

PLANNING COMMITTEE

AGENDA

Tuesday 11th January 2022 at 7.15pm

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

This is a decision making public meeting of the Planning Committee, which will be held as a hybrid meeting. Members of the Planning Committee and some Officers will be in attendance in the Council Chamber, Causeway House, Braintree and members of the public will 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>

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 Mrs J Beavis
Councillor K Bowers
Councillor P Horner
Councillor H Johnson
Councillor D Mann
Councillor A Munday

Councillor Mrs I Parker (Vice Chairman)
Councillor F Ricci
Councillor Mrs W Scattergood (Chairman)
Councillor P Schwier
Councillor Mrs G Spray
Councillor J Wrench

Substitutes: Councillors T Cunningham, A Hensman, D Hume, P Thorogood, Mrs S Wilson, Vacancy (*Substitutes who wish to observe the meeting will be required to do so via the Council 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 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.

A WRIGHT
Chief Executive

INFORMATION FOR MEMBERS - DECLARATIONS OF INTERESTS

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

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

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

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 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 will be invited to participate in Public Question Time remotely and once registered they will be provided with the relevant link and joining instructions for the meeting.

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

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

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

Public Attendance at Meeting: The Council has reviewed its arrangements for this meeting in light of the continuing Covid pandemic and has considered that in order to protect the safety of the public, Councillors and Officers this decision making meeting of the

Planning Committee should be held as a hybrid meeting. Members of the Planning Committee and some Officers will be in attendance in the Council Chamber at Causeway House, Bocking End, Braintree and members of the public will be able to view and listen to the meeting virtually. There will be no public attendance at Causeway House. The public may watch this meeting via the Council's YouTube channel.

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

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 MS Teams/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

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

- 1 Apologies for Absence**
- 2 Declarations of Interest**
To declare the existence and nature of any Disclosable Pecuniary Interest, other Pecuniary Interest, or Non-Pecuniary Interest relating to Items on the Agenda having regard to the Code of Conduct for Members and having taken appropriate advice where necessary before the meeting.
- 3 Minutes of the Previous Meetings**
To approve as a correct record the Minutes of the meetings of the Planning Committee held on 28th September 2021, 12th October 2021, 26th October 2021, 2nd November 2021, 9th November 2021 and 23rd November 2021 (copies previously circulated) and 30th November 2021 (copy to follow).
- 4 Public Question Time**
(See paragraph above)
- 5 Planning Applications**
To consider the following planning applications

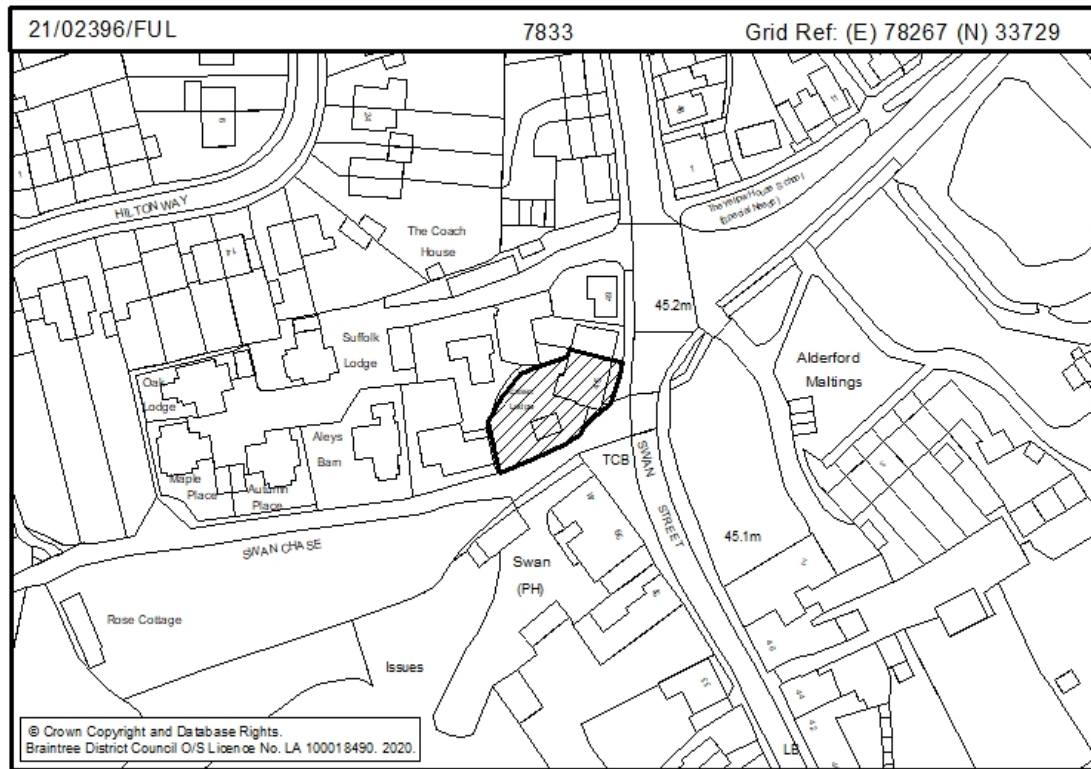
5a	App. No. 21 02396 FUL – 45 Swan Street, SIBLE HEDINGHAM	6-32
5b	App. No. 21 03029 FUL – 3 Freebournes Road, WITHAM	33-47
5c	App. No. 21 03030 FUL – 16-18 Freebournes Road, WITHAM	48-62
- 6 Urgent Business - Public Session**
To consider any matter which, in the opinion of the Chairman, should be considered in public by reason of special circumstances (to be specified) as a matter of urgency.
- 7 Exclusion of the Public and Press**
To agree the exclusion of the public and press for the consideration of any Items for the reasons set out in Part 1 of Schedule 12(A) of the Local Government Act 1972.
At the time of compiling this Agenda there were none.

8 Urgent Business - Private Session

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

Report to: Planning Committee		
Planning Committee Date: 11th January 2022		
For: Decision		
Key Decision: No		Decision Planner Ref No: N/A
Application No:	21/02396/FUL	
Description:	Retention of change of use from residential (C3) to part residential (C3) part café (Class E (b)) and associated takeaway.	
Location:	45 Swan Street, Sible Hedingham, Essex, CO9 4RE	
Applicant:	Nicola Littlejohn	
Agent:	Mrs Samantha Stephenson, Phase 2 Planning	
Date Valid:	05.08.2021	
Recommendation:	It is RECOMMENDED that the following decision be made: § Application REFUSED for the reasons outlined within Appendix 1 of this Committee Report.	
Options:	The Planning Committee can: a) Agree the Recommendation b) Vary the Recommendation c) Overturn the Recommendation d) Defer consideration of the Application for a specified reason(s)	
Appendices:	Appendix 1:	Reason(s) for Refusal Submitted Plan(s) / Document(s)
	Appendix 2:	Policy Considerations
	Appendix 3:	Site History
Case Officer:	Juliet Kirkaldy For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2558, or by e-mail: juliet.kirkaldy@braintree.gov.uk	

Application Site Location:



Purpose of the Report:	The Committee Report sets out the assessment and recommendation of the abovementioned application to the Council's Planning Committee. The report sets out all of the material planning considerations and the relevant national and local planning policies.
Financial Implications:	<p>The application was subject to the statutory application fee paid by the applicant for the determination of the application.</p> <p>A Section 106 request from ECC Highways is highlighted within the report, however this has not been agreed by the Applicant. As such, there are no direct financial implications arising out of the decision, notwithstanding any costs that the Council may be required to pay from any legal proceedings. Financial implications may arise should the decision be subject to a planning appeal or challenged via the High Court.</p>
Legal Implications:	<p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either set out the relevant Conditions & Reasons and any Informatives, or the Reasons for Refusal if applicable.</p> <p>All relevant policies are set out within the report, within Appendix 2.</p>
Other Implications:	The application has been subject to public consultation and consultation with relevant statutory and non-statutory consultees. All responses received in response to this consultation are set out within the body of this Committee Report.
Equality and Diversity Implications	<p>Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:</p> <ul style="list-style-type: none"> a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act b) Advance equality of opportunity between people who share a protected characteristic and those who do not c) Foster good relations between people who share a

	<p>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>
Background Papers:	<p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> § Application Form § All Plans and Supporting Documentation § All Consultation Responses and Representations <p>The application submission can be viewed online via the Council's Public Access website: www.braintree.gov.uk/pa by entering the Application Number: 21/02396/FUL</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> § National Planning Policy Framework (NPPF) § Braintree District Local Plan Review (2005) § Braintree District Core Strategy (2011) § Braintree District Shared Strategic Section 1 Local Plan (2021) § Braintree District Publication Draft Section 2 Local Plan (2017) § Neighbourhood Plan (if applicable) § Supplementary Planning Documents (SPD's) (if applicable) <p>The National Planning Policy Framework can be viewed on the GOV.UK website: www.gov.uk/.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: www.braintree.gov.uk.</p>

1. EXECUTIVE SUMMARY

- 1.1 This is a retrospective planning application which seeks full planning permission for the change of use from residential, to part residential (C3), part café (Class E (b)) and associated takeaway. The use, which is already in operation without the benefit of planning permission, started operating during Covid. The applicant resides at the dwelling at the site (45 Swan Street).
- 1.2 The application site is located to the west of Swan Street and adjacent to Alderford Street, Sible Hedingham. It is located within the defined development boundary for Sible Hedingham and is located within the designated Conservation Area. The property is an end of terrace Grade II listed building and is situated amongst a cluster of listed properties. The site comprises of a detached single storey black weather boarded cart lodge to the side of the dwelling with a caravan sited adjacent. The site is accessed from Swan Street to the south side of the property.
- 1.3 While it is acknowledged that the café/takeaway business has provided a new local facility/service for Sible Hedingham and associated social/economic benefits, these benefits have to be balanced against the harmful impacts of the proposal.
- 1.4 The location of the café/takeaway in a residential garden/driveway and partially within a domestic dwelling is considered to be inappropriate. The premises has not been designed or adapted for commercial use which would include effective means of extract ventilation which would inevitably have implications on the heritage asset and neighbouring amenity.
- 1.5 The café/takeaway is situated in a residential area away from the other shops/services for Sible Hedingham where such uses are usually encouraged as it offers opportunities for linked trips to other facilities/services and access to public car parks.
- 1.6 The lack of parking (including parking for disabled persons) and access to off street car parking is a concern and will inevitably lead to on-street parking and congestion occurring. The applicant is not amenable to providing a financial contribution towards waiting restrictions in the area as requested by the Highway Authority to alleviate concerns regarding on-street parking/pedestrian safety.
- 1.7 Although there are no present concerns regarding smells or odour arising from the use, if the application was granted permission, it would enable the premises to be sold or leased in the future to another food business which could have a more harmful odour profile. Furthermore a planning permission could not control what food is offered by the café/takeaway, such it could change from that currently provided. This could lead to cooking smell/odour nuisance for the neighbouring properties.

- 1.8 On balance, the benefits of the proposal are not outweighed by the harm and the recommendation is that the application is refused.

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 application site is located to the west of Swan Street and adjacent to Alderford Street, Sible Hedingham. It is located within the defined development boundary for Sible Hedingham and is located within the designated Conservation Area. The property is an end of terrace Grade II listed building and is situated amongst a cluster of listed properties. To the southern boundary of the site is Swan Chase a track which provides access to a few residential properties and access to a Public Right of Way (107_47). Adjoining the site to the north is a residential dwelling, to the south of the site is a former Public House (The Swan). To the rear of the site are residential dwellings.
- 5.2 The site comprises of a detached single storey black weather boarded cart lodge to the side of the dwelling with a caravan sited adjacent. The site is accessed from Swan Street to the south side of the property.
- 5.3 The existing shops, services (doctor surgery, petrol station, hairdressers, takeaway and supermarket) in Sible Hedingham are predominately situated along the main road to the north of the site.

6. PROPOSAL

- 6.1 This retrospective planning application seeks full planning permission for the change of use from residential, to part residential (C3), part café (Class E (b)) and associated takeaway. The application is retrospective as the use is already in operation without the benefit of planning permission. The use started operating during Covid. The applicant resides at the dwelling at the site (45 Swan Street).
- 6.2 The proposed hours of opening for the cafe are Wednesday – Friday 9am to 4.30pm, Saturday 9am to 4pm and Sunday 9:30am to 4pm.
- 6.3 The driveway to the south side of the dwelling and the detached cart lodge building are used to seat the customers (in total 27 chairs). The caravan

and kitchen of the dwelling are used to prepare and cook the food for the café/takeaway use.

- 6.4 Customers of the café have access to the downstairs bathroom of the main dwelling through an external door which is situated to rear of dwelling.

7. SUMMARY OF CONSULTATION RESPONSES

7.1 BDC Environmental Health

- 7.1.1 Objection. Premises has not been suitably designed or adapted for commercial use proposed.

7.2 ECC Highways

- 7.2.1 The proposal is acceptable subject to a legal obligation for £5,000 towards possible waiting restrictions at and/or in the vicinity of the site.

7.3 ECC Historic Buildings Consultant

- 7.3.1 No objection.

8. PARISH / TOWN COUNCIL

8.1 Sible Hedingham Parish Council

- 8.1.1 No objection.

9. REPRESENTATIONS

- 9.1 A total of 87 representations have been received, 6 objections, 80 support and 1 general comment. It is noted that a petition has been submitted with 88 signatures in support of the proposal and further petition has also been submitted with 1909 signatures. In summary the following comments have been made:

9.2 Support:

- Provides job opportunities for local people
- Asset to the village
- Need businesses like this to help communities thrive
- Does not detract from the listed building
- Have not seen any traffic/parking problems occurring
- It is in an accessible location
- Most users walk to the café
- Bringing visitors into the village
- The business is prospering
- Offers competition in the village
- The business has links with other businesses in the area
- Improving attraction of village
- Unobtrusive proposal

- History of premises being used as a shop
- Produce from local suppliers
- Accessible from Public Right of Way
- Useful service for the village
- The business generates no noise
- The business is good for the local economy
- The café participates in charity events
- The village has lost many facilities over recent years
- Local businesses should be supported
- People can use local facility reducing carbon footprint
- There is a bus stop close by
- The facility was a lifeline during lockdown
- Café helps improve mental health and wellbeing
- Café has good hygiene
- Opening hours should not extend into the evening

9.3 Objection:

- The operation has been carried out without planning permission
- Disruption and disturbance to neighbours
- No parking facilities or disabled parking
- Causes access issues into Swan Chase which is frequently blocked
- No proper toilets or kitchen capable of preparing food for public consumption
- Located on a notoriously dangerous part of the road at a busy junction
- Applicants are not able to park their own car within their boundary whilst the café is in operation
- Parking occurs outside the forecourt of the former Swan Inn (this is part of the highway as previously advised by ECC) and on the pavement
- A large number of users are from outside the village
- Concern if seating area was extended onto grass area

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 refers to supporting a prosperous local economy. Paragraph 84 states, 'planning policies and decisions should enable a) the sustainable growth and expansion of all types of business in rural areas both through conversion of existing buildings and well-designed new buildings d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship'.
- 10.1.5 Paragraph 93 of the NPPF refers to the social, recreational and cultural facilities and services and planning decisions that a) plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments; ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community; and e) ensure an integrate approach to considering the location of housing, economic uses and community facilities and services.

10.2 The Development Plan

- 10.2.1 Currently the Council's statutory Development Plan consists of the Braintree District Local Plan Review (2005), the Braintree District Core Strategy (2011), and the Braintree District Shared Strategic Section 1 Local Plan (2021).
- 10.2.2 The application site is situated within the defined development boundary.
- 10.2.3 The Section 1 Plan refers in Chapter 5 to a key objective for the area is, 'to strengthen and diversify local economies to provide more jobs and to achieve a better balance between the location of jobs and housing, which will reduce the need to travel and promote sustainable development'.
- 10.2.4 The Adopted Local Plan refers in Paragraph 9.35 to Local Centres within villages which provide an important local service. Proposals which would lead to improvement of such centres will be encouraged. Policy RLP128 of the Adopted Local Plan seeks to ensure that within rural areas, support will be given to the continuance of services and facilities, in order to maintain community life. Proposals which lead to loss of village facilities will not be permitted unless sufficient evidence is provided.

- 10.2.5 Sible Hedingham has a Local Centre as defined on the proposals map of the Section 2 Plan. Policy LPP10 of the Section 2 Plan refers to Local Centres stating they, 'will be protected from inappropriate development and enhanced to provide small scale shops, services and community facilities for local residents'. However, the site is situated outside of the Local Centre for Sible Hedingham as defined in the Section 2 Plan and has no specific allocation on the proposals map of the Adopted Local Plan or the Section 2 Plan.
- 10.2.6 The site is situated within the designated Conservation area for Sible Hedingham. Policy RLP97 of the Adopted Local Plan only permits change of use of buildings within a Conservation area if the change and any associated alteration to the appearance or setting of building preserves and enhances character and appearance of the area. Policy LPP56 of the Section 2 Plan refers to encouraging the preservation and enhancement of the character and appearance of the designated Conservation Area and their settings. Policy RLP100 of the Adopted Local Plan only permits change of use of listed buildings if the proposed use does not harm the setting, character, structural stability and fabric of the building. This is reiterated in LPP60 of the Section 2 Plan. The impact of the proposal on the Conservation Area /Listed building is discussed below.
- 10.2.7 The site is situated within a residential area. The application is seeking a partial change of use from C3 (residential dwelling) to part Café (E (b) and associated takeaway. Policy RLP62 of the Adopted Local Plan states that planning permission will not be granted for development including changes of use which will, or could potentially, give rise to polluting emissions to land, air and water or harm to nearby residents including noise, smell, fumes, vibration or other similar consequences. The impact of the proposal on neighbouring amenity is discussed below.
- 10.2.8 The proposed development is situated outside of the Local Centre for Sible Hedingham where such uses are encouraged. The policies relating to 'Local Centres' are therefore not applicable. The acceptability of the proposal will be therefore be assessed on its planning merits taking into account the impact on neighbouring amenity, Listed Building, Conservation Area, and parking provision.

11. SITE ASSESSMENT

11.1 History

- 11.1.1 Planning permission was granted in 2003 for the erection of a detached garage (Application References 03/01955/FUL and 03/01956/LBC) at the site. However, a further application was granted in 2014 at the site (Application Reference 14/00973/FUL) for, 'partial demolition, alterations and works to convert existing dwelling to form 2no dwellings; demolition of domestic outbuildings; erection of 2 new detached dwellings; 1 detached garage, cycle storage buildings, landscaping and associated work'. This

approved application included a cart lodge (in the position of the previously approved garage) which was subsequently implemented. This current application is seeking to utilise this cart lodge as a seating area for customers of the proposed café.

- 11.1.2 The submitted Planning Statement refers to the historic use of the site as a bake house and then later as a shoe repair shop in the 1960s.

11.2 Location

- 11.2.1 The site is situated approximately 270 metres to the southern edge of the defined Local Centre where the majority of shops/services are located for Sible Hedingham.
- 11.2.2 There are residential properties surrounding the site. The submitted Planning Statement refers to, 'examples of other uses nearby, for example immediately adjacent to the south is the Swan Public House (currently closed) and to the north east is The Yellow House, a school for special needs children'.
- 11.2.3 It is noted that planning permission has previously been granted to convert the redundant Swan Public House into residential use (Application References 12/01549/FUL and 12/01550/LBC) although it has not been implemented. It is also noted that 'The Yellow House' was previously used as a coffee shop before ceasing trading in 1991.
- 11.2.4 There are bus stops in close proximity to the site to the east (bus shelter) and west of Swan Street (informal stop outside of former Swan Public House). However, it is noted that there is no safe pedestrian crossing in this part of Swan Street.
- 11.2.5 The Planning Statement suggests in Paragraph 6.42, 'the majority of visitors to the site are local and arrive on foot'. In support of the application the applicant undertook a survey to establish the number of customers visiting the café and their mode of transport during a 2 week period in June from 11th to 30th (Appendix 4 of Planning Statement). The survey concluded that during this period most customers walked to the café with cycling the second most popular mode of travel. The survey suggests that customers arriving by car was low for example, 1 a day, 3 at most and on some days there were no customers arriving by car at all.
- 11.2.6 It is noted that the support representations received to the application are predominately from local residents in Sible Hedingham. However, it is also apparent from the representations received that the café has been used by residents of surrounding villages and towns including Castle Hedingham, Gosfield, Pebmarsh, Halstead, Braintree, Bocking and Bardfield who would most likely travel to the site by private vehicle. This raises concern regarding car parking for those customers travelling from outside of the village or those unable to walk/cycle to the café.

11.3 Car Parking / Access

- 11.3.1 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. RLP56 of the Adopted Local Plan, Policy CS7 of the Core Strategy, and Policy LPP55 of the Section 2 Plan seek to ensure sufficient vehicle/cycle parking is provided within new developments.
- 11.3.2 Policy RLP92 of the Adopted Local Plan refers to changes of use to buildings and states this will only be permitted if the design and layout of their access is fully accessible to people whose mobility is impaired. Provision for such full accessibility should be made in highway parking, walking, cycling, traffic management and other public realm structures.

Residential Car Parking

- 11.3.3 The Committee Report for the previously approved scheme on the site granted in 2014 (Application Reference 14/00973/FUL) referred to car parking for the site (referred to as plot 1 on approved plans). The report stated, *'parking for plot 1 would be provided adjacent to the dwelling, utilising the existing access and parking area for the south of the site. An existing garage structure would be replaced with a new cart lodge that would measure 3.3 metres by 6 metres and 4.2 metres tall.'* Historic Google Street View imagery illustrates how the parking arrangement worked at the site prior to use as a café.
- 11.3.4 The submitted plans for the café / takeaway propose to utilise the driveway and existing cart lodge for the seating of customers. However, this results in the loss of parking spaces for the main dwelling which remains in residential use occupied by the applicants. The submitted Planning Statement suggests in Paragraph 6.19, that outside of opening hours for the café the cart lodge and driveway are returned to use as parking provision by the occupants of the site. It is not clear where the applicants park their vehicles during the hours of operation for café which is most part of the week (Wednesday to Sunday 9am to 4/4.30pm). Officers consider it unlikely that the cart lodge could be used as parking provision outside of opening hours as it currently has furniture/fixings associated with the café within it. It wouldn't be practical to move this out after closing hours each day. It is not clear where all the tables and chairs are stored after closing hours to enable the driveway to be occupied by a vehicle presumably in the cart lodge under cover.
- 11.3.5 The Planning Statement states in Paragraph 6.39, *'the site is located on Swan Street in close proximity to the junction with Alderford Street where there are no parking restrictions and no double yellow lines. 6.40, no parking provision is proposed as part of this proposed development. However, this is an existing premise where there is no opportunity to provide additional parking'*. Whilst it is acknowledged that this is an existing

premises where there is no opportunity to provide parking for the proposed café use, there is in fact a loss of 2 parking spaces as the area proposed for parking on approved 2014 application (*cart lodge and space adjacent*) for the main dwelling is used as seating area for the café.

Café Car Parking

- 11.3.6 The Planning Statement refers to parking opportunities around the village including within the Swan Street public car park and on nearby roads where there are no parking restrictions (including Alderford Street). During the Officer site visit it was noted that on-street car parking already occurs on Alderford Street as some of the residential properties do not have off street parking given the historic street form. Officers are concerned about pedestrian safety and customers of the café using Alderford Street for parking as there is no pedestrian crossing from Alderford Street/Swan Street. Furthermore, the road is on bend with poor visibility of oncoming traffic. Encouraging on-street parking on Swan Street would further cause traffic, inhibiting free flow on an already congested road. It would also make egress from residential properties with driveways onto the main road difficult.
- 11.3.7 The Swan Street car park is located to north of the site, situated to the rear of the Parish Council Office next to the doctor's surgery. It has approximately 8 spaces. There is no signage from the main road into the car park therefore visitors from outside of the area visiting the cafe are unlikely to know it is there. Also, given that there is no parking for the doctor's surgery, the car park is likely to be frequently used by patients of the surgery.
- 11.3.8 The Planning Statement refers to other businesses in Sible Hedingham which do not have dedicated parking provision. These businesses are predominately located within the 'Local Centre'. The clustering of services/shops within a Local Centre enables users to link journeys. It is noted that there is a parking layby providing spaces for users of some of these services adjacent to the shops/services at junction of Alexandra Road and main road and signs to parking to rear. There is also designated parking at the front of the Co-op food store. There is also a carpark to rear of Co-op food store which is sign posted from main road. There is a pedestrian crossing adjacent to the pharmacy enabling pedestrians to safely cross the main road and access services and facilities. Therefore, whilst some of these businesses may not have dedicated parking provision there is access to off street parking and safe pedestrian crossing points in the vicinity.
- 11.3.9 A takeaway service is also proposed to operate from the site which may further exacerbate parking issues as customers would be less inclined to park safely somewhere further away and walk to collect their order.
- 11.3.10 The Planning Statement refers to the 8 employees of the proposed café. It states, '*the employees are all part time and the jobs rang from waitressing*

to food preparation. Five of the employees live in Sible Hedingham, 2 live locally in Halstead and one from Pebmarsh'. The Planning Statement does not state whether the employees who live outside Sible Hedingham use public transport or drive. If the latter, this could further exacerbate on-street parking in the vicinity. It may not always be possible to employee local staff who can walk to the site.

- 11.3.11 The Planning Statement indicates that no deliveries are made to the site in relation to the proposed use as a cafe as the applicant buys the required items alongside her own personal items. However, if permission was granted for a café/takeaway use it would be unreasonable for such a permission to prohibit deliveries of food and produce. The parking of delivery vehicles outside the premises would inevitably cause issues regarding congestion and safety concerns.

Cycle Parking

- 11.3.12 The submitted mode of travel survey suggests that the second most preferable mode of travel to café is cycling. However, it is not clear from the submitted plans or Planning Statement where cyclists leave their bikes as no secure cycle parking is indicated on the Block Plan or was noted during the Officer site visit.

Parking for Disabled Persons

- 11.3.13 The submitted Planning Statement refers to accessibility in Paragraph 6.22 states, *'in terms of accessibility, the site is able to be accessed by disabled customers with level access to a toilet available at the rear of the site'*. However, there is no designated parking spaces for disabled persons available.
- 11.3.14 It is noted through objection representations received that customers occasionally park to the front of the Swan Public House/Swan Chase blocking access for residents. This land is situated outside of the applicant's control. Whilst the Planning Statement suggests that the, *'applicants policy is to establish with all customers where they may have parked and to redirect them if necessary to safe parking provision'* this may not always be possible if the café is busy. Customers who have parked and sat down or parked temporarily whilst waiting for a takeaway maybe reluctant to move.
- 11.3.15 The proposal does not accord with Policy RLP56 of the Adopted Local Plan and Policy LPP55 of the Section 2 Plan. It would give arise to on-street parking and would result in loss of car parking for the residential use for most part of the week. The proposal does not accord with Policy RLP92 of the Adopted Local Plan as there is no designated parking space for disabled users.
- 11.3.16 The Highway Authority have indicated that the proposal is acceptable subject to a legal obligation for £5,000 index linked contribution towards

possible waiting restrictions. The Highway Authority note there is a wide footway across the site frontage which could be an attractive parking area for visitors to the café and state that it is important the footway is preserved for pedestrians only, vehicles parked in this area would represent an obstruction to those highway users.

11.3.17 The applicant has responded to the Highway Authority request for a financial contribution towards restrictions stating, '*The proposed index linked contribution requirement is considered to be disproportionate to the nature of the proposed application which proposes to operate under a personal permission with limited hours and a limited menu. It is relevant to note that waiting restrictions were not deemed necessary for the adjacent pub which would offer a more intensive use and it is assumed that this is not a requirement for other similar businesses within the village? The use of the site has been in place for more than a year now and since that time no obstructions to the footway have been reported with no incidents or issues raised formally with ECC Highways. It is also relevant to note that the majority of customers that visit are local, walk to the site and that there is sufficient unrestricted parking within close proximity to the application site along Alderford Street*'.

11.3.18 The applicant's lack of willingness to provide a financial contribution towards waiting restrictions to prevent vehicles parking in the area further raises highway concerns regarding safety.

11.4 Design, Appearance and Layout

11.4.1 Paragraph 124 the NPPF highlights that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable developments, creates better places in which to live and work and helps make development acceptable to communities.

11.4.2 Paragraph 127 states that planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting.

11.4.3 Policy SP7 of the Section 1 Plan states that all new development must meet high standards of urban and architectural design and provides a number of place making principles.

11.4.4 Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Section 2 Plan seek a high quality of design in all developments

11.4.5 There are no external/ internal additions/alterations proposed to the main dwelling to facilitate the proposed use as a café/takeaway.

11.4.6 There is a caravan parked to the rear of the site which is proposed to be used for preparing and serving food in addition to the kitchen situated in the main dwelling where it is indicated that most of the cooking and food

preparation is undertaken. There are no proposals for ventilation or extraction systems. The Planning Statement indicates that the only smells coming from the caravan would be food items such as bacon/eggs.

- 11.4.7 The Environmental Health Officer has raised an objection to the permanent change of use to a café as the premises has not been suitably designed or adapted for the commercial use proposed. His response states, 'whilst the present hot food offer is quite limited and thus has minimal impact in terms of odour, granting a permanent Class E (b) use would allow for significant potential for lawful intensification of the use in the future. The premises currently has no effective means of extract ventilation. In a commercial kitchen I would expect to see an extract ventilation system ducted externally to a high level. Commissioning of the extract system should take place before any Class E (b) or 'hot food takeaway' commences.' The Environmental Health Officer also acknowledges in his objection that if planning permission is granted for a change of use without such controls in place the premises could be sold or leased in the future to a third party who may operate a food business with a more harmful odour profile.
- 11.4.8 The agent has submitted a rebuttal in response to the Environmental Health Officer comments iterating that, 'there is no requirement therefore to divide the premises, the areas utilised as part of the proposed use are only used during the limited proposed opening hours and outside these hours reverts back to domestic residential use. Notwithstanding this the kitchen is still able to be accessed and used by residents of the dwelling should they wish to'.
- 11.4.9 The Environmental Health Officer has responded to the rebuttal stating, 'I do not consider it appropriate for existing kitchen facilities within the property to be used jointly for both commercial Class E (b) use and domestic use. I would recommend a condition be imposed specifying which room/s within the building are to be used for commercial food production exclusively and prohibiting any other use. Alternative provision for domestic food preparation and laundry would then need to be made elsewhere in residential parts of the building'. The Environmental Health Officer states that following a discussion with the Environmental Health Manager, who has a responsibility for food safety, it has been confirmed that the shared use of a commercial kitchen with domestic family use would not be acceptable for a café premises (Class E(b) Use) providing full hot meals commercially.
- 11.4.10 In response to the concerns regarding ventilation the rebuttal states, 'if deemed necessary the applicant is happy to accept a planning condition that would restrict the menu available and would not include any foods causing adverse odours'.
- 11.4.11 The rebuttal confirms that the applicant rents the property and therefore has no ability to sell it.

- 11.4.12 The rebuttal from the applicant further states that, 'it should be noted that this is no different to a bakers selling cakes, sandwiches or warm savouries to be purchased and eaten outside their premises. The customers purchasing items to take away mainly consists of local people getting a bacon roll, a sandwich or cake to take back to work. The simple takeaway items are only available during the limited opening hours'. However, Officers also note that the takeaway menu extends to offering a Sunday roast dinner as advertised on their social media page.
- 11.4.13 The Planning Statement indicates that, 'there are five tables located outside with a total of 17 chairs and 4 tables located inside the cart lodge with a further 10 chairs. Adequate distances are maintained between tables to ensure Covid safe standards. There is 5m between the pavement and the first table, avoiding any footpath/highway conflict'.
- 11.4.14 The detached cart lodge is set back from the road frontage abutting Swan Chase. The frontage of the cart lodge is open to Swan Street and there are no doors enclosing the space.
- 11.4.15 The rear garden for the main dwelling is situated to the rear of the driveway proposed to be utilised for seating associated with the café. The garden area is raised and enclosed with railings. The submitted Block Plan does not propose the change of use and extends to include this part of the site. The existing garden area for the main dwelling is therefore unaffected by the proposal and sufficient garden area is retained for the occupants/applicants. However, there is concern that if the business wished to expand in the future this area could be lost.
- 11.4.16 The submitted floor plan proposes that the ground floor bathroom will have access to the rear of the main dwelling and is proposed to be used by customers.
- 11.4.17 The submitted proposed change of use to part café would not alter the character and appearance of the host dwelling. However, as raised by the Environmental Health Officer a change of use to a commercial premises would require adequate ventilation system to be installed which is not proposed with this application.
- 11.4.18 Whilst the outside appearance would be altered to the extent of tables/chairs this is temporary/removable and not detrimental to the character and appearance of the area.

11.5 Impact on Heritage Assets

- 11.5.1 The site is situated within the designated Conservation area and the main dwelling is Grade II listed.
- 11.5.2 Policy RLP97 of the Adopted Local Plan only permits change of use of buildings within a Conservation area if the change and any associated alteration to the appearance or setting of building preserves and enhance

character and appearance of the area. Policy LPP56 of the Section 2 Plan refers to encouraging the preservation and enhancement of the character and appearance of the designated Conservation Area and their setting. Policy RLP100 of the Adopted Local Plan only permits change of use of listed buildings if the proposed use does not harm the setting, character, structural stability and fabric of the building. This is reiterated in LPP60 of the Section 2 Plan.

- 11.5.3 The Historic Buildings Consultant has raised no objection to the proposal as there are no alterations proposed to the interior/exterior of the listed building. The caravan siting is not considered to have a detrimental impact on the heritage asset. The Historic Buildings Consultant has stressed that the optimum viable use of the building remains as a residential dwelling and indicates that any future proposals to alter the listed building in order to make the running of a café more efficient are likely to cause concern from a heritage perspective for example, a more commercial kitchen or extractor fans. As noted in the response from the Environmental Health Officer an extraction ventilation system would be required for a commercial kitchen, which would inevitably have implications on the heritage asset and neighbouring amenity.
- 11.5.4 The proposal as currently proposed is not considered to have a detrimental impact on the character and appearance of the Conservation Area or the Listed Building. The proposal accords with Policies RLP97 and RLP100 of the Adopted Local Plan and Policies LPP56 and LPP60 of the Section 2 Plan.
- 11.6 Impact on Residential Amenity
- 11.6.1 One of the core planning principles set out in the NPPF is to secure a good standard of amenity for all existing and future occupants of land and buildings.
- 11.6.2 Policy RLP90 of the Adopted Local Plan also states that development should not have an unacceptable impact upon neighbouring amenity. This is reiterated in Policy LPP55 of the Section 2 Plan. Policy RLP62 of the Adopted Local Plan states that planning permission will not be granted for development including changes of use which will, or could potentially, give rise to polluting emissions to land, air and water or harm to nearby residents including noise, smell, fumes, vibration or other similar consequences.
- 11.6.3 The main dwelling is surrounded by residential properties with the residential development to the rear situated at an elevated level to the site. The positioning of the tables/chairs within the driveway area (as opposed to the elevated garden of the site) and the cart lodge are relatively discrete and enclosed so that it would not give rise to concerns on neighbouring amenity in terms of overlooking, loss of privacy. However, it is noted from objections received to the application that residential properties within the vicinity are particularly concerned regarding noise and parking which could

cause problems with nuisance and disturbance. The concerns regarding car parking have been assessed above.

- 11.6.4 The site is situated on a busy road (Swan Street) with an almost constant murmur of noise from vehicles passing throughout most of the day when the café would be opened. Whilst there would be noise associated with the café (from customers socialising) it is unlikely to be to an extent that would be considered detrimental to neighbouring amenity particularly given the existing traffic noise that already occurs and the discrete positioning of tables/chairs.
- 11.6.5 The submitted proposal is not suggesting the premises will be used to host events which might include the use of music, speakers etc. However, it is noted that the business advertises events on its social media page including a Santa experience and Halloween event for children. These such events could give rise to disturbance for local residents in terms of noise. The rebuttal submitted by the agent in response to the Environmental Health Officer comments states that, 'the Santa's grotto is undertaken separately to the business, is set up in the applicants home, paid for by the applicant. The café is open during the time of the grotto but those attending the grotto can enter via a different door and do not have to enter the café if they do not want to'.
- 11.6.6 No concerns appear to have been raised regarding cooking smells from the premises. However, it should be noted that a granted permission for a change of use to class E (b) and associated takeaway would mean that the premises could be sold/leased in the future to another food business which may have a more harmful odour profile creating a nuisance for neighbours. Officers are therefore concerned that a change of use to a Class E (b) and associated takeaway could 'potentially give rise to harm to nearby residents' in terms of cooking smells given the siting within a residential area and proximity to neighbours contrary to RLP62 of the Adopted Local Plan.
- 11.7 Social / Economic Impacts
- 11.7.1 The NPPF seeks to support the rural economy and retention of valued facilities and services to encourage sustainable development. This thread is reinforced in the Section 1 Plan, Adopted Local Plan and the Section 2 Plan.
- 11.7.2 From the support representations received, the café/takeaway has proved to be popular and is considered as a valuable community facility/asset amongst customers.
- 11.7.3 The Planning Statement indicates that the business employees eight staff members who lost their jobs over lockdown as a result of Covid. It is also states that the business seeks to support other local businesses by purchasing produce within the village where possible and by also employing a local cleaning company. It is stated that the applicant set up

the café as a result of the Covid 19 pandemic, as the applicant ran her own wedding/birthday cake business (from the same site) and was forced to find an alternative means of income as the wedding industry was severely impacted which had a knock on effect to the applicants cake making business.

- 11.7.4 It is recognised that the café/takeaway has provided social and economic benefits for the local area.

12. CONCLUSION

- 12.1 While it is acknowledged that the café/takeaway business has provided a new local facility/service for Sible Hedingham and associated social/economic benefits, these have to be balanced against the harmful impacts of the proposal.
- 12.2 The location of the café/takeaway in a residential garden/driveway and partially within a domestic dwelling is considered to be inappropriate. The premises has not been designed or adapted for commercial use which would include effective means of extract ventilation which would inevitably have implications on the heritage asset and neighbouring amenity.
- 12.3 The proposal is suggesting a dual domestic/commercial use of the existing kitchen. It is not clear how the premises is intended to be divided into separate areas for these two distinct uses. There is concern that given the constraints of the site the café business would be unable to expand in the future as this would inevitably lead to either a loss of garden space or residential accommodation.
- 12.4 The café/takeaway is situated in a residential area away from the other shops/services for Sible Hedingham where such uses are usually encouraged as it offers opportunities for linked trips to other facilities/services and access to public car parks.
- 12.5 The lack of parking (including parking for disabled persons) and access to off street car parking is a concern and will inevitably lead to on-street parking and congestion occurring. The applicant is not amenable to providing a financial contribution towards waiting restrictions in the area as requested by the Highway Authority to alleviate concerns regarding on-street parking/pedestrian safety.
- 12.6 Although there are no present concerns regarding smells or odour arising from the use, if the application was granted permission, it would enable the premises to be sold or leased in the future to another food business which could have a more harmful odour profile. Furthermore a planning permission could not control what food is offered by the café/takeaway, such it could change from that currently provided. This could lead to cooking smell/odour nuisance for the neighbouring properties.

12.7 On balance, the benefits of the proposal are not outweighed by the harm and the recommendation is that the application is refused.

13. RECOMMENDATION

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

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

APPENDIX 1:

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

Reason(s) for Refusal

1.

The location of the proposed Class E (B) cafe and associated takeaway use in a residential garden/driveway and partially within a domestic premises conflicts with the residential use of the site and is inappropriate. It is situated in a residential area away from the other shops/services within the Sible Hedingham Local Centre where such uses as proposed are encouraged.

Furthermore the proposed use could potentially, when the required extraction and ventilation equipment is installed, give rise to noise/smell harm to the amenity of nearby residents and harm to the listed building.

The proposal is contrary to Policies RLP62, RLP90 and RLP100 of the Adopted Local Plan, Policies LPP50, LPP55 and LPP60 of the Section 2 Plan and the National Planning Policy Framework.

2.

There is a lack of public parking available which will inevitably lead to on street car parking and congestion occurring within the locality. Furthermore, the proposal would result in loss of 2 car parking spaces for the residential use for most part of the week. Insufficient car parking is provided to the detriment of highway safety and the amenity of the host and neighbouring residential properties.

The proposal is contrary to Policy RLP56 of the Adopted Local Plan, Policy LPP45 of the Section 2 Plan and Supplementary Planning Document Parking Standards Design and Good Practice (2009).

3.

Adopted policies applicable to the proposed development would trigger the requirement for:

- A financial contribution of £5000 towards waiting restrictions within the highway

These requirements would be secured through a S106 Agreement. At the time of issuing this decision a S106 Agreement has not been prepared or completed.

In the absence of securing such planning obligations the proposal is contrary to Policies RLP138 and RLP56 of the Adopted Braintree District Local Plan Review (2005), Policy SP6 of the Adopted Braintree District Shared Strategic Section 1 Local Plan (2021), Policies LPP45 and LPP82 of the Section 2 Local Plan (2017) and Supplementary Planning Document Parking Standards Design and Good Practice (2009).

Submitted Plan(s) / Document(s)

Location Plan	Plan Ref: 501
Block Plan	Plan Ref: 502

APPENDIX 2:

POLICY CONSIDERATIONS

National Planning Guidance

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

Braintree District Local Plan Review (2005)

RLP2	Town Development Boundaries and Village Envelopes
RLP3	Development within Town Development Boundaries and Village Envelopes
RLP56	Vehicle Parking
RLP62	Development Likely to Give Rise to Pollution or the Risk of Pollution
RLP90	Layout and Design of Development
RLP92	Accessibility
RLP95	Preservation and Enhancement of Conservation Areas
RLP97	Changes of Use in Conservation Areas
RLP100	Alterations and Extensions and Changes of Use to Listed Buildings and their settings

Braintree District Core Strategy (2011)

CS7	Promoting Accessibility for All
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Braintree District Shared Strategic Section 1 Local Plan (2021)

SP1	Presumption in Favour of Sustainable Development
SP5	Employment
SP6	Infrastructure & Connectivity
SP7	Place Shaping Principles

Braintree District Publication Draft Section 2 Local Plan (2017)

LPP1	Development Boundaries
LPP10	Retailing and Regeneration
LPP45	Parking Provision
LPP50	Built and Historic Environment
LPP55	Layout and Design of Development
LPP56	Conservation Areas
LPP60	Heritage Assets and their Settings
LPP82	Infrastructure Delivery and Impact Mitigation

Neighbourhood Plan

N/A

Other Material Considerations

Supplementary Planning Document – Parking Standards Design and Good Practice (2009)

Statement on Draft Local Plan

On the 22nd February 2021, Braintree District Council adopted the Shared Strategic Section 1 Local Plan.

On adoption, the policies in the Shared Strategic Section 1 Local Plan superseded Policies CS1, CS4, CS9 and CS11 of the Core Strategy (2011).

The Council's Development Plan therefore consists of the Braintree District Local Plan Review (2005) ("the Adopted Local Plan"), the policies of the Core Strategy (2011) (the Core Strategy") which are not superseded, the Shared Strategic Section 1 Local Plan (2021) ("the Section 1 Plan"), and any Adopted Neighbourhood Plan.

The local authority is now moving forward with the examination of Section 2 of the Draft Local Plan and has published main modifications for consultation. In accordance with Paragraph 48 of the NPPF, from the day of publication the Council can give weight to the policies of this emerging Draft Section 2 Local Plan ("the Section 2 Plan") and the weight that can be given is related to:

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

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

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

Accordingly the Council affords significant weight to the Section 2 Plan.

APPENDIX 3:

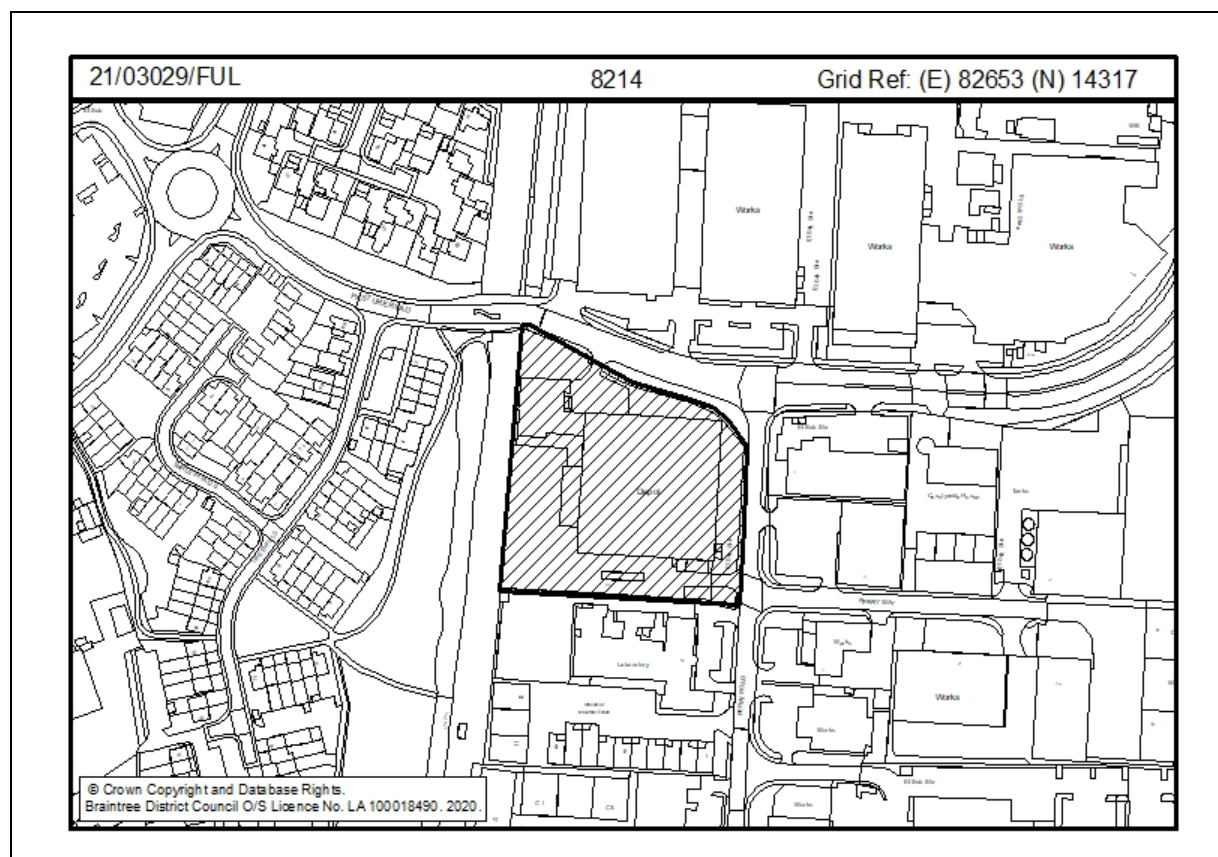
SITE HISTORY

Application No:	Description:	Decision:	Date:
14/00972/FUL	Partial demolition , alterations and works to convert existing dwelling to form 2 no. dwellings; demolition of domestic outbuildings; erection of 2 no. new detached dwellings, 1 no. detached garage, cycle storage buildings; landscaping and associated works	Granted with S106 Agreement	07.11.14
14/00973/LBC	Partial demolition , alterations and works to convert existing dwelling to form 2 no. dwellings; demolition of domestic outbuildings; erection of 2 no. new detached dwellings, 1 no. detached garage, cycle storage buildings; landscaping and associated works	Granted	07.11.14
03/01955/FUL	Erection of detached garages	Granted	21.01.04
03/01956/LBC	Erection of detached garages	Permission Not Required	21.01.04

Agenda Item: 5b

Report to: Planning Committee		
Planning Committee Date: 11th January 2021		
For: Decision		
Key Decision: N/A		Decision Planner Ref No: N/A
Application No:	21/03029/FUL	
Description:	Change of Use from Class B2 (General Industry) to a flexible Class B2 (General Industry) and Class B8 (Storage and Distribution) Use.	
Location:	3 Freebournes Road, Witham, Essex, CM8 3UN	
Applicant:	Mr D Carroll, Newell Properties Ltd	
Agent:	Mr David Wife, David Clarke & Associates	
Date Valid:	18.10.2021	
Recommendation:	It is RECOMMENDED that the following decision be made: § Application GRANTED subject to the Condition(s) & Reason(s) and Informative(s) outlined within Appendix 1 of this Committee Report.	
Options:	The Planning Committee can: a) Agree the Recommendation b) Vary the Recommendation c) Overturn the Recommendation d) Defer consideration of the Application for a specified reason(s)	
Appendices:	Appendix 1:	Approved Plan(s) & Document(s) Condition(s) & Reason(s) and Informative(s)
	Appendix 2:	Policy Considerations
	Appendix 3:	Site History
Case Officer:	Peter Lang For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2536, or by e-mail: peter.lang@braintree.gov.uk	

Application Site Location:



Purpose of the Report:	The Committee Report sets out the assessment and recommendation of the abovementioned application to the Council's Planning Committee. The report sets out all of the material planning considerations and the relevant national and local planning policies.
Financial Implications:	<p>The application was subject to the statutory application fee paid by the applicant for the determination of the application.</p> <p>There are no direct financial implications arising out of the decision, notwithstanding any costs that the Council may be required to pay from any legal proceedings. Financial implications may arise should the decision be subject to a planning appeal or challenged via the High Court.</p>
Legal Implications:	<p>Any legal implications arising out of a Section 106 Agreement will be set out in more detail within the body of this Committee Report.</p> <p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either set out the relevant Conditions & Reasons and any Informatives, or the Reasons for Refusal if applicable.</p> <p>All relevant policies are set out within the report, within Appendix 2.</p>
Other Implications:	The application has been subject to public consultation and consultation with relevant statutory and non-statutory consultees. All responses received in response to this consultation are set out within the body of this Committee Report.
Equality and Diversity Implications	<p>Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:</p> <ul style="list-style-type: none"> a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act b) Advance equality of opportunity between people who share a protected characteristic and those who do not

	<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>
Background Papers:	<p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> § Application Form § All Plans and Supporting Documentation § All Consultation Responses and Representations <p>The application submission can be viewed online via the Council's Public Access website: www.braintree.gov.uk/pa by entering the Application Number: 21/03029/FUL.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> § National Planning Policy Framework (NPPF) § Braintree District Local Plan Review (2005) § Braintree District Core Strategy (2011) § Braintree District Shared Strategic Section 1 Local Plan (2021) § Braintree District Publication Draft Section 2 Local Plan (2017) § Neighbourhood Plan (if applicable) § Supplementary Planning Documents (SPD's) (if applicable) <p>The National Planning Policy Framework can be viewed on the GOV.UK website: www.gov.uk/.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: www.braintree.gov.uk.</p>

1. EXECUTIVE SUMMARY

- 1.1 The application site is located within Freebournes Road, which forms part of the wider Witham Industrial Estate within the Witham development boundary. This industrial estate is classified as an employment area within the Adopted Local Plan.
- 1.2 Planning permission is sought for a change of use from a Class B2 (General Industry) to a flexible Class B2 (General Industry) and Class B8 (Storage and Distribution). This proposal is purely for a change of use and does not include any building operations or any other alterations for the site.
- 1.3 The site is located within an Employment Policy Area as outlined on the Proposals Map contained within the Adopted Core Strategy. Policy RLP33 of the Adopted Local Plan states that within defined Employment Policy Areas proposals for uses other than those within Use Classes B1, B2, and B8 will be refused, which is further reinforced by Policy RLP28 of the Adopted Local Plan.
- 1.4 The proposal would maintain a policy compliant industrial usage of the site, carrying an economic and social benefit to the local community consistent with the planning objectives contained within Paragraph 11 of the NPPF.
- 1.5 In terms of layout, design, and appearance, no external alterations or enlargements to the structure are proposed wherein local design policies are not engaged. No adverse impact arising from the change of use has been identified with respects to neighbouring residential amenity. In addition, no adverse impacts have been identified on highways grounds, nor environmental health. Accordingly, the application is recommended for approval.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

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

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

- 5.1 The application site is located within Freebournes Road, which forms part of the wider Witham Industrial Estate within the Witham development boundary. This industrial estate is classified as an employment area within the Adopted Local Plan.

- 5.2 The site subject to this application contains built form of varying designs located at the junction of Freebournes Road and Perry Road. The appearance of this building is in keeping with what would be expected for an industrial estate. This site plan indicates that this plot contains an internal service yard as well as parking spaces throughout the plot.

- 5.3 The planning statement indicates that this building is presently vacant and has previously been used as an aluminium casting industrial use with associated office. The overall size of the site is some 0.96 hectares with 3,925sq.m presently under Use Class B2 and the ancillary office space representing 430sq.m.

6. PROPOSAL

- 6.1 Planning permission is sought for a change of use from a Class B2 (General Industry) to a flexible Class B2 (General Industry) and Class B8 (Storage and Distribution). This proposal is purely for a change of use and does not include any building operations or any other alterations for the site. The planning statement indicates that these works are to give the applicant and future tenants greater flexibility on the operational use of the building.

- 6.2 It is noted that a very similar planning application has been made at the nearby No. 16-18 Freebournes Road (Application Reference 21/03030/FUL) with the same applicant and agent. Given that this scheme is at a separate site and subject to a different application, this is not considered to impact the following analysis.

7. SUMMARY OF CONSULTATION RESPONSES

7.1 BDC Environmental Health

7.1.1 Initial comments received which are summarised as follows:

- The yard to the rear of the site is approximately 40m away from residential properties. While there have been no previous noise complaints, the change of use could result in more external activity throughout the day to the detriment of amenity.
- If additional machinery is added then noise emissions should be controlled through condition.
- Comments noting the current industrial foundry use of the site and the proximity to nearby landfill areas.
- Based on concern about new pathways being created for pollutants a pre-commencement condition was initially proposed to assess these risks with the potential for remedial works.
- Hours of use for alteration and conversion works should be controlled through condition.

[Officer Comment: These comments and additional responses will be addressed in the following analysis.]

7.2 ECC Highways

7.2.1 Owing to the history of the site and current use, the proposal is acceptable to the Highway Authority.

8. PARISH / TOWN COUNCIL

8.1 Witham Town Council

8.1.1 No objection.

9. REPRESENTATIONS

9.1 A site notice was displayed at the entrance to the application site for a 21 day period and immediate neighbours were notified in writing. No representations have been received.

10. PRINCIPLE OF DEVELOPMENT

10.1 National Planning Policy Framework (NPPF)

10.1.1 Paragraph 11 of the National Planning Policy Framework (NPPF) (2021) sets out that plans and decisions should apply a presumption in favour of sustainable development. Paragraph 12 of the NPPF states, however, 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 Braintree District Local Plan Review (2005), the Braintree District Core Strategy (2011), and the Braintree District Shared Strategic Section 1 Local Plan (2021).

10.2.2 The site is located within an Employment Policy Area as outlined on the Proposals Map contained within the Adopted Core Strategy. Policy RLP33 of the Adopted Local Plan states that within defined Employment Policy Areas proposals for uses other than those within Use Classes B1, B2, and B8 will be refused, which is further reinforced by Policy RLP28 of the Adopted Local Plan. This is reflected in emerging Policy LPP3 of the Section 2 Plan. Policy LPP2 of the Section 2 Plan states that all employment sites, including sites or buildings in current or recent use as an employment site, will be retained for such uses where they continue to offer a viable and sustainable location for such employment uses.

10.2.3 Paragraph 82 of the NPPF outlines that planning policies should set out a clear economic vision and strategy which positively and proactively encourages sustainable economic growth, having regard to Local Industrial Strategies and other local policies for economic development and regeneration. Paragraph 83 of the NPPF states that planning policies and decisions should recognise and address the specific locational requirements of different sectors. This includes making provision for storage and distribution operations at a variety of scales and in suitably accessible locations.

10.2.4 The proposal would introduce a flexible use that falls within the use classes designated for employment areas by policy so is therefore considered to be acceptable in principle.

11. SITE ASSESSMENT

11.1 Layout, Design and Appearance

11.1.1 Paragraph 126 of the NPPF states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Paragraph 134 makes reference to the requirement for good design, and how a failure to achieve good design can warrant refusal of a planning application, specifically where poor design fails to take the opportunities available for improving the character and quality of an area.

11.1.2 In addition to this, Policy RLP90 of the Adopted Local Plan requires designs to recognise and reflect local distinctiveness in terms of scale, density, height and massing of buildings, and be sensitive to the need to conserve local features of architectural and historic importance, and also to ensure development affecting the public realm shall be of a high standard of design

and materials, and use appropriate landscaping. Policy LPP55 of the Section 2 Plan seeks to secure the highest possible standards of design and layout in all new development and the protection and enhancement of the historic environment.

- 11.1.3 The proposal would not result in any changes to the general layout, design and appearance of the site and solely represents a change of use. No changes to the access or internal alterations or external enlargements have been indicated. Taking this into account, it is not considered that the proposal would raise any concerns in terms of its layout, design or appearance.

11.2 Impact on Neighbouring Residential Amenities

- 11.2.1 One of the core principles set out in the NPPF is that planning should 'always seek to secure a high quality of design and a good standard of amenity for all existing and future occupants'. This is supported by Policy RLP90 of the Adopted Local Plan which states that 'there shall be no undue or unacceptable impact upon the amenity of any nearby residential properties'. The emerging plan has similar objectives.
- 11.2.2 As highlighted in the comments from Environmental Health, the site is at the edge of the industrial estate with its rear service yard some 40m from residential properties. While the change of use is not necessarily an issue, concern was raised regarding the new storage uses resulting in additional deliveries and activity throughout the day. The separation between the application site and these nearby residential properties is characterised by extensive soft landscaping screening and a footpath skirting this estate. It is noted that there are other nearby industrial sites that abut this boundary treatment. Taking into account this screening, along with the existing use of the site and the lack of any existing controls, the existing proximity between these areas and with no indication of hours of operation, it is not considered that the proposal would materially worsen the existing situation.
- 11.2.3 Environmental Health also recommended a condition limiting hours of construction works on this site. However, with no building operations proposed, this is not considered proportionate to this scheme.
- 11.2.4 The application is therefore considered to satisfy national and local policies designed to safeguard neighbouring residential amenity.

11.3 Highway Considerations

- 11.3.1 Policy RLP56 of the Adopted Local Plan and Policy LPP45 of the Section 2 Plan commits the LPA to the guidance outlined in the ECC Parking Standards (2009). Information contained within this document includes guidance for parking provision within sites designated as Use Classes B1, B2 and B8.
- 11.3.2 The parking provision for the previous B2 use required 1 space per 50sq.m for vehicles, 1 space per 250sq.m per staff plus 1 space per 500sq.m for

visitors in terms of cycling, as well as further guidance relating to power two-wheel (PTW) vehicles and spaces for disabled persons. The provisions contained within the Parking Standards relating to B8 use are lower; 1 space per 150sq.m plus 1 space per 20sq.m retail area for customer parking in terms of vehicles, 1 space per 500sq.m for staff plus 1 space per 1000sq.m for visitors.

- 11.3.3 The application site is already served by a sizeable amount of existing parking provision that would not be impacted by the proposed change of use. No objection to the proposal was made by Essex Highways. Taking the above into the account and with no indication that the proposal would raise parking provision above existing levels, the proposal is considered to be acceptable and policy compliant in highways regards.

11.4 Flood Risk and Drainage

- 11.4.1 The site lies within Flood Zone 1 (a low probability of flood risk). Given the nature of the proposed development, there is no requirement to submit a Flood Risk Assessment (FRA) or Drainage Strategy. The proposal is therefore considered to be acceptable in these regards.

11.5 Contamination

- 11.5.1 As highlighted in the original comments from Environmental Health, with the site having been used for potentially polluting activity and its proximity to a landfill site, a condition was recommended requiring a survey and potential remedial works for the site.
- 11.5.2 The application does not involve any building operations or other alterations that may create contamination pathways and is instead solely for a change of use. It is generally considered in planning practice and legal decisions that when considering applications, Officers should consider solely what is being proposed rather than potential development. Based on this, following discussions between Environmental Health and the agent, it was agreed that it would not be proportionate to impose this contamination condition nor add an informative to this effect.

12. CONCLUSION

- 12.1 The site is located within an Employment Policy Area as outlined on the Proposals Map contained within the Adopted Core Strategy. Policy RLP33 of the Adopted Local Plan states that within defined Employment Policy Areas proposals for uses other than those within Use Classes B1, B2, and B8 will be refused, which is further reinforced by Policy RLP28 of the Adopted Local Plan.
- 12.2 The proposal would maintain a policy compliant industrial usage of the site, carrying an economic and social benefit to the local community consistent with the planning objectives contained within Paragraph 11 of the NPPF.

12.3 In terms of layout, design, and appearance, no external alterations or enlargements to the structure are proposed wherein local design policies are not engaged. No adverse impact arising from the change of use has been identified with respects to neighbouring residential amenity. In addition, no adverse impacts have been identified on highways grounds, nor environmental health. Accordingly, the application is recommended for approval.

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)

Reference:	Description:
Location Plan	Plan Ref: 4997-SLP1
Block Plan	Plan Ref: 4997-2

Conditions & Reasons and Informatives

1.

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

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

2.

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

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

3.

The site shall only be used for B2 and B8 uses and for no other purposes.

Reason: To ensure that no alternative use is made of the premises which would be detrimental to the designated employment area, amenities of the locality and neighbouring amenity.

APPENDIX 2:

POLICY CONSIDERATIONS

National Planning Guidance

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

Braintree District Local Plan Review (2005)

RLP2	Town Development Boundaries and Village Envelopes
RLP27	Location of Employment Land
RLP28	Employment Land Provision
RLP33	Employment Policy Areas
RLP36	Industrial and Environmental Standards
RLP56	Vehicle Parking
RLP62	Development Likely to Give Rise to Pollution or the Risk of Pollution
RLP90	Layout and Design of Development

Braintree District Core Strategy (2011)

CS7	Promoting Accessibility for All
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Braintree District Shared Strategic Section 1 Local Plan (2021)

SP1	Presumption in Favour of Sustainable Development
SP5	Employment
SP7	Place Shaping Principles

Braintree District Publication Draft Section 2 Local Plan (2017)

LPP1	Development Boundaries
LPP2	Location of Employment Land
LPP3	Employment Policy Areas
LPP45	Parking Provision
LPP50	Built and Historic Environment
LPP55	Layout and Design of Development

Neighbourhood Plan

N/A

Other Material Considerations

Site Allocations and Development Management Plan
Essex Parking Standards/Urban Space Supplement

Statement on Draft Local Plan

On the 22nd February 2021, Braintree District Council adopted the Shared Strategic Section 1 Local Plan.

On adoption, the policies in the Shared Strategic Section 1 Local Plan superseded Policies CS1, CS4, CS9 and CS11 of the Core Strategy (2011).

The Council's Development Plan therefore consists of the Braintree District Local Plan Review (2005) ("the Adopted Local Plan"), the policies of the Core Strategy (2011) (the Core Strategy) which are not superseded, the Shared Strategic Section 1 Local Plan (2021) ("the Section 1 Plan"), and any Adopted Neighbourhood Plan.

The local authority is now moving forward with the examination of Section 2 of the Draft Local Plan and has published main modifications for consultation. In accordance with Paragraph 48 of the NPPF, from the day of publication the Council can give weight to the policies of this emerging Draft Section 2 Local Plan ("the Section 2 Plan") and the weight that can be given is related to:

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

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

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

Accordingly the Council affords significant weight to the Section 2 Plan.

APPENDIX 3:

SITE HISTORY

Application No:	Description:	Decision:	Date:
74/00960	Proposed extension to Wheaton Road	Granted	
75/00808	Canteen extension to existing industrial premises at Perry Road Witham	Granted	03.09.75
76/11988	Erection of extension to form additional office Daniel C Griffith and Co Ltd Perry Road, Witham	Granted	24.11.76
97/00003/FUL	Removal of existing cladding, installation of new cladding, windows and covered loading bay	Granted	04.04.97

Agenda Item: 5c

Report to: Planning Committee		
Planning Committee Date: 11th January 2021		
For: Decision		
Key Decision: N/A		Decision Planner Ref No: N/A
Application No:	21/03030/FUL	
Description:	Change of Use from Class B2 (General Industry) to a flexible Class B2 (General Industry) and Class B8 (Storage and Distribution) Use.	
Location:	16 - 18 Freebournes Road, Witham, Essex, CM8 3DX	
Applicant:	Mr D Carroll, Newell Properties Ltd	
Agent:	Mr David Wife, David Clarke & Associates	
Date Valid:	18.10.2021	
Recommendation:	It is RECOMMENDED that the following decision be made: § Application GRANTED subject to the Condition(s) & Reason(s) and Informative(s) outlined within Appendix 1 of this Committee Report.	
Options:	The Planning Committee can: a) Agree the Recommendation b) Vary the Recommendation c) Overturn the Recommendation d) Defer consideration of the Application for a specified reason(s)	
Appendices:	Appendix 1:	Approved Plan(s) & Document(s) Condition(s) & Reason(s) and Informative(s)
	Appendix 2:	Policy Considerations
	Appendix 3:	Site History
Case Officer:	Peter Lang For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2536, or by e-mail: peter.lang@braintree.gov.uk	

Purpose of the Report:	The Committee Report sets out the assessment and recommendation of the abovementioned application to the Council's Planning Committee. The report sets out all of the material planning considerations and the relevant national and local planning policies.
Financial Implications:	<p>The application was subject to the statutory application fee paid by the applicant for the determination of the application.</p> <p>There are no direct financial implications arising out of the decision, notwithstanding any costs that the Council may be required to pay from any legal proceedings. Financial implications may arise should the decision be subject to a planning appeal or challenged via the High Court.</p>
Legal Implications:	<p>Any legal implications arising out of a Section 106 Agreement will be set out in more detail within the body of this Committee Report.</p> <p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either set out the relevant Conditions & Reasons and any Informatives, or the Reasons for Refusal if applicable.</p> <p>All relevant policies are set out within the report, within Appendix 2.</p>
Other Implications:	The application has been subject to public consultation and consultation with relevant statutory and non-statutory consultees. All responses received in response to this consultation are set out within the body of this Committee Report.
Equality and Diversity Implications	<p>Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:</p> <ul style="list-style-type: none"> a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act b) Advance equality of opportunity between people who share a protected characteristic and those who do not

	<p>c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.</p> <p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
<p>Background Papers:</p>	<p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> § Application Form § All Plans and Supporting Documentation § All Consultation Responses and Representations <p>The application submission can be viewed online via the Council's Public Access website: www.braintree.gov.uk/pa by entering the Application Number: 21/03030/FUL.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> § National Planning Policy Framework (NPPF) § Braintree District Local Plan Review (2005) § Braintree District Core Strategy (2011) § Braintree District Shared Strategic Section 1 Local Plan (2021) § Braintree District Publication Draft Section 2 Local Plan (2017) § Neighbourhood Plan (if applicable) § Supplementary Planning Documents (SPD's) (if applicable) <p>The National Planning Policy Framework can be viewed on the GOV.UK website: www.gov.uk/.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: www.braintree.gov.uk.</p>

1. EXECUTIVE SUMMARY

- 1.1 The application site is located within Freebournes Road, which forms part of the wider Witham Industrial Estate within the Witham development boundary. This industrial estate is classified as an employment area under Adopted Local Plan.
- 1.2 Planning permission is sought for a change of use from a Class B2 (General Industry) to a flexible Class B2 (General Industry) and Class B8 (Storage and Distribution). This proposal is purely for a change of use and does not include any building operations or any other alterations for the site.
- 1.3 The site is located within an Employment Policy Area as outlined on the Proposals Map contained within the Adopted Core Strategy. Policy RLP33 of the Adopted Local Plan states that within defined Employment Policy Areas proposals for uses other than those within Use Classes B1, B2, and B8 will be refused, which is further reinforced by Policy RLP28 of the Adopted Local Plan.
- 1.4 The proposal would maintain a policy compliant industrial usage of the site, carrying an economic and social benefit to the local community consistent with the planning objectives contained within Paragraph 11 of the NPPF.
- 1.5 In terms of layout, design, and appearance, no external alterations or enlargements to the structure are proposed wherein local design policies are not engaged. No adverse impact arising from the change of use has been identified with respects to neighbouring residential amenity. In addition, no adverse impacts have been identified on highways grounds, nor environmental health. Accordingly, the application is recommended for approval.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

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

3. POLICY CONSIDERATIONS

§ See Appendix 2.

4. SITE HISTORY

§ See Appendix 3.

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

- 5.1 The application site is located within Freebournes Road, which forms part of the wider Witham Industrial Estate within the Witham development boundary. This industrial estate is classified as an employment area under Adopted Local Plan.

- 5.2 The site subject to this application contains multiple connected buildings with varying designs and forms located along a bend in the road. The appearance of this building is in keeping with what would be expected for an industrial estate of this age. This site plan indicates that this plot contains both street facing and internal service yards, an existing site access and some off-street parking.

- 5.3 The planning statement indicates that the building is presently vacant and has previously been used as an aluminium casting industrial use with associated office. The overall size of the site is some 1.51 hectares with 8,315sq.m of floorspace presently under Use Class B2 and the ancillary office representing 1630sq.m.

6. PROPOSAL

- 6.1 Planning permission is sought for a change of use from a Class B2 (General Industry) to a flexible Class B2 (General Industry) and Class B8 (Storage and Distribution). This proposal is purely for a change of use and does not include any building operations or any other alterations for the site. The planning statement indicates that these works are to give the applicant and future tenants greater flexibility on the operational use of the building.

- 6.2 It is noted that a very similar planning application has been made at the nearby No.3 Freebournes Road (Application Reference 21/03029/FUL) with the same applicant and agent. Given that this scheme is at a separate site and subject to a different application this is not considered to impact the following analysis.

7. SUMMARY OF CONSULTATION RESPONSES

7.1 BDC Environmental Health

7.1.1 Initial comments received which are summarised as follows:

- § Comments noting the current industrial foundry use of the site and the proximity to nearby landfill areas.
- § Based on concern about new pathways being created for pollutants a pre-commencement condition was initially proposed to assess these risks with the potential for remedial works.
- § As the site is within 150m of residential properties and with no hours of use indicated, to prevent harm to amenity this should be controlled through condition.
- § Hours of use for alteration and conversion works should be controlled through condition.

[Officer Comment: These comments and additional responses will be addressed in the following analysis.]

7.2 ECC Highways

7.2.1 Owing to the history of the site and current use, the proposal is acceptable to the Highway Authority.

7.3 ECC SUDS

7.3.1 Based on the information submitted it is considered that the development does not pose a significant flood risk. No comment on the proposal based on the current details provided.

8. PARISH / TOWN COUNCIL

8.1 Witham Town Council

8.1.1 No objection.

9. REPRESENTATIONS

9.1 A site notice was displayed at the entrance to the application site for a 21 day period and immediate neighbours were notified in writing. No representations have been received.

10. PRINCIPLE OF DEVELOPMENT

10.1 National Planning Policy Framework (NPPF)

10.1.1 Paragraph 11 of the National Planning Policy Framework (NPPF) (2021) sets out that plans and decisions should apply a presumption in favour of sustainable development. Paragraph 12 of the NPPF states, however, 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 Braintree District Local Plan Review (2005), the Braintree District Core Strategy (2011), and the Braintree District Shared Strategic Section 1 Local Plan (2021).

10.2.2 The site lies within an Employment Policy Area as outlined on the Proposals Map contained within the Adopted Core Strategy. Policy RLP33 of the Adopted Local Plan states that within defined Employment Policy Areas proposals for uses other than those within Use Classes B1, B2, and B8 will be refused, which is further reinforced by Policy RLP28 of the Adopted Local Plan. This is reflected in emerging Policy LPP3 of the Section 2 Plan. Policy LPP2 of the Section 2 Plan states that all employment sites, including sites or buildings in current or recent use as an employment site, will be retained for such uses where they continue to offer a viable and sustainable location for such employment uses.

10.2.3 Paragraph 82 of the NPPF outlines that planning policies should set out a clear economic vision and strategy which positively and proactively encourages sustainable economic growth, having regard to Local Industrial Strategies and other local policies for economic development and regeneration. Paragraph 83 of the NPPF states that planning policies and decisions should recognise and address the specific locational requirements of different sectors. This includes making provision for storage and distribution operations at a variety of scales and in suitably accessible locations.

10.2.4 The proposal would introduce a flexible use that falls within the use classes permitted for employment areas so is therefore considered to be acceptable in principle.

11. SITE ASSESSMENT

11.1 Layout, Design and Appearance

11.1.1 Paragraph 126 of the NPPF states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Paragraph 134 makes reference to the requirement for good design, and how a failure to achieve good design can warrant refusal of a planning application, specifically where poor design fails to take the opportunities available for improving the character and quality of an area.

11.1.2 In addition to this, Policy RLP90 of the Adopted Local Plan requires designs to recognise and reflect local distinctiveness in terms of scale, density,

height and massing of buildings, and be sensitive to the need to conserve local features of architectural and historic importance, and also to ensure development affecting the public realm shall be of a high standard of design and materials, and use appropriate landscaping. Policy LPP55 of the Section 2 Plan seeks to secure the highest possible standards of design and layout in all new development and the protection and enhancement of the historic environment.

- 11.1.3 The proposal would not result in any changes to the general layout, design and appearance of the site and solely represents a change of use. No changes to the access or internal alterations or external enlargements have been indicated. Taking this into account, it is not considered that the proposal would raise any concerns in terms of its layout, design or appearance.

11.2 Impact on Neighbouring Residential Amenities

- 11.2.1 One of the core principles set out in the NPPF is that planning should 'always seek to secure a high quality of design and a good standard of amenity for all existing and future occupants'. This is supported by Policy RLP90 of the Adopted Local Plan which states that 'there shall be no undue or unacceptable impact upon the amenity of any nearby residential properties'. The emerging plan has similar objectives.
- 11.2.2 The change to the use of the building from general industrial (B2) to this use and storage and distribution (B8) is not considered likely to harm the residential amenities of neighbouring properties. While the site is towards the edge of the industrial estate, it is surrounded by sites that generate noise and disturbance in multiple regards. Such operations are to be expected in designated Employment Areas. Taking this into account and the historic industrial use of the site, it is not considered that the proposal would result in a greater impact on neighbouring amenity than the existing situation.
- 11.2.3 As highlighted in the comments from Environmental Health, conditions were recommended in relation to hours of construction works and site operation. Historically conditions were imposed in relation to Application Reference 96/01451/FUL (Erection of new foundry and metal melting area) to restrict movement of heavy goods vehicles or plant and to prevent plant and machinery from operating during certain times. However, in the case of this application, with no building operations proposed nor any indication that the hours of operations within the site would change as a result of the works, and given the location of the site within an employment policy area, it is not considered to be necessary to re-impose conditions to restrict the operation of the use.
- 11.2.4 The application is therefore considered to satisfy national and local policies designed to safeguard neighbouring residential amenity.

11.3 Highway Considerations

- 11.3.1 Policy RLP56 of the Adopted Local Plan and Policy LPP45 of the Section 2 Plan commits the LPA to the guidance outlined in the ECC Parking Standards (2009). Information contained within this document includes guidance for parking provision within sites designated as Use Classes B1, B2 and B8.
- 11.3.2 The parking provision for the previous B2 use required 1 space per 50sq.m for vehicles, 1 space per 250sq.m per staff plus 1 space per 500sq.m for visitors in terms of cycling, as well as further guidance relating to power two-wheel (PTW) vehicles and spaces for disabled access. The provisions contained within the Parking Standards relating to B8 use are lower; 1 space per 150sq.m plus 1 space per 20sq.m retail area for customer parking in terms of vehicles, 1 space per 500sq.m for staff plus 1 space per 1000sq.m for visitors.
- 11.3.3 The application site is already served by a sizeable amount of existing parking provision that would not be impacted by the proposed change of use. No objection to the proposal was made by Essex Highways. Taking the above into the account and with no indication that the proposal would raise parking provision above existing levels, the proposal is considered to be acceptable and policy compliant in highways regards.

11.4 Flood Risk and Drainage

- 11.4.1 The site lies within Flood Zone 1 (a low probability of flood risk). Given the nature of the proposed development, there is no requirement to submit a Flood Risk Assessment (FRA) or Drainage Strategy. The proposal is therefore considered to be acceptable in these regards.

11.5 Contamination

- 11.5.1 As highlighted in the comments from Environmental Health, the site has been used for potentially polluting activity and its proximity to a landfill site is noted. As a result of this a condition was recommended requiring a survey and potential remedial works for the site.
- 11.5.2 However, the application does not involve any building operations or other alterations that may create contamination pathways and is instead solely for a change of use. It is generally considered in planning practice and legal decisions that when considering applications, officers should consider solely what is being proposed rather than potential development. Based on this, following discussions between Environmental Health and the agent, it was agreed that it would not be proportionate to impose this contamination condition nor add an informative to this effect.

12. CONCLUSION

- 12.1 The site is located within an Employment Policy Area as outlined on the Proposals Map contained within the Adopted Core Strategy. Policy RLP33

of the Adopted Local Plan states that within defined Employment Policy Areas proposals for uses other than those within Use Classes B1, B2, and B8 will be refused, which is further reinforced by Policy RLP28 of the Adopted Local Plan.

12.2 The proposal would maintain a policy compliant industrial usage of the site, carrying an economic and social benefit to the local community consistent with the planning objectives contained within Paragraph 11 of the NPPF.

12.3 In terms of layout, design, and appearance, no external alterations or enlargements to the structure are proposed wherein local design policies are not engaged. No adverse impact arising from the change of use has been identified with respects to neighbouring residential amenity. In addition, no adverse impacts have been identified on highways grounds, nor environmental health. Accordingly, the application is recommended for approval.

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)

Reference:	Description:
Location Plan	Plan Ref: 4997-SLP11
Block Plan	Plan Ref: 4997-12

Conditions & Reasons and Informatives

1.

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

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

2.

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

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

3.

The site shall only be used for B2 and B8 uses and for no other purposes.

Reason: To ensure that no alternative use is made of the premises which would be detrimental to the designated employment area, amenities of the locality and neighbouring amenity.

APPENDIX 2:

POLICY CONSIDERATIONS

National Planning Guidance

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

Braintree District Local Plan Review (2005)

RLP2	Town Development Boundaries and Village Envelopes
RLP27	Location of Employment Land
RLP28	Employment Land Provision
RLP33	Employment Policy Areas
RLP36	Industrial and Environmental Standards
RLP56	Vehicle Parking
RLP62	Development Likely to Give Rise to Pollution or the Risk of Pollution
RLP90	Layout and Design of Development

Braintree District Core Strategy (2011)

CS7	Promoting Accessibility for All
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Braintree District Shared Strategic Section 1 Local Plan (2021)

SP1	Presumption in Favour of Sustainable Development
SP5	Employment
SP7	Place Shaping Principles

Braintree District Publication Draft Section 2 Local Plan (2017)

LPP1	Development Boundaries
LPP2	Location of Employment Land
LPP3	Employment Policy Areas
LPP45	Parking Provision
LPP50	Built and Historic Environment
LPP55	Layout and Design of Development

Neighbourhood Plan

N/A

Other Material Considerations

Site Allocations and Development Management Plan
Essex Parking Standards/Urban Space Supplement

Statement on Draft Local Plan

On the 22nd February 2021, Braintree District Council adopted the Shared Strategic Section 1 Local Plan.

On adoption, the policies in the Shared Strategic Section 1 Local Plan superseded Policies CS1, CS4, CS9 and CS11 of the Core Strategy (2011).

The Council's Development Plan therefore consists of the Braintree District Local Plan Review (2005) ("the Adopted Local Plan"), the policies of the Core Strategy (2011) (the Core Strategy) which are not superseded, the Shared Strategic Section 1 Local Plan (2021) ("the Section 1 Plan"), and any Adopted Neighbourhood Plan.

The local authority is now moving forward with the examination of Section 2 of the Draft Local Plan and has published main modifications for consultation. In accordance with Paragraph 48 of the NPPF, from the day of publication the Council can give weight to the policies of this emerging Draft Section 2 Local Plan ("the Section 2 Plan") and the weight that can be given is related to:

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

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

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

Accordingly the Council affords significant weight to the Section 2 Plan.

APPENDIX 3:

SITE HISTORY

Application No:	Description:	Decision:	Date:
74/0001/	Extension to existing canteen	Granted	16.05.74
74/0014/	Erection of single storey warehouse	Granted	16.05.74
76/002/A/	Non illuminated name board	Granted	24.02.76
77/0603/	Extension to Factory	Granted	14.06.77
78/0019//A	Proposed non-illuminated sign board	Granted	02.05.78
78/0261/	New squash court and changing room	Granted	30.03.78
78/0494/	First floor extension	Granted	30.05.78
78/1014/	Proposed Squash Court and changing rooms	Granted	23.08.78
82/0025//A	Erection of internally illuminated sign	Granted	06.08.82
93/00538/	Demolition of part of existing maintenance building and rear extension to maintenance building and additional offices to main building	Granted	17.06.93
93/00538/FUL	Demolition of part of existing maintenance building and rear extension to maintenance building and additional offices to main building	Granted	17.06.93
93/00562/FUL	Erection of various extensions to production and warehouse to existing factory	Granted	21.07.93
96/01451/FUL	Demolition of existing production area and erection of new foundry and metal melting area	Granted	24.02.97
97/01147/FUL	Variation of condition no. 11 of approval no. 96/01451/FUL to provide a high level chiller and cooling tower plant platform	Granted	22.10.97