advised that it is safe to return to the building.

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

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

**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 can be accessed via [www.braintree.gov.uk](http://www.braintree.gov.uk)

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

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

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

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

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

## **PUBLIC SESSION**

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- 1 Apologies for Absence**
- 2 Declarations of Interest**  
To declare the existence and nature of any Disclosable Pecuniary Interest, Other Pecuniary Interest, or Non-Pecuniary Interest relating to Items on the Agenda having regard to the Code of Conduct for Members and having taken appropriate advice where necessary before the meeting.
- 3 Minutes of the Previous Meetings**  
To approve as a correct record the Minutes of the meetings of the Planning Committee held on 1st November 2022, 15th November 2022 and 29th November 2022 (copies to follow).
- 4 Public Question Time**  
(See paragraph above)
- 5 Planning Applications**  
To consider the following planning applications
- 5a App. No. 22 00450 FUL – 31A Julien Court Road, BRAINTREE** **6-39**
- 5b App. No. 22 01604 FUL – Land adjacent to Daws Hall, Henny Road, LAMARSH** **40-60**
- 5c App. No. 22 02283 FUL – Land North of Colchester Road, WITHAM** **61-119**
- 6 Urgent Business - Public Session**  
To consider any matter which, in the opinion of the Chairman, should be considered in public by reason of special circumstances (to be specified) as a matter of urgency.
- 7 Exclusion of the Public and Press**  
To agree the exclusion of the public and press for the consideration of any Items for the reasons set out in Part 1 of Schedule 12(A) of the Local Government Act 1972.  
*At the time of compiling this Agenda there were none.*

## **PRIVATE SESSION**

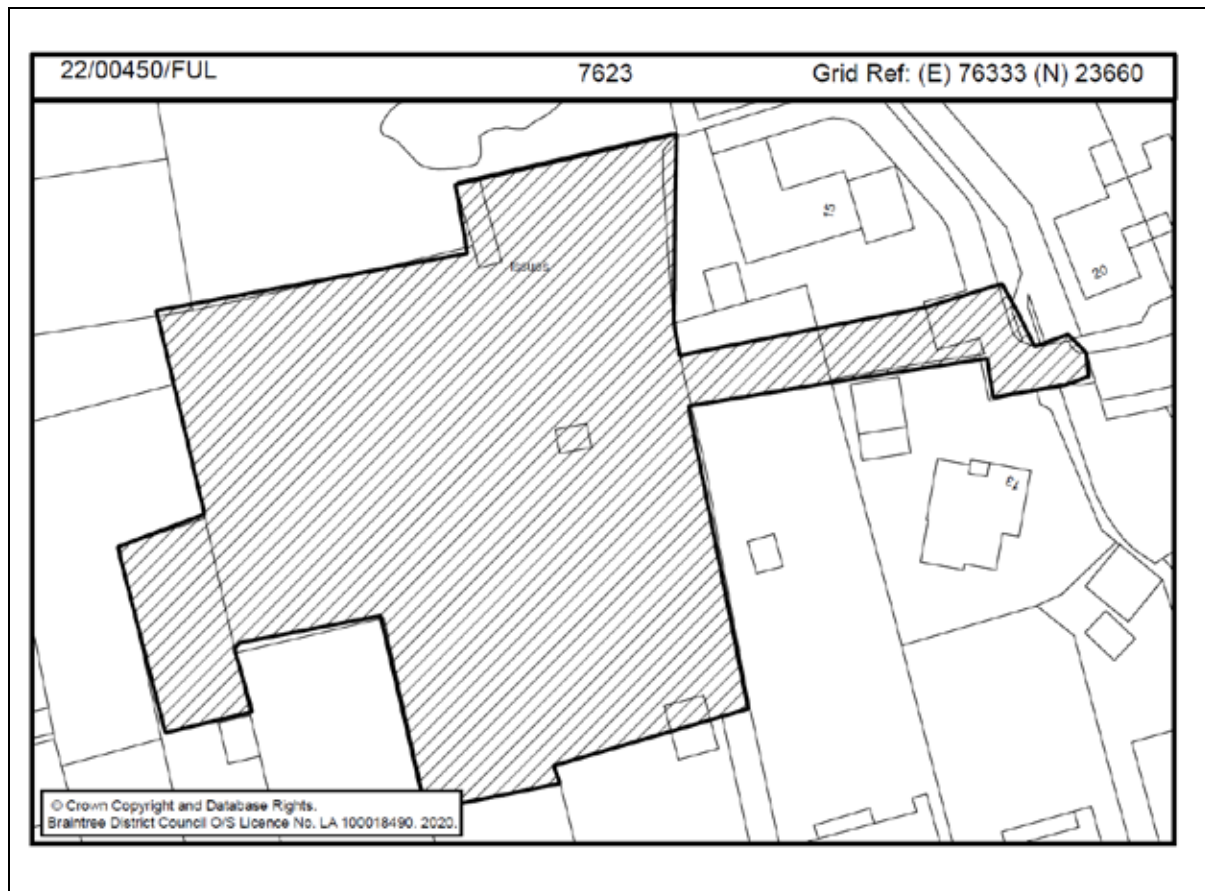
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## **8 Urgent Business - Private Session**

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

<b>Report to:</b> Planning Committee		
<b>Planning Committee Date:</b> 13th December 2022		
<b>For:</b> Decision		
<b>Key Decision:</b> No		<b>Decision Planner Ref No:</b> N/A
<b>Application No:</b>	22/00450/FUL	
<b>Description:</b>	Construction of 3 No. bungalows within the residential garden and new access off Beaufort Gardens.	
<b>Location:</b>	31A Julien Court Road Braintree Essex	
<b>Applicant:</b>	Clara Developments Limited, Paul Hopkins, 18 Oaklea Avenue, Chelmsford, CM2 6BY	
<b>Agent:</b>	HGN Design Limited, Mr Steven Higgon, 6 Proctor Way, Marks Tey, Colchester, CO6 1XE	
<b>Date Valid:</b>	1st March 2022	
<b>Recommendation:</b>	It is RECOMMENDED that the following decision be made:  § Application GRANTED subject to the Condition(s) & Reason(s) and Informative(s) outlined within Appendix 1 of this Committee Report.	
<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>	Juliet Kirkaldy For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2558, or by e-mail: <a href="mailto:juliet.kirkaldy@braintree.gov.uk">juliet.kirkaldy@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>
<b>Background Papers:</b>	<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: 22/00450/FUL.</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 application site is situated within the development boundary for Braintree. It currently forms part of a large garden for 31A Julien Court Road. 33 Julien Court Road is a Grade II listed property which abuts the southern boundary of the site. There are 2 large oak trees within the site one of which is protected by a Tree Preservation Order. Access into the site is proposed from between 15 and 12 Beaufort Gardens.
- 1.2 Planning permission had previously been refused on the site (Application Reference 17/00870/FUL) for, *'demolition of existing bungalow and erection of 4 no two storey detached dwellings, associated garages, private drive and access'*. Access for this refused scheme was proposed from Julien Court Road. The reasons for refusal related to the cramped form of development, adverse impact upon the setting of the listed building, the poor relationship with the oak trees, and insufficient information to demonstrate that access can be achieved to/from the site.
- 1.3 The application proposes the erection of 3 detached single storey dwellings with attached garages, associated car parking and amenity space. A new access is proposed to be created between 13 and 15 Beaufort Gardens with a turning head within the site. The proposed scheme also proposes an area of landscaping and ecological gain to the north east of the site. The proposed scale, layout, and appearance of the dwellings is considered acceptable and in harmony with the character and appearance of the surrounding area.
- 1.4 The site is located within a sustainable location with access to alternative sustainable modes of travel.
- 1.5 The proposal would not have a detrimental impact on the setting of the Grade II listed building at 33 Julien Court Road.
- 1.6 The proposed vehicular access from Beaufort Gardens crosses over a Public Right of Way (footpath 53). There are 2 x 450mm wide rumble strips proposed either side of the Public Right of Way as a traffic calming measure.
- 1.7 The proposal requires the removal of 10 trees that have been given a 'C' rating, 4 trees that have been given a 'B' rating and 3 others to be removed that have been given a 'U' rating. It is considered that any adverse impact in relation to removal of lower quality trees can be mitigated through new planting and additional landscaping.
- 1.8 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 do not 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 granted 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 B of the Council's Scheme of Delegation, at the request of the Chair and Vice Chair of the Planning Committee.

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 within the defined development boundary for Braintree. It currently forms part of a large garden for 31A Julien Court Road and abuts the gardens of 8 residential properties on the boundary. 33 Julien Court Road is a Grade II listed property which abuts the southern boundary of the site. The site slopes significantly in a northerly direction. There are 2 large oak trees in the site one (to north east of the site) of which is protected by a Tree Preservation Order. Access into the site is proposed to the east, from Beaufort Gardens between 15 and 12 Beaufort Gardens. The site measures 0.34ha.

- 5.2 Planning permission has previously been refused on the site (Application Reference 17/00870/FUL) for a similar character of development, 'demolition of existing bungalow and erection of 4 no two storey detached dwellings, associated garages, private drive and access'. Access for this refused scheme was proposed from Julien Court Road. The reasons for refusal of the application were as follows:

1. *The proposal would result in inappropriate backland development. The siting, layout, design and bulk form of the proposal would result in a cramped form of development that is harmful to both the character and appearance of the locality and the amenity of neighbouring dwellings. The proposal would have an adverse impact upon the setting of the listed building, reducing the openness/spaciousness currently evident and diminishing the setting of listed building through the proposed access road in close proximity. The proposal is contrary to the NPPF, Core Strategy policies CS8, CS9 and policies RLP 3, RLP 9, RLP 10, RLP 90, RLP 100 of the Braintree District Local Plan Review 2005.*
2. *The relationship between the proposed dwellings and the existing mature oak trees is poor and is likely to adversely impact upon the amenity of future occupants. In addition it would likely result in pressure*

*to reduce or the loss of the trees in the future contrary to the NPPF and RLP 80 of the Braintree District Local Plan Review 2005.*

3. *Insufficient information has been provided to demonstrate that access can be achieved to/from the site, given that this part of Julian Court Road is privately owned. The proposal is therefore contrary to the NPPF, RLP3 and RLP90 of the Local Plan Review.*

## 6. PROPOSAL

- 6.1 The application proposes the erection of 3 detached single storey dwellings with attached garages, associated car parking and amenity space. A new access is proposed to be created between 13 and 15 Beaufort Gardens with a turning head within the site. The proposed scheme also proposes an area of landscaping and ecological gain to the north east of the site.

## 7. SUMMARY OF CONSULTATION RESPONSES

### 7.1 Essex Fire and Rescue

- 7.1.1 No objection subject to being in accordance with Building Regulations.

### 7.2 Ramblers

- 7.2.1 The following comments were made:

- A revised site plan is required to be submitted to show the position and route of Public Footpath 53.
- Safe pedestrian access should be provided between north - south Public Footpath 53 and the Public Footways at the west end of Beaufort Gardens.

### 7.3 BDC Ecology Officer

- 7.3.1 No objection subject to conditions relating to financial contribution towards visitor management measures for the Blackwater Estuary SPA/Ramsar Site, Essex Estuaries SAC and ecological enhancement measures.

### 7.4 BDC Landscape Services

- 7.4.1 Initially submitted a holding objection requesting that the turning head is relocated to the south of site in order to mitigate future issues regarding vegetation and branches in area of T22 (Cat A Oak tree). Also requested that a planting and landscaping scheme be submitted for consideration as mitigation planting for the loss of numerous trees.

- 7.4.2 The Applicant submitted amended plans and detail to address these concerns raised. The Landscape Officer was re-consulted and stated that the encroachment into the root protection area for T22 had been reduced significantly due to the repositioned turning head. The planting and

landscaping plan indicates planting and various areas of grass, along with an area for ecology and biodiversity net gain. Use of only Silver Birch trees and Beech hedging to mitigate loss, has the feeling of missing an opportunity to expand upon the variety of the areas tree scape but it is appreciated that there is a limited amount of space to allow for experimentation of specimen planting within the development site. No further objections were raised.

7.5 ECC Archaeology Consultant

7.5.1 No objection subject to conditions relating to a programme of archaeological investigation.

7.6 ECC Highway Authority

7.6.1 No objection subject to conditions relating to submission of a Construction Management Plan, detail relating to traffic calming/management where Public Right of Way Footpath 53 crosses Beaufort Gardens and the submission of a Residential Travel Information Pack. Informatives proposed to be imposed relating to the Public Right of Way.

7.7 ECC Historic Buildings Consultant

7.7.1 Initially submitted an objection raising concern that the proposal would have a detrimental impact on the setting of the Grade II listed Thorpe Lodge (33 Julien Court Road) resulting in less than substantial harm to its significance. A further representation was received from the Historic Buildings Consultant stating that a reduced number of dwellings would enable a greater sense of amenity and gardens to retain the sense of space within the setting of listed building. The Historic Buildings Consultant also requested detail relating to a dilapidated structure within the site. The Applicant reduced and amended the scheme to address heritage concerns and provided further detail on the dilapidated structure.

7.7.2 The Historic Buildings Consultant has raised no objection to the revised scheme subject to conditions relating to materials, landscaping and boundary treatments.

7.8 ECC Lead Local Flood Authority - SUDs

7.8.1 Initially submitted a holding objection requesting a high level drainage strategy be submitted for consideration. Also raised concern regarding a gravel driveway. The Applicant submitted further information to address these concerns. The LLFA were re-consulted and raised a further holding objection based on the following:

- Discharge rates should be limited to the greenfield 1 in 1 year rate or 1l/s, whichever is the greater. Therefore, the current discharge rate needs to be reduced;

- Small sites should minimise the areas of hardstanding, where hard surfaces are necessary unlined permeable paving should be used. The superseded site plan specified 'permeable block paving' was to be used and yet the updated plan says 'block paving'. Clarification is needed as to whether permeable paving will be used;
- All areas of the site should receive sufficient water treatment. Permeable paving would provide sufficient treatment for the site and thus confirmation is needed regarding its inclusion;
- Half drain time has not been included within the hydraulic calculations;
- Exceedance flows should be considered to ensure potential off site flooding is managed;
- Maintenance Management Plan is required.

7.8.2 The Applicant provided the additional information requested to address the concerns. The LLFA were re-consulted and raised no objection.

## 8. PARISH / TOWN COUNCIL

8.1 N/A

## 9. REPRESENTATIONS

9.1 A site notice was displayed adjacent to the site for a 21-day period and immediate neighbours were notified and re-consulted on revised plans. 27 representations have been received (including re-consultation) objecting to the proposal. In summary the following comments have been made:

### **Highway Issues**

- Concern regarding traffic and sight lines/blind spots;
- Concern regarding construction traffic/access;
- Access road is too narrow;
- Conflict with Public Right of Way and pedestrian safety;
- Lack of visitor car parking;
- Insufficient off road parking;
- Concern regarding access for emergency vehicles;
- Concern regarding future maintenance of site road.

### **Flooding Issues**

- Concerns regarding drainage and flooding;
- Flooding already occurs at Beaufort Gardens;
- There appears to be no SUDs;
- There is a natural spring within the site;
- Concern regarding impact on ditch between 31 and 31a Julien Court Road.

### **Design and Layout Issues**

- Inappropriate back land development;

- Loss of greenspace;
- Concern regarding private bin collection;
- Increased noise;
- Detrimental impact on outlook;
- Increase of head lights at night into my property;
- Cramped development;
- Concern regarding impact on setting of Listed Building;
- Impact of vibration during construction.

### **Trees and Wildlife Issues**

- Loss of trees;
- No biodiversity report has been provided;
- Concern regarding impact on wildlife;
- Concern regarding threat to Oak trees.

## **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 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 Currently the Council's statutory Development Plan consists of the Adopted Local Plan 2013-2033 (July 2022).
- 10.3.2 Policy LPP1 of the Adopted Local Plan states, '*within development boundaries, development will be permitted where it satisfies amenity,*



*design, environmental and highway criteria and where it can take place without material adverse detriment to the existing character and historic interest of the settlement’.*

- 10.3.3 Policy LPP35 of the Adopted Local Plan states, *‘density and massing of residential development will be well related to all of the following criteria: the character of the site and its immediate surroundings, adequacy of the access, existing vegetation including trees onsite, onsite amenity space to accord with standards and appropriate standard of residential accommodation for the occupants’.*
- 10.3.4 Policy SP1 of the Adopted Local Plan states, *‘when considering development proposals the Local Planning Authorities will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. They will always work pro-actively with applicants to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. Development that complies with the Plan will be approved without delay, unless material considerations indicate otherwise’.*
- 10.3.5 The site is situated within the defined development boundary. The principle of development is therefore accepted subject to accordance with the criterion of the above policies and all other relevant material planning considerations. This is assessed below.

## 11. SITE ASSESSMENT

### 11.1 Location and Access to Services and Facilities

- 11.1.1 Where concerning the promotion of sustainable transport, the NPPF in Paragraph 105 states that the planning system should actively manage patterns of growth; and that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions and improve air quality and public health.
- 11.1.2 Policy SP7 of the Adopted Local Plan seeks to provide development in, *‘well connected places that prioritise the needs of pedestrians, cyclists and public transport services above the use of the private car’.*
- 11.1.3 The site is situated approximately 1 mile (according to Google Maps) from the town centre of Braintree where there is a range of services and facilities available. This is within a reasonable walking/cycling distance. There is a primary school within 0.3 miles of the site. There are bus stops situated along Marlborough Road (number 30) within walking distance which provide connections to the railway station, supermarkets and schools.

- 11.1.4 The site is located within a sustainable location with access to alternative modes of travel which would reduce the reliance on the private vehicle to access services and facilities.
- 11.1.5 The proposal accords with the NPPF and Policy SP7 of the Adopted Local Plan.
- 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 buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable developments, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 130 of the NPPF states that planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting.
- 11.2.2 Policy SP7 of the Adopted Local Plan states that all new developments must meet high standards of urban and architectural design and provides a number of place shaping principles.
- 11.2.3 Policy LPP52 of the Adopted Local Plan seeks a high standard of design and layout in all new development stating, *'the scale, layout, height and massing of buildings and overall elevation design should reflect or enhance local distinctiveness and shall be in harmony with the character and appearance of the surrounding area'*.
- 11.2.4 During the course of the application, revised plans have been submitted reducing the scheme from 4 to 3 dwellings. The application proposes 3 single storey detached dwellings with attached garages, associated access and landscaping. Access is proposed between 13 and 15 Beaufort Gardens to serve the proposed dwelling with a size 3 turning head. In the previously refused scheme (Application Reference 17/00870/FUL) access was proposed off Julien Court Road.
- 11.2.5 Given the site levels within the site, Plot 1 would be situated at a lower level than Plots 2 and 3. A site section drawing (9168.006A) has been submitted with the application which illustrates the site levels evident within the site and the relationship with Julien Court Road.
- 11.2.6 The proposed floor space for Plots 1 and 2 are 128sq.m and for Plot 3 135sq.m (2/3 bedrooms) which exceed the Nationally Described Space Standards and therefore accords with Policy LPP35 of the Adopted Local Plan which states, *'all new development should be in accordance with the national technical housing standards'*.
- 11.2.7 The proposed dwellings have a 'T' shaped footprint with two bedrooms and a further bedroom/study/dining room. There is an open plan living

room/kitchen proposed. For Plots 1 and 2 a single attached garage is proposed, and for Plots 3 a double garage is proposed. The submitted Block Plan proposes electric vehicle charging within the garages. There is an area of amenity space proposed to the front of the plots with a low picket fence to the front of Plot 2 and a new beech hedge proposed to be planted along the frontage of Plot 3. 1.8-metre-high close boarded fencing is proposed to separate the rear gardens and boundaries of the site.

- 11.2.8 Plot 1 and 2 are situated to the west of the site with Plot 2 set back slightly from the building line with Plot 1 to the north. The proposed floor plan for each is identical albeit the orientation of the dwelling differs. The proposed dwelling for Plot 1 is situated 11.6 metres from the rear boundary and 2.3 metres from the northern boundary of the site. The proposed dwelling for Plot 2 is situated approximately 2.3 metres from the dwelling for Plot 1 and approximately 17.4 metres from the rear boundary. Plot 3 is situated in the southern part of the site with the proposed dwelling approximately 7.8 metres from the rear boundary and approximately 16 metres from the eastern boundary of the site.
- 11.2.9 The submitted elevations propose the dwellings to have a modest unassuming appearance. A natural slate roof finish is proposed, with a predominately brick exterior. The elevation with the front door is proposed to be rendered. The proposed dwellings have a height to the ridge of 6 metres and 2.2 metres to the eaves.
- 11.2.10 The eastern part of the site (to the front of Plot 1) is proposed as an area of landscaping providing an area of ecological and biodiversity net gain. There is an existing pond which is proposed to be retained adjacent to this area.
- 11.2.11 The Essex Design Guide 2005 refers to a minimum of 100sq.m of amenity for 3-bedroom dwellings. The submitted Block plan proposes 218sq.m of amenity space for Plot 1, 355sq.m of amenity space for Plot 2 and 480sq.m of amenity space for Plot 3. It further illustrates that adequate amenity space (207sq.m) is retained for 31a Julian Court Road. The scheme provides adequate amenity space to accord with the standard.
- 11.2.12 The proposed scale, layout, and appearance of the dwellings is considered acceptable and in harmony with the character and appearance of the surrounding area. The proposal accords with Policies LPP52 and SP7 of the Adopted Local Plan.

### 11.3 Heritage

- 11.3.1 The NPPF states in Paragraph 206 that Local Planning Authorities should look for opportunities for new developments within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or better reveal its significance) should be treated favourably. Paragraph 189 of the NPPF states that '*Local Planning Authorities should*

*require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting’.*

- 11.3.2 Policy LPP47 of the Adopted Local Plan states that the ‘*Council will promote and secure a high standard of design and layout in all new development and the protection and enhancement of the historic environment where development may affect the setting of listed buildings’.*
- 11.3.3 The site is situated within the setting of Grade II listed Thorpe Lodge, 33 Julien Court Road located to the south of the site. The Design and Access Statement includes a Section (12) on the setting of the heritage asset.
- 11.3.4 The Historic Buildings Consultant has been consulted on the application and stated that, ‘*historically the farmhouse would have been surrounded by an open landscape of agricultural fields. This openness has been progressively lost through the centuries with the expansion of Braintree. The Listed building is now set within modern suburban development but with the open area of playing fields to the south and the undeveloped site to the rear or north with its mature trees. This still provides the Listed building with a sense of separation from the adjacent urban settlement’.*
- 11.3.5 The Historic Buildings Consultant initially raised concern that the proposed development would have a detrimental impact on the setting of the Grade II listed Thorpe Lodge resulting in less than substantial harm to its significance. During the course of the application, revised plans have been submitted reducing the scheme from 4 to 3 dwellings. The Historic Buildings Consultant sought further clarification regarding the derelict outbuilding situated on the boundary between the Listed Building and the site. The Applicant provided further information in response to this. The Historic Buildings Consultant concluded that, ‘*the screening and trees between the Listed building and site are substantial. The number of dwellings proposed has been reduced from 4 to 3 this is sufficient to effectively reduce the density of development at the site’.*
- 11.3.6 The Historic Buildings Consultant also indicated that although the dilapidated outbuilding does not have a heritage value of its own and it does not directly contribute to the significance of the Listed buildings setting, it is directly on the curtilage. Its reconstruction would ‘preserve or enhance the setting’ to accord with the NPPF guidance. The Applicants submitted a letter dated 4<sup>th</sup> August 2022 indicating they are proposing to remove the structure on safety grounds and not to replace it. However, they indicated that if the Historic Buildings Consultant, ‘*deemed it essential to rebuild the dilapidated shed on the development side then this can be carried out as part of the approved development’.* During the Officer site visit it was noted that the dilapidated structure straddles the site and there is an existing outbuilding on the adjoining site (within the plot of Listed building). Officers do not consider it reasonable to insist on the rebuilding of the dilapidated structure as it does not directly contribute to the significance of the Listed Buildings setting.

- 11.3.7 The submitted site section drawing illustrates that the ridge height of the nearest proposed dwelling at Plot 3 would be significantly lower level than the Listed dwelling therefore reducing the impact and harm on the setting particularly when viewed from Julien Court Road. The existing dense landscape boundary between the listed building and site is proposed to be retained further reducing the impact.
- 11.3.8 The proposal is therefore considered to accord with Policy LPP47 of the Adopted Local Plan and the NPPF.
- 11.4 Archaeology
- 11.4.1 Paragraph 205 of the NPPF requires developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible.
- 11.4.2 Policy LPP59 of the Adopted Local Plan states, *'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 ensuring an appropriate programme of archaeological investigation, recording, reporting and archiving, prior to development commencing. There will be a requirement to make the result of these investigations publicly accessible'*.
- 11.4.3 The Archaeology Consultant has stated that, *'the proposed development lies east of the main Roman road leading from the small Roman town at Braintree and west of known Roman settlement activity centred around Marlborough Road. The development site lies on the slopes above the valley of the Blackwater where prehistoric implements have been recovered and in a location which would have been favourable for prehistoric activity. The site borders the property known as Thorpe Lodge, a mid 17th century listed building formerly known as Hanging Hill Farmhouse. There is potential for further Roman activity and prehistoric evidence to survive which will be impacted upon by the proposed development.'*
- 11.4.4 A condition is proposed to be imposed requiring a programme of archaeological investigation.
- 11.4.5 The proposal would therefore accord with the NPPF and Policy LPP59 of the Adopted Local Plan.
- 11.5 Ecology
- 11.5.1 Policy LPP64 of the Adopted Local Plan states that, *'where there is a confirmed presence or reasonable likelihood of protected species or priority species being present on or immediately adjacent to a development site, the developer will be required to undertake an ecological survey and will be required to demonstrate an adequate mitigation plan is in place to ensure no harm to protected species and no net loss of priority species'*.

- 11.5.2 Policy LPP63 of the Adopted Local Plan seeks to ensure that development proposals take available measures to ensure the protection and enhancement of the natural environment, habitats, biodiversity and geodiversity of the District to be acceptable, also taking climate change and water scarcity into account in their design.
- 11.5.3 An Ecological Appraisal (prepared by Adonis Ecology Ltd dated February 2022) has been submitted as supporting documentation with the application.
- 11.5.4 The report has been reviewed by the Council Ecology Officer who has confirmed they are satisfied that sufficient ecological information has been provided for determination of the application. This provides certainty for the Local Planning Authority of the likely impacts on designated sites, protected and priority species and habitats and with appropriate mitigation measures secured the development can be acceptable.
- 11.5.5 The Ecology Officer has raised no objection to the proposal subject to the mitigation measures identified in the appraisal being secured through condition and implemented in full. The mitigation measures include installation of bat boxes, bird nesting boxes, bee/insect boxes, and hedgehog friendly fencing.
- 11.5.6 The Ecological Appraisal concludes that the proposal would have a low risk of indirect impact to likely low numbers of foraging and or/commuting bats and bats roosting in retained trees, from additional lighting. Very low risk of impact to badgers, hedgehogs and common toads during site clearance and ground works. There is a high risk of impact to nesting birds in trees, hedgerows and shrubs if site clearance works are undertaken between March and August. The appraisal further concludes there to be a low risk of impact to the Bocking Blackwater Local Nature Reserve from pollution to the spring which runs through the proposed development site into the River Blackwater. With the impact avoidance measures implemented as proposed in the appraisal it was concluded that the development could proceed with minimal risk of impact to protected or Section 41 species or local biodiversity.
- 11.5.7 The proposal would accords with Policies LPP63 and LPP64 of the Adopted Local Plan.
- 11.6 Impact upon Neighbouring Residential Amenity
- 11.6.1 The National Planning Policy Framework sets out that decisions should seek to ensure a high-quality amenity for all current and future occupiers of dwelling-houses. 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 in terms of overlooking,

overshadowing, loss of light or loss of privacy. The National Planning Policy Framework also seeks a high-quality amenity for existing and future occupiers of neighbouring dwellings.

11.6.2 Given the sites position it straddles a boundary with 8 neighbouring residential properties. However, as the proposed development is for single storey dwellings it is not considered that the proposal would have a detrimental impact in terms of overlooking, overshadowing, loss of light or loss of privacy. Furthermore, there is adequate distance between the dwellings of the neighbouring properties and the site to ensure there is no detrimental impact for prospective occupiers.

11.6.3 The proposal accords with Policy LPP52 of the Adopted Local Plan and the NPPF.

## 11.7 Highway Considerations

11.7.1 Paragraph 109 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. Policy LPP43 of the Adopted Local Plan seeks to ensure sufficient vehicle/cycle parking is provided within new developments.

11.7.2 The submitted Block Plan proposes a new 5.5 metre wide vehicular access from Beaufort Gardens this crosses over a Public Right of Way (footpath 53). There are 2 x 450mm wide rumble strips proposed either side of the Public Right of Way as a traffic calming measure. One vehicular access point is proposed.

11.7.3 The Essex Design Guide 2005 states, that '*private drives are vehicular and pedestrian access ways not suitable for adoption as highways maintainable at public expense. They may give access to a maximum of five dwellings.*' The access road will not be subject to adoption by Essex County Council.

11.7.4 The Highway Authority have been consulted and raised no objection to the proposal subject to the submission of a construction management plan prior to commencement, implementation of traffic calming measures/ traffic features and implementation of a travel information pack. Informatives are also proposed relating to maintaining rights and ease of passage over the Public Right of Way.

11.7.5 In terms of parking, each dwelling will be provided with 2 on plot parking spaces (to include garage space) in accordance with the Adopted Vehicle Parking Standards. The dwellings will be provided with electric vehicle charge facilities (EVC), the provision of which will be secured via a planning condition.

11.7.6 The proposal accords with Policies LPP42 and LPP43 of the Adopted Local Plan.

11.8 Habitat Regulations Assessment (HRA / RAMS)

11.8.1 Policy SP2 of the Adopted Local Plan states, '*contributions will be secured from development towards mitigation measures in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy 2018-2038 (RAMS).*'

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

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

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

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

11.8.5 The proposed mitigation measures would consist of the securing of a financial contribution of £137.31 per dwelling erected towards offsite visitor management measures at the above protected sites.

11.8.6 This financial contribution has been secured and the applicant has made the required payment under S111 of the Local Government Act 1972.

11.8.7 The proposal accords with SP2 of the Adopted Local Plan.

11.9 Refuse Collection

11.9.1 The Essex Design Guide 2005 states that, '*refuse collection will be made only from those dwellings within 25 metres of an adopted road*'.

11.9.2 The proposed residential properties are over 30 metres from an adopted road. This is an unreasonable distance for prospective occupiers to take their bins for collection.

11.9.3 The submitted Design and Access Statement states that, '*individual areas for refuse and recycling have been provided in each garden. A private refuse collection company will be employed with smaller vehicles than a standard refuse vehicle for collection of refuse and recycling*'.



11.9.4 As the Applicant is proposing that the collection of waste will be provided by a private contractor a condition is proposed to be imposed requiring a refuse management plan to be prepared and submitted to the Council for approval prior to occupation of the development. This is to ensure proper waste management to safeguard the living conditions of existing and future occupiers of the site and neighbouring occupiers and highway safety.

#### 11.10 Trees/Landscaping

11.10.1 Policy LPP65 of the Adopted Local Plan states that, *'prominent trees which contribute to the character of the local landscape and are considered to have reasonable life expectancy will be protected by tree preservation orders particularly if they are considered to be under threat from removal. Trees which make a positive contribution to the character and appearance of their surroundings will be retained unless there is good Arboricultural reason for their removal for example they are considered to be dangerous or in poor condition. Similarly, alterations to trees such as pruning or crown lifting should not harm the tree or disfigure it'*.

11.10.2 An Arboricultural Report and Impact Assessment (prepared by Moore Partners Ltd dated February 2022) has been submitted as supporting documentation with the application. The Arboricultural Report states that, there will be 10 trees removed that have been given a 'C' rating, 4 trees to be removed that have been given a 'B' rating and 3 others to be removed that have been given a 'U' rating. It is proposed that the 2 'A' category Oak trees are to be retained. The report states that, *'Oak T7 would require a reduction on the new house side of 2 metres to facilitate the build. The second oak T22 would have a new road running over the root zone. This should be a no dig construction'*.

11.10.3 The Landscape Officer has reviewed the Landscaping Plan, Arboricultural Report and Impact Assessment. A concern was initially raised regarding the positioning of the proposed turning head and the encroachment into the root protection zone for T22 (Cat 'A' Oak tree). Revised plans have repositioned the turning head to the south of the site. The Landscape Officer stated that the proposed reductions to T7 (Cat 'A' Oak tree) is acceptable and the lifting of the lower canopy to T22 is also acceptable.

11.10.4 The Landscape Officer noted that most trees being removed are either category 'C' or 'U' and requested a Planting and Landscaping Plan be submitted with proposed planting and mitigation. The Applicants subsequently submitted a plan which has been reviewed by the Landscape Officer. The Landscape Officer commented that, *'the plan indicates planting and various areas of grass, along with an area for ecology and biodiversity net gain'*. It is noted in his response that the use of Silver Birch trees and Beech hedging to mitigate loss, *'has the feeling of missing an opportunity to expand upon the variety of the areas tree scape, but it is appreciated that there is a limited amount of space to allow for experimentation of specimen planting within the development site'*.

- 11.10.5 Conditions are proposed to be imposed relating to implementation of the planting and landscaping scheme and irrigation measures.
- 11.10.6 The proposal accords with Policy LPP65 of the Adopted Local Plan.
- 11.11 Flood Risk and Drainage
- 11.11.1 Policy LPP75 of the Adopted Local Plan states, *'The Council will require development to have regard to and contribute positively towards delivering the aims and objectives of the Braintree and Witham Surface Water Management Plan as updated. Developments located in Critical Drainage Areas (CDAs), Local Flood Risk Zones (LFRZs) and for redevelopments of more than one property or area greater than 0.1 hectare should seek betterment to a greenfield runoff rate. All developments in Critical Drainage Areas (excluding minor housing extensions less than 50m<sup>2</sup>) which relate to a net increase in impermeable area must include at least one 'at source' SUDs measure (e.g. water butt, permeable surface). This is to assist in reducing the peak volume of discharge from the site.'*
- 11.11.2 The site is situated within Flood Zone 1 (an area of low flood risk). There is a natural spring on the site. The Council Safeguarding maps have identified critical drainage areas outside of but adjacent to the site.
- 11.11.3 The Lead Local Flood Authority (LLFA) have reviewed the proposals and requested that a high level drainage strategy be submitted for consideration. The Applicants subsequently submitted a report (prepared by D.J Barton Associates dated November 2022). The LLFA were re-consulted on this report however, they submitted a holding objection requesting further detail to be provided including a maintenance management strategy. The Applicants provided this additional information and a maintenance management strategy. The LLFA reviewed the revisions and additional information provided and raised no objection.

## 12. PLANNING OBLIGATIONS

- 12.1 Paragraph 56 of the NPPF sets out that planning obligations should only be sought where they are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. This is in accordance with Regulation 122 of the Community Infrastructure Levy (CIL) Regulations.
- 12.2 The size and scale of the proposed development does not trigger a requirement for planning obligations to be secured.

### 13. PLANNING BALANCE AND CONCLUSION

- 13.1.1 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.
- 13.1.2 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.
- 13.1.3 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.
- 13.1.4 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.
- 13.1.5 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).

## 13.2 Summary of Adverse Impacts

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

### **Harm to Trees and Hedgerows**

13.2.2 The proposal requires the removal of 10 trees that have been given a 'C' rating, 4 trees that have been given a 'B' rating and 3 others to be removed that have been given a 'U' rating. Although this removal does weigh against the proposal, it is considered that any adverse impact in relation to removal of lower quality trees can be mitigated through new planting and additional landscaping to be secured via a condition. Limited adverse harm is therefore attributed to this.

## 13.3 Summary of Public Benefits

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

### **The Development Plan**

13.3.2 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".

13.3.3 As set out within Paragraph 47 of the NPPF, planning law requires that applications for planning permission be determined in accordance with the

Development Plan, unless material considerations indicate otherwise. In this case, the application site is located within a defined development boundary where the principle of development is acceptable. The proposal therefore accords with Policy LPP1 of the Adopted Local Plan and this weighs in favour of the proposal in the overall planning balance in accordance with the presumption in favour of sustainable development.

### **Delivery of Market and Affordable Housing**

- 13.3.4 The development would deliver 3 market dwellings. This benefit is afforded limited weight given the scale of the development.

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

- 13.3.5 The site is located within a sustainable location with access to alternative modes of travel which would reduce the reliance on the private vehicle to access services and facilities for prospective occupiers of the development. The proposal accords with Policy SP7 of the Adopted Local Plan. This benefit is afforded moderate weight given the scale of the development.

### **Economic and Social Benefits**

- 13.3.6 The proposal would deliver economic benefits during the 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 the development.

## **13.4 Summary of Neutral Factors**

- 13.4.1 There is no identified harm in terms of heritage assets and their settings, neighbouring residential amenity or ecological impacts. These are considered to be neutral factors in the planning balance.

## **13.5 Conclusion**

- 13.5.1 Taking into account the above, while there are conflicts with the Development Plan which weigh against the proposal, it is considered that the proposal complies with the Development Plan when taken as a whole. Officers consider that there are no material considerations, that indicate that a decision should be made other than in accordance with the Development Plan. The Planning Balance is concluded below.

## **13.6 Planning Balance**

- 13.6.1 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 do not 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 granted for the proposed development.

14. RECOMMENDATION

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

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

## APPENDIX 1:

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

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

<b>Plan Description</b>	<b>Plan Ref</b>	<b>Plan Version</b>
Proposed Elevations and Floor Plans	9168.007	N/A
Proposed Site Plan	9168.003	L
Landscape Masterplan	9168-009	N/A
Existing Site Plan	9168 001	A
Arboricultural Report	N/A	A
Section	9168.006	A
Proposed Elevations and Floor Plans	9168.008	A
Tree Plan	N/A	A
Management plan	Drainage System Maintenance Plan	2402E

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

##### Condition 1

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

Reason: This Condition is imposed pursuant to Section 91 of the Town and Country Planning Act 1990 (as amended).

##### Condition 2

The development hereby permitted shall only be implemented in accordance with the approved plans listed above.

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

##### Condition 3

A) No development, including any preliminary groundworks or demolition, shall commence until a Written Scheme of Investigation (WSI), which shall include details for a programme of archaeological investigation, has been submitted to and approved in writing by the Local Planning Authority.

B) No development, including any preliminary groundworks or demolition, shall commence until the approved WSI as required by this permission has been fully implemented and a report of the findings including any mitigation strategy and/or preservation strategy has been submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved mitigation strategy and / or preservation strategy.

C) Within six months of the completion of the fieldwork in connection with the WSI a post excavation assessment of the findings shall be submitted to an appropriate

depository and the Local Planning Authority shall be notified in writing. This will result in the completion of post excavation analysis, preparation of a full site archive and report, and publication report.

Reason: To enable full investigation and recording of this site of archaeological importance. The details are required prior to the commencement of development to ensure that the site is appropriately recorded prior to loss of any details of archaeological significance.

#### Condition 4

Prior to the commencement of the development a Construction Management Plan shall be submitted to, and approved in writing by, the Local Planning Authority. The Plan shall provide for:

- I. Vehicle routing.
- II. The parking of vehicles of site operatives and visitors.
- III. Loading and unloading of plant and materials.
- IV. Storage of plant and materials used in constructing the development.
- V. Wheel and underbody washing facilities.
- VI. Before and after condition survey to identify defects to highway in the vicinity of the access to the site and where necessary ensure repairs are undertaken at the developer expense where caused by developer.

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

Reason: In order to mitigate the impact of the development during the construction process in the interest of residential amenity, highway safety and the visual amenity of the locality.

#### Condition 5

Prior to the commencement of the development details shall be submitted to and approved in writing by the Local Planning Authority to show the provision of a traffic calming/traffic management feature where PROW Footpath 53 Bocking and Braintree crosses Beaufort Gardens. The development shall be carried out in accordance with the approved drawings.

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway to protect the PROW network and users in the interests of highway safety and in accordance with policies DM1 and DM11 of the Highway Authority's Development Management Policies February 2011.

#### Condition 6

Prior to commencement a construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method



statements).

- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: To conserve protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species).

#### Condition 7

No above ground development shall commence until samples of the materials to be used on the external finishes of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details and permanently retained as such.

Reason: To ensure that the development does not prejudice the appearance of the locality or setting of the Listed building.

#### Condition 8

Prior to the erection of any means of enclosure, details of all gates / fences / walls or other means of enclosure details shall be submitted to and approved in writing by the Local Planning Authority. The details shall include position, design, height and materials of the enclosures. The enclosures as approved shall be provided prior to the occupation of the relevant plot and shall be permanently retained as such.

Reason: In order to secure the satisfactory development of the site and in the interests of visual amenity, neighbouring residential amenity and the setting of the Listed Building.

#### Condition 9

Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting that Order) no enlargement of the dwellinghouse, as permitted by Class A of Part 1 of Schedule 2 of that Order shall be carried out without first obtaining planning permission from the Local Planning Authority.

Reason: In order that the Local Planning Authority may exercise control over any proposed future extensions in the interests of residential and/or visual amenity

#### Condition 10

Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting that Order) no addition or alteration to the roof of a dwellinghouse, as permitted by Class B of Part 1 of Schedule 2 of that Order shall be carried out without first obtaining planning permission from the Local Planning Authority.

Reason: In order that the Local Planning Authority may exercise control over any proposed future roof extensions in the interests of residential and/or visual amenity.

#### Condition 11

The garages hereby permitted shall be used for the parking of motor vehicles, bicycles, and powered two wheelers associated with the dwelling.

Reason: To ensure adequate parking and garage space is provided within the site in accordance with the standards adopted by the Local Planning Authority.

#### Condition 12

A lighting design scheme to protect biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstance should any other external lighting be installed without prior consent from the local planning authority.

Reason: To conserve protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species), as updated by the Environmental Act 2021.

#### Condition 13

No above ground development shall commence until an Electric Vehicle Charging Strategy to demonstrate the provision of at least one Electric Vehicle Charging point to every dwelling hereby permitted has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented for each dwelling prior to the occupation of that dwelling and thereafter retained.

Reason: In the interest of securing sustainable development and contributing to reduce carbon emissions.

#### Condition 14

No above ground development shall commence until a strategy to provide fastest available broadband access has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to occupation and thereafter retained.

Reason: To ensure that all new dwellings/commercial units are provided with appropriate internet connectivity that will improve commercial opportunities and facilitate working from home and improve residents' connections to essential online services and social networks.

#### Condition 15

Prior to occupation a Biodiversity Enhancement Layout, providing the finalised details and locations of the proposed biodiversity enhancements, as contained in the Preliminary Ecological Appraisal (Adonis Ecology Ltd, February 2022), shall be submitted to and approved in writing by the local planning authority. The enhancement measures shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason: To enhance Protected and Priority Species and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

#### Condition 16

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of the above Site Investigation Condition, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of the above Site Remediation Condition, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme, a verification report must be prepared and submitted to and approved in writing by the Local Planning Authority in accordance with the above Verification and Remediation Condition.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

#### Condition 17

Prior to the implementation of the landscaping scheme hereby approved, a strategy for the watering and maintenance of the landscaping shall be submitted to and approved in writing by the Local Planning Authority. Once approved the watering and maintenance of the landscaping scheme shall be carried out in accordance with the approved details. The scheme of landscaping indicated upon the approved plan, shall be implemented in accordance with the approved implementation programme. Any trees or plants which die, are removed or become seriously damaged, or diseased within a period of five years from the completion of the development shall be replaced in the next planting season with others of a similar size and species.

Reason: To ensure that the approved landscaping scheme is implemented and that

appropriate measures are put in place to ensure that new trees are suitably irrigated until they become established and in order to enhance the appearance of the development and in the interests of amenity and privacy.

#### Condition 18

The development shall be carried out in accordance with the Arboricultural Impact Assessment (AIA) (prepared by Moore Partners Ltd dated September 2022) and Tree Survey Plan (drawing HGN/JCR/01rev A).

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

#### Condition 19

All removal of trees, hedgerows, shrubs, scrub or tall herbaceous vegetation shall be undertaken between September and February inclusive. If this is not reasonably practicable then a suitably qualified ecologist shall check the areas concerned immediately prior to the clearance works to ensure that no nesting or nest-building birds are present. If any nesting birds are present then the vegetation shall not be removed until the fledglings have left the nest.

Reason: All wild birds, their nests and young are protected during the nesting period under The Wildlife and Countryside Act 1981 (as amended).

#### Condition 20

The scheme of landscaping indicated upon the approved plans, shall be carried out during the first available planting season after the commencement of the development. Any trees or plants which die, are removed or become seriously damaged, or diseased within a period of five years from the completion of the development shall be replaced in the next planting season with others of a similar size and species.

Reason: To enhance the appearance of the development and in the interests of amenity and privacy.

#### Informative(s)

##### Informative 1

This development will result in the need for a new postal address. Applicants should apply to the Street Naming & Numbering Officer using the application form which can be found at [www.braintree.gov.uk/streetnaming](http://www.braintree.gov.uk/streetnaming). Enquiries can also be made by emailing [streetnaming@braintree.gov.uk](mailto:streetnaming@braintree.gov.uk).

##### Informative 2

###### Sprinkler System

There is clear evidence that the installation of Automatic Water Suppression Systems (AWSS) can be effective in the rapid suppression of fires. Essex County Fire & Rescue Service (ECFRS) therefore uses every occasion to urge building owners and developers to consider the installation of AWSS. ECFRS are ideally placed to promote a better understanding of how fire protection measures can reduce the risk

to life, business continuity and limit the impact of fire on the environment and to the local economy.

### Informative 3

The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is considered to be a breach of this legislation. The public's rights and ease of passage over public footpath 53 Braintree and Bocking shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way. The grant of planning permission does not automatically allow development to commence. In the event of works affecting the highway, none shall be permitted to commence until such time as they have been fully agreed with this Authority. In the interests of highway user safety this may involve the applicant requesting a temporary closure of the definitive route using powers included in the aforementioned Act. All costs associated with this shall be borne by the applicant and any damage caused to the route shall be rectified by the applicant within the timescale of the closure. All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org).

## 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
LPP35	Housing Mix, Density and Accessibility
LPP42	Sustainable Transport
LPP43	Parking Provision
LPP46	Broabband
LPP47	Built and Historic Environment
LPP52	Layout and Design of Development
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
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
LPP77	External Lighting

#### Other Material Considerations

Car Parking Standards – Design and Good Practice (2009)  
Essex Design Guide (2005)

APPENDIX 3:

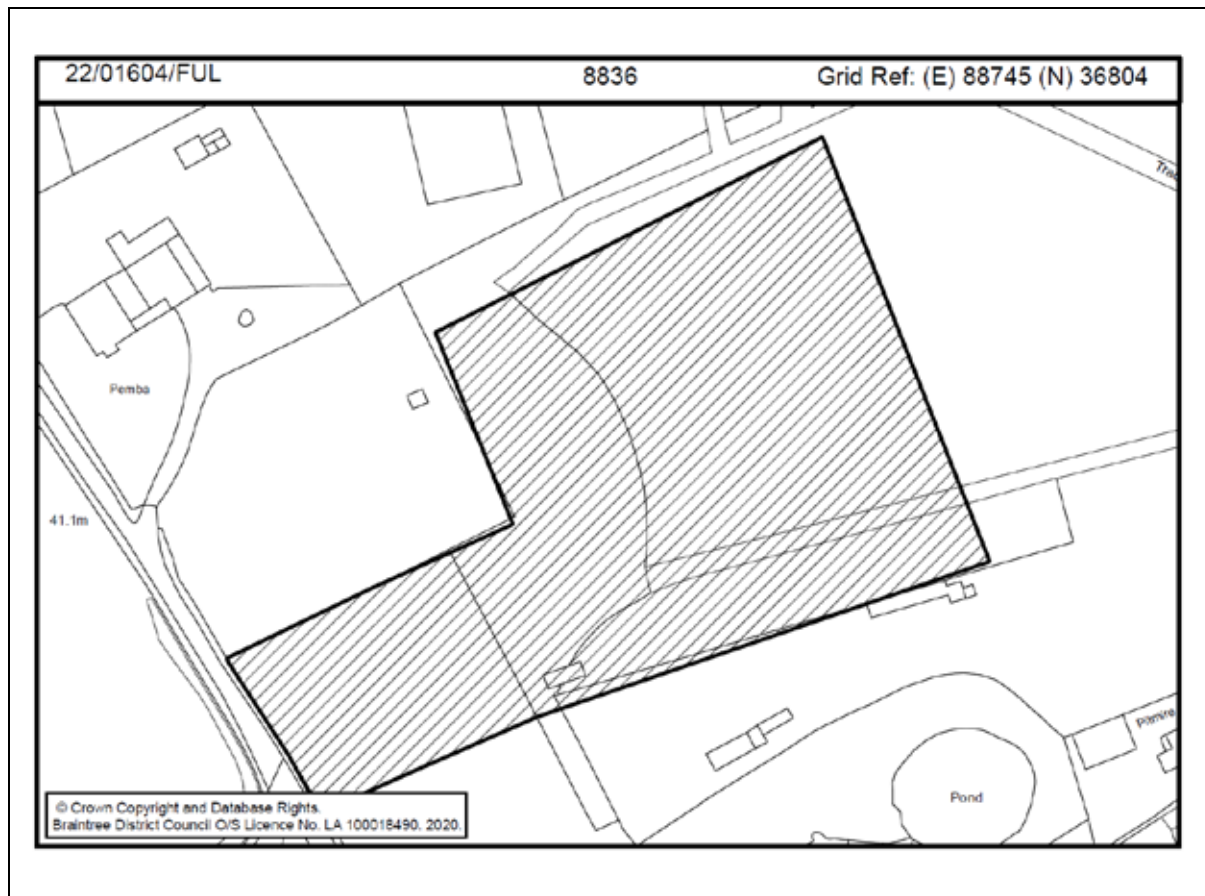
SITE HISTORY

<b>Application No:</b>	<b>Description:</b>	<b>Decision:</b>	<b>Date:</b>
16/00345/TPO	Notice of intent to carry out works to a tree protected by Tree Preservation Order 39/01 - Cut back branches from an Oak at roof level and close to side of dwelling at 15 Beaufort Gardens by approx 3 metres (subject to suitable cutting points and safe working) remove dead wood as identified from ground and as found	Granted	04.01.17
17/00870/FUL	Demolition of existing bungalow and erection of 4no. two storey detached dwellings, associated garages, private drive and access	Refused	11.09.17

<b>Report to:</b> Planning Committee		
<b>Planning Committee Date:</b> 13th December 2022		
<b>For:</b> Decision		
<b>Key Decision:</b> No		<b>Decision Planner Ref No:</b> N/A
<b>Application No:</b>	22/01604/FUL	
<b>Description:</b>	Erection of Education Centre, associated car park and access.	
<b>Location:</b>	Land Adjacent Daws Hall Henny Road Lamarsh	
<b>Applicant:</b>	Mr Ian Grahame, Daws Hall, Henny Road, Lamarsh, Essex, CO8 5EX	
<b>Agent:</b>	Mr Robert Pomery, Pomery Planning Consultants Ltd, Pappus House, Tollgate West, Stanway, Colchester, CO3 8AQ	
<b>Date Valid:</b>	13th June 2022	
<b>Recommendation:</b>	It is RECOMMENDED that the following decision be made:  § Application GRANTED subject to the Condition(s) & Reason(s) and Informative(s) outlined within Appendix 1 of this Committee Report.	
<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>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 understanding.</li> </ul>

	<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>The Equality Impact Assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.</p>
<b>Background Papers:</b>	<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: 22/01604/FUL.</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 to the east of the junction of Henny Street/Henry Road/Lamarsh Hill/Twinstead Road, outside of any defined development boundary. It forms part of the Local Wildlife Site (LWS) as designated on the Proposals Map of the Adopted Braintree District Local Plan (2013-2033).
- 1.2 The Applicant seeks permission to replace the existing education centre by erecting a new purpose-built, single storey education and visitor centre. It would provide a bigger classroom area with office and storage space for tractor and equipment. A car park will be provided and there will be a new vehicular access onto Lamarsh Hill. The proposal would separate the LWS's leisure and recreational uses from the residential curtilage of the Grade II Listed Daws Hall. This would release the existing outbuildings back into an ancillary use within the residential curtilage of the Listed Daws Hall.
- 1.3 Due to the mixed-use nature of the centre, the proposed development could not be classified solely as a commercial, educational establishment, tourist facility nor community facility. There is a defined functional link of this centre with the LWS which justifies its location in the rural setting.
- 1.4 The design of the proposed building is considered to be of high quality which respects the countryside setting and special measures are incorporated to reduce light spillage, to be water and energy efficient, and to increase the use of renewable energy. It is not considered to have detrimental harm to the setting of the nearby heritage asset. There is no objection from technical consultees and no adverse harm has been identified in terms of residential amenity, highway safety, landscape and ecology.
- 1.5 On balance, it is considered that the proposal would allow for expansion of a rural charity business whilst bringing economic and social benefits to the local rural area as well as delivering biodiversity net gain. Officers therefore recommend the application to be granted, subject to conditions.

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 deemed to be 'significant' by the Planning Development Manager.

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 to the east of the junction of Henny Street/Henry Road/Lamarsh Hill/Twinstead Road, outside of any defined development boundary. It forms part of the Local Wildlife Site (LWS) as designated on the Proposals Map of the Adopted Braintree District Local Plan (2013-2033), consisting a significant number of mature trees. Daws Hall, a Grade II Listed Building, is located to the immediate south. River Stour is located to the northeast, adjoining the wider Local Wildlife Site.
- 5.2 The centre and the wider land of the LWS are privately owned and run as a natural reserve by a registered charity Trust. The old coach house at Daws Hall was converted into a classroom. The education centre currently provides some educational activities to schools as well as leisure activities like workshops, walks, talks, open days and community events available to the public or exclusively to private groups throughout the year. In view of the mixed-use nature, the existing use does not fit perfectly within the definition of Use Class F (Local Community and Learning) nor solely as a business or tourism use. The proposal is therefore considered to be a Sui Generis use.

6. PROPOSAL

- 6.1 The Applicant is seeking permission to replace the existing education centre by erecting a new purpose-built, single storey education and visitor centre cum office and storage with car park and new vehicular access onto Lamarsh Hill, thereby separating the LWS's leisure and recreational uses from the residential curtilage of the Grade II Listed Daws Hall. This would release the existing outbuildings back into an ancillary use within the residential curtilage of the listed Daws Hall. The Trust would be operate this new facility.
- 6.2 The proposed dimensions of the crescent-shaped new centre are approximately 43m (w) x 21m (d) x 4.5m to 5.6m (h) with a dual-pitched roof. According to the submission, the proposed centre would have a total

floorspace of about 312sq.m. The northern portion of the building would provide classrooms, cloakroom and toilets, whilst the southern portion would provide lobby/exhibition area, reception, office with kitchen and toilets facilities, meeting/seating space as well as storage areas for the office, wood log and for trailers/agricultural equipment/tools. A bird hide would be provided on the western elevation whilst covered decking would be provided on the eastern elevation.

- 6.3 The walls are a combination of full-height glazing, vertical timber boarding and lime rendered straw bales. A total of 18 parking spaces and a turning space would be provided in front of building.
- 6.4 The proposal is to provide expanded classroom space to accommodate the increased visit bookings, the increased average class size and the need to provide safe access for a coach due to increased popularity of its use by many schools. It will allow larger school groups to visit in any weather and an improved access for disabled visitors. The new building would also provide office and storage space for the general operation of the wider reserve. The Applicant has explained that the current cart lodge is not suitable for further conversion or extension without damaging the historic fabric.

## 7. SUMMARY OF CONSULTATION RESPONSES

### 7.1 Dedham Vale and Stour Valley Project

- 7.1.1 Broadly support, recommends conditions on detailed hard and soft landscape scheme and to secure all the ecological enhancements and biodiversity net gains.
- 7.1.2 The application site lies within the Long Melford and Sudbury Stour section of the Stour Valley Project Area. The site is well screened by mature and established vegetation and is set back from the highway to the north of a belt of mature trees which help reduce its landscape and visual impacts within the Stour Valley.
- 7.1.3 The proposed education centre has been designed to a high environmental specification which is supported. The eastern elevation of the proposed building is extensively glazed. This can be an issue in terms of the potential for light spill and impacts on nocturnal wildlife. In this scheme, several measures, have been integrated into the design of the new building which will help break up its mass and reduce the area of exposed glazing through which light can spill. These include oak louvres, hit and miss boarding and a metal balustrade which will be landscaped. The building is also single storey reducing its visual intrusion in the landscape.
- 7.1.4 The new access proposed as part of the scheme has been designed in such a way to avoid the need to remove a significant number of trees to accommodate this element of the scheme. This is welcomed as the trees

will provide an important screening function to the cars/vehicles using the site.

- 7.1.5 The proposed centre is to be built on the western edge of an established meadow within the Daws Hall Trust complex to the south of Daws Hall. While the loss of part of the meadow is regrettable, the benefits delivered by the scheme (enhanced environmental education opportunities), once operational, are likely to outweigh any harm caused. Furthermore, the Planning Statement confirms that 'where possible all habitat removed to accommodate the development will be compensated for on as close to like-for like basis' along with mitigation for birds and bats and new landscaping. Overall, the scheme has the potential to deliver positive biodiversity net gains which is welcomed.

7.2 Essex County Fire and Rescue Service (Protection)

- 7.2.1 Access is considered satisfactory subject to access routes and hard standings being capable of sustaining a minimum carrying capacity of 18 tonnes. More detailed observations on access and facilities for the Fire Service will be considered at Building Regulation consultation stage.

7.3 Essex County Fire and Rescue Service (Water Services)

- 7.3.1 The following of Section 16 (Fire mains and hydrants) of the Approved Document B Volume 2 – Buildings other than Dwellings are highlighted:

- § Section 16.8 requires additional fire hydrants if the building has a compartment with an area more than 280m<sup>2</sup> and is erected more than 100m from an existing fire hydrant.
- § If additional hydrants are required, these should be provided in accordance with the criteria of Section 16.9.
- § Each fire hydrant should be clearly indicated by a plate, fixed nearby in a conspicuous position in accordance with BS 3251, as stated in Section 16.10.

7.4 Essex Wildlife Trust

- 7.4.1 The Applicant is expected to provide an analysis of biodiversity impacts, mitigation measures and a biodiversity net gain assessment to support this application, given that it will result in the loss of an area of established meadow. (No further comments received following additional information submitted by the applicant).

7.5 National Highways

- 7.5.1 No objection. The site is situated remotely, on the local road network, from the nearest Strategic Road Network (SRN). Due to the nature, size, and

scale of the proposed development, it is unlikely to have any severe impact on the SRN.

7.6 Natural England

7.6.1 No objection. The proposed development will not have significant adverse impacts on statutory protected nature conservation sites or landscapes.

7.7 North East Essex Badger Group

7.7.1 No objection.

7.8 Royal Society for the Protection of Birds

7.8.1 No response received.

7.9 BDC Ecology

7.9.1 No objection, subject to securing ecological mitigation and enhancement measures.

7.10 BDC Environmental Health

7.10.1 No objection, subject to the conditions to control demolition/clearance/construction works to minimise disturbance to nearby residents.

7.11 BDC Landscape Services

7.11.1 No objection, subject to conditions requiring Tree Protection Plan and no dig construction proposals for the driveway are in place, and a report from an Arboricultural Consultant to confirm works are carried out in accordance with the approved method statement.

7.11.2 The new visibility splay within the context of a narrow lane and obscured views from the hill crest to the north is unlikely to create much visual impact and it is noted that the proposal is to provide some new planting to mitigate for the loss on the road frontage.

7.12 BDC Waste Services

7.12.1 No comments.

7.13 ECC Highways

7.13.1 No objection. The impact is acceptable from a highway and transportation perspective providing that the proposal is carried out in accordance with the submitted Drawing No. 13.426. Rev. D and subject to a condition on the visibility splays of the site access. And no unbound materials to be used for



the surface treatment of the vehicular access within 15m of the highway boundary.

7.14 ECC Historic Buildings Consultant

- 7.14.1 No objection, subject to condition on landscaping, hardstanding and boundary treatments prior to commencement.

8. PARISH / TOWN COUNCIL

8.1 Alphamstone and Lamarsh Parish Council

- 8.1.1 No objection.

9. REPRESENTATIONS

- 9.1 1 public representation has been received. Whilst the educational uses and activities are supported, concerns have been raised as to the lengthy opening hours, frequency and timing of other events like workshops, open days and private visits that mostly occurred at weekends. It is questioned whether the centre will become an enterprise more than an educational facility.

10. PRINCIPLE OF DEVELOPMENT

- 10.1 Currently the Council's statutory Development Plan consists of the Adopted Local Plan 2013-2033. The application site is located outside a defined development boundary (village envelopment or town development boundary) and therefore lies within the countryside, wherein development will be strictly controlled to uses appropriate to the countryside, in order to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside.
- 10.2 The submitted planning statement has referred to other policies in relation to rural enterprise (Policy LPP 7), tourism use within countryside (Policy LPP 8), education establishments (Policy LPP 60) and local community services and facilities (Policy LPP 61). However, due to the mixed-use of the centre, the proposed development does not fit entirely into any of these policies.
- 10.3 The proposal is to replace the existing centre by providing a tailor-made education and visitor centre within the nature reserve and to revert the outbuilding within the curtilage of the Grade II Listed building to be ancillary of the host residential use. It would allow for the expansion of the existing educational and leisure uses through a well-designed new building whilst respecting the countryside character, which is generally in line with Paragraph 84a) and 84c) of the NPPF. The scheme would allow and enhance the general public to appreciate the intrinsic character and beauty of the LWS. The principle of development is therefore generally supported.

## 11. SITE ASSESSMENT

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

- 11.1.1 The proposed single storey building would be set back behind the mature trees on site. The proposed parking and turning space would also be set back from the main vehicular entrance along Henny Street. This limits the visual impact of the development from the public realm.
- 11.1.2 The footprint and building bulk of the proposed development have been reduced following previous pre-application discussions with the Local Planning Authority. The scale, development intensity and layout as currently proposed are appropriate to the nature of uses and to the wider LWS as a whole.
- 11.1.3 The scheme has also incorporated sustainable design to make good use of natural lighting/daylight, triple glazing to avoid heat loss, smart switching, rainwater harvesting for toilet flushing and irrigation, as well as application of renewable energy such as the use of LED lighting, an insulated thermal store utilising solar power for hot water, and an air source heat pump.
- 11.1.4 Compatible materials including wood cedar single roof, timber cladding and lime rendered straw bale walls have been chosen to reduce the overall building bulk and its impacts on the immediate setting. The appearance of the development is considered acceptable and light spillage would be restricted by the opening hours.

### 11.2 Heritage

- 11.2.1 The ECC Historic Buildings Consultant has been consulted upon the application and raises no objection subject to conditions on landscaping, hardstanding, and boundary treatment.
- 11.2.2 Daws Hall is a Grade II Listed building, dating to the sixteenth century with an eighteenth century addition. The timber-framed outbuilding currently used as the education centre is within the curtilage and immediate setting of the Listed building.
- 11.2.3 The location of the new education centre is separated from Daws Hall and its curtilage by a meadow, mature trees and foliage and there is no intervisibility between the application site and the Listed Building. At no point would the new building be seen in the same context or view as the Listed Building within its setting. The scheme proposes the creation of a hedge boundary across the meadow, to screen off the access route and carpark for the new centre, from the Listed Building.
- 11.2.4 With regard to the impact of the scheme in terms of traffic and parked vehicles, there would be a reduction of traffic and parking adjacent to and in the immediate setting of the Listed Building. Visitor traffic and parking

generated by the education centre would therefore be moved away from the Listed Building and out of sight, which would be beneficial.

- 11.2.5 The proposed scheme would not have a detrimental impact on the Listed Building and whilst the proposal represents a change to its setting, this is not a harmful change. The proposed materials for the new centre are also considered appropriate.

### 11.3 Landscaping

- 11.3.1 The Applicant has submitted an Arboricultural Impact Assessment and Preliminary Method Statements (prepared by Tree Planning Solutions, dated 18 February 2022). No healthy trees would be removed as a result of the development. Some crown lifting, pruning and crown clearance are also proposed for a small amount of trees to improve the parking situation. The proposed tree works will not harm the health of these trees nor affect the visual amenity, which are justified.

- 11.3.2 The Council's Landscape Team has no objection to the submission and requests conditions to secure the tree protection measures and no dig construction for the driveway and that all relevant works are signed off and reported by an Arboricultural Consultant to the agreed by the Local Planning Authority.

### 11.4 Ecology

- 11.4.1 The Council's Ecological Officer has reviewed the submitted Low Impact Ecology Impact Assessment (prepared by Hybrid Ecology, August 2021) and the Ecological Consultants Letter dated 11 August 2022. There is no objection subject to securing the ecological measures via conditions, should approval be given.

### 11.5 Highway Considerations

- 11.5.1 According to the Essex Parking Standards (2009), for non-residential Education and Training Centres like art galleries, museums, public/exhibition hall, a requirement of 1 parking space per 25m<sup>2</sup>, 1 cycle space per 4 staff and visitor parking and 3 accessible parking bays for disabled persons would be required.

- 11.5.2 The application form states that there will be 4 full-time staff. The majority of the visits are for primary schools, A-level class and home school groups, which accounts for 79 days out of the projected annual count of 95. The centre would be able to accommodate school groups of up to 60 pupils at a time, which will be likely to travel by 1 coach or 2 mini-buses. There would be only 1 school/group visiting on the same day and therefore the Applicant has explained that there will be no overlapping of coach or mini-buses for different school groups on the same day.

- 11.5.3 Additional open days during January and February for the Snowdrops within the wider ground of the Trust and other community/photography workshops will be provided throughout the year. Most of the visitor activities would finish by 5pm.
- 11.5.4 Following revisions, 13 standard parking bays, 3 accessible bays for disabled persons, 1 mini-bus parking and 1 coach parking space would be provided in front of the building. The parking provision is generally in line with the adopted requirement. The mini-bus and coach parking spaces would also act as the turning space to allow for these vehicles to exit the site in a forward gear.
- 11.5.5 The proposal would substantially improve the parking provision and terminate the current poor coach loading/unloading arrangement for school children. It would provide a safer way so that children are not required to walk along the narrow road. The proposed new vehicular access will provide a safer entrance and allow for adequate visibility splays for vehicles to enter and exit the education centre.
- 11.5.6 The ECC Highways and National Highways also have no objection to the scheme. In view of the lack of public transport serving the site and nearby train stations, it is accepted that Park and Ride option is impractical for school visitors. The flexible timing and nature of the open days will unlikely to result in a large influx of private cars at the same time.
- 11.5.7 Given that there is additional overflow car park within the ownership of the Applicant to the southeast (within the grounds of the Trust), and additional traffic management measures are proposed within the submitted Traffic Management Plan (Prepared by Journey Transport Planning, reference JTP 434, dated August 2021), it is considered that there would not be detrimental traffic impacts arising from the development.
- 11.6 Impact upon Neighbouring Residential Amenity
- 11.6.1 The proposed location of the building is not in close proximity to other residential properties. It is not considered that the proposal would give rise to any detrimental overlooking, overshadowing, overbearing impacts nor an unacceptable level of nuisance to local residents.
12. CONCLUSION
- 12.1 A brand new commercial building normally would not be permitted within the countryside and therefore the proposal conflicts with the Adopted Local Plan in this regard. However, the proposed development is for expansion of an existing charitable business and the majority of the activities are related to education and leisure purposes on site.
- 12.2 Although the site is located within a LWS, there is a defined functional link of this educational and leisure centre to allow for public appreciation of the intrinsic value of the countryside. No adverse harm has been identified as a

result of the development. The release of the outbuildings back to an ancillary use of the Listed Building and the separation of the parking arrangement from the Listed Building are also considered to be a benefit.

- 12.3 On balance, it is considered that the proposal would allow for the expansion of the existing educational and leisure uses through a well-designed new building whilst respecting the countryside character. It would also create economic and social benefits as well as delivering biodiversity net gain. Consequently, it is considered that these benefits represent other material considerations which provide a justification for granting planning permission in this case, contrary to the provisions of the Development Plan.

13. RECOMMENDATION

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

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

## APPENDIX 1:

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

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

<b>Plan Description</b>	<b>Plan Ref</b>	<b>Plan Version</b>
Visibility Splays	JTP 434 DR1	N/A
Proposed Site Plan	10	G
Proposed Floor Plan	11	G
Proposed Block Plan	13	E
Location Plan	01	A
Proposed Elevations	12	E

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

##### Condition 1

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

Reason: This Condition is imposed pursuant to Section 91 of the Town and Country Planning Act 1990 (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 shall commence until an Ecological Design Strategy (EDS) addressing the compensation of lowland meadow and hedgerow has been submitted to and approved in writing by the Local Planning Authority. The EDS shall include the following.

- a) Purpose and conservation objectives for the proposed works.
- b) Review of site potential and constraints.
- c) Detailed design(s) and/or working method(s) to achieve stated objectives.
- d) Extent and location/area of proposed works on appropriate scale maps and plans.
- e) Type and source of materials to be used where appropriate, e.g. native species of local provenance.
- f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
- g) Persons responsible for implementing the works.
- h) Details of initial aftercare and long-term maintenance.
- i) Details for monitoring and remedial measures.
- j) Details for disposal of any wastes arising from works.

The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species).

#### Condition 4

The development shall only be implemented in accordance with the approved Arboricultural Report and associated Tree Protection Plan, undertaken by Tree Planning Solutions, dated 18 February 2022. The approved means of protection shall be installed prior to the commencement of any building, engineering works or other activities on the site and shall remain in place until after the completion of the development to the complete satisfaction of the Local Planning Authority.

Following each site inspection during the construction period the Project Arboricultural Consultant shall submit a short report to the Local Planning Authority.

The Local Planning Authority shall be notified in writing at least 21 days prior to the commencement of development on site.

Reason: To ensure the protection and retention of existing/remaining trees, shrubs and hedges. These details are required prior to the commencement of the development as they relate to measures that need to be put in place prior to development commencing.

#### Condition 5

Prior to commencement of the development hereby approved, details of all hard and soft landscaping, boundary treatment, gates/fences/walls or other means of enclosure shall be submitted to and approved in writing by the Local Planning Authority.

The scheme shall incorporate a detailed specification including plant/tree types and sizes, plant numbers and distances, soil specification, seeding and turfing treatment where appropriate. A watering and maintenance regime shall be provided. The landscaping scheme shall be carried out in accordance with the approved details. The approved landscaping scheme shall be carried out during the first available planting season after the commencement of the development.

Any trees or plants which die, are removed or become seriously damaged, or diseased within a period of five years from the completion of the development shall be replaced in the next planting season with others of a similar size and species.

All areas of hardstanding which do not form part of the adoptable highway shall be constructed using porous materials laid on a permeable base.

The details shall include position, design, height and materials of the enclosures. The enclosures as approved shall be carried out as approved and shall be permanently retained as such.

Reason: To ensure the development does not prejudice the architectural or historic merits of the nearby Listed Building, and in the interests of visual amenity.

#### Condition 6

Prior to beneficial use, a Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within Low Impact EclA (Hybrid Ecology, August 2021), shall be submitted to and approved in writing by the Local Planning Authority. The enhancement measures shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason: To enhance Protected and Priority Species and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

#### Condition 7

All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Low Impact EclA (Hybrid Ecology, August 2021), as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

Reason: To conserve and enhance Protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species).

#### Condition 8

No occupation of the development shall take place until the following have been provided or completed:

- a. The site access as shown in principle on planning application drawing JTP 434 DR1 'Access Junction and Visibility' with visibility splays of 2.4m x 43m to the north and 2.4m x 120m to the south. Such splays to be kept free of obstructions above 600mm at all times.
- b. No unbound material shall be used in the surface treatment of the vehicular access within 15 metres of the highway boundary.

Reason: To provide adequate inter-visibility between vehicles using the access and those in the existing public highway and to avoid the displacement of loose material onto the highway, in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.



#### Condition 9

The traffic and construction management measures contained within the submitted Traffic Management Plan (prepared by Journey Transport Planning, reference JTP 434, dated August 2021) shall be adhered to at all times.

Reason: To avoid on-street parking, inappropriate loading and unloading activities on the nearby narrow roads, in the interests of highway safety and traffic management.

#### Condition 10

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

Monday to Friday 0800 hours - 1800 hours

Saturday 0800 hours - 1300 hours

Sundays, Public and Bank Holidays - no work

Reason: In the interest of neighbouring residential amenity.

#### Informative(s)

##### Informative 1

The applicant is reminded that no burning of refuse, waste materials or vegetation shall be undertaken in connection with the site clearance or construction of the development.

##### Informative 2

The applicant should refer to the additional comments of Essex County Fire and Rescue Service (Protection) dated 17 June 2022.

##### Informative 3

The applicant should refer to the advice in relation to provision of private hydrants as detailed in the comments of Essex County Fire and Rescue Service (Water Services) dated 20 June 2022.

##### Informative 4

All works within of affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and satisfaction of the Highway Authority, details to be agreed before commencement of the works. An application for the necessary works should be made to [development.management@essexhighways.org](mailto:development.management@essexhighways.org).

##### Informative 5

No surface water should drain into highway.

#### Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the

proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission, in accordance with the presumption in favour of sustainable development, as set out in the National Planning Policy Framework.

## APPENDIX 2:

### POLICY CONSIDERATIONS

#### National Planning Guidance

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

#### Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP42	Sustainable Transport
LPP43	Parking Provision
LPP47	Built and Historic Environment
LPP52	Layout and Design of Development
LPP57	Heritage Assets and their Settings
LPP61	Local Community Services and Facilities
LPP64	Protected Sites
LPP65	Tree Protection
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP67	Landscape Character and Features
LPP70	Protecting and Enhancing Natural Resources, Minimising
LPP71	Climate Change
LPP72	Resource Efficiency, Energy Generation and Energy Efficiency
LPP74	Flooding Risk and Surface Water Drainage
LPP76	Sustainable Urban Drainage Systems
LPP77	External Lighting
	Pollution and Safeguarding from Hazards

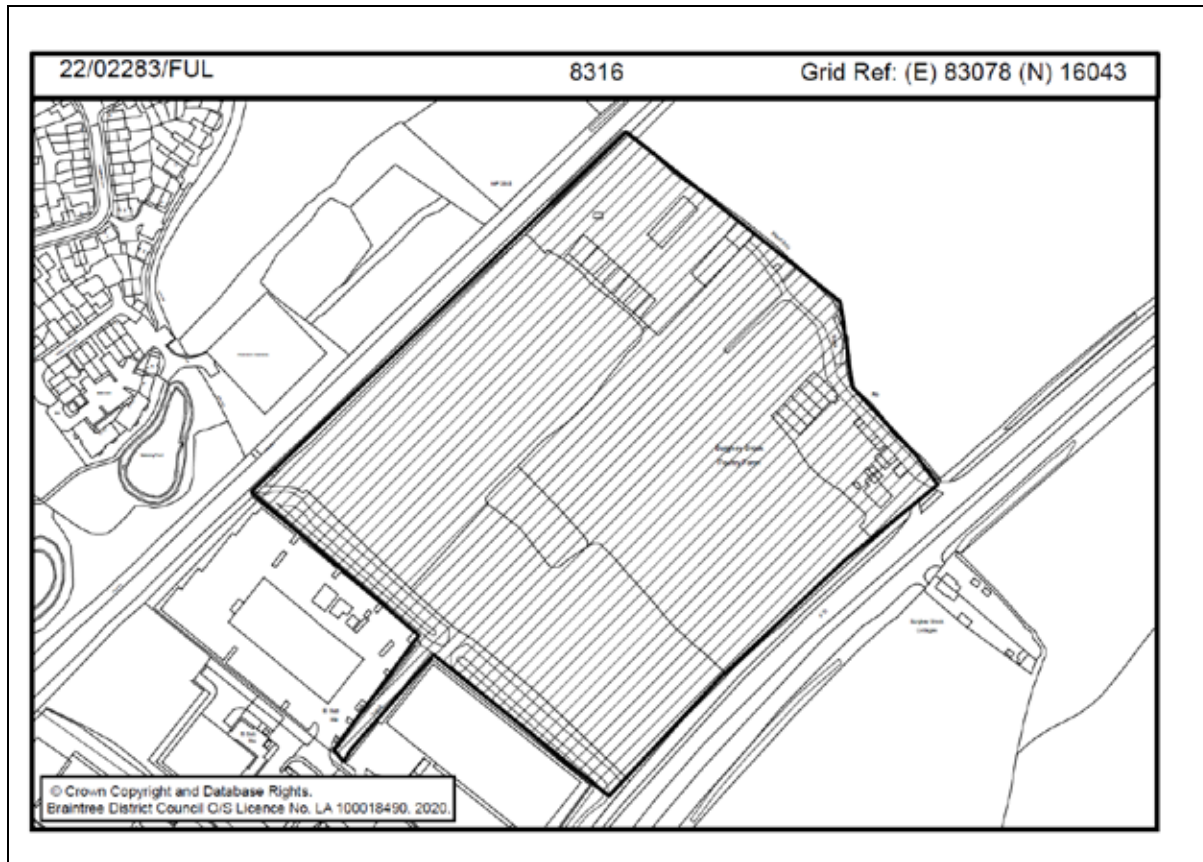
### APPENDIX 3:

#### SITE HISTORY

<b>Application No:</b>	<b>Description:</b>	<b>Decision:</b>	<b>Date:</b>
87/02157/P	Erection of sunroom.	Granted	20.04.88
85/091355/P	Provision of toilets for visitors.	Granted	17.01.86
90/01362/PFHN	Enlargement Of Existing Field Study Centre By Taking Over Existing Garage Erection Of Office Extension & Renewing	Granted	15.11.90
99/00520/LBC	Raise mantel beam to kitchen fireplace	Granted	23.06.99
08/01990/AGR	Proposed farm yard and storage building	Permission Required	08.12.08
08/02275/AGR	Erection of a storage barn	Permission not Required	19.01.09
15/00037/AGR	Prior Notification of Agricultural development - Erection of extension to storage barn	Permission not Required	05.02.15
19/01109/LBC	Erection of a commemorative blue plaque to the external wall of a listed building	Granted	14.08.19
20/01461/OHL	Installation of a new inline end pole to an existing overhead line.	Deemed Permitted	28.10.20

<b>Report to:</b> Planning Committee		
<b>Planning Committee Date:</b> 13th December 2022		
<b>For:</b> Decision		
<b>Key Decision:</b> No		<b>Decision Planner Ref No:</b> N/A
Application No:	22/02283/FUL	
Description:	Erection of two B8 (storage / distribution) units with office space and associated infrastructure.	
Location:	Land North Of Colchester Road Witham	
Applicant:	Tony Chambers (Aquila Estates LTD), 6a High Street, Chelmsford, CM1 1BE Simon Boulton (PFE), Foremost House, Waterside Business Park, Eastways, Witham, CM8 3PL	
Agent:	Mr Simon Garesse, Strutt And Parker, Coval Hall, Rainsford Road, Chelmsford, CM1 2QF	
Date Valid:	6th September 2022	
<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>	Mathew Wilde For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2512, or by e-mail: <a href="mailto:mathew.wilde@braintree.gov.uk">mathew.wilde@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: 22/02283/FUL.</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 allocated as an Employment Policy Area in the Adopted Local Plan (Ref: Rive362). It is located immediately to the north-east of the Eastways industrial Estate and is bounded by the A12 to the south, rail line to the north and arable land to the east. Topographically the site slopes down from the railway line to the A12.
- 1.2 The site benefits from two previous planning consents for B2/B8 use. The site was split up by these consents; Application Reference 21/00031/OUT covered the land predominantly by Burghley Brook Poultry farm and the A12, while Application Reference 20/00128/OUT predominantly covered the land adjacent to Eastways and the railway. Cumulatively these permissions allowed for a maximum of 32,185sq.m GIA across multiple buildings, with building maximum heights ranging from 15.5m to 20m.
- 1.3 This current application proposes two Use Class B8 (storage/distribution) buildings with associated office space across the entire site (combining both red line sites of the previous applications). The cumulative Gross Internal Area would be 25,854.75sq.m for both buildings, while the heights to the canopy of the buildings would be between approximately 13-14m. The scale of the two buildings proposed would therefore be significant, particularly comparatively to the existing development on Eastways.
- 1.4 The development would necessitate the removal of nearly all existing trees and hedges at the site (approx. 50-60), including a category A Oak tree. Their removal in this case would amount to a degree of harm to the character, amenity and landscape quality of the area. None of these trees in question are subject to a Tree Preservation Order. Attempts were made to amend the scheme to retain the Category A Oak tree, but this was not possible within the parameters of the buildings and built footprints sought by the developer for their required commercial needs.
- 1.5 The development seeks to mitigate the loss of trees by proposing new high density landscape planting on site, with an irrigation strategy to help secure the longevity of the planting. The extent of the proposed landscaping is limited by the available planting space on the site and a limited landscape buffer is proposed to partially mitigate the wider impacts of the development.
- 1.6 Following completion of the A12 widening scheme by National Highways, the developer would seek to extend their service yard and introduce a new boundary feature to the new A12 boundary. The developer also seeks to provide the principle of a cycleway/footway connection to the new A12, however this would be subject to a future agreement with National highways.
- 1.7 The development also seeks to provide 10% biodiversity net gain. In order to do so it would be necessary to secure land off site for an approximately 30 year period for biodiversity enhancement purposes.

- 1.8 The development would lead to additional vehicular movements, however these would be less than the two previous consented developments at the site (Application References 21/00031/OUT and 20/00128/OUT). Parking would be provided in accordance with the parking standards, including electric vehicle charging.
- 1.9 No detrimental impacts in relation to noise or air quality are envisaged with an appropriate condition to control any plant that is erected on the building.
- 1.10 The development is seeking BREEAM compliance for the external shell of the buildings as well as a number of other sustainability measures including ground source heat pumps and solar panels. The development is considered to have good sustainability credentials. The SuDS scheme at the site would utilise underground storage tanks for water storage.
- 1.11 Overall in the planning balance, the harms of the development are not considered to outweigh the benefits. It is therefore recommended that planning permission is granted subject to the following summarised Heads of Terms:
- Open Space – Financial contribution of £109,867.17.
  - Travel Plan monitoring fee - £6,383.
  - The provision of a cycleway/footway scheme defining a link through the Site from Eastways to the proposed new A12 cycleway/footway.
  - Biodiversity net gain off-site.

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 totality of the site measures 6.8ha. The site is allocated as an Employment Policy Area in the Adopted Local Plan (Ref: Rive362). It is located immediately to the north-east of the Eastways Industrial Estate and is bounded by the A12 to the south, rail line to the north and arable land to the east. There are no heritage assets near to the site. Beyond the immediate site boundaries, on the opposite side of the railway to the north is the recent Forest Road development and Rivenhall Oaks golf centre, while to the south of the A12 there is a mineral extraction site. Further to the east of the site is Rivenhall End.
- 5.2 Topographically the site slopes down from the railway line to the A12. The change in level is approximately 7m with an average gradient of 1 in 36 (for every 36m the level changes by 1m). Part of the site behind the Lancaster Body Shop on Eastways is in a ECC designated critical drainage area (as is most of Eastways). The site is also in an identified mineral safeguarding area.
- 5.3 The site contains a number of established trees and hedgerows along the site boundaries but also within the site itself, separating out the two distinct but unusually shaped, land parcels. The first land parcel comprises land which relates to Burghley Brook Poultry Farm. This parcel is to the north and east of the site (adjacent to arable fields in the direction of Rivenhall End and the A12), which as the name suggests has been used in a farming capacity, but also as arable land in part. This part of the site benefits from an outline planning permission (Application reference 21/00031/OUT) for the demolition of the existing farm and the erection of Use Class B8 Industrial units.
- 5.4 The other land parcel to the south and west (which adjoins the existing industrial estate and railway) is understood to be owned by the PFE building owners on Eastways. The land may historically have had some arable use but is currently unused other than for the grazing of some animals. This land also benefits from an outline planning permission

(Application reference 20/00128/OUT) for the erection of Use Class B8 Industrial units.

- 5.5 This current application seeks to combine both of these land parcels for a more comprehensive scheme.
- 5.6 In terms of general background, it should be noted that PFE are one of the two applicants for this development; they already occupy a building (Foremost House) on Eastways and are looking to relocate to a larger proposed building in order to expand and continue their operations within Braintree District without having to re-locate elsewhere. The building PFE are seeking approval for is the proposed smaller, northern building. Aquila are the other applicants on this project, they are a property investment company and have designed their larger southern proposed building specifically for a client who is understood to want to locate their new headquarters in Witham.

## 6. PROPOSAL

- 6.1 This application seeks full planning permission to erect two Use Class B8 (storage/distribution) buildings with associated office space. The site would be split into two; a smaller building with an external footprint of approximately 10,081sq.m would be on the northern aspect of the site adjacent to the railway, and a larger building with an external footprint of approximately 13,280sq.m would be on the southern aspect adjacent to the A12.
- 6.2 Each building also contains a small office in the form of a three storey block on the southern elevation of the northern smaller building, and a two storey office block on the western side elevation of the larger southern building. In total, in terms of gross internal floorspace for both buildings, this would amount to 25,854.75sq.m. By way of comparison to the previous two outline planning application consents, Application Reference 21/00031/OUT approved no more than 16,715sq.m of cumulative floorspace, while Application Reference 20/00128/OUT approved no more than 15,470sq.m cumulative gross internal floor space (a total of 32,185sq.m across multiple buildings).
- 6.3 A central access spine road would be created that would run across the site between the two proposed buildings. The spine road serves access roads which run along the site boundaries to the east and west, which serve as access points into the service yards into the respective buildings. It is understood the access roads have been configured in this way to navigate the change in levels at the site without requiring significant earth works. It should be noted however that retaining walls would be required.
- 6.4 Each building would also contain its own parking area for employees; the smaller northern building would have its car park adjacent to the estate road, in a long sequence of parking bays. The larger southern building

would have its parking area at the rear of the building in a smaller configuration.

- 6.5 Land at the very south of the site is also required to be set aside for National Highways with reference to the proposed A12 widening works. Once these works are complete, it is understood that the land will be returned to the applicant with the intention of creating a larger service yard area.
- 6.6 The proposal would necessitate the removal of nearly all existing trees and hedges at the site (approx. 50-60), including a category A Oak tree. None of these trees are subject to a Tree Preservation Order. The application however proposes to mitigate this loss as far as is possible by proposing new trees and hedges along the site boundaries, as well as some within the car parking areas.
- 6.7 The buildings are designed as large commercial B8 type structures with more contemporary office space attached. In terms of scale, the northern PFE building would have a total height of 13.17m to the top of the canopy, but would include a parapet on the top which would reach 15.75m in height. The southern Aquilla building would have a height of 13.75m to the top of the canopy. Internally, both buildings would have 12m clear height to the underside of the roof. These heights would align/be very close to the maximum heights previously agreed through Application References 21/00031/OUT and 20/00128/OUT. The development is also seeking BREEAM compliance for the external shell of the buildings, to hit sustainability credentials.

## 7. SUMMARY OF CONSULTATION RESPONSES

### 7.1 Anglian Water

- 7.1.1 No objection. Witham Recycling Centre will have capacity for the flows. Request condition for a detailed drainage strategy.

### 7.2 Cadent Gas

- 7.2.1 Cadent Gas initially raised a holding objection due to the sites proximity to one of their assets. Following a review of the information, and discussions with the developer, Cadent Gas removed their holding objection. Cadent Gas however advised that the development must comply with strict criteria in terms of the build stage to avoid affecting their pipeline and recommended that the developer consult with the Health and Safety Executive.

### 7.3 Essex Fire and Rescue

- 7.3.1 Did not raise any concerns with regard to fire safety and access.

#### 7.4 Health and Safety Executive

- 7.4.1 Completing the HSE checklist, the advice received was that they do not advise against the grant of planning permission.

#### 7.5 National Highways

- 7.5.1 Initially recommended that the application not be determined until a specific date while they reviewed the submitted transport information. Following an initial review, National Highways requested amendments to the Transport Assessment, which were subsequently completed by the applicants.
- 7.5.2 Having reviewed the updated information, National Highways raised no objection to the development.

#### 7.6 Network Rail

- 7.6.1 Did not raise an objection, but raised a number of points with regard to the potential impact of the development on their assets, including some criteria which the developer needs to comply with. The developer has since reviewed the criteria and completed a response setting out how the development would not be in breach of Network Rail's requirements.

#### 7.7 UK Power Networks

- 7.7.1 No response received.

#### 7.8 BDC Ecology

- 7.8.1 Initially made a holding objection due to insufficient ecological information. Additional information was submitted and the Ecology Officer raised no objection subject to a number of conditions.
- 7.8.2 The Ecology Officer also accepted in principle the provision of biodiversity enhancements off-site, as these could not be provided on site. However the Ecology Officer suggested that further discussions were required prior to determination to see what land was available. At the time of writing these discussions are ongoing, but the principle of off-site BNG provision is accepted and an update will be provided to Members at Planning Committee.

#### 7.9 BDC Environmental Health

- 7.9.1 No objection to the development subject to conditions regarding plant noise and noise from the development exceeding background levels. Other standard conditions requested regarding construction hours, no burning and no piling.

7.10 BDC Landscape Services

- 7.10.1 Did not raise an in principle objection to the proposed loss of existing trees and hedges on the site, commenting that none are subject to a preservation order.
- 7.10.2 Raised some concerns more broadly with the overdevelopment of the site which would necessitate the removal of the trees.
- 7.10.3 The Landscape Officer suggested some species amendments to trees and hedges to ensure that robust species were put in that would be more likely to survive harsher commercial environments. Also requested that an irrigation strategy be provided to help ensure that the proposed planting was sufficiently watered. These changes were made and an irrigation strategy provided.

7.11 BDC Waste Services

- 7.11.1 Raised no objection to the refuse arrangements proposed, commenting that they appear sufficient.

7.12 ECC Archaeology

- 7.12.1 No objection subject to appropriate archaeological conditions prior to the commencement of works at the site.

7.13 ECC Highways

- 7.13.1 Initially raised similar concerns to that of National Highways. However following receipt of additional information, Essex Highways raised no objection to the application, commenting that the trip rates would be less than the two previously consented schemes. They did however recommend a number of conditions including a Travel Plan.

7.14 ECC Minerals and Waste

- 7.14.1 Initially suggested that a MCA assessment was required as the site is located within 200m of an active quarry. However, it transpired that because the site was allocated in the Adopted Local Plan, no MCA was necessary. As such, ECC Minerals and Waste raised no objection.

7.15 ECC SuDS

- 7.15.1 Raised no objection to the development subject to securing a number of conditions relating to a surface water drainage scheme, a scheme to minimise the risk of surface water run-off, maintenance arrangements and a yearly maintenance log.

## 8. PARISH / TOWN COUNCIL

### 8.1 Witham Town Council

- 8.1.1 Recommended approval of the application subject to noise mitigation.

## 9. REPRESENTATIONS

- 9.1 7 representations of objection have been received and one general comment, setting out the following summarised concerns/comments:
- a) Welcome that new businesses are to locate at Eastways.
  - b) Concerns about more HGVs and the impact on traffic – lorries parked on side of the road already cause significant issues.
  - c) Likely increase wait times to leave the industrial estate which are already very long at peak times.
  - d) Existing Eastways access not wide enough for two HGVs to enter/exit at the same time safely.
  - e) Consideration should be given to an A12 access to the site.
  - f) Noise impact from the development on residential properties on the opposite side of the railway – worsened by proximity of building to railway line and reflective nature of sound.
  - g) Significantly larger than existing Eastways buildings – out of character.
  - h) Significant visual impact on properties in Rivenhall End and on the opposite side of the railway.
  - i) Loss of existing visual screen which was planted some time ago to mitigate against current buildings.
  - j) Lack of landscaping on the development.
  - k) Lighting issues and overspill.

## 10. PRINCIPLE OF DEVELOPMENT

### 10.1 National Planning Policy Framework (NPPF) 2021

- 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.

## 10.2 The Development Plan

- 10.2.1 Currently the Council's statutory Development Plan consists of the Adopted Local Plan 2013-2033. Policy SP5 of the Adopted Local Plan sets out that Braintree is required to allocate land for employment purposes to meet the growing demand in the District.

- 10.2.2 The site is allocated as an Employment Policy Area (Ref: Rive362) by Policy LLP2 of the Adopted Local Plan. Policy LPP3 of the Adopted Local Plan states inter alia that office (Use class Eg) and storage and distribution (Use Class B8) are permitted uses within designated employment policy areas.

- 10.2.3 The current application proposal seeks to erect two B8 Storage and Distribution buildings, with associated office space. As such, it is considered that the development would accord with the Adopted Development Plan in principle. Furthermore, there are two extant planning consents on the site which establish the principle of B8 Storage and Distribution use. The principle of development is therefore acceptable.

- 10.2.4 The proposal would still however require assessment against other national and local plan policies in the overall planning balance to determine whether it is acceptable or not. This assessment is carried out in the remainder of the report.

## 11. SITE ASSESSMENT

### 11.1 History & Proposal Overview

- 11.1.1 The site benefits from two previous extant planning consents (Application Reference 21/00031/OUT and 20/00128/OUT) which were considered at Planning Committee on 28/09/2021 and 09/11/2021 respectively. These applications were outline applications, meaning that the details of layout, scale, appearance, and landscaping had not been submitted for approval. Instead, they sought to achieve maximum built parameters at the site, as well as a maximum total floor space.

- 11.1.2 The site was split into its respective red line parcels; Application Reference 21/00031/OUT covered the land predominantly by Burghley Brook Poultry Farm and the A12, while Application Reference 20/00128/OUT

predominantly covered the land adjacent to Eastways and the railway. The parameters for both applications together showed that the site would be able to accommodate four buildings in total; two in each northern and southern part of the site. Each application would have used an internal spine road that was a commonality between both consents utilising a new access through Eastways. The current application by contrast has the red line around the entire site, encapsulating both of the red lines of Application References 21/00031/OUT and 20/00128/OUT.

- 11.1.3 Application Reference 21/00031/OUT approved no more than 16,715sq.m of cumulative floorspace, while Application Reference 20/00128/OUT approved no more than 15,470sq.m cumulative gross internal floor space (a total of 32,185sq.m across multiple buildings and sites). By comparison, this application proposes a total amount of floor space of 25,854.75sq.m across the two buildings on the site.
- 11.1.4 Application Reference 21/00031/OUT also approved maximum heights to ridge for the two areas it covered; these were 16.5m adjacent to the A12, and 15.5m adjacent to the railway. For Application Reference 20/00128/OUT, the maximum ridge heights were similar, adjacent to the railway the height maximum was 43 AOD, which translates to approximately 16.5-20m depending on the land level, while adjacent to the A12 and Eastways this was 37 AOD, translating approximately 15m to ridge. The current proposal is that the northern PFE building would have a total height of 13.17m to the top of the canopy, but would include a parapet on the top which would reach 15.75m high. The southern Aquilla building would have a height of 13.75m to the top of the canopy. Therefore to the ridge height (canopy), the proposed development would be close to, but ultimately below, the previously agreed maximum ridge heights.
- 11.1.5 However, the parapet to the proposed PFE building would be slightly higher by 0.25m than the maximum ridge height for the smaller building adjacent to the railway for Application Reference 21/00031/OUT. The marginal increase height of the parapet is therefore a material consideration.
- 11.1.6 The previous consents (Application References 21/00031/OUT and 20/00128/OUT) both sought to retain as many natural features and boundaries as possible on the site, including a Category A Oak Tree (approximately in the middle of the site). It is unclear however exactly how many of the trees / hedges would have remained once those proposals had got to the detailed Reserved Matters stage but the principle of vegetation retention where possible was established.
- 11.1.7 By comparison, this current application would seek to develop the whole site comprehensively. In doing so, it facilitates two larger buildings to be contained on the site with large service yards. The development of the site in this way would however necessitate the removal of the majority of existing trees and hedgerows at the site, including the Category A Oak Tree.

- 11.1.8 Application Reference 21/00031/OUT also had to grapple with the issue of the A12 widening works; which necessitated the removal of part of the Applicants site adjacent to the A12 for land to be utilised by National Highways for a temporary period while the A12 widening scheme was underway. This requirement is carried over in this current application.
- 11.1.9 Overall, this current application must, to a degree have regard to the two previous planning consents when assessing the overall merits of the proposals although each application must ultimately be considered on its own merits.
- 11.2 Design, Appearance, Scale & Landscaping
- 11.2.1 Paragraph 126 of the NPPF sets out that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. It then goes on to cite good design as a 'key aspect of sustainable development'.
- 11.2.2 Paragraph 130 of the NPPF details that planning policies and decisions should ensure that developments function well and add to the overall quality of the area not just for the short term but over the lifetime of the development. It sets out inter alia that:
- a) Developments need to be visually attractive as a result of good architecture layout and appropriate and effective landscaping;
  - b) Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
  - c) Are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
  - d) Establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
  - e) Optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
  - f) Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 11.2.3 Paragraph 131 of the NPPF states that trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure

the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible.

- 11.2.4 Paragraph 134 states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. However, it sets out that significant weight should be given to: a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes; and/or b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.
- 11.2.5 The above principles have more recently been elaborated upon within the National Design Guide (NDG) with a shift in emphasis towards the promotion of beauty. Paragraph 1 of the NDG explains that well-designed places influence the quality of our experiences as occupants or users but also as passers-by and visitors. Paragraph 4 of the NDG establishes that the long-standing, fundamental principles of good design are that it is; fit for purpose; durable; and brings delight.
- 11.2.6 Policy SP7 of the Adopted Local Plan states that all new development must meet high standards of urban and architectural design and where applicable should follow its place shaping principles, including inter alia responding positively to local character and context to preserve and enhance the quality of existing places and their environs, the enhancement of the public realm through additional landscaping and integrated parking. Policies LPP47 and LPP52 of the Adopted Local Plan echo this, setting out that the Council will promote and secure a high standard of design and layout in all new development.
- 11.2.7 This application is a full planning application, meaning that all details have been submitted for consideration. This enables a detailed assessment of the specific merits of the application with relation to appearance, scale, layout and landscaping. This section of the Report will cover these different matters with access being covered later in the report. The arboricultural / amenity impact of the loss of existing trees and hedges is discussed in detail in the Arboriculture and Ecology section of the report.

### **Layout and Landscaping**

- 11.2.8 In terms of layout, the development seeks to split the site into two halves; the proposed smaller storage/distribution building to the north intending to serve PFE LTD, and the proposed larger southern building, intended for a specific end user, which would be owned by Aquilla LTD. The northern PFE building would sit centrally on the site and have a service yard on either side, with its parking and office located adjacent to the spine road at the

front. The southern Aquilla building would have the building itself located adjacent to the proposed spine road, with parking located at the side and part of the rear, with its service yard adjacent to the A12. Its office space would be located at the side of the building. In terms of landscaping, this is primarily limited to the eastern site boundary and includes trees and hedges. The other areas of landscaping are significantly smaller, consisting of small hedgerows, trees (often in tree pits in car parking areas) and grassland. It is understood that the landscaping at the southern part of the site would come forward at a later date after the completion of the A12 widening works. Landscaping and layout are interlinked because they directly impact on one another; the larger the built footprint, the less landscaping which can be secured.

- 11.2.9 In this case, the footprint of the northern PFE building would measure approximately 132m by 73m (this extends to 81m including the office space), with its respective side service yards measuring approximately 60m in width on each side. This means that the proposed built footprint of the northern part of the site extends approximately 252m across (not including the side access roads which are approx. 4.5m wide each, which if included would make the built footprint total 261m across), whereas the red line site boundary is only approximately 285m wide (east-west) in this location. As such, the space remaining for landscaping on either side would be limited. The development also leaves an approximate 10m gap to the railway (to the north) with an approximate 4m area for landscaping. This area of landscaping is however limited to grassland and hedge only, largely due to restrictions relating to proximity to the railway line. As such, while the northern PFE building is the smaller of the two buildings proposed, its large service yards limit the opportunities for landscaping to be secured within the site and on the site boundaries.
- 11.2.10 The footprint of the southern Aquilla building would span approximately 214m by 54m (including the office space), while the proposed car parking spans between approximately 13m and 19m either side of the building, so a total built form width (east-west) of 246m (excluding the side access roads which are approximately 6.5m each, which if included increases this total to 252m). The proposed service yard at the rear would project all the way to the A12 boundary. In terms of the east-west width of the site itself in this location, it is approximately 260m to 290m, as the eastern boundary tucks in towards the site by the existing Oak Trees on the neighbouring land. As such, on the west side, excluding the access road and cycle route, this would leave a 2m landscape buffer to the existing PFE building on Eastways, and a more substantial 7m-15m landscape buffer on the eastern side towards Rivenhall. The landscape buffer on the edge of this building is therefore larger to the east although is limited comparatively to the size of building and built form which is sought.
- 11.2.11 The service yard at the rear of the Aquilla building would also run to the southern boundary of the site (with the A12). Initially the service yard would be limited in its extent as it would be constrained by the land required for the A12 widening project. Once this project is completed, it is proposed that

the land (hatched on the landscape plan) is used to extend the service yard. There would then be a small amount of space to the edge of the red line boundary at certain points to facilitate some additional trees and hedges, although these details would need to come forward for approval once the impact of the A12 works have been assessed. A fence is also proposed along this boundary labelled as a living wall. It is proposed that the detail of these works post completion of the A12 widening scheme can come forward by way of a phased set of conditions.

- 11.2.12 Overall, due to the significant built form proposed on this site, it is considered that the development would leave limited space to create a meaningful landscape buffer on the site edges. This means that the buildings and service yards would only be partially mitigated from wider views from the existing A12, Railway and from the east towards Rivenhall. It should be noted however that if the A12 widening works go ahead as proposed, the new A12 carriageway would actually veer away from the site. The site itself would then instead be adjacent to a raised roundabout associated with a new junction from the A12. As such, it is likely that the site will not be overly visible from the new A12 carriageway where most of the traffic would be, lessening the impact of the development on this side once built.
- 11.2.13 It is therefore considered that in terms of layout and landscaping, there would be a degree of landscape harm arising from the development given the layouts relatively limited capacity to accommodate substantial landscape buffering. This harm must be weighed in the overall planning balance.
- 11.2.14 Owing to the limited space available, and the large scale of these buildings (which is discussed more in the 'scale' section), the submitted landscape scheme relies heavily on high density planting, using larger tree stock across the site to try and provide as much visual mitigation as possible. Larger tree stock is however notoriously hard to establish without sufficient maintenance and watering. Indeed, when assessing the landscaping scheme, the Landscape Officer raised concerns about the long term viability of the proposed landscaping without a suitable watering/maintenance strategy in place.
- 11.2.15 In order to address these concerns, the developer sought to include an irrigation strategy as part of the application, which would use rainwater capture from the roofs of the new buildings to store water in tanks, which would then be piped to the new trees on the development. The Council's Landscape Officer subsequently reviewed the irrigation strategy and considered it would help to guarantee some level of mitigation for the loss of the established vegetation cover, although suggested in periods of extended drought that the scheme would be less effective. Overall the proposed irrigation scheme was considered to be a positive.
- 11.2.16 In terms of landscaping within the site itself, the development does introduce trees, hedges and grassland in the remaining spaces. This

includes two new Oak Trees (or similar) at the front of the site to compensate for the loss of the existing category A Oak Tree, as well as a one sided tree lined avenue on the main road, some trees in car parks in tree pits, new hedging and ecological grassland. Additional trees were also added into the PFE car park during the application process. The extent of built development proposed does limit the opportunities for more trees and hedges to be located within the site and the amount of planting achieved is therefore a factor to be weighed in the planning balance.

- 11.2.17 In consultation with the Landscape Officer, it was also decided that hardier tree/hedge species should be introduced. This would assist in ensuring the future longevity of the trees, both in terms of periods of drought but also the harsher commercial environment that the trees and hedges would be subject to. As such, tree species in the car parking areas were updated to a non-sap lime, which is a hardier tree than the 'liquidamber' tree previously sought, and the species of hedges have also been updated to provide a hardier variety (Holly and Hornbeam) which has a better chance of surviving than hornbeam on its own.
- 11.2.18 The development also proposes a 'living wall' which would form the new edge of the development with the new A12. The living wall would likely consist of trellis (or similar) at 2.4m above the height of the service yard (likely 4+m from the ground level on the A12 side), with green netting and climbing plants, in order to assist in mitigating against the visual impact of the service yard for the new Aquilla building. However, the living wall would be unimplemented until such time that the A12 works are complete, and the land safeguarded for National Highways returned to the developer. As such, a condition would be necessary to secure the future instillation of the living wall. This is proposed to form part of a set of phased conditions which secure the detail post completion of the A12 widening scheme. In any case, the complete establishment of this wall with climbing plants cannot be guaranteed, given that it will be adjacent to a harsh environment (the service yard for the large building). If successful it would add merit to the development in the long term, however given the uncertainties about whether it would establish, it is considered that it can only be attributed as a small benefit in the planning balance assessment.
- 11.2.19 The landscape proposals have been revised by the Applicant during the application proposal to respond to concerns raised by Officers and an irrigation strategy was submitted to support the establishment of the tree planting across the site. The Landscape Officer ultimately concluded that the effectiveness of the development would rely on the installation / implementation of the irrigation strategy within a suitable approved management and maintenance plan. Therefore, while the internal landscaping is still limited, it would provide some benefit to the development as a whole. It is also noted that the landscaping as proposed would be an improvement comparatively to the remainder of the existing Eastways industrial development, which is very much of its time with very limited landscaping.

- 11.2.20 Officers requested that the Applicant seek to revise the site layout to allow the retention of the Category A Oak Tree. However, this was not deemed to be possible due to the levels and constraints at the site. The levels change is approximately 7m across the site with an average gradient of 1 in 36 (for every 36m the level changes by 1m). This means that parts of the site need to be levelled out to provide effective logistical space. It has also necessitated the need for several retaining walls. This is illustrated in the sectional drawings, which show that the buildings and internal access road would step down at each stage from the railway to the A12 to accommodate for the change in levels at the site.
- 11.2.21 At the request of Officers the possibility of amending the development by moving the southern Aquilla building further south towards the A12 to effectively form the new boundary, while relocating its service yard to be adjacent to the proposed internal spine road (so essentially flipping the proposed arrangement around) was considered. This change would have also have improved the sites appearance from the A12 and possibly allowed for the retention of the Oak Tree (as it would not be located within the footprint of the building). However, because of the change in levels at the site, and the need to have a flat service yard, it is reported that the land would need to be raised by 700mm to retain the Oak Tree, which given the size of the service yard, would necessitate the need for 14,000m<sup>3</sup> of additional soil, which equates to approximately 15,500 additional truck loads. This therefore would not be viable economically nor would its environmental impact be acceptable.
- 11.2.22 Moreover, the developer reported that the service yard in this location would not be physically possible due to an insufficient depth of service yard (as the land required for A12 widening would limit how far south the building could go), and that for HGV's to navigate the level change at the top part of the site, it would sterilise a proportion of the building which is required by the Applicant. The current layout navigates around the levels issues for HGVs by having the service yard access roads on the edge of the development, which have been designed to provide a gentle gradient so that HGV's can safely use them to get to the service yards, accessed from the northern and southern extremes of the site.
- 11.2.23 Furthermore, it is understood that the finished floor levels for each building have been designed to require the minimum amount of soil importation/deportation required. For example, the access road would be relatively flat, until it meets the Aquilla building, which has a drop of 2.5m with a retaining structure to support the level change. The level of the service yard for the Aquilla building at the rear is also 1m lower than the building height to better reflect the lower ground level. This would necessitate the need for a dock leveller which would lift the cargo by 1m to the level of the building.
- 11.2.24 Overall, it was not possible to amend the development to retain the Oak Tree, without a significant change/reduction to the overall development,



which the developer could not undertake for the above reasons and because the units are being built to specific end user requirements.

### **Scale & Appearance**

- 11.2.25 Firstly in terms of scale, the northern PFE building would measure 132m in length, 71m in width to the shell of the storage part of the building, and 80m in width to the office space. The Office space itself would measure 75m in length by 16m in width (some of the floorspace is set back into the storage area). The southern Aquilla building would measure 205m in length, with a width of 63m. The office space is on the side of the building, which adds an additional 8m in length (so a total of 213m).
- 11.2.26 The proposed buildings would therefore facilitate 25,854.75sq.m of cumulative gross internal floorspace for Use Class B8 Storage and Distribution use, with associated office space. Approximately 12,232sq.m of floorspace would be attributed to the PFE building while approximately 13,542sq.m of floorspace would be attributed to the Aquilla building. The PFE building is smaller in overall footprint, however has a three story office area which adds to the overall floorspace so it is more comparable to the larger building.
- 11.2.27 In terms of height, the northern PFE building would have a total height of 13.17m to the top of the canopy, but would include a parapet on the top which would reach 15.75m high. The southern Aquilla building would have a height of 13.75m to the top of the canopy. These heights, taken as the top of the ridge, would be close or below the previous maximum heights secured via the extant consents (Application References 21/00031/OUT and 20/00128/OUT), albeit the parapet for the PFE building would be 0.25m higher than one of the two agreed maximums. Internally, both buildings would have 12m clear height to the underside of the roof truss. It is understood that the height of the buildings are required in this way due to the racking system which would be utilised for storage, which necessitates a higher floor to ceiling height internally.
- 11.2.28 In terms of appearance, the proposed buildings have a distinctive industrial character. The PFE building would be clad in half round horizontal panels in dark grey. The parapet above would be a horizontal profiled sheet in a light grey. This would span around the entirety of the building, with some protrusion to the emergency rear access doors. The developer argues that the building would be timeless in appearance, however the side and rear elevations are in Officers view relatively bland with little visual interest. Officers asked that this elevation was amended to add more visual interest, however the developer was not willing to do this. The side elevations are slightly better than the rear as they have the loading bays which assist in breaking up the mass of the building. The front of the PFE building by contrast is contemporary in appearance, a large canopy with extensive areas of glazing across three floors. The front elevation therefore appears significantly better than the rear elevation, appearing like the headquarters for the company to which it is intended to serve.

- 11.2.29 The southern Aquilla building initially had the same cladding design as the northern PFE building, but without the contemporary office space. This building is significantly larger, therefore the same monotonous design would only have been exacerbated comparatively to the PFE building. The long elevation would also have fronted onto the contemporary office space for the PFE building which would have given those future employees a very poor outlook. For this building, the developer responded to Officer concerns and subsequently introduced different cladding; it would comprise silver and three shades of grey with 1m deep and 5m wide panels, with breaks in the panels above the rear access doors. The office space would be less contemporary than its PFE counterpart, however would be clad in a green colour, to add further visual interest. Overall, while Officers would have liked to see perhaps additional colour variety, the buildings appearance has been significantly improved comparatively to what was initially submitted.
- 11.2.30 Overall in terms of the scale of the buildings, they are significant. Aside from the previously discussed layout and landscaping implications, the large scale of the buildings also has character implications. The existing character point of reference is the buildings on Eastways, which comprise a collection of industrial buildings very much of their time, albeit some have recently been improved visually. The proposed buildings as part of this application would be much larger than the existing buildings on Eastways. However despite their larger size, the proposed buildings would still be industrial/commercial in appearance. As such, it is considered that the development would still read as an extension to the business park, as opposed to an entirely separate entity. It is understood the buildings are larger as they reflect modern storage and logistical demands for space, which historically required smaller buildings.
- 11.2.31 To summarise this section, Officers consider that the proposed built form is significant, and the somewhat limited landscaping cannot completely mitigate the overall visual impact of these large scale buildings. This must be balanced against the sites location adjacent to an existing Industrial Estate and the site's allocation for the uses proposed by the Applicant. Overall, it is considered therefore that there would be a degree of harm arising from the development in terms of layout, landscaping, scale and appearance, which would need to be weighed against the benefits of the proposal in the overall planning balance.

### 11.3 Arboriculture & Ecology

- 11.3.1 Paragraph 174 of the NPPF is explicit that planning decisions should contribute to and enhance the local environment by minimising impacts on, and providing net gains for, biodiversity, whilst also recognising more generally the benefits of trees. Paragraph 131 of the NPPF also outlines the importance of trees in contributing towards local character and their role in mitigating against and adapting to climate change. This applies to the planting of new trees and the retention of existing trees.

- 11.3.2 Policy LPP65 of the Adopted Local Plan sets out that the Council will seek to protect established trees which contribute positively to their character and surroundings. It states that these trees will be retained unless there are good reason for removal. It also states that when considering the impact of development on good quality trees the Council will expect developers to reflect the best practice guidance set out in BS5837:2012 (as amended). The standard recommends that trees of higher quality are a material consideration in the development process.
- 11.3.3 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. Furthermore, it states that enhancement of biodiversity should be included in all proposals, commensurate with the scale of the development.

### **Arboricultural Impacts**

- 11.3.4 In terms of arboricultural impacts, the development in this case would require the removal of most of the vegetation on the site including 1 Category A (High Quality) Oak Tree, 16 Category B (Moderate Value) trees or groups and 31 Category C (Low Quality) trees or groups. The development therefore effectively seeks a blank canvass to develop the site. It should be noted that no trees on the site are subject to a preservation order, nor does the employment policy allocation for the site have specific regard to them.
- 11.3.5 The trees are predominantly in the middle of the site and sit on the field boundaries which previously formed the edge of development parcels for approved applications 21/00031/OUT and 20/00128/OUT. The Category A Oak Tree sits in the middle of the other groups of trees, and is described in the Arboricultural report as a *“large tree with veteran features, including cavities, deadwood and fungal fruiting bodies.”* This tree has been labelled as Category A as it is of high amenity value with an age of approximately 40 years.
- 11.3.6 Aside from the Category A Oak Tree and Category B trees adjacent to it, the other notable vegetation loss is the group of Category B trees which currently form the boundary planting to the existing Eastways development. This loss would be to facilitate the proposed cycle connection from the A12 to Eastways. It is understood that this group of trees were planted when Eastways was previously extended to provide visual mitigation on the eastern boundary. The Council’s Landscape Officer considered that these groups of trees have established well, and indeed are noted for their quality in the Arboricultural Impact Assessment provided by Underhill Tree Consultancy, which classify the group as Category B trees of mixed native stock with a useful contribution of 20+ years and good quality boundary planting. It should be noted however that the Arboricultural report prepared for the previous application (20/00128/OUT) by BRA 2018-19-01 considered this tree group to be Category A trees instead, with an estimated life expectancy of at least 40 years.

- 11.3.7 Having noticed the different classification between the Arboricultural reports on the different applications, Officers sought clarity from the developer. Following discussions, it is understood that the discrepancy is to be a difference in professional opinion. Underhill Tree Consultancy (the Arboricultural consultant as part of this application) considered that for these existing boundary trees adjacent to Eastways to become good quality specimens (Category A), it would require that they are managed with some thinning and selective removal to allow the better trees to flourish over the long term. In their current state, Underhill Tree Consultancy consider that the group is unmanaged and therefore has not been able to flourish in the way the British Standard guidance states would meet the criteria for Category A. Having reviewed the justification provided by Underhill Tree Consultancy, the Council's Landscape Officer considered that it is more likely that the trees would fall within Category B as opposed to Category A.
- 11.3.8 In any case, the proposed development would necessitate the removal of this group of trees and most other trees/hedges on the site. While no PROW exists through the site, the trees and hedges are currently visible from the railway and A12 boundaries. As such, owing to the number of trees which are Category A or B, their removal in this case would amount to a degree of harm to the character, amenity and landscape quality of the area. The Council's Landscape Officer raised concerns about the overdevelopment of the site, especially the need to remove the Category A Oak Tree, which as part of the previous application consents under Application References 21/00031/OUT and 20/00128/OUT was to be retained. The Landscape Officer did not however object in pure arboricultural terms to the loss of this tree or trees, only that the harm of their loss should be weighed against the public benefits of the proposal.
- 11.3.9 In order to address this loss, the proposed development seeks to provide new tree and hedge planting, as well as an irrigation scheme to provide greater assurances that the new planting will survive. The specifics of the proposed landscape scheme are discussed in the "Layout and Landscape" section above. The summary is that the replacement landscaping scheme would go some way to addressing the loss of trees at the site, but overall there would be harm by virtue of the loss of trees and hedges at the site which would need to be weighed against the public benefits of the proposed development in the overall planning balance.

### **Ecological impacts**

- 11.3.10 The loss of the trees, hedges and grassland at the site also have ecology implications. The application was supported by a Preliminary Ecological Appraisal, updated Biodiversity Net Gain Assessment and Ground Nesting Bird Check.
- 11.3.11 The Preliminary Ecological Appraisal (PEA) assessed the current baseline ecological conditions of the site, as well as the presence / likelihood of protected and non-protected species. It identified that there was a low

chance of amphibians on the site; that there was a low population of common lizard and slow worm on the site; that the trees providing nesting opportunities for birds and bats were found on the site boundary to forage and commute but were not found on the buildings on the site and no badgers were identified despite the presence of disused badger setts. Overall, the report concludes that the site in existing unmanaged condition is of low value at a local level for ecology. That said, the report makes several recommendations. The Council's Ecology Officer considered the findings and recommendations of the PEA and raised no objection to the development, subject to securing the ecological mitigation and enhancement measures. These include additional surveys close to construction, as well as conditions such as a wildlife friendly lighting scheme.

11.3.12 In terms of Biodiversity Net Gain, the development would result in a measurable loss of Biodiversity. This is because, based on the Defra Biodiversity Metric 3.1, it identifies that the development will result in a loss of 6.34 for habitat units (-52.32% compared to its current condition). The development would however deliver a biodiversity gain of 0.61 for river units (+58.1%) and a significant gain of 6.83 for hedgerow units (+182.3%), but the three habitat types are not equivalent and cannot be seen to offset one another.

11.3.13 "Habitat units" include trees, hedges and grassland, most of which would be lost as part of this development. The developer states that the on-site provision of biodiversity has been proposed as far as possible, however that to develop the site for employment purposes, it would not be possible to achieve full biodiversity net gain. The developer is therefore reviewing the possibility of making a payment in lieu towards an off-site enhancement project that would achieve a 10% Biodiversity Net Gain through the provision of 7.5 habitat units.

11.3.14 At the time of writing, the developer was still exploring options where the off-site biodiversity net gain could go. If a location is agreed, an update will be provided to Members prior to, or on, the day of Committee. Notwithstanding this, a condition has been recommended to tie in biodiversity net gain, as well as a S106 legal obligation for the long term safeguarding of the land for biodiversity enhancement purposes. A location for the biodiversity net gain would need to be agreed prior to the commencement of development.

#### 11.4 Highway Considerations

11.4.1 Where concerning the promotion of sustainable transport, the NPPF in Paragraph 105 states that the planning system should actively manage patterns of growth; and that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions and improve air quality and public health.

- 11.4.2 Paragraph 110 of the NPPF explains that when assessing specific applications for development, it is important to consider whether safe and suitable access to the site can be achieved for all users. Paragraph 111 of the NPPF does however state that development should only be prevented or refused on highway grounds, if there would be an unacceptable impact upon highway safety, or the residual cumulative impacts on the road network would be severe.
- 11.4.3 Policy LPP42 of the Adopted Local Plan requires that sustainable modes of transport should be facilitated through new developments to promote accessibility and integration into the wider community and existing networks. Policy LPP43 of the Adopted Local Plan requires that all new development is provided with sufficient vehicle parking spaces in accordance with Essex County Council's Vehicle Parking Standards (VPS).

### **Access & Vehicle Movements**

- 11.4.4 Focusing firstly on access, the site would gain pedestrian and vehicular access through the existing Eastways development. This would be created via a new estate road that would run alongside Foremost House and the Lancaster Bodyshop. The existing access to the A12 from Burghley Brook Poultry Farm would be blocked up as part of these proposals. This would be the same configuration as previously approved via Application References 21/00031/OUT and 20/00128/OUT. Essex Highways and National Highways raised no objection to the proposed access.
- 11.4.5 Focusing on additional traffic movements, this was raised in numerous representations received from existing business units on Eastways. It was reported in these responses that the existing junction with Colchester Road is already over capacity and during peak times it takes a significant amount of time to leave the estate. Vehicle movements were also initially a point of contention by Essex Highways and National Highways, as the methodology used to assess trip rates for this application was not comparable to that of the previously considered applications (Application References 21/00031/OUT and 20/00128/OUT).
- 11.4.6 The developer subsequently provided updated trip rates to compare the movements that would be associated with the previously consented development against the current proposed development. This data, using maximum B8 trip rates, showed that there would be 44 arrivals and 34 departures in the AM peak, and 27 arrivals and 48 departures in the PM peak. Compared to the previously consented schemes, this would be a net reduction of 37 vehicle movements during the AM peak (8-9am) and a net reduction of 32 movements in the PM peak (5-6pm). In terms of impacts, the Transport Assessment and Travel Plan conclude that the development would lead to a small increase in traffic on the local highway and transport network, however the impacts of this would not be detrimental for the purposes of highway safety or capacity. The Transport Assessment also concluded that the additional traffic generated by the proposals could be

accommodated at the existing Eastways junction with Colchester Road without having a severe impact on its operation.

- 11.4.7 Essex Highways and National Highways reviewed the additional information and raised no objection, commenting that the trip generation for this proposal is likely to be less than the developments consented under Application References 20/00128/OUT and 21/00031/OUT. As such, both highway bodies set out that the impact of the development on the highway network is unlikely to be severe. Therefore while local concerns are noted regarding additional vehicle movements which the development would generate, this harm would not be 'severe' which is the key test in the NPPF to justify refusing any planning application on highway impacts. The additional vehicle movements produced by the development should therefore be weighed in the overall planning balance.
- 11.4.8 However in considering the highway impact of the proposal, consideration must also be given to the site's location. In this case, the site is generally considered to be sustainably located, with the site being accessible by a range of sustainable transport modes including walking, cycling, and public transport. For example, Witham Train station, as well as bus stops providing regular services to and from larger centres, such as Colchester and Chelmsford, are within an acceptable, albeit at the upper limit, walking distance from the site at 2km. There are also two cycle routes within the locality of the site, the NCN Route 16 and the Blackwater Rail Trail. The site's sustainable location therefore weighs in favour of the proposal.

### **A12 works**

- 11.4.9 The A12 widening scheme (a Nationally Significant Infrastructure Project) is currently at the examination stage with the Planning Inspectorate. The scheme includes the widening of the A12 to three lanes from Marks Tey towards London, including where it passes Witham. In this case, as part of the A12 works, a portion of the site along the southern boundary has been identified as a non-development zone, as this land would be required for the delivery of the A12 project. Indeed, this land was included in previously approved application (Application Reference 21/00031/OUT) for the A12 works. It was also agreed that no development would take place on this land while the A12 works were carried out. Upon completion, the land could be utilised again by the developer. A condition was previously imposed on Application Reference 21/00031/OUT to secure details of how this land would come forward, following the completion of the A12 works.
- 11.4.10 As part of the current application, the requirement for the temporary land take is still apparent, and this is reflected in the submitted site plans. It is understood that the developer has been in constant contact with National Highways regarding the proposed works, with National Highways ultimately not objecting to the proposals, commenting that *"It is also noted that this application refers to the National Highways 'A12 Chelmsford to A120"*

*Widening Schemes' DCO order limits within their site plan and has made allowances for this."*

- 11.4.11 In this case, it is considered necessary to have several phased conditions which relate to the land required for the A12, so that details can be submitted for approval to the Local Planning Authority once the A12 works are complete. These details would include the site levels, proposed landscaping including the living wall, and any other details about the service yard. These conditions would be separate to the main set of conditions in the first phase, which is the development as proposed excluding the National Highways land.
- 11.4.12 If the A12 widening works go ahead, the site would be located away from the new A12 carriageway, and instead be adjacent to a feeder road / roundabout off of the A12. Overall, with an appropriate condition in place, given that National Highways have not objected, it is considered the proposals would not unduly prejudice the A12 widening scheme.

#### **New Cycleway/Footway**

- 11.4.13 A pedestrian/cycleway connection from the site to the A12 was something that was previously to be secured by Condition 16 of Application Reference 21/00031/OUT. This was not a requirement of any consultee, it was something that was required to be included by Members when the application was considered at Planning Committee. The condition asked details to be provided for a 3.5m wide hard surface cycle path link to the existing A12 pedestrian/cycle path with any Reserved Matters submission.
- 11.4.14 In order to meet the requirements of the previous planning approval, this application also seeks to provide a cycleway/footway. However, because the application includes full details, the developer has shown a location of the cycleway/footway which is adjacent to the western boundary of the site. However, this footway/cycleway cannot connect into the A12 (existing or new A12 widening scheme) as this would require approval by National Highways. Furthermore, the NSIP development does not currently show a footway/cycleway connection into the site, and Officers cannot require that the developer make the connection, owing to uncertainties around the timescales and overall delivery of the A12 widening works.
- 11.4.15 National Highways have agreed in principle to a cycleway/footway connection, however detailed discussions have not yet taken place about where this connection would be made. In initial discussions, National Highways indicated that a connection on the eastern boundary of the site with the A12 would be preferable. This is of course different to the indicative location as indicated by the developer which is on the western edge of the site. A further complicating factor is that where the cycleway/footway is shown, this is within a small section of the Order Limits for the A12 project which connects through the site to Eastways. It is understood this Order Limits corridor is to be used for utilities diversion, anticipated to be completed in 2024 to 2025. As such, even if a



cycleway/footway were to be provided in this location, it could not be provided prior to the implementation of these utility diversions, as this would result in redundant works.

- 11.4.16 Overall, while Officers are supportive of the principle of securing additional cycleway/footway connectivity in line with Policy, it is considered that certainty cannot be provided that a link would be made between Eastways and the new A12 scheme. As such, Officers have considered that the cycleway/footway as shown on the plans should not be put forward for approval. Instead, Officers consider that a S106 obligation would be necessary to try and secure a future scheme for a cycleway/footway link through the Site from Eastways to the proposed new A12 cycleway/footway. This cycleway/footway scheme would secure a minimum width, construction, maintenance, public access and signage of the footpath (more details are set out in the Heads of Terms at the end of the report). If a cycleway/footway scheme can be secured this would be a benefit to the proposed development. If a cycleway/footway scheme is unable to be secured, then this land may be used for other purposes. However, given the above uncertainty, it is not considered that any weight can be given to the provision of a cycleway/footway scheme in the overall planning balance.

### **Parking**

- 11.4.17 The Essex Parking Standards (2009) state that a maximum of one space should be provided per 150sq.m of floorspace, while if ancillary Office accommodation is proposed, then the development should apply the B1 standard for that area (one space per 30sq.m). B1 standards are now wrapped up in the use class E(g) for the purposes of the Uses Class Order.
- 11.4.18 In terms of Gross Internal Area (GIA) for the PFE building, this would amount to 9,786sq.m for the B8 storage space, and 2,446sq.m for the ancillary Office space. Using the ratios above, this would amount to a total maximum requirement of 146.7 spaces. In this case, the proposed PFE building is to be served by 146 parking spaces. In terms of the GIA for the Aquilla building, this would be 12,599sq.m for the B8 storage use, and 943.5sq.m for the ancillary office space. Using the ratios above, this would amount to a maximum of 115 spaces. In this case, the proposed Aquilla building is to be served by 115 parking spaces. As such, in terms of car parking, the development would align with the maximum standards. The spaces would be 2.5m by 5m, which is smaller than is required for residential properties, but larger than the standard 4.8m by 2.4m spaces often seen on similar commercial development. It is considered the size of space sought here is acceptable in this setting. A total of 11 larger blue badge holder spaces are proposed across the site, which also accords with the vehicle parking standards.
- 11.4.19 The cycle parking standards are that 1 space should be provided per 100sq.m for employees and 1 space per 200m for visitors. For the E Class use and a minimum of 1 space per 500sq.m for employers and 1 space per

1000sq.m for visitors for B8 use. This would equate to 65 spaces for the PFE building and 53 for the Aquila building. In this case, the cycle storage for each of the buildings is proposed in the form of covered secure areas suitable to accommodate a minimum of 65 cycle for the PFE building and 53 for the Aquila building. The development would again comply with the cycle parking standards.

- 11.4.20 Furthermore, the developer has committed to providing 15% of the spaces with Electric Vehicle Charging Points, with ducting in place for a further 15%. It is understood that this is now a requirement of building regulations, however to secure the exact details of the charging points, a condition has been recommended. The developer has also sought to introduce other sustainable measures on this site. This is explored more below.

## 11.5 Sustainability Credentials

- 11.5.1 Policies LPP71 and LPP72 of the Adopted Local Plan set out that Applicants will be expected to demonstrate that measures to lower carbon emissions, increase renewable energy provision and adapt to the expected impacts of climate change changes have been incorporated into their scheme. It is stated that measures could include site layout and building orientation, natural light and ventilation, air tightness, solar shading, reducing water consumption and increasing water recycling. Additionally, Policy LPP72 requires all new non-residential buildings with a floor area in excess of 500sq.m to achieve a BREEAM rating of 'Very Good'.
- 11.5.2 In this case, the application has been supported by an Energy Statement, a BREEAM Pre-Assessment Report, and a Sustainability Statement which sets out the key findings and proposals from each report. In general terms, these reports set out a commitment that the development would go above and beyond the building regulation requirements to produce a more environmentally friendly scheme.
- 11.5.3 Firstly in terms of general energy efficiency measures, the scheme would utilise air source heat pumps and photovoltaic panels, which according to the report, would lead to a 20% reduction in Carbon Dioxide emissions. The proposals have also sought to incorporate a fabric first building design approach, and also include the introduction of a passive ventilation strategy to provide an energy efficient building. High levels of insulation are also proposed, as well as triple glazing. Furthermore, sustainable construction methods would be prioritised, such as seeking local materials, re-using any excess material on site instead of importing etc. These commitments will be secured by way of conditions.
- 11.5.4 With regards to BREEAM, the Applicants are undertaking a separate BREEAM assessments for each unit. At this stage 'Create Consulting' have prepared and completed a BREEAM Pre-Assessment, related to the New Construction Shell & Externals methodology, which demonstrates that the proposed development will achieve a predicted BREEAM score of 59.85%, which is above the threshold of 55% required to achieve BREEAM 'Very

Good.’ It is understood however that this assessment only relates to the external aspect of the building; a further assessment would be required for the internal specification/configuration to also meet the BREEAM very good rating. As such, a condition to secure the implementation of the external BREEAM strategy would be necessary, while a condition would also be necessary to secure it for the internal elements of each building.

- 11.5.5 Overall, it is considered that the development would have good sustainability credentials which would align with the spirit of Policy LPP71 and achieve BREEAM compliance as set out in Policy LPP72. It is considered that this would be a material benefit to the scheme to be weighed in the overall planning balance.
- 11.6 Impact upon Neighbouring Residential Amenity, Noise, Contamination and Air Quality
- 11.6.1 Policy SP7 of the Adopted Local Plan states that all new development should protect the amenity of existing and future residents and users with regard to noise, vibration, smell, loss of light, overbearing and overlooking. This is echoed in Policy LPP52 of the Adopted Local Plan. Likewise, the NPPF seeks to secure a good standard of amenity for all existing and future occupants of land and buildings.
- 11.6.2 Policy LPP70 of the Adopted Local Plan states that proposals for all new developments should prevent unacceptable risks from all emissions and other forms of pollution (including light and noise pollution) and ensure no deterioration to either air or water quality. Furthermore, it states that development would not be permitted if there would be unacceptable impacts on inter alia, health and safety of the public, air quality, odour, compliance with environmental standards and noise. It also states that development will be permitted where there is no unacceptable risk such as locating development on non-contaminated land.
- 11.6.3 The application in this case is supported by a Noise Assessment, Air Quality Assessment and a Contamination Assessment. In terms of general context, it is proposed that there are no restrictions on hours at the site, therefore operations could carry on 24/7.
- 11.6.4 Focusing firstly on noise, the nearest residential properties to the north west of the site, on the other side of the raised railway line, would be sufficiently distanced so as to prevent any harm to their occupant’s amenity, by way of outlook, privacy or light. The dominant noise source affecting nearby residential properties, including those at Rivenhall End is traffic using the A12, as well as the trains using the railway line. Against this baseline condition, it is likely that the additional noise generated by the proposed and B8 use classes would be minor.
- 11.6.5 In any case, it is still important to try and reduce the amount of noise at the site as far as reasonably practicable. Perhaps the biggest potential noise receptor is that of plant which would be erected on the building. Details of

plant are not known at this stage, therefore it would be appropriate to add a condition to secure these details, along with screening for the plant, as well as any corresponding acoustic information to ascertain the likely noise impacts. In terms of mitigation against vehicular noise, the remaining railway embankment provides a partial screening of the proposed access road running alongside the embankment, based on a height differential of 0.5m. This would have the effect of reducing noise to a small extent from vehicle tyres on the road surface. Overall, the Environmental Health Officer considered the application and raised no objection, subject to the imposition of a Condition that the fixed plant should not exceed 10dB(a) at any noise sensitive premises, as well as the submission of details when known. This condition was also previously secured on the previous applications for the site.

11.6.6 With regards to contamination, the application is supported by a Geo-Environmental Assessment Report, which confirms that the site is considered to represent an overall low risk to human health receptors in the context of the proposed commercial development. Moreover, apart from low level exceedances of copper which are considered likely to be indicative of wider natural background levels, no widespread contamination has been identified and no remedial requirements are deemed necessary. The Environmental Health Officer raised no concerns about contamination of the site. As such from this perspective the proposal is not considered to be in breach of Policy LPP70 of the Adopted Local Plan.

11.6.7 With regards to air quality, a report was prepared by Environmental Assessment Services, which concludes that there would be no detrimental impact on air quality as a result of the proposed development. The Environmental Health Officer concurs with this assessment. As such, while the development would no doubt contribute additional emissions, it is considered that these emissions would be at an acceptable level and therefore no significant air quality issue would arise.

11.6.8 In terms of general conditions, the Environmental Health Officer recommended conditions relating to construction hours, no burning and no piling.

11.6.9 It should also be noted that a major gas pipe crosses the site entrance. As per comments received from Cadent Gas, Officers consulted with the Health and Safety Executive using their online checklist. The results were that the HSE did not advise against, on safety grounds, the granting of planning permission in this case. It will be for the developer once works commence to liaise with Cadent Gas to ensure that their assets will not be affected.

## 11.7 Flooding and Drainage Strategy

11.7.1 The application site is located with Flood Zone 1 where the risk of flooding is low. Notwithstanding the above, Paragraph 169 of the NPPF states that major developments should incorporate sustainable drainage systems

(SUDS) unless there is clear evidence that this would be inappropriate. It goes on to cite that when considering the SUDS used, regard should be given to the advice received from the Lead Local Flood Authority (LLFA).

- 11.7.2 Policies, LPP75 and LPP76 of the Adopted Local Plan reflect the above objective of the NPPF and require new major developments to incorporate SUDS as appropriate to the nature of the site.
- 11.7.3 In this case, the application was supported by a Flood Risk Assessment and Drainage Strategy. It sets out that although part of the site has localised areas at high risk of flooding from fluvial sources (behind the Landcaster Body Shop), it is mostly low risk from all other sources. A drainage scheme has been proposed in principle which has been designed to accommodate rainfall via underground tanks. This would allow rainfall to be captured including a 1 in 100-year rainfall event, with an additional 40% allowance for climate change without any onsite flooding. Overall, the proposed development will be at low risk of on-site flooding and will result in a low risk of flooding off-site. The Lead Local Flood Authority, Essex Sustainable Urban Drainage Team reviewed the application and had no objection, subject to a number of SUDS related conditions. Overall, it is considered that the proposal would not conflict with the above policies.

## 11.8 Archaeology

- 11.8.1 Policy LPP59 of the Adopted Local Plan states that where permission is given for development which will affect remains, conditions are required to ensure that the site is properly excavated and recorded before the commencement of development. In its glossary, the NPPF highlights that *“There will be archaeological interest in a heritage asset if it holds, or potentially holds, evidence of past human activity worthy of expert investigation at some point.”*
- 11.8.2 The Historic Environment Advisor has stated that the Essex Historic Environment Record (HER) shows that the proposed development lies within an area of high archaeological and geoarchaeological potential. As such, an archaeological investigation condition is recommended pre-commencement of development. It is therefore considered that subject to the condition, the application would be acceptable in this regard.

## 11.9 Other issues

### **Network Rail**

- 11.9.1 Network Rail submitted a checklist which the developer must comply with to protect their assets. This includes generic requirements such as making sure the development doesn't encroach onto Network Rail land, damage any infrastructure or encroach on the air space of the land. It also has more specific requirements such as no drainage onto their land, leaving enough space for future maintenance of the line etc.

- 11.9.2 At Officer request, a compliance strategy was submitted by the Developer which would form part of the documentation to contractors who would build out the site if approved. The compliance strategy looks at each requirement set out by Network Rail and provides justification and rationale on each point, setting out how the development would not breach any of their requirements. In this case, Officers are satisfied that the Developer has taken every reasonable step to ensure that Network Rail's assets are not affected and recommend an informative to refer to the compliance strategy for future reference.

### **Health and Wellbeing Assessment**

- 11.9.3 Policy LPP49 of the Adopted Local Plan stipulates that for non-residential developments over 1000sq.m, a Health and Wellbeing Impact Assessment must be completed. This assessment would require developers to assess their impact upon health and wellbeing, the capacity of existing health services and facilities, and the promotion of health improvement activities. It also sets out that where significant adverse health and wellbeing impacts are identified, planning permission will be refused unless infrastructure provision and/or funding to reasonably meet the health service requirements of the development are provided and/or secured by planning obligations or by the Community Infrastructure Levy (CIL) as appropriate.
- 11.9.4 In this case, the developer submitted a Health and Wellbeing Assessment looking at a number of key areas as identified by the policy. It starts by reviewing the local public health profile of the District, and then considers the impact of the development, whether this would be positive, negative or neutral with suggested mitigation regarding key areas including access to open space, noise and air quality, accessibility, use of resources and climate change.
- 11.9.5 The document sets out that with mitigation there would be no negative health impact of the development, only positive or neutral impacts. The overarching conclusion of the document is that there is data which suggests that the proposal would not have a detrimental impact upon health, and the location would be suitable for commercial development through appropriate mitigation concerning air, noise and traffic measures to adhere to sustainability requirements. Overall, Officers are also satisfied that in terms of health, the development would not have a detrimental impact. The development would therefore comply with Policy LPP49.

### **Heritage Impacts**

- 11.9.6 The site is not near any designated heritage assets or Conservation Areas. As such, it is considered that there would be no impact on heritage assets arising from the development.

## **Loss of a Dwelling**

- 11.9.7 The proposed development would result in the demolition of Burghley Brook Farm, which contains one residential dwelling. The demolition of this dwelling has not been acknowledged explicitly within the application submission. However, the previous consent at the site (Application Reference 21/00031/OUT) approved the principle of the demolition of the dwelling. Moreover, it is understood that the developer has gone through the relevant Permitted Development process to serve notice on the Council that the dwelling and associated buildings are to be demolished. As such, while the demolition of the existing dwelling is not mentioned, it has been considered and will be carried out via Permitted Development at a suitable time.
- 11.9.8 The loss of one dwelling would result in a very marginal decrease in the Council's housing land supply.

## **12. PLANNING OBLIGATIONS**

### **12.1 Policy Context**

- 12.1.1 Policy SP6 of the Adopted Local Plan states that development must be supported by the provision of the infrastructure, services and facilities that are identified to serve the needs arising from the development. Policy LPP78 of the Adopted Local Plan sets out that planning permission will only be granted if it can be demonstrated that there is sufficient appropriate infrastructure capacity to support the development or that such capacity will be delivered by the proposal. It also states that where a development proposal requires additional infrastructure capacity, to be deemed acceptable, mitigation measures must be agreed with the Council and the appropriate infrastructure provider. Such measures may include (not exclusively): financial contributions towards new or expanded facilities and the maintenance thereof, on-site construction of new provision, off-site capacity improvement works and/or, the provision of land.

- 12.1.2 The development in this case does seek to provide infrastructure to serve the needs arising from the development. This is discussed in the different areas below.

### **12.2 Open Space**

- 12.2.1 Policy LPP50 of the Adopted Local Plan states that all developments will be expected to provide new open spaces in line with the requirements set out in the Open Spaces Supplementary Planning Document 2009 or successor document.
- 12.2.2 In this case, the development would not provide any open space on the site. As such, in accordance with the Open Space SPD and Policies SP6 and LPP78 of the Adopted Local Plan, a financial contribution is proposed to be secured towards open space provision/improvement in the wider

area. The Open Space SPD provides a formula for calculating the level of provision required for Use Class B1, B2, and B8 developments, subject to a minimum threshold of 1,000sq.m of employment floor space. The Applicant has agreed to the payment of a financial contribution towards casual or informal open space and outdoor sports.

- 12.2.3 Using the calculation, the open space contribution amounts to £109,867.17. This financial contribution would be utilised towards projects in the local area. The trigger for this payment is still in the process of being agreed with the developer, but will likely be prior to first beneficiary occupation of the buildings.

### 12.3 Travel Plan Monitoring Fee

- 12.3.1 The application is supported by a Travel Plan that has been considered by the Highway Authority, Essex County Council, who require that the submitted workplace Travel Plan be implemented for a minimum period of 5 years with an associated £6,383 monitoring fee, plus the relevant sustainable travel indexation. The S106 can contain a covenant given to the Council to secure the payment of this fee to Essex County Council.

### 12.4 Proposed Footway/Cycleway

- 12.4.1 The site proposes a cycleway/footway within the site to connect to the new A12 widening scheme. The A12 widening scheme does not however currently show a footway/cycleway connection into the site, and Officers cannot require that the developer make the connection, owing to uncertainties around the timescales and overall delivery of the A12 widening works.
- 12.4.2 As such, it is considered that a future scheme to deliver a cycleway/footway link through the site needs to be secured via the S106. The scheme would make provisions for:
- a) A minimum 3m wide footway/cycleway from Eastways (point A) through the site to a point on the southern site boundary where National Highways agree there can be a connection to the new A12 cycleway/footway (which route may partially be provided as a shared surface between pedestrians, cycles and motor vehicles on the site access road); and
  - b) Details to show that the cycleway/footway through the site will be constructed to the Highway Authority's adoptable standards and include appropriate drainage, signage and street lighting and available for use for the public on foot and with cycles in perpetuity, and
  - c) A road safety audit to be produced to demonstrate that the cycleway/footway is safe; and



- d) Details of arrangements for future maintenance to adoptable standards in perpetuity; and
- e) Provision for a covenant to be given to the Council by the owners of the site to secure the right for the public to use the entire approved cycleway/footway route at all times and for all purposes on foot or on pedal cycle, in perpetuity; and .
- f) Details to make provision for the Council to receive confirmation from a chartered highway engineer when the works to construct the cycleway/footway through the site have been completed that demonstrate that the works have been completed to the approved standards; and
- g) Details of the provision of the link from the southern site boundary to the new A12 cycleway/footway; and
- h) A detailed programme of construction with a timescale for the completion of the works required by the scheme to link to the date of approval by the Council of the Scheme.

12.4.3 Furthermore, there would be a covenant to ensure that the land along the western boundary of the Site is protected from development until a cycleway/footway scheme has been approved, or in the event that does the development is unable to use this land as a cycleway/footway, that it can be utilised for another purpose.

## 12.5 Biodiversity Net Gain

12.5.1 10% biodiversity net gain cannot be provided on site. The S106 agreement, will provide for the delivering the biodiversity net gain off-site prior to commencement of development. The procedure for agreeing this provision will be included in the S106 agreement.

## 13. CONCLUSION

### 13.1 Sustainable Development

13.1.1 The presumption in favour of sustainable development sits at the heart of the NPPF.

13.1.2 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 well-designed, beautiful and safe places, 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 protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy).

## 13.2 Summary of Adverse Impacts

- 13.2.1 There are adverse impacts of the development which must be weighed in the overall planning balance. These are set out below with the weight to be attached to each adverse impact.

### **Loss of Trees, Hedges and Grassland**

- 13.2.2 The development would require the removal of most of the vegetation on the site, including 1 Category A (High Quality) Oak Tree, 16 Category B (Moderate Value) trees or groups and 31 Category C (Low Quality) trees or groups. While no trees are subject to a Tree Preservation Order, the loss of these trees and hedges would amount to harm to the character, amenity and landscape quality of the area. It is considered that this loss would amount to moderate harm and be in partial conflict with Policy LPP65 of the Adopted Local Plan.

### **Layout, Landscaping, Scale & Appearance**

- 13.2.3 The development proposes a significant amount of built form on the site including two large industrial buildings. The amount of built form proposed would leave limited space to create a fully effective landscape buffer on the site boundaries to effectively mitigate the visual impacts of the development which include large industrial buildings and their associated service yards / other infrastructure. The extent of built form would also limit the opportunities for landscaping within the site itself. It is also considered that the appearance of the PFE building is relatively monotonous in places without sufficient visual breaks in its design adjacent to the railway. Cumulatively, it is considered that this would amount to moderate harm and be in conflict with Policies SP7, LPP47 and LPP52 of the Adopted Local Plan.

### **Biodiversity Net Gain**

- 13.2.4 The site would result in a loss of 6.34 for 'habitat units' (-52.32% compared to the lands current condition). This loss cannot be accommodated on site

owing to the amount of development proposed. While off-site biodiversity net gain is proposed to offset this impact, there would still be limited harm that 'habitat units' will be forced off elsewhere from the site.

### **Vehicular Movements**

- 13.2.5 The development of the site would have associated vehicular movements which would be in addition to those which already take place on Eastways. These additional vehicular movements would place an additional burden on the local road network. However, the development proposed would amount to less vehicle movements cumulatively comparatively to the two previously consented developments at the site. Furthermore, National Highways and Essex Highways are satisfied that there would not be a significant adverse impact in highway terms from the development. As such, it is considered the additional vehicular movements associated with this development would only amount to limited harm.

### **Noise and Air Quality**

- 13.2.6 The development would also have associated noise and air quality implications from additional vehicle movements / new plant at the site. It is considered however that the noise impact of the development can be mitigated to some extent by virtue of planning conditions relating to the design and installation of new plant. New trees and landscaping at the site would also go some way to help address any reduction in air quality. In any case, the site would be part of an established industrial estate that has been allocated for additional employment development, which is located some distance away from the nearest noise sensitive receptor. Therefore the impacts of noise and air quality have been considered in principle before and deemed to be acceptable in general terms through the Local Plan allocation. Overall, based on the above, it is considered that the noise and air quality impacts of the development would only amount to limited adverse harm and indeed no objection has been raised by the Environmental Health Officer.

### **Loss of a Dwelling**

- 13.2.7 The proposed development would result in the net loss of one dwelling, resulting in a very marginal decrease in the Council's housing supply. Nonetheless, the location of the existing dwelling is not desirable given its situation immediately adjacent to the A12, from which it gains direct access. The loss of a single dwelling is afforded limited weight.

### **13.3 Summary of Public Benefits**

- 13.3.1 There are also significant public benefits the development would bring which must be weighed in the overall planning balance. These are set out below with the weight to be attached to each benefit.

### **Conformity with the Adopted Local Plan**

- 13.3.2 The site is allocated as an Employment Policy Area (Ref: Rive362) by Policy LLP2 of the Adopted Local Plan. Policy LPP3 of the Adopted Local Plan states inter alia that office (Use class Eg), storage and distribution (Use Class B8) are permitted uses within designated Employment Policy Areas. The development would therefore be fully compliant with the allocation and extend the existing Eastways Industrial Estate in line with the Adopted Local Plan. This conformity with the Local Plan site allocation weighs heavily in favour of the proposal in the planning balance.

### **Sustainable Location**

- 13.3.3 The site is in a sustainable location, on the edge of one of the Districts main towns, with access to numerous public services and facilities to offer a genuine choice of travel for employees other than the private car. A Travel Plan is also submitted with the application which would assist in facilitating more sustainable means of employees accessing the site. The sites location is considered to be a significant benefit of the development and again weighs heavily in its favour.

### **Economic and Social Benefits**

- 13.3.4 The proposed development would provide a very significant economic and social benefit through the development of the application site, to create new jobs (reported to be 350 new employees) within the District and providing a stimulus in expenditure within the local economy, through both the construction and occupation phases of the development. Furthermore, the development would enable the retention of at least one key business in the District (PFE) which is a big local employer, as well as facilitating another business to come into/remain in the District, which Aquilla have designed the specification of the southern larger building for. It is considered these economic and social factors would be a very significant benefit of the development and are accordingly afforded very significant weight.

### **Landscaping on Site with Irrigation**

- 13.3.5 Despite the limited space available, the development does still provide some landscaping in the form of taller tree stock and hedges. This landscaping would add some character to the development, especially in comparison to the existing Eastways Development. An irrigation strategy has also been included, which seeks to harvest rainwater and store it in tanks, so that it can be piped into the proposed landscaping to try and secure its longevity. The landscaping proposed would therefore add some benefit to the scheme. Accordingly, the landscaping proposed as part of this development is considered to be of limited benefit.

## **Sustainability Credentials**

- 13.3.6 Subject to their instillation / implementation through condition, the site would deliver good sustainability credentials including BREEAM very good, ground source heat pumps and solar panels. The development would therefore go above what the building regulations would require, which would be in the spirit of Policy LPP71 of the Adopted Local Plan. These sustainability credentials are afforded moderate-significant weight.

## **Impact on A12 Widening Scheme & Cycleway/footway Provision**

- 13.3.7 The development would not prevent the A12 widening scheme coming forward. This is a neutral element of the scheme in the overall planning balance, but a benefit in that the development would not compromise a strategic developing coming forward.
- 13.3.8 The scheme seeks to deliver a cycleway/footway into Eastways from the proposed new cycleway/footway along the new A12. However, as this would have to be approved by the Council and by National Highways, no weight can be attributed to this given that there are no certainties that it could be delivered.

## **Development Mitigation – Open Space**

- 13.3.9 The development would provide a financial contribution of £109,867.17 towards improving local space / sports facilities in the area to offset the impacts of the development from employees using these spaces. There would also be a small a wider public benefit to existing residents who could use this space. This benefit can be afforded limited weight.

## **13.4 Planning Balance**

- 13.4.1 The development has a number of factors which weigh in favour and against the development and the planning balance is relatively finely balanced. However, when considering the overall planning balance and having regard to the identified benefits and harms above, on balance, Officers conclude that the adverse impacts of granting planning permission on balance would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Consequently it is recommended that planning permission is granted.

## **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:
- **Open Space** - Financial contribution of £109,867.17 (index linked) to be used for a scheme in Witham. Trigger – 50% paid prior to occupation of a building. 100% paid prior to occupation of the second building.

- **Travel Plan Monitoring Fee** - £6,383 (index linked) secured by a covenant given to Braintree District Council to ensure payment to Essex County Council prior to the commencement of development and evidence to be produced to Braintree District Council of that payment.
- **Biodiversity Net Gain Off-Site** - With the measures to be provided as part of this being provided prior to commencement of development and appropriate certificates being produced to the Council to show that this has been done.
- **Provision of a Cycleway/Footway** - Prior to occupation of a building on the site, a scheme for a cycleway/footway link through the Site from Eastways to the proposed new A12 cycleway/footway shall be submitted and include:
  - a) A minimum 3m wide footway/cycleway from Eastways (point A) through the site to a point on the southern site boundary where National Highways agree there can be a connection to the new A12 cycleway/footway (which route may partially be provided as a shared surface between pedestrians, cycles and motor vehicles on the site access road); and
  - b) Details to show that the cycleway/footway through the site will be constructed to the Highway Authority's adoptable standards and include appropriate drainage, signage and street lighting and available for use for the public on foot and with cycles in perpetuity; and
  - c) A road safety audit to be produced to demonstrate that the cycleway/footway is safe; and
  - d) Details of arrangements for future maintenance to adoptable standards in perpetuity; and
  - e) Provision for a covenant to be given to the Council by the owners of the site to secure the right for the public to use the entire approved cycleway/footway route at all times and for all purposes on foot or on pedal cycle, in perpetuity; and .
  - f) Details to make provision for the Council to receive confirmation from a chartered highway engineer when the works to construct the cycleway/footway through the site have been completed that demonstrate that the works have been completed to the approved standards; and
  - g) Details of the provision of the link from the southern site boundary to the new A12 cycleway/footway; and

- h) A detailed programme of construction with a timescale for the completion of the works required by the scheme to link to the date of approval by the Council of the Scheme.

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>
Location Plan	2745 - PL101	N/A
Proposed Plans	2745 - PL105	N/A
Proposed Site Plan	2745 - PL106	N/A
Proposed Floor Plan	2745 - PL201	N/A
Proposed Roof Plan	2745 - PL202	N/A
Proposed Plans	2745 - PL203	N/A
Proposed Elevations	2745 - PL204	N/A
Proposed Elevations	2745 - PL205	N/A
Proposed Sections	2745 - PL206	N/A
Proposed Plans	2745 - PL207	N/A
Proposed Plans	2745 - PL208	N/A
Refuse Information	2745 - PL209	N/A
Proposed Elevations	2745 - PL210	N/A
Proposed Floor Plan	2745 - PL301	N/A
Proposed Roof Plan	2745 - PL302	N/A
Proposed Floor Plan	2745 - PL303	N/A
Proposed Sections	2745 - PL306	N/A
Proposed Plans	2745 - PL307	N/A
Refuse Information	2745 - PL308	N/A
Proposed Elevations	2745 - PL309	N/A
Parking Strategy	2295-22-01 S5A	N/A
Landscape Masterplan	2295-22-02 S5C	N/A
Parking Strategy	2295-22-04 S5A	N/A
Landscape Masterplan	2295-22-01 S5H	N/A
Proposed Elevations	2745 - PL304	B
Proposed Elevations	2745 - PL305	B

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

##### Condition 1

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

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

##### Condition 2

The development hereby permitted shall be carried out in accordance with the approved plans listed above, except for the provisions relating to the provision of the cycleway/footway along the western boundary of the site as shown on Drawing Nos 2745 - PL105, 2745 - PL106, and 2295-22-01 S5H.



Reason: For the avoidance of doubt and the interests of proper planning. The reason for the exclusion of the provisions relating the cycleway/footway along the western boundary is that a connection to the new A12 scheme cannot be guaranteed. It may be that the cycleway/footway connection is required to be modified or in a different location. As such, until the A12 scheme is further advanced, and talks with National Highways further advanced, the cycleway/footway element of the scheme should be omitted from the Plans. A Cycleway/Footway Strategy is proposed to be secured by way of legal agreement.

#### Condition 3

No development shall commence until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP shall be in accordance with the details contained in the Preliminary Ecological Appraisal (Environmental Assessment Services Ltd, October 2022). The Development shall be carried out in accordance with the approved CEMP.

The CEMP (Biodiversity) shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason: This is required prior to the commencement of development to conserve protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species).

#### Condition 4

No development shall commence until a finalised Biodiversity Net Gain Assessment is submitted to and approved in writing by the Local Planning Authority to demonstrate measurable biodiversity net gains. The content of the Biodiversity Net Gain Report should include the following:

- a) Baseline data collection and assessment of current conditions on site;
- b) A commitment to measures in line with the mitigation hierarchy and evidence of how BNG Principles have been applied to maximise benefits to biodiversity;

- c) Provision of the full BNG calculations, with detailed justifications for the choice of habitat types and their condition;
- d) Details of the implementation measures and management of proposals;
- e) Details of any off-site provision to be secured by a planning obligation; and
- f) Details of any monitoring and auditing measures.

The proposed measures shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

Reason: This is required prior to the commencement of development in order to demonstrate measurable biodiversity net gains can be delivered by the development and allow the LPA to discharge its duties under the NPPF (2021).

#### Condition 5

Prior to the commencement of the development hereby approved, a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for:

- The parking of vehicles of site operatives and visitors;
- The loading and unloading of plant and materials;
- The storage of plant and materials used in the construction of the development;
- The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- Wheel washing facilities;
- Measures to control the emission of dust and dirt during construction;
- A scheme for recycling/disposing of waste resulting from demolition and construction works;
- Delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

Reason: This is required prior to the commencement of development to ensure that on-street parking of these vehicles in the adjoining streets does not occur during construction and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and amenity.

#### Condition 6

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

Reason: This is required prior to the commencement of development as construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which

needs to be agreed before commencement of the development. Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

#### Condition 7

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:

- Limiting discharge rates to 15.5l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change.
- 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 40% climate change event.
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.
- Final modelling and calculations for all areas of the drainage system.
- 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.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

#### 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 and 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 above ground development 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 8

A) No development or preliminary groundworks of any kind shall take place until a programme of archaeological and geoarchaeological evaluation has been secured and undertaken in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.

B) In addition, a mitigation strategy detailing the excavation/preservation strategy shall be submitted to and approved in writing following the completion of this work.

C) No development or preliminary groundworks of any kind shall take place on those areas containing archaeological or geoarchaeological deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, which has been signed

off by the Local Planning Authority through its historic environment advisors.

D) The applicant will submit to the Local Planning Authority a post-excavation assessment (to be submitted within six months of the completion of the fieldwork). This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

Reason: The potential for archaeological remains on the above site has been part evaluated through a programme of trial trenching and geoarchaeological investigation in accordance with a WSI that was approved. The fieldwork element has not yet been completed and a report has not yet been produced. This stage of fieldwork will need to be completed to determine a mitigation strategy. If works are not undertaken pre-commencement of development then archaeological remains have the potential to be disturbed.

#### Condition 9

Prior to any above ground development, 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 the development, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme and thereafter shall be so retained.

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

#### Condition 10

No above ground development shall commence until samples of the materials to be used on the external finishes of the buildings hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details and permanently retained as such.

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

#### Condition 11

A. Within 3 months of above ground works starting for each main B8

Storage/Distribution building on site, the BREEAM Interim (Design Stage) Certificate, issued by the Building Research Establishment (BRE) or equivalent authorising body, must be submitted to the Local Planning Authority and approved in writing to show that a minimum 'Very Good' rating will be achieved.

B. Prior to first occupation of each main B8 Storage/Distribution building on site, a BREEAM Final (Post-Construction) Certificate, issued by the BRE, must be submitted to the Local Planning Authority and approved in writing to demonstrate that an 'Very Good' rating has been achieved. All the measures integrated shall be retained for as long as the development is in existence.

Reason: To ensure the delivery of a more sustainable development.

#### Condition 12

The approved development shall be constructed in broad accordance with the approved Energy Strategy produced by Create Consulting Engineers Ltd (ref. AK/CS/P22-2683/02 dated August 2022). Details of the air source heat pumps and photovoltaic panels, and their positioning on the buildings, is to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any above ground development.

Reason: To deliver a more sustainable development.

#### Condition 13

All existing accesses to the site from the A12 shall be permanently closed off, including the access to the existing dwelling at Baughley Brook Farm prior to the first occupation of the units hereby permitted, or earlier if they are no longer required prior to this trigger point.

Reason: In the interests of highway safety as this access directly onto the A12 would cause significant issues if left open for use by HGV's etc at the site.

#### Condition 14

Prior to the first occupation of the development, a revised Travel Plan shall be submitted to, and approved in writing by the Local Planning Authority. No occupation of the development shall take place until the submitted workplace Travel Plan has been actively implemented and it shall continue to be implemented for a minimum period of 5 years thereafter.

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

#### Condition 15

No occupation of the development hereby approved shall take place until the vehicle and pedestrian access arrangements as shown in principle on the planning application drawings are implemented.

Reason: In the interests of highway safety.

#### Condition 16

Prior to the first occupation of the development, a Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by the local planning authority. The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).

- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan shall be implemented in accordance with the approved details.

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species).

#### Condition 17

Prior to first occupation of the development, a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

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 18

Notwithstanding what is shown on plan 2745-PL06, prior to their installation, details of the locations of electric vehicle charging points, and any potential future electric vehicle charging points (i.e. where the additional ducting would be) shall be submitted to and approved in writing by the Local Planning Authority. The charging points shall thereafter be permanently retained.

Reason: To deliver the sustainability credentials of the site that was promised within the application submission, and to ensure that the charging points are in the most appropriate position possible in the interests of achieving sustainable development.

#### Condition 19

A. Prior to the installation of any fixed plant / machinery to be operated at the site, full details of design, location and noise shall be submitted to and approved in writing by the Local Planning Authority. The cumulative noise level of fixed plant operated at the site shall not exceed 10dB(A) below background noise level (LA90,15 min) at any noise sensitive premises.

B. At the point when the fixed plant/machinery is first operational, confirmation of compliance with the above noise limits in (A) for the lifetime of the plant/machinery shall be submitted to and approved in writing by the local planning authority.

Reason: To protect the amenity of residents in the locality.

#### Condition 20

The development shall only be implemented in accordance with the approved Arboricultural Report and associated Tree Protection Plan, undertaken by Underhill Tree Consultancy reference UTC-0710-03-AIA, dated 18th August 2022. For the avoidance of doubt, the tree protection measures shall be in place prior to the commencement of development.

Reason: To ensure existing trees, shrubs and hedges that are identified for retention are protected as they are considered essential to enhance the character of the development and for their ecological value.

#### Condition 21

No site clearance, demolition or construction work shall take place on the site, including starting of machinery and delivery of materials, outside the following times:  
Monday to Friday 0800 hours - 1800 hours  
Saturday 0800 hours - 1300 hours  
Sundays and Bank Holidays - no work

Reason: To protect the amenity of residents in the locality.

#### Condition 22

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

Reason: To protect the amenity of residents in the locality.

#### Condition 23

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority and the following must be completed before any further development takes place:

- a. An investigation and risk assessment must be undertaken and submitted to and approved in writing by the Local Planning Authority; and
- b. Where remediation is necessary, a remediation scheme must be prepared and submitted to and approved in writing by the Local Planning Authority; and
- c. Following completion of measures identified in the approved remediation scheme a verification report must be prepared and submitted to and approved in writing by the Local Planning Authority.

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

and neighbouring land are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

#### Condition 24

The rating level of the noise emitted from the site shall not exceed the existing background noise level by more than (5dB(A) between 0700 and 1900 hours and 0dB at any other time. The noise levels shall be determined at the boundary of any residential property. The measurements and assessments shall be made in accordance with BS 4142 : 2014.

Reason: In the interests of protecting the amenity of residents in the locality.

#### Condition 25

No development shall commence in phase 1 until the following information has been submitted to and approved in writing by the Local Planning Authority:

- A full topographical site survey showing existing levels including: the datum used to calibrate the site levels; levels along all site boundaries; levels across the site at regular intervals; and levels of adjoining buildings and their gardens;
- Full details of the proposed finished floor levels of all buildings, proposed garden levels, proposed levels along all site boundaries, and proposed levels for all hard and soft landscaped surfaces.

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

Reason: To avoid the excessive raising or lowering of ground levels and therefore any building(s) within the site which may lead to unneighbourly development with problems of overlooking and loss of privacy. To ensure that the development does not prejudice the appearance of the locality. The levels information is required prior to the commencement of development to ensure that the correct site levels are achieved from the outset of the construction phase.

#### Condition 26

No development shall commence in phase 2 until the following levels information has been submitted to and approved in writing by the Local Planning Authority:

- A full topographical site survey showing existing levels including: the datum used to calibrate the site levels; levels along all site boundaries; levels across the site at regular intervals; and levels of adjoining buildings and their gardens;
- Full details of the proposed finished floor levels for all hard and soft landscaped surfaces.

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

Reason: To ensure that the development does not prejudice the appearance of the locality. The levels information is required prior to the commencement of development in phase to ensure that the correct site levels are achieved from the outset of the construction phase.



#### Condition 27

No above ground development in phase 1 shall commence until details of all gates / fences / walls or other means of enclosure have been submitted to and approved in writing by the Local Planning Authority. The details shall include position, design, height and materials of the enclosures. The enclosures as approved shall be provided prior to the occupation / first use of the relevant plot and shall be permanently retained as such.

Reason: In order to secure the satisfactory development of the site and in the interests of visual amenity and neighbouring residential amenity.

#### Condition 28

No above ground development in phase 2 shall commence until details of all gates / fences / walls or other means of enclosure have been submitted to and approved in writing by the Local Planning Authority. The details shall include position, design, height and materials of the enclosures. The enclosures as approved shall be provided prior to the occupation / first use of the relevant plot and shall be permanently retained as such.

Reason: In order to secure the satisfactory development of the site and in the interests of visual amenity and neighbouring residential amenity.

#### Condition 29

Prior to first occupation of the buildings hereby approved for phase 1, a lighting design scheme to protect amenity, the night-time landscape and biodiversity shall be submitted to and approved in writing by the Local Planning Authority.

The scheme shall identify those features on, or immediately adjoining the site, that are particularly sensitive for bats including those areas where lighting could cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas of the development that are to be lit will not disturb or prevent bats using their territory. All external lighting shall be installed in accordance with the specifications and locations set out in the approved scheme and retained thereafter in accordance with the scheme.

Under no circumstances should any other external lighting be installed without prior consent of the Local Planning Authority.

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

#### Condition 30

No development shall commence in phase 2 until a lighting design scheme to protect amenity, the night-time landscape and biodiversity shall be submitted to and approved in writing by the Local Planning Authority.

The scheme shall identify those features on, or immediately adjoining the site, that are particularly sensitive for bats including those areas where lighting could cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas of the development that are to be lit will not disturb or prevent bats using their territory. All external lighting shall be installed in accordance with the specifications and locations set out in the approved scheme and retained thereafter in accordance with the scheme.

Under no circumstances should any other external lighting be installed in phase 2 without prior consent of the Local Planning Authority.

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

#### Condition 31

Prior to the implementation of the landscaping scheme for phase 1 hereby approved, a detailed strategy for the watering and maintenance of the landscaping including identify the expectations, constraints, and operation of the irrigation arrangements in establishing the landscape proposals within the site, shall be submitted to and approved in writing by the Local Planning Authority. The watering and maintenance strategy shall be broadly in accordance with the principles agreed within the submitted Irrigation Strategy dated 7th November 2022 and Irrigation Drawing Plan' Mega Group 3 November 2022. Once approved the watering and maintenance of the landscaping scheme shall be carried out in accordance with the approved details.

The scheme of landscaping indicated upon the approved plans, shall be implemented in accordance with the approved implementation programme. Any trees or plants which die, are removed or become seriously damaged, or diseased within a period of five years from the completion of the development shall be replaced in the next planting season with others of a similar size and species.

Reason: To ensure that the approved landscaping scheme is implemented and that appropriate measures are put in place to ensure that new trees are suitably irrigated until they become established and in order to enhance the appearance of the development and in the interests of amenity and privacy.

#### Condition 32

No development in Phase 2 of the development shall commence until a scheme of landscaping is submitted to and approved in writing by the Local Planning Authority. The scheme shall incorporate a detailed specification including plant/tree types and sizes, plant numbers and distances, written specifications including cultivation and other operations associated with plant and grass establishment, together with a strategy for the watering and maintenance of the new planting, colour and type of material for all hard surface areas and method of laying where appropriate and an implementation programme.

All areas of hardstanding shall be constructed using porous materials laid on a permeable base, unless details have been submitted to and approved in writing by the Local Planning Authority.

All planting, seeding or turfing contained in the approved details of the landscaping scheme shall be carried out in the agreed implementation programme.

All hard surface areas agreed as part of the scheme shall be carried out in accordance with the approved implementation programme.

Any trees or plants which die, are removed, or become seriously damaged, or diseased within a period of 5 years from the completion of the development shall be replaced in the next planting season in accordance with the approved landscaping scheme.

Reason: To ensure that landscaping in phase two is agreed before works take place, as this relates to a small section of land once the A12 works are complete the details are required before they take place.

#### Informative(s)

##### Informative 1

This application is accompanied by a legally binding S106 Agreement, which has additional provisions / requirements to that in this conditions list. Special attention will be required to ensure that any obligations/conditions in the S106 are adhered to.

##### Informative 2

Cadent Gas Ltd own and operate the gas infrastructure within the area of your development. Prior to carrying out works, please register on [www.linesearchbeforeudig.co.uk](http://www.linesearchbeforeudig.co.uk) to submit details of the planned works for review, ensuring requirements are adhered to.

##### Informative 3

The developer/contractor should have regard to the Network Rail compliance strategy dated 7th November during construction

##### Informative 4

(1) INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087. (2) INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087. (3) INFORMATIVE - Protection of existing assets - A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers

will not be permitted (without agreement) from Anglian Water. (4) INFORMATIVE - Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087. (5) INFORMATIVE: The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.

#### Informative 5

For Travel Plan queries/revisions, please contact [travelplanteam@essex.gov.uk](mailto:travelplanteam@essex.gov.uk)

#### 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
SP3	Spatial Strategy for North Essex
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
LPP48	An Inclusive Environment
LPP49	Health and Wellbeing Impact Assessment
LPP50	Provision of Open Space, Sport and Recreation
LPP52	Layout and Design of Development
LPP63	Natural Environment and Green Infrastructure
LPP65	Tree Protection
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP67	Landscape Character and Features
LPP70	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
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
LPP77	External Lighting
LPP78	Infrastructure Delivery and Impact Mitigation

### APPENDIX 3:

#### SITE HISTORY

<b>Application No:</b>	<b>Description:</b>	<b>Decision:</b>	<b>Date:</b>
20/00001/SCR	Town & Country Planning Act 1990 (as amended), Town & Country Planning (Environmental Impact Assessment) Regulations 2017 - Screening Request (Regulation 6) - Industrial and warehouse units with ancillary offices and associated car parking and parking/loading of HGV's	Screening/ Scoping Opinion Adopted	12.02.20
20/00128/OUT	Outline planning permission for B2 (General Industry), B8 (Storage and Distribution) and Class E(g) (iii) (Light Industrial) use, and for future development of buildings up to a maximum building height to ridge of 43.00 AOD, comprising a maximum gross internal floor space of 15,470 square metres, (166,518 square feet) with associated service yards, HGV and trailer parking, car parking provision, new service road and access onto Eastways (all matters reserved except Access and Scale).	Granted with S106 Agreement	13.12.21
22/01921/PDEM	Application for prior notification of proposed demolition - Demolition of single-storey dwelling.	Permission not Required	24.08.22
20/00551/ELD	Application for a Lawful Development Certificate for an Existing Use - Use Class B8 (Storage and Distribution).	Granted	13.05.20
21/00930/FUL	Alterations to the Witham	Granted with	23.11.21

	Body Repair Centre site to include a two storey extension and associated servicing, car parking and landscaping works.	S106 Agreement	
21/00989/PLD	Application for Certificate of Lawfulness for proposed development - Change of use of site from Class B1(c) (Light Industrial) and Class B8 (Storage and Distribution), to a computer refurbishment and recycling company, falling within class E(g)(iii) and associated Class B8 and Class E(g).	Granted	19.05.21
21/01240/FUL	Change of Use from Use Class E (Commercial, Business and Service) and B8 (Storage or distribution), to allow a flexible use under Use Classes E (Commercial, Business and Service), B2 (General industrial) or B8 (Storage or distribution).	Granted	10.06.21
22/00377/ADV	Installation of: - 2 x non-illuminated 2440x1220mm landscape aluminium composite UV printed panels, above 'Goods In' and 'Goods Out' doors. - 1 x non-illuminated 3600x2100mm self-adhesive vinyl to window. - 1 x non-illuminated 4348x2416mm self-adhesive vinyl to window. - 1 x non-illuminated set of CNC cut aluminium composite letters covered with vinyl (total size: 3960x2228mm)	Granted	22.04.22