

# **PLANNING COMMITTEE AGENDA**

**Tuesday 14th February 2023 at 7.15pm**

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

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

**Membership:-**

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

Substitutes: Councillors T Cunningham, A Hensman, D Hume, Mrs A Kilmartin, P Thorogood, Vacancy

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

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

**D GASCOYNE**  
Chief Executive

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

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

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

### **Public Question Time – Registration to Speak on an Agenda Item:**

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

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

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

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

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

Confirmed registered speakers will be invited to speak immediately prior to the relevant application/item. All registered speakers will have 3 minutes each to ask their question or to make a statement. The order in which registered speakers will be invited to speak is: members of the public, Parish Councillors/County Councillors/District Councillors/Applicant/Agent.

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

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

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

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

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

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

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

**Documents:** Agendas, Reports and Minutes can be accessed via [www.braintree.gov.uk](http://www.braintree.gov.uk)

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

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

## **PUBLIC SESSION**

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- 1 Apologies for Absence**
- 2 Declarations of Interest**  
To declare the existence and nature of any Disclosable Pecuniary Interest, Other Pecuniary Interest, or Non-Pecuniary Interest relating to Items on the Agenda having regard to the Code of Conduct for Members and having taken appropriate advice where necessary before the meeting.
- 3 Minutes of the Previous Meetings**  
To approve as a correct record the Minutes of the meetings of the Planning Committee held on 1st November 2022, 15th November 2022 and 29th November 2022 (copies previously circulated) and 24th January 2023 (copy to follow).
- 4 Public Question Time**  
(See paragraph above)
- 5 Planning Applications**  
To consider the following planning applications
- 5a App. No. 21 03214 REM – Land opposite Sandiacres, Long Green, CRESSING** **6-62**
- 5b App. No. 22 01469 REM – Towerlands, Panfield Road, BRAINTREE** **63-101**
- 5c App. No. 22 02522 FUL – Land adjacent to Weavers Park, Courtauld Road, BRAINTREE** **102-139**
- 5d App. No. 22 03314 FUL – Land South East of Hatfield Road, HATFIELD PEVEREL** **140-161**
- 5e App. No. 22 03316 FUL – Land South of Cranes Lane, KELVEDON** **162-186**
- 6 Urgent Business - Public Session**  
To consider any matter which, in the opinion of the Chairman, should be considered in public by reason of special circumstances (to be specified) as a matter of urgency.

**7 Exclusion of the Public and Press**

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

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

**PRIVATE SESSION**

**Page**

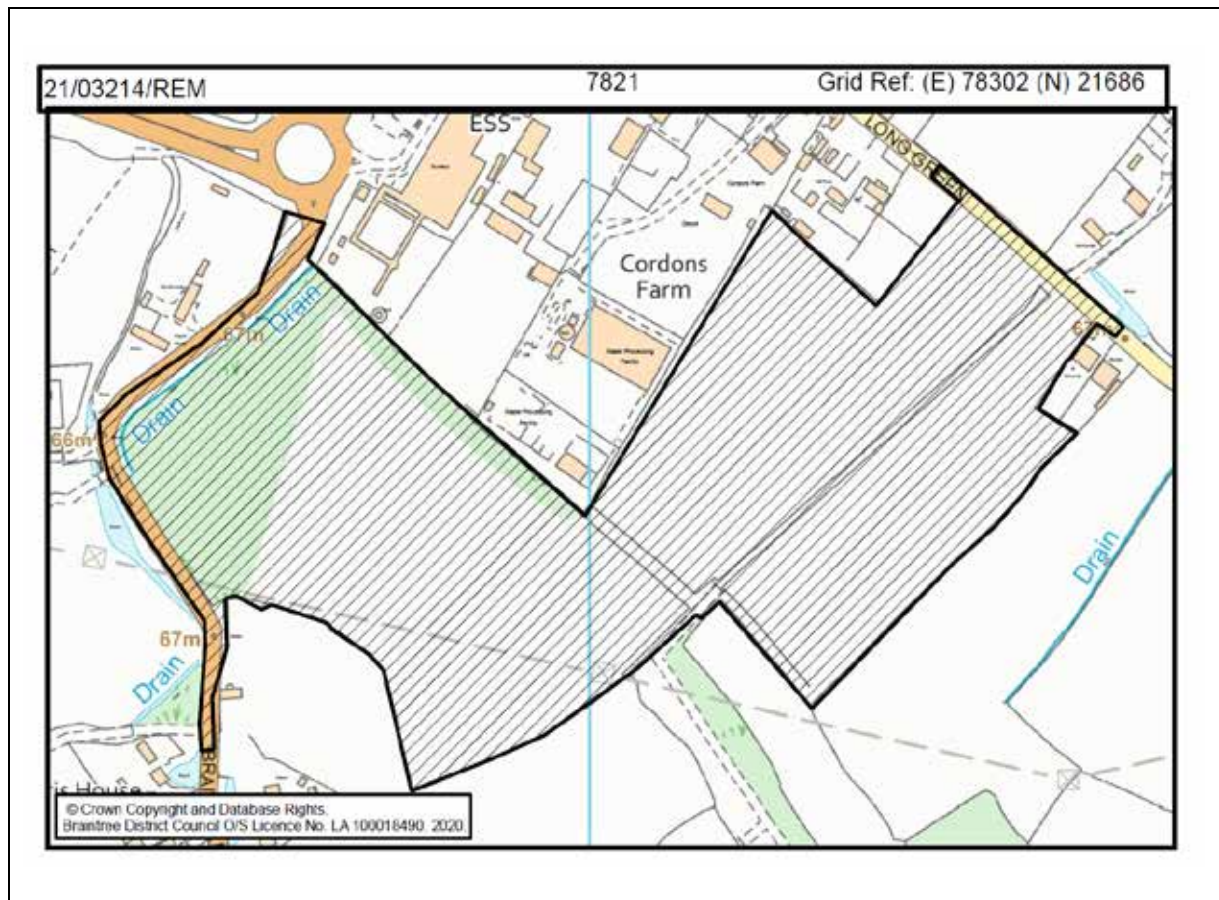
**8 Urgent Business - Private Session**

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

<b>Report to:</b> Planning Committee		
<b>Planning Committee Date:</b> 14th February 2023		
<b>For:</b> Decision		
<b>Key Decision:</b> No		<b>Decision Planner Ref No:</b> N/A
<b>Application No:</b>	21/03214/REM	
<b>Description:</b>	Application for the approval of reserved matters (in respect of layout, scale, appearance, and landscaping) pursuant to outline planning permission 18/00549/OUT granted 14.12.2020 (Allowed on appeal) for 250 dwellings, open space and associated ancillary works	
<b>Location:</b>	Land Opposite Sandiacres, Long Green, Cressing	
<b>Applicant:</b>	Persimmon Homes Essex, Miss Harris, Persimmon House, Gershwin Boulevard, Witham, CM8 1FQ	
<b>Date Valid:</b>	11th November 2021	
<b>Recommendation:</b>	It is RECOMMENDED that the following decision be made:  § Application GRANTED subject to the Condition(s) & Reason(s) and Informative(s) outlined within Appendix 1 of this Committee Report.	
<b>Options:</b>	The Planning Committee can:  a) <b>Agree</b> the Recommendation b) <b>Vary</b> the Recommendation c) <b>Overturn</b> the Recommendation d) <b>Defer</b> consideration of the Application for a specified reason(s)	
<b>Appendices:</b>	<b>Appendix 1:</b>	Approved Plan(s) & Document(s) Condition(s) & Reason(s) and Informative(s)
	<b>Appendix 2:</b>	Considerations
	<b>Appendix 3:</b>	Site History
	<b>Appendix 4:</b>	Appeal Decision
<b>Case Officer:</b>	Carol Wallis For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2534, or by e-mail: <a href="mailto:carol.wallis@braintree.gov.uk">carol.wallis@braintree.gov.uk</a>	



## Application Site Location:





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

	<p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
<b>Background Papers:</b>	<p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> <li>§ Application Form</li> <li>§ All Plans and Supporting Documentation</li> <li>§ All Consultation Responses and Representations</li> </ul> <p>The application submission can be viewed online via the Council's Public Access website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a> by entering the Application Number: 21/03214/REM.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> <li>§ National Planning Policy Framework (NPPF)</li> <li>§ Braintree District Local Plan 2013 - 2033</li> <li>§ Neighbourhood Plan (if applicable)</li> <li>§ Supplementary Planning Documents (SPD's) (if applicable)</li> </ul> <p>The National Planning Policy Framework can be viewed on the GOV.UK website: <a href="http://www.gov.uk/">www.gov.uk/</a>.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: <a href="http://www.braintree.gov.uk">www.braintree.gov.uk</a>.</p>

1. EXECUTIVE SUMMARY

- 1.1 Outline planning permission was granted at appeal under Application Reference 18/00549/OUT for a scheme of up to 250 dwellings on land off Long Green, Cressing. In allowing the appeal, the Planning Inspector appended planning conditions, including a condition requiring the submission of an application for the approval of Reserved Matters. This application seeks approval for Reserved Matters for the development, namely for scale, layout, appearance, and landscaping.
- 1.2 The proposed development is for 250 dwellings with a mix of affordable and market units as secured in the outline planning permission. Officers consider the mix, layout, and distribution of units across the application site to be acceptable.
- 1.3 The layout includes a central spine road linking Long Green in the east to the B1018 Braintree Road in the west, with cul-de-sacs and crescents leading off of this roadway. Dwellings would be provided with sufficient parking and garden space to meet the adopted standards. A buffer zone to separate the proposed dwellings from the boundaries of the waste transfer station at Cordons Farm would provide suitable relieve from odour effects. Officers have no concerns regarding the layout.
- 1.4 Two blocks of three storey flats would be constructed as a local feature towards the proposed roundabout junction with Braintree Road. All other dwellings would range between 1 to 3 storey in scale. Officers have negotiated a palette of materials suitable and appropriate for the site and respectful to the local vernacular. A small number of dwellings would be equipped with mechanical ventilation so as to mitigate potential noise and overheating effects. Overall, Officers are content with the design and appearance of the proposed dwellings.
- 1.5 Significant areas of open space and landscaping are incorporated into the layout, including publicly accessible open spaces, sustainable urban drainage features and tree-lined streets. In terms of landscaping and ecology, the proposal meets the expectations of planning policies and enhances the overall appearance of the scheme. Officers therefore have no issues in this regard.
- 1.6 In light of these findings, and taking into account all representations made in relation to the scheme, Officers consider the proposal to be acceptable. It is therefore recommended that this Reserved Matters application is approved.

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 in between Braintree and Tye Green. The north-eastern boundary is bounded by Long Green and the western boundary adjoins the sharp bend of the B1018 Braintree Road.
- 5.2 The site is currently a vacant field covered with trees and vegetation. A Waste Processing Facility, a garden centre, and other commercial development at Cordons Farm are located to the north of the site. A public right of way (PRoW 74-4) dissects the site and separates the site from the development to the north. The site is bounded by countryside to the south, with the village envelope of Tye Green located further to the south. The site also shares boundaries with some existing residences that are located along Long Green.
- 5.3 The outline planning application (Application Reference 18/00549/OUT) was refused on 5th December 2019. However, it was subsequently allowed at appeal on 14th December 2020. A copy of this Appeal Decision is included within Appendix 4. The outline planning permission granted by the Planning Inspector approved the site access arrangements, with direct access points permitted from both Braintree Road and Long Green.
- 5.4 All other matters were reserved, meaning that the detailed appearance, landscaping, layout, and scale of the proposed development must be considered at the Reserved Matters stage with the access already being fixed at the outline planning permission stage.
- 5.5 To reflect the appeal decision, the majority of the site was subsequently allocated for housing development in the Adopted Local Plan (Reference CRESS 203 & 209).

## 6. PROPOSAL

6.1 This application seeks approval for Reserved Matters for the development, namely for scale, layout, appearance, and landscaping. In addition to the submitted application form, plans and drawings, the following suite of technical documents are also submitted in support of the application:

- Affordable Accommodation Schedule
- Air Quality Assessment – Addendum (Feb 2022)
- Biodiversity Enhancement Strategy (Mar 2022)
- Biodiversity Survey and Report
- Design Technical Note (Mar 2022)
- ECC Braintree WTS Odour Management Plan
- ECC Braintree WTS Odour Monitoring Form
- Ecology Update Report (Oct 2022)
- Material Palette (Dec 2022)
- Noise Mitigation Report
- Odour Sniffing Test Report (Oct 2022)
- Odour response
- Planning/Design and Access Statement (Oct 2021)
- Revised Arboricultural Impact Assessment (Mar 2022)
- Sustainability Statement (Mar 2022)
- TM59 Overheating Risk Study – Pre-Simulation Report
- Waste Infrastructure Impact Assessment (Feb 2022)

6.2 The Applicant proposes to erect a total of 250 residential units, with an area of public open space provided to the southern part of the site, and a pumping station, a sub-station, and attenuation ponds in the central area of the site. A total of 150 market dwellings and 100 affordable dwellings (including 15 flats) are proposed, consisting of a mix of 1-bed to 4-bed properties. 117 units would provide a study, which equates to approximately 46.8% of the scheme. Table 1 below shows the detailed housing mix proposed.

*Table 1. Detailed breakdown of the housing mix*

<b>Proposed</b>	<b>Market</b>	<b>%</b>	<b>Affordable</b>	<b>%</b>	<b>Total</b>	
1-bed	33	22%	10	10%	43	17%
2-bed	62	41.3%	53	53%	115	46%
3-bed	37	24.7%	31	31%	68	27%
4+	18	12%	6	6%	24	10%
<b>Total</b>	<b>150</b>	<b>100%</b>	<b>100</b>	<b>100%</b>	<b>250</b>	<b>100%</b>

6.3 Each of the proposed dwellings would have their respective private gardens ranging from 51sq.m to 267sq.m in size.

6.4 The residential units are designed to be either traditional or contemporary in character. All the units along the spine road would have a contemporary appearance with buff and grey bricks, TLE Duo anthracite grey roof tiles,

grey uPVC for doors, windows, eaves, fascias, soffits and rainwater goods, as well as off-white mortar. The traditional character units would be either of buff/orange/red bricks with black front doors and rainwater goods, white windows, eaves, fascias and soffits. Other materials proposed for the development include light grey/blue grey/traffic white Supertech weatherboard, Montana textured fibre cement slate/seawave Terracotta/TLE Duo brown rooftiles.

- 6.5 A total of 4.3ha of public open space would be provided, mainly along the northern and southern boundaries, separating the site from the adjacent Waste Transfer Station (WTS) to the north, and to provide a green buffer to the wider arable field to the south.

## 7. SUMMARY OF CONSULTATION RESPONSES

### 7.1 Anglian Water

- 7.1.1 No comments to make as no drainage strategy is submitted with the application.

### 7.2 Environment Agency (EA)

- 7.2.1 The EA was previously consulted and had no comments to make on this application.
- 7.2.2 The Permitting Teams has the following comments in relation to a waste facility close to the site. New development within 250m of an existing waste transfer facility could result in people being exposed to impacts including odour, noise, dust, and pests. The severity of these impacts will depend on the size of the facility, the nature of the waste it takes and prevailing weather conditions.
- 7.2.3 Planning policy requirements (Paragraph 187 of the National Planning Policy Framework) state that new development should integrate effectively with existing businesses and not place unreasonable restrictions upon them. Where the operation of an existing waste transfer facility could have significant adverse effects on new development (including changes of use), the Applicant should be required to provide suitable mitigation for these effects. Mitigation can be provided through the design of the new development to minimise exposure to the neighbouring waste transfer facility and/or through financial contributions to the operator of the activity to support measures that minimise impacts.
- 7.2.4 Environmental Permitting Regulations require operators to demonstrate that they have taken all reasonable precautions to mitigate impacts of their operations. This is unlikely to eliminate all emissions and there is likely to be residual impacts. In some cases, these residual impacts may cause local residents' concern. There are limits to the measures that the operator can take to prevent impacts to residents. Consequently, it is important that planning decisions take full account of Paragraph 187 of the NPPF. When a

new development is built near to an existing waste transfer facility this does not automatically trigger a review of the permit. Therefore, it is recommended a no-house buffer strip to remain in place.

### 7.3 Essex Fire and Rescue Services (Protection)

7.3.1 Access for Fire Service purposes is considered satisfactory subject to the following:

- Access routes and hard standings capable of sustaining a minimum carrying capacity of 18 tonnes.
- Minimum turning circle between kerbs of not less than 17.8m.
- Provision of adequate turning facilities for fire appliances described in Paragraph 13.4 and diagram 13.1, Approved Document B 2019 Volume 1.

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

7.3.3 Additional water supplies for firefighting may be necessary for the development. The Applicant is strongly recommended to install Water Suppression Systems, which can be effective in the rapid suppression of fires.

### 7.4 Essex Fire and Rescue Services (Water Services)

7.4.1 Due to the size and nature of the development, it is considered necessary that additional fire hydrants are installed within the curtilage of the proposed site.

7.4.2 Should the development proceed, once receiving the new water main design scheme for this development from the Local Water Authority, the Service will liaise with them directly to ensure that all necessary fire hydrants are provided.

### 7.5 Essex Police

7.5.1 Reiterate their previous comments on the outline application that "Improving the road access will increase the area's vulnerability to burglary. Evidence supports offenders travel to an area to offend, and ease of access and potential escape, not previously available, are factors they consider. The benefit of Secured by Design Homes (SBD) accreditation on all subsequent development is clearly made."

7.5.2 Noted that the ground floor apartments have doors onto balconies that appear to be in public space and draw attention to the risk of burglars entering these properties via insecure or open doors. Also draw attention to the need for the apartments to have an effective access control/visitor entry system that does not contain a 'Trades' button.

- 7.5.3 Welcome the opportunity to consult on this development to assist the developer demonstrate their compliance with Policy RLP90 [superseded by Policy LPP52 upon adoption of the new Local Plan 2013-2033] by achieving an SBD award. An SBD award is only achieved by compliance with the requirements of the relevant Design Guide ensuring that risk commensurate security is built into each property and the development as a whole.

7.6 National Grid

- 7.6.1 Objection on access to sub-station. The proposed development is not in accordance with adopted Policies LPP42 and LPP52. Request the application be refused or necessary evidence is provided to demonstrate, through swept path drawings or similar, that the revised road layout will continue to provide access to the National Grid for articulated lorries in a safe manner.
- 7.6.2 National Grid 400kv Braintree substation is located to the west of the application site and is accessed off the revised Braintree Road. As an operational substation, access to the site is required for articulated lorries for ongoing servicing and maintenance. There are planned works to reconductor this substation in 2027 and construction access will need to be maintained. These works are currently being reviewed and could be accelerated, commencing earlier. Any development approved, including enabling works to the highway to facilitate the delivery of homes, must ensure that the National Grid substation site can continue to be accessed by articulated lorries.
- 7.6.3 The substation site requires access for ongoing maintenance and servicing. Difficulties with access would therefore threaten highway safety if vehicles attempt to enter the site without the required space to do so safely. Inability to provide servicing would also threaten safety with the operations of the site.
- 7.6.4 The revised road layout prevents access to the site for servicing, removing access to the site from the vehicles needed for servicing.
- 7.6.5 All of their towers are installed with anti-climbing devices and their Operations Team will install additional mitigation on vulnerable towers where appropriate.

7.7 National Highways

- 7.7.1 No objection, unlikely to have any severe impact upon the A120, part of the Strategic Road Network (SRN).

7.8 Natural England

- 7.8.1 No comments.



- 7.9      NHS
- 7.9.1    No comments received.
- 7.10     Ramblers Association
- 7.10.1   Objection, pending clarification of the plans for the north end of Cressing footpath 4. Requested the footpath is clearly shown and labelled on the plans so that there is a safe, convenient, and pleasant route for pedestrians through the development to access the land and public footpaths surrounding the development, as well as the bus stops and facilities north of the development. [Officer Comment: No further comments received following re-consultation upon revisions.]
- 7.11     Sport England
- 7.11.1   No comment to make.
- 7.12     UK Power Network
- 7.12.1   Objection. UK Power Network owns and operates a Grid substation accessed off Braintree Road. The road layout will make access and egress with replacement Grid Transformers difficult due to the introduction of bends in opposite directions and access needs to be retained along the existing Braintree Road back to the Galleys Corner roundabout.
- 7.13     BDC Ecology
- 7.13.1   No objection, subject to conditions to secure Great Crested Newts District Level Licence issued by Natural England, as well as the delivery of on-site measures in line with the approved Habitats Regulations Assessment.
- 7.14     BDC Environmental Health
- 7.14.1   No objection, subject to conditions on unexpected land contamination, internal and external noise levels, details of mechanical ventilation/comfort colling systems, overheating scheme, construction management plan and details of piling.
- a) Odour from Cordons Farm activities affecting new residential property**
- 7.14.2   The Applicant provided an odour survey by SRL in September 2022 (Reference 80033- SRL-RP-YO-01-S2-P3) which concludes in Section 4 of the report that there was no significant adverse impact using IAQM planning for odour guidance based on the surveys. The report concludes that based on these sniff tests, it is likely there will be no significant odour impact at the proposed locations of the residential dwellings. The proposed no-build buffer zone around the WTS is likely to be sufficient to mitigate residents' exposure to odour.

- 7.14.3 Redmore Consultants also carried out odour surveys on behalf of the waste transfer operators. The report reference Ref 5994r.1 dated 18th October 2022 states that for two of the three surveys then the wind direction was towards the application site from the waste transfer activities presenting a worst case. In Section 4.3.1 of the report then it is concluded that the odour effect is not significant which mirrors the conclusion of the Applicant's report.
- 7.14.4 Both surveys are undertaken in accordance with the IAQM methodology (Guidance of the assessment of odour for planning 2018) which makes reference to considering the site as a whole when assessing the overall odour effect using the table reference in 4.3 of the Redmore report).
- 7.14.5 From the reports submitted to date then Environmental Health concludes that there will be perceptible odour from time to time but there is not sufficient evidence presented to indicate that there will be significant adverse effect. As indicated in the Redmore report at the appeal the Planning Inspector held that the odour impact on the proposed residential site would achieve sufficiently good living conditions and would accord with Paragraph of 180 of the NPPF and relevant policies prevailing at the time. Therefore, Environmental Health raises no objection on the grounds of odour.

**b) Noise from road traffic and Cordons Farm activities affecting new residential property and risks of overheating from closed windows required for noise reduction**

- 7.14.6 RSK noise report dated 5th July 2022 (Reference 2060330 – RSK – RP – 001 (04)) provides details of mitigation to achieve suitable internal noise levels and external noise levels for daytime and night time averages and night time maximum levels. It is noted that boundary treatment plan PH-164-007D within the RSK report shows a 2.5m boundary fence whereas the boundary treatment plan revision F submitted separately shows a 2m boundary fence. The report makes reference to a 2m fence in the body of the text. It would be appropriate for the document to explain how the site boundary fence height has been determined, why there is a reduction in height recommended and the effect this reduction will have on noise levels from the waste transfer site sources as received at the receptors.
- 7.14.7 Environmental Health also notes that concern is raised by the waste transfer site operator that the noise from the tipping of glass will be particularly loud at the noise sensitive properties. To add transparency to the noise report it is possible to carry out a specific BS4142 assessment on this noise source (BS 4142:2014 Methods for rating and assessing industrial and commercial sound (+A1:2019)). Noise data is readily available within the MLM noise compliance assessment report submitted to the waste and minerals planning authority for the application by the waste operator to demonstrate the impact of extension of hours from 0700 to 1930 hours to 0600 to 2000 hours Mon to Sunday to the Waste and

Minerals Planning Agency (Essex County Council) (Reference ESS/14/22/BTE). It will then be possible to confirm whether window insulation and boundary treatment is adequate.

- 7.14.8 Environmental Health acknowledges that the Appeal Decision and Condition 26 on the outline planning permission makes reference only to BS8233 (Guidance on Sound Insulation and Noise Reduction in Buildings 2014) and not BS4142. It is unclear whether this directs the Applicant only to show compliance with the Table 4 requirements in BS8233 which detail indoor ambient noise levels in dwellings or to make reference to the whole document where BS4142 is identified as the correct noise assessment method for rating commercial noise.
- 7.14.9 Within the RSK report and to achieve acceptable internal noise levels as given in BS8233 then closed windows are relied upon for the properties closest to the road traffic noise. Environmental Health does not support the design of balconies overlooking the road which are intended to be used as external amenity areas where the resultant noise level exceeds the guideline external noise levels given in BS8233.
- 7.14.10 A condition to confirm internal/external noise levels for properties post construction to demonstrate compliance with relevant British Standards is recommended.

**c) Overheating report IES 16122 Persimmon Homes, Cressing – Overheating Risk study**

- 7.14.11 The report confirms that for the worst case noise affected properties that there is a solution to remove the risk of overheating and has put forward a ventilation strategy to include comfort cooling when required for elevated ambient temperatures. Subject to a noise report confirmation that this will not result in elevated internal noise levels due to the mechanical ventilation then Environmental Health raises no further comment. Environmental Health agrees to a condition to require this information and to implement the overheating scheme if the REM application is granted.
- 7.14.12 A suitable construction management plan shall be in place to control the hours of construction /site clearance working hours, prohibit burning of waste and to prevent airborne particulate matter/ dust beyond the boundary of the site.
- 7.14.13 Details of any piling works shall be submitted prior to the commencement of any such works.

**7.15 BDC Housing**

- 7.15.1 Support. The affordable housing element satisfies the requirements and accords with guidance provided to the applicant during the course of application. The affordable unit and tenure mix illustrated on the Tenure Plan is considered appropriate to meet the evidence of housing need. It

provides opportunity for a significant number of new affordable homes to be delivered which will assist the Council in addressing a variety of housing need.

7.16 BDC Waste Services

7.16.1 Green waste may need to move inside the recycling waste sheds to reduce the odours associated especially when it is disturbed during loading, these can also be stored for 72 hours on site. However, another location for storage of dry mixed recycling will be required. Concerns also raised in terms of noise associated with the tipping and loading of glass, especially in the early morning during weekends and the 4 weekends per year when the site is permitted to use overnight for tipping waste collected from clearing of "A" roads. There is no room on site to move the glass further away from the application site.

7.16.2 The noise mitigation report highlights at least 28 properties that exceed the noise level acceptance parameters. This is at least 28 residents that will likely complain regarding the tipping of glass at 7am on a Saturday morning.

7.17 ECC Archaeology

7.17.1 No objection, no further archaeological recommendations will be required.

7.17.2 The outline consent has a condition requesting an archaeological evaluation. A Written Statement of Investigation (WSI) has been produced which will need to be submitted to partially discharge the archaeological condition prior to the commencement of archaeological fieldwork. The fieldwork will need to be carried out and should significant archaeological remains be identified then a mitigation strategy will be required prior to the commencement of development. This work should be considered within the timetabling for the development.

7.18 ECC Highways

7.18.1 Objection from a highway and transportation perspective. Planning application Drawing No. PH-164 007 Rev K shows boundary treatment which would enclose Footpath 4 Crossing. This is likely to deter pedestrians from using the footpath because their safety (real and perceived) is likely to be eroded, which in turn would likely lead to less trips being made by walking which is contrary to both national and local planning policy whereby development should be laid out and constructed to reduce the need to travel, reduce trips made by private car and increase trips made by more sustainable modes of transport such as public transport, cycling and walking.

7.18.2 Were the Local Planning Authority (LPA) minded to grant planning permission, the Highway Authority advises that the proposal would provide a safe alternative route for those pedestrians who may not wish to use that

part of Footpath 4 Crossing which would be enclosed by the boundary treatment.

7.18.3 The LPA should be aware the Applicant has applied to Essex County Council to extinguish the section of Footpath 4 Crossing which would be affected by the enclosing boundary treatment.

7.18.4 Were the extinguishment application successful, and there being a safe alternative pedestrian route, the Highway Authority would be able to withdraw its recommendation that planning permission is refused and instead recommend that planning permission is granted subject to the development being carried out in accordance with planning application Drawing Number PH-164-003 Rev. M.

7.19 ECC Historic Buildings Consultant

7.19.1 No objection. The proposal will have no effect upon the significance of surrounding heritage assets.

7.20 ECC Minerals & Waste Planning Authority (MWPA)

7.20.1 No objection but has the following comments:

**a) Odour Sniff Test Report**

7.20.2 Appendix B of the submitted 'Braintree Road, Crossing – Odour Sniff Test Report' includes results at the end of Test 2 for locations 10 to 14, which contrast to those previously provided. It is unclear which Test these relate to and it is considered clarification should be sought. Appendix C does not include the full survey sheets for Sarah Bevan. These should be made available, particularly as the duration of intensity was awarded differently between testers for the same Test.

7.20.3 It is noted that both sniff testers identified odours of 4 (strong magnitude) at location 15 during Test 3. The highest exposure being medium, resulting in a moderate adverse effect. A small exposure and slight adverse effect were awarded at locations 12 and 15 during Test 1. All other location results concluded negligible odour effects. Locations 12 and 15 are within the proposed no-build buffer area, east of the WTS.

7.20.4 The sniff test results indicate strong odours are detectable within the buffer area during high capacity WTS scenarios. These would likely lessen in intensity with distance, but it is considered may still be detectable at properties in proximity of the buffer boundary particularly to the east/northeast of the WTS.

**b) Monitoring by the operator of the WTS**

7.20.5 It is understood that the operators of the WTS did seek to undertake some identical odour monitoring and also additional monitoring in view of

concerns about the wind direction on one of the original days of proposed monitoring. The MWPA have not yet seen the results of the monitoring undertaken and accordingly the results of this have not been considered or informed this response. Whilst the results and conclusions of the monitoring undertaken by the operators of the WTS is unknown, it is considered that Braintree DC may wish to review the results/assessment in due course to further test the conclusions of the Applicant's submitted odour assessment and gain a greater understanding of the potential for odour beyond the proposed no build buffer from permitted operations.

### **c) Agent of Change**

- 7.20.6 Whilst the MWPA are no longer objecting to this application, the MWPA seek to confirm that the approval of the WTS under Application Reference ESS/23/13/BTE in 2013 is the first relevant piece of planning history. Subsequently, a number of variations have been permitted to ESS/23/13/BTE, including the increase in throughput which was approved under Application Reference ESS/02/19/BTE in December 2019. It is only after the granting of this permission that the Outline Permission reference 18/00549/OUT, for the housing development, was approved at appeal in December 2020 (following an initial refusal in December 2019). As set out in the timeline above, it is crucial to note that the increase in throughput at the WTS was permitted ahead of the Outline Permission being granted. In terms of the Agent of Change and the acceptability of odour concentrations in the locality resulting from existing/approved operations, it is considered any need for mitigation to facilitate a residential use lies solely with the Developer/Applicant.
- 7.20.7 Whilst the levels of impact predicted from the modelling undertaken in support of ESS/02/19/BTE and that evidenced from the monitoring now undertaken in support of 21/03214/REM may not in themselves be above appropriate thresholds for residential development, Braintree DC should be satisfied with the living conditions to which the proposed development layout may result in.
- 7.20.8 It is acknowledged that the Inspector for the appeal considered it acceptable "for some residents of the development to close windows of their homes to maintain satisfactory living conditions". The MWPA nevertheless note numerous examples where a different view has been taken in similar cases.
- 7.20.9 The potential for complaints arising from the operation of the WTS, if this application is approved as submitted, is considered quite high (even with the WTS operating as per the terms of its permission) – particularly from proposed dwellings to the east/northeast. As detailed within previous responses, this is a strategic waste facility which manages local authority collected waste. The loss of this site, as a result of complaints and the potential issue of an abatement notice (statutory nuisance) or revocation of the site's Environmental Permit would have significant implications for the management of household waste across Essex.

- 7.20.10 In context of the Agent of Change principle, the MWPA strongly urge Braintree DC fully consider the likelihood of complaints resulting from this development, not only in terms of the location of the residential properties but also the proposed use of land/open space. Without prejudice, it is considered any subsequent ramifications to the WTS as a result of complaints, when the facility is being operated as per the extant permission, would represent a complete failure in terms of the application of Policy 2 of the WLP which, for the avoidance of any doubt, forms part of the Development Plan to which this application needs to be considered and assessed against.
- 7.21 ECC SuDS
- 7.21.1 No objection.
- 7.22 ECC Waste Disposal Authority (WDA)
- 7.22.1 The adjacent WTS receives local authority collected waste from the area for bulking and onward transport to treatment and disposal facilities. The nature of the WTS operation will lead to local impacts, e.g. noise, dust, odour and traffic. These are controlled under the existing planning consent and Environmental Permit. When the WTS development was approved, the proximity of residential dwellings were considered and suitable mitigations put in place.
- 7.22.2 The proposed development and layout details are placing residential properties significantly closer to the WTS than is currently the case. It is therefore the view of the WDA that it is necessary for the Applicant to provide further detail on what mitigation measures are being put in place within the development with respect to noise, odour and other impacts that may arise from the consented WTS operation.
- 7.22.3 A Monitoring report has been conducted in October 2022 on behalf of the WTS operators and it is requested that these results are reviewed along with the Applicant's odour assessment and in line with Institute of Air Quality Management (IAQM) Guidance.
- 7.22.4 Survey 1 was undertaken to match with the methodology provided by the Applicant's consultant, as the wind direction at the time of testing did not allow an assessment of odour downwind of the site, additional field odour surveys 2 and 3 were undertaken when the proposed residential development to the south was downwind of the WTS, in line with the IAQM Guidance. It is felt that these results present a more accurate assessment of the potential odours beyond the no-build buffer and therefore should be considered.

8. PARISH / TOWN COUNCIL

8.1 Cressing Parish Council

8.1.1 No response received.

9. REPRESENTATIONS

9.1 Representations have been received from 3 addresses, objecting to the scheme or raising major concerns, mainly on the following grounds:

- The copse near the roundabout will disappear, which is a concern on environmental grounds.
- Layout is rather crowded, houses are crammed into the west and north east of the new roundabout near the Garden Centre. It would be better on environmental and aesthetic grounds for these 2 areas to be landscaped and additional native trees planted.
- Concerns about the effect of the impact on local roads which are already crowded and inadequate.
- A condition is required to implement the submitted Biodiversity Enhancement Strategy in full or to achieve by a S106 agreement.
- Plans are very different from the original one and not taking into account security for the existing neighbours.
- Concern on security and privacy as there will be overlooking into their garden.
- The proposed road layout only provides pavement along the B1018 to under the pylon, there is a stretch of 102m without a pavement before reaching Tye Green, making the development disconnected from the village.
- There is no pavement between the development/Garden centre and Tye Green, future residents and children would not be able to walk to the facilities and primary school, and the residents in Tye Green would not be able to use the green space in the development, which is a major omission slipped through planning (appeal inquiry).
- Funding should be secured for a complete pavement to what is effectively an extension of the village.
- The development should be designed to ensure that it is linked up to the village that it is attached to and the highways authority should have spotted that there is no pavement connected to Tye Green.
- The existing narrow muddy and unsurfaced track is dangerous to use and put pedestrians at risk. It must be addressed by the developer or Highways Authority.



## 10. PRINCIPLE OF DEVELOPMENT

- 10.1 The principle of the residential development of the site has been established under the outline planning permission (Application Reference 18/00549/OUT), which was allowed at appeal (Reference APP/Z1510/W/20/3253661) on 14th December 2020. The allowed scheme also considered the site access.
- 10.2 The current application seeks approval for all the remaining reserved matters, namely appearance, landscaping, layout, and scale.
- 10.3 There were no parameter plans approved under the outline planning permission nor a condition to control the housing mix. As it is not a Reserved Matter, the Applicant is not bound by a specific housing mix. The Strategic Housing Market Assessment (SHMA, 2015) identifies that the District would require 75.72% of market dwellings to be 2 to 3 bedrooms properties, whilst 1 to 2 bedrooms units took up about 80% of identified affordable housing need.
- 10.4 Following the pre-application advice, the Applicant has revised the housing mix to improve the housing mix and to provide smaller housing units in response to the identified local housing needs. The current proposal covers a range of sizes for both private and affordable tenures. The Council's Affordable Housing Officer has confirmed his agreement with the proposed affordable mix in terms of meeting identified need, with the Applicant confirming that the intermediate element of the affordable housing would be shared ownership.

## 11. SITE ASSESSMENT

### 11.1 Appearance, Layout and Scale

- 11.1.1 Policy SP7 of the Adopted Local Plan states that all new development must meet high standards of urban and architectural design. Policy LPP52 also specifies a high standard of layout and design in all developments.
- 11.1.2 At the national level, the NPPF is also clear in its assertion at Paragraph 126 that: *'The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities'*.
- 11.1.3 There is a strong policy basis for achieving a high degree of quality in terms of the appearance, layout and scale of the development whilst ensuring that it complies with the outline planning permission for the site.
- 11.1.4 In accordance with the outline planning permission, the Applicant proposes a 250-unit scheme. Throughout the detailed design stage at pre-application and during the course of the application, the Applicant has been in

discussions with Officers and made multiple amendments to achieve a high-quality scheme with a design that is sensitive to its immediate setting and sympathetic in its relationship to the wider countryside.

- 11.1.5 The proposed site layout has been designed to minimise neighbour impact; provide generous on-site open space that exceeds the required minimum amount; create a sense of place whilst remaining appropriate to the wider setting and facilitate appropriate pedestrian and cycle linkages.
- 11.1.6 Overall, open space provision within the site is appropriate, with sufficiently large areas of usable space and good distribution across and surrounding the proposed properties.
- 11.1.7 Two blocks of apartment units with a height of 3-storey are proposed. The remaining dwelling types are divided into traditional and contemporary characters, primarily upon 1 to 3 storey dual-pitched, hipped or cross-hipped roof designs. These building heights are considered to be acceptable and in keeping with adjacent existing residences immediately to the east along Long Green and to the west along B1018 Braintree Road.
- 11.1.8 The detailed architectural elements and materials proposed had taken cues from the local vernacular of Tye Green and Cressing. The material palettes are in line with those applied in the neighbourhood.
- 11.1.9 All house types meet the Nationally Described Space Standards (NDSS) standards which set out the required internal space standards for new dwellings of all tenures.
- 11.1.10 The development is also compliant with the Essex Design Guide in terms of proposed garden sizes and back-to-back distances between new dwellings.
- 11.1.11 Whilst there were no parameters at the outline planning permission stage that were specified by the Planning Inspector, Drawings 89 and 90 show the minimum clearance distance to the overhead pylons adjacent to the development, which are in accordance with National Grids guidance on Development near Overhead Lines.
- 11.1.12 Overall the layout, appearance and scale of the proposal are considered to be acceptable.

## 11.2 Landscaping

- 11.2.1 The Applicant proposes a hard and soft landscaping scheme across the site which has been reviewed by the Council's Landscape Officer and Urban Design Consultant and is considered to be acceptable. An approval condition is required to ensure that the proposed landscaping and boundary treatment are implemented prior to occupation, in the interests of visual amenity and amenity level of future occupants.

- 11.2.2 An Arboricultural Impact Assessment (AIA) has been submitted (revised March 2022) in support of the application. With reference to Table 1 of the revised AIA, no category A trees would be felled, but group 'G6' would have its root protection area potentially disturbed by the development. Installation of protective surfaces and use of precautionary measures during construction would allow the group to be retained in situ.
- 11.2.3 Part of Group G1, together with part of the planted woodland W1, towards the northwest of the application site would be subject to tree removal works. These assets are recognised as Category B trees and would need to be removed to facilitate the development, as confirmed during the original outline planning application when the matter of access indicated W1 would be most impacted by the proposals. It is regrettable that these locally important assets are to be lost, although the Council's Landscape Services and Ecology Consultant are in agreement that there is little value in them being retained (or the remnants of W1 being kept in the current position where possible) given the relative isolation of the groups and their proximity to both existing and planned road network. The loss of the self-seeded woodland is also acknowledged by the Planning Inspector when allowing the appeal.
- 11.2.4 A Category C hedgerow (H2) and parts of three Category C groups (G2, G4 and G7) would be removed with compensatory planting planned in the landscape strategy. Another Category C hedgerow (H3) would be trimmed/faced back. The AIA states that all assets in both B and C categories consist of suckers, brambles and young specimens.
- 11.2.5 Despite these losses, the Applicant proposes extensive tree planting/transplanting across the development site consisting of 343 trees and new stretches of hedgerows at the frontage of all dwellings, along the main vehicular routes through the site and around the edges of the planned public open space. The AIA suggests hedgerow H2 and a number of specimens from W1 could be transplanted elsewhere within the development site as well, although the success of this could not necessarily be assured or secured. Any failures within the transplanting regime would be caught however by the landscaping conditions, which require replacement planting if any tree dies or is damaged within 5 years. No objection is raised from either the Council's Landscape or Ecology Officers in respect of the landscape strategy.
- 11.2.6 The streets are considered to be tree-lined, a requirement of the Framework, and a management company would be engaged to ensure the longevity and maintenance of these trees thus avoiding the potential for plot-owners to remove them. Substantial planting is proposed along the site boundaries, in particular for the western and eastern boundaries, to provide additional screening to the development and act as visual buffers as viewed from outside of the site. Overall, the proposed landscaping and boundary treatment are considered to be acceptable from landscape and ecology perspective.

- 11.2.7 Overall, Officers consider that tree loss has been kept to the minimum possible in line with the outline planning permission, appropriate street tree planting is proposed, and planting levels are appropriate throughout the site.
- 11.2.8 The public open space to the northern and southern sections of the site would be attractively landscaped with a variety of features, pathways and play equipment. Officers are satisfied that the Applicant has sought to create an inclusive and interactive amount of public open space within their scheme. Further details of the open space scheme and play equipment are controlled by the Section 106 Agreement of the outline planning permission, and are currently pending consideration.

### 11.3 Ecology

- 11.3.1 The ecological impact of developing the site was assessed at the outline planning application stage. Nonetheless, the Reserved Matters application is accompanied by a number of reports including an Ecology Update Report (October 2021), Great Crested Newt District Level Licensing Impact Assessment, Great Crested Newt Survey and Mitigation Strategy, Dormouse Technical Note and the Statement to Inform the Habitats and Species Regulations 2017. A Biodiversity Construction Environmental Management Plan, Biodiversity Enhancement Strategy and Landscaping Programme have been submitted to discharge the relevant conditions of the outline consent, thus completing a comprehensive suite of documents on the topic of ecology.
- 11.3.2 Natural England offered no comment, deferring to the Council's Ecology Consultant. The Council's Ecology Consultant has reviewed the application and has no objection, subject to conditions, including that the finalised soft landscaping plans are supported by a Biodiversity Gain Assessment to demonstrate compliance with paragraphs 174d and 180d of the Framework. Officers do acknowledge that the Environment Act 2021 has yet to have date legislated for when biodiversity net gain is mandatory, but stress that every effort to maximise benefits should be made.
- 11.3.3 Overall, Officers are satisfied that matters relating to ecology have been suitably managed by the Applicant and further conditions ensuring implementation of the various strategies will deliver biodiversity improvements across the site.

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

- 11.4.1 In terms of the wider ecological context, the application site sits within the Zone of Influence of one or more of the following:
- § Blackwater Estuary Special Protection Area and Ramsar site;
  - § Dengie Special Protection Area and Ramsar site;
  - § Essex Estuaries Special Area of Conservation.

- 11.4.2 HRA mitigation was secured at the outline planning application stage under Application Reference 18/000549/OUT and on-site measures are also proposed to avoid an adverse impact from the development (either alone or in combination with other plans and projects) to the Blackwater Estuary SPA & Ramsar site and Essex Estuaries SAC. The submission indicates that the provision of signage and dog waste bins are to be agreed, therefore a condition would be required to secure the finalised details, locations and maintenance of these features, prior to occupation.

#### 11.5 Highway and Parking Considerations

- 11.5.1 The impact of the development on the highway network and the acceptability of the access was assessed at the outline planning application stage and subsequent Appeal and is not a Reserved Matter. As such, while the concerns raised as part of the consultation process regarding the road and access arrangements are noted, these are matters which were approved at Appeal by the Planning Inspector. Parking provision and the internal site layout are however for consideration as part of the Reserved Matters application.
- 11.5.2 The Essex Parking Standards (2009) requires 1 space per 1 bed dwelling and 2 spaces per two or more bed dwellings plus 0.25 visitor spaces per dwelling. The apartment units will be allocated with 1 or 2 parking spaces. Each of the remaining properties would be served by at least 2 on-plot parking space(s).
- 11.5.3 A total of 16 residential accessible parking bays for disabled persons are provided for the 8 bungalow units (Plots 155-160 and Plots 244 and 245). Although these accessible parking bays (3.6m x 6.2m) are slightly smaller than the Essex Parking Standards measurement of 3.9m (w) x 6.5m (d), these are in line with the minimum size of the Building Regulations M4(3) standard for parking spaces within private curtilage for wheelchair user(s).
- 11.5.4 Plots 69, 70, 224 and 225 would have a twin garage, whilst Plot 73 would have a double garage. All the garages would have an internal measurement of not less than 3m (w) x 7m (d) for each bay. Cycle stands would be provided near to the apartment units for 15 parking spaces whilst secured cycle parking could be provided within the private rear garden or in the garage of dwellings.
- 11.5.5 A total of 58 visitor parking bays plus 5 accessible visitor parking spaces for disabled persons would be provided, and these are pepper-potted throughout the site. The overall parking provision is therefore generally in line with the Council's requirement.
- 11.5.6 The access for fire appliances is considered acceptable to Essex Fire and Rescue Service. The Council's Waste Services also raises no objection to the revised refuse and recycling plan.

- 11.5.7 The Applicant has proposed that each of the dwellings, except for apartment units, would be provided with an electric vehicle charging socket. It is considered that apartment users should also have access to electric vehicle charging point(s) and therefore a condition is required for an Electric Vehicle Charging Strategy for these units, should approval be given.
- 11.5.8 There is currently a PRow running through the middle of the site and continues immediately to half of the northern site boundary, separating the site from the adjacent WTS and commercial uses. The proposal involves improvement and widening to the section of PRow within the site.
- 11.5.9 The Highway Authority has raised objection in relation to the boundary treatment along the section of PRow between Braintree Road to the southern point of the WTS. The provision of 2m brick wall, hedge and 2m acoustic timber fencing would largely enclose that section of the PRow, which would likely deter pedestrians from using the footpath because of their real and perceived safety is likely to be eroded. This would in turn likely lead to less trips being made by walking which is contrary to policy requirements to reduce the need to travel and increase trips made by more sustainable modes of transport.
- 11.5.10 Following discussions with ECC Highways, BDC Urban Design Consultant and BDC Environmental Health, it is considered that the acoustic fencing and brick wall are required in the interests of protecting residential privacy and to ensure appropriate amenity levels for future occupants.
- 11.5.11 The Highway Authority advised that the proposed development would provide a safe alternative route along the spine road for those pedestrians who may not wish to use that part of Footpath 4 Crossing. The Applicant has also provided proof that an application has been made to the Highway Authority to extinguish the relevant section of the PRow. If the extinguishment application were successful, and there being a safe alternative pedestrian route (build to adoptable standard and ready to use), the Highway Authority would be able to withdraw its objection and recommend that consent to be granted subject to the development being carried out in accordance with the submitted Detailed Layout (Drawing No. PH-164-003 Rev. M).
- 11.5.12 In view of the provision of the footpath and cycle path along the spine road, Officers are of the view that the development would provide for a more welcoming and suitable pedestrian route than the current narrow state of the northern section of the PRow. It is considered that the footpaths on both sides of the spine road would provide an alternative pedestrian route if this Reserved Matters application is approved. This would be a matter for the Highway Authority to consider, when assessing the application for the extinguishment of the northern section of the PRow.

## 11.6 Impact upon Neighbouring Residential Amenity

- 11.6.1 The nearest existing residences are Avilion, The Shrubbery and Hoppit House to the northwest and Burley, St Edmunds and plots at Half Acre to the east.
- 11.6.2 For those to the northwest, part of the existing B1018 would be repurposed and retained to provide a vehicular and pedestrian means of access to those properties only (i.e. a no-through road). This access road would separate the existing dwellings from the small number of dwellings proposed within the scheme in this location. In view of the separation distance, it is not considered that the development would give rise to detrimental impacts upon existing residential amenity in terms of overlooking, overshadowing, or overbearing.
- 11.6.3 For those to the east, the proposed development would be in close proximity, particularly to the side boundary of St Edmunds. However, given the separation distances and orientation of the dwellings proposed in this location, it is considered that there would not be any detrimental impacts in terms of overlooking, overshadowing or overbearing issues arising. Officers conclude that there would not be any detrimental impacts upon the amenity of nearby existing residents.
- 11.6.4 Within the development itself, the detailed design and site layout ensure that sufficient distance is maintained from shared boundaries to ensure that no unacceptable loss of privacy, sunlight or daylight would occur. The Applicant, in consultation with the Officers, agreed a proportion of dwellings could be designed without habitable rooms to their rear, allowing for the back-to-back distances to be marginally reduced when assessed against the recommendations of the Essex Design Guide. In other instances, each of the habitable rooms are served with at least 1 window to allow for natural sunlight/day and ventilation. There are a small number of instances where it is important to secure the privacy of prospective residents, for first floor windows to be obscure glazed as indicated on the submitted drawings.
- 11.6.5 The proposed dwellings would be provided with sufficient private amenity space to meet the standards of the Essex Design Guide. Officers were concerned, particularly since nearly half of the proposed dwellings would be provided with a study, that pressures on amenity space and living standards could arise if studies are converted to bedrooms. This concern mainly focused on two-bedroom houses that, if made into 3-bed units, would fall short of the garden requirement of not less than 100sq.m and would also likely fail to meet the nationally described space standards. The Applicant in response to this concern, has redesigned the internal layout for these units to ensure the studies were of a reduced size to discourage conversion into a bedroom.
- 11.6.6 Since the Covid pandemic, Officers acknowledge that there is a genuine need for a study given the likelihood for working from home arrangement, which applies to not only larger family units but also smaller residence. It

would be unreasonable to prohibit such provision and equally it would not be reasonable to assume that the study would not be maintained for its purpose in the future. Imposing a planning condition to avoid conversion of the study into bedroom is also considered to be unenforceable, especially when planning or building consent is not required. Officers are of the view that such condition would not fulfil the tests for imposing planning conditions.

## 11.7 Air, Noise and Overheating

- 11.7.1 Braintree Road is a principal route for vehicular traffic heading into and out of Braintree and the Freeport area. There are significant traffic movements on the highway and, by virtue of the layout for the proposed development, a number of residences would be built close to this road. Traffic noise would therefore likely be a factor affecting the living conditions of the nearest residents. Long Green, to the east of the application site, represents an alternative way into Braintree, so traffic noise would also arise from this road.
- 11.7.2 In addition, there are Waste Processing Facilities and WTS at Cordons Farm, to the immediate north of the application site and sharing part of the site boundary. Activities within the yard areas, including loading and unloading are likely to generate some degree of noise. The tipping of glass in particular would be a very loud operation.
- 11.7.3 The Applicant has undertaken noise surveys to establish daytime and night time background levels, using BS8233 (Guidance on Sound Insulation and Noise Reduction in Buildings 2014), as required by Condition 26 of the outline consent. In order to achieve suitable internal ambient noise levels for the proposed dwellings, the mitigation would rely on the windows of those affected dwellings to be kept shut, thus not adversely affecting human health. External boundary treatments are also proposed to lower the residual noise levels to meet the BS8233 standard.
- 11.7.4 However, if residents were required to keep their windows closed, particularly in the summer months, they could be susceptible to overheating. The Applicant has confirmed that the solar blinds required to prevent overheating will be supplied.
- 11.7.5 According to the submitted Noise Mitigation Report, a total of 28 of the proposed properties were identified at high risk of overheating with windows closed. To overcome the risk of overheating, mechanical ventilation and cooling systems are proposed for those 28 affected properties. This is considered acceptable by the Council's Senior Environmental Health Officer, subject to a condition to require post construction monitoring of internal and external noise levels to demonstrate that the BS8233 levels are achieved and that the L<sub>Amax</sub> night time level of 45dB(A) is not typically exceeded with the permitted window, ventilation systems and boundary treatment fencing in place. This monitoring will also serve to demonstrate that the Mechanical ventilation heat recovery (MVHR)



systems with comfort cooling as necessary do not increase the internal noise levels.

11.7.6 The Council's Senior Environmental Health Officer does not support the design of the balconies overlooking the road, which are intended to be used as external amenity areas where the resultant noise level exceeds the guideline of external noise levels given in BS8233. However, in view of the sufficient provision of at grade communal space to the rear of the apartment blocks, these balconies are in excess of the requirement. The small sizes of these balconies also restrict the amount of time being used by the residents. The proposal is therefore considered to be acceptable in this regard.

11.7.7 Therefore, a suitable and reasonable mitigation strategy in respect of noise and overheating would be implemented to protect the amenities of future residents. Officers do not therefore have any concerns in this regard.

## 11.8 Odour

11.8.1 The application site wraps around the western and southern boundaries of the Waste Processing Facilities and WTS, which are operated by Essex County Council (ECC) and Braintree District Council (BDC) respectively, at Cordons Farm. These sites, particularly the BDC site, handle all manner of household and domestic waste including food and gardening waste.

11.8.2 Whilst the majority of operations are undercover and within the confines of buildings, there are open areas around the site and loading/unloading activities do take place. Therefore, there is potential for odour arising from the operations particularly at certain times of the year, for example after bank holiday weekends in May and August, when waste collections are delayed. At certain temperatures, garden waste (cut grass) may be particularly pungent and people nearby may find the smell offensive, although the operatives will use a lemon-scented spray to dampen down odours at those rare, time-specific occasions.

11.8.3 Throughout the course of the application, the Applicant, the BDC Waste Services, and ECC, being the Mineral and Waste Planning Authority (MWPA), as well as the Waste Disposal Authority (WDA), have been in regular dialogue seeking to resolve any differences regarding odour assessment and odour impacts. A buffer zone has been developed and considered by the Planning Inspector at the Appeal stage to distance proposed dwellings away from the boundaries of the WTS, taking into account other atmospheric conditions such as wind direction and wind speed.

11.8.4 Following further Odour Sniff Tests conducted by the Appellant and as well as additional ones conducted by the consultant on behalf of the WTS, both the MWPA and the WDA have not expressly objected to the development but have remaining concerns insofar as the proposed housing should not, at any time, prejudice the efficient running of the waste transfer station. If

complaints were to arise due to odour, then it could potentially affect the operation of this site of County-wide importance for waste handling.

- 11.8.5 At the Appeal, the Planning Inspector held that the odour impact on the proposed residential site “*would achieve sufficiently good living conditions and would accord with Paragraph of 180 of the NPPF*” and relevant policies prevailing at the time.
- 11.8.6 Officers consider that the WTS, operating under Environmental Permits, would be suitably controlled to limit, at source, odour emissions arising from waste. Under normal conditions, the WTS would be unlikely to cause significant or intolerable levels of odour beyond the site boundaries. To this extent, the buffer proposed would provide a suitable mitigation. From the reports submitted to date, Officers conclude that there will be perceptible odour from time to time, possibly resulting in the nearest dwellings to the waste transfer station needing to close their windows, but there is not sufficient evidence presented to indicate that there will be significant adverse effect to warrant extension of the consented buffer area nor to refuse the proposed site layout.
- 11.8.7 Officers therefore conclude that the proposal is acceptable in this regard, though an informative is suggested to ensure future residents are notified about potential effects, and that the operation of the waste transfer station should not be restrained.

#### 11.9. Flooding, Drainage and Sewerage

- 11.9.1 The site is located within Flood Zone 1 with the least risk of flooding. However, the site boundaries have been identified with low to medium risk of surface water flooding with the PRoW identified with high risk of surface water flooding straddles across the site. Condition 10 of the outline planning permission requires a detailed surface water drainage scheme. Submission has been made by the Application to discharge the condition, which is currently pending consideration under Application Reference 21/03656/DAC.
- 11.9.2 The Applicant proposes to utilise a Sustainable Urban Drainage System (SUDS) incorporating attenuation basins, infiltration trench, swales and under drain swales. Essex County Council have been consulted as the Lead Local Flood Authority and raised no objection to the proposal.

#### 12. CONCLUSION

- 12.1 The principle of the residential development of the site is established under the outline planning permission allowed at Appeal on 14th December 2020 by the Planning Inspector. The Applicant seeks permission for the reserved matters pursuant to this outline consent consisting of the appearance, landscaping, layout, and scale of the development.

- 12.2 The objections raised by National Grid and the UK Power Network are related to access which was already determined at outline stage and therefore is not a material consideration at the current Reserved Matters stage. Although ECC Highways raised objection to the boundary treatment in relation to the upper section of the PRow, this concern can be overcome by a suitable alternative which would be provided by the footpath along the proposed spine road in the development.
- 12.3 There are no other objections from the relevant statutory technical consultees and Officers consider that the proposed appearance, landscaping, layout, and scale of the development are acceptable in planning terms.
- 12.4 Overall, it is considered that the detailed proposal constitutes a well-designed scheme and accordingly it is recommended that the Reserved Matters are approved.

13. RECOMMENDATION

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

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

## APPENDIX 1:

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

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

<b>Plan Description</b>	<b>Plan Ref</b>	<b>Plan Version</b>
Location Plan	PH-164-001	N/A
Site Masterplan	PH-164-002	J
Detailed Layout Plan	PH-164-003	M
Materials Details	PH-164-004	K
Storey Height	PH-164-005	E
Tenure Plan	PH-164-006	E
Boundary Treatment	PH-164-007	K
Refuse & Recycling Plan	PH-164-008	G
Public Open Space Details	PH-164-009	E
Levels	PH-164-010	D
Tree Plan	PH-164-012	E
Proposed Phasing Plan	PH-164-013	B
public right of way plan	PH-164-014	A
House Types	PH-164-020	E
House Types	PH-164-021	D
House Types	PH-164-022	B
House Types	PH-164-024	C
House Types	PH-164-025	C
House Types	PH-164-026	D
House Types	PH-164-027	C
House Types	PH-164-028	C
House Types	PH-164-029	A
House Types	PH-164-030	B
House Types	PH-164-031	D
House Types	PH-164-032	B
House Types	PH-164-035	A
House Types	PH-164-036	B
House Types	PH-164-037	A
Proposed Plans	PH-164-040	F
Proposed Plans	PH-164-041	E
Proposed Plans	PH-164-042	E
Proposed Plans	PH-164-044	E
House Types	PH-164-046	C
House Types	PH-164-047	C
House Types	PH-164-048	B
House Types	PH-164-049	D
House Types	PH-164-050	D
House Types	PH-164-051	A
House Types	PH-164-053	B
House Types	PH-164-054	A
House Types	PH-164-055	B

House Types	PH-164-056	B
House Types	PH-164-058	B
House Types	PH-164-059	E
Proposed Floor Plan	PH-164-060	C
Elevations	PH-164-061	D
Proposed Floor Plan	PH-164-062	A
Elevations	PH-164-063	A
House Types	PH-164-064	B
House Types	PH-164-065	N/A
House Types	PH-164-066	A
House Types	PH-164-067	A
House Types	PH-164-068	C
House Types	PH-164-069	B
Garage Details	PH-164-070	A
Bin Store Floor Plan/Elevation	PH-164-071	B
House Types	PH-164-073	A
House Types	PH-164-074	A
House Types	PH-164-075	N/A
House Types	PH-164-076	N/A
House Types	PH-164-077	N/A
House Types	PH-164-078	N/A
House Types	PH-164-079	N/A
Street elevation	PH-164-080	B
Street elevation	PH-164-081	B
Street elevation	PH-164-082	B
Street elevation	PH-164-083	B
Street elevation	PH-164-084	B
House Types	PH-164-085	N/A
House Types	PH-164-086	N/A
House Types	PH-164-087	N/A
House Types	PH-164-088	N/A
Section	PH-164-091	N/A
Section	PH-164-092	N/A
Other	21055.TOPO.102.02	N/A
Other	21055.TOPO.102.01	B
Landscaping	JBA 21/186-01	D
Landscaping	JBA 21/186-02	D
Landscaping	JBA 21/186-03	D
Landscaping	JBA 21/186-04	D
Landscaping	JBA 21/186-05	D
Landscaping	JBA 21/186-06	D
Landscaping	JBA 21/186-07	D
Landscaping	JBA 21/186-08	D
Landscaping	JBA 21/186-09	D
Landscaping	JBA 21/186-10	D
Landscaping	JBA 21/186-11	D
Landscaping	JBA 21/186-12	D
Material Palette	Submitted 12.12.2022	

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

#### Condition 1

The development hereby permitted shall begin not later than 2 years from the date of this decision.

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

#### Condition 2

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

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

#### Condition 3

Any works which will impact the potential breeding / resting place of Great Crested Newt, shall not in any circumstances commence unless the Local Planning Authority has been provided with either:

- a) A licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or
- b) A GCN District Level Licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or
- c) A statement in writing from the Natural England to the effect that it does not consider that the specified activity/development will require a licence."

Reason: To conserve protected species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s17 Crime & Disorder Act 1998.

#### Condition 4

Prior to works above ground levels, an on-site panel showing the bricks and off-white mortar to be used on the external finishes of the building(s) hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details and permanently retained as such.

Reason: In the interests of the character and appearance of the local area.

#### Condition 5

Prior to the first occupation of any phase of the development hereby permitted, the vehicle parking area, including any accessible parking spaces for blue badge holders and visitor parking, associated with that phase as indicated on the approved plan(s), shall be hard surfaced, sealed and marked out in parking bays. The vehicle parking area and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles

that are related to the use of the development. The development shall only be implemented in accordance with the approved details.

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

#### Condition 6

Prior to works above ground levels, an Electric Vehicle Charging Strategy for the apartment units shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to occupation and thereafter retained.

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

#### Condition 7

At least one dedicated electric vehicle charging socket(s) for each dwelling, except apartment units, shall be installed prior to the occupation of the relevant dwelling and thereafter retained.

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

#### Condition 8

Prior to occupation of the development hereby permitted, on-site measures to avoid impacts from the development alone to the Blackwater Estuary SPA & Ramsar site and Essex Estuaries SAC shall be submitted to and approved in writing by the Local Planning Authority. The content of the of the onsite measures will be in line with the approved Habitats Regulations Assessment and shall include the following:

- a) Purpose and conservation objectives for the proposed measures;
- b) Detailed designs of the interpretation board, leaflets and dog waste bins;
- c) Locations of proposed interpretation boards by appropriate maps and plans; and
- d) Details of initial aftercare and long-term maintenance of these features (where relevant).

The measures shall be implemented retained in that manner thereafter.

Reason: To avoid Adverse Effects to Site Integrity from the development alone to the Blackwater Estuary SPA & Ramsar site and Essex Estuaries SAC and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended).

#### Condition 9

Prior to occupation of the development hereby permitted, a report shall be submitted to and approved in writing by the Local Planning Authority to confirm the internal and external noise levels for each properties post construction. The report must demonstrate compliance with the relevant British Standards, including BS4142:2014 and BS8233. The report should include any remedial measures if appropriate. The development shall be implemented in accordance with the approved details prior to

the occupation of each residential unit and retained as such thereafter.

Reason: To ensure a satisfactory level of residential amenity for future occupiers.

#### Condition 10

Prior to occupation of the development hereby permitted, operational details of installed mechanical ventilation/comfort cooling systems, including resultant internal noise levels when operational, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details prior to beneficial occupation of any unit and retained as such thereafter.

Reason: To ensure a satisfactory level of residential amenity for future occupiers.

#### Condition 11

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

Reason: In the interest of neighbouring residential amenity.

#### Condition 12

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting that Order), no enlargement of the dwellinghouse(s), provision of any building within the curtilage of the dwellinghouse(s), or alteration of the dwellinghouse(s), as permitted by Classes A, AA, B, C and E of Part 1 of Schedule 2 of that Order shall be carried out without first obtaining planning permission from the Local Planning Authority.

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

#### Informative(s)

##### Informative 1

The applicant should refer to the detailed comments of Essex County Fire and Rescue Service (Protection) dated 1 December 2021.

##### Informative 2

The applicant should refer to the detailed comments of ECC Green Infrastructure and Sustainable Drainage dated 31 March 2022.

##### Informative 3

The applicant should refer to the detailed comments of ECC Highways dated 16 November 2022.



#### Informative 4

The applicant should refer to the detailed comments of Environmental Agency dated 3 August 2022.

#### Informative 5

The Applicant is strongly advised to engage with National Grid Plc and its subsidiaries regarding the access into the sub-station situated to the northwest of the application site. The Applicant should inform the Council of any actions arising from discussions with National Grid and liaise with the Council through the formal pre-application procedure should a need to amend the approved development arise.

#### Informative 6

The Applicant should provide an information pack for future residents setting out the location and operation of the Waste Transfer Stations at Cordons Farm, setting how the mitigation measures applicable to each dwelling have been built into the scheme and the way residents should utilise it.

#### Positive and Proactive Statement

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

## APPENDIX 2:

### POLICY CONSIDERATIONS

#### National Planning Guidance

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

#### Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP2	Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
SP3	Spatial Strategy for North Essex
SP6	Infrastructure & Connectivity
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP31	Affordable Housing
LPP35	Housing Mix, Density and Accessibility
LPP42	Sustainable Transport
LPP43	Parking Provision
LPP47	Built and Historic Environment
LPP50	Provision of Open Space, Sport and Recreation
LPP52	Layout and Design of Development
LPP59	Archaeological Evaluation, Excavation and Recording
LPP61	Local Community Services and Facilities
LPP63	Natural Environment and Green Infrastructure
LPP64	Protected Sites
LPP65	Tree Protection
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP67	Landscape Character and Features
LPP70	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP71	Climate Change
LPP72	Resource Efficiency, Energy Generation and Energy Efficiency
LPP74	Flooding Risk and Surface Water Drainage
LPP76	Sustainable Urban Drainage Systems
LPP77	External Lighting
LPP78	Infrastructure Delivery and Impact Mitigation

APPENDIX 3:

SITE HISTORY

<b>Application No:</b>	<b>Description:</b>	<b>Decision:</b>	<b>Date:</b>
20/00056/REF	Outline application with some matters reserved, for residential development of up to 250 dwellings with access considered	Appeal Allowed	14.12.20
17/00007/SCR	Town & Country Planning Act 1990 (as amended), Town & Country Planning (Environmental Impact Assessment) Regulations 2011 - Screening Request - The development of the 12.8 ha site to create in the region of 250 high quality residential dwellings together with significant areas of public open space, landscaping, appropriate levels of car parking and a green corridor the southern boundary. This corridor would also act as a buffer between the built form and the countryside beyond ensuring the development sits comfortably within the receiving landscape context.	Screening/ Scoping Opinion Adopted	20.12.17
18/00549/OUT	Outline application with some matters reserved, for residential development of up to 250 dwellings with access considered	Refused	05.12.19
21/03514/S106A	Application made under Section 106a of the Town and Country Planning Act 1990 (as amended) and the Town and Country Planning (Modification and Discharge of Planning Obligations) Regulations	Pending Consideration	

	1992 (as amended) - Application to discharge details required under Schedule 4 of S106 Legal Agreement relating to 18/00549/OUT (allowed under appeal 20/00056/REF).		
21/03656/DAC	Application for approval of details as reserved by Conditions 9,10,11,12,14,15, 20, 22, 23, 24, 25 and 26 of approved application 18/00549/OUT	Pending Consideration	
22/00703/DAC	Application for approval of details reserved by Conditions 16 (Detailed Remediation Scheme) and 17 (Verification Report) of application 18/00549/OUT, allowed on appeal APP/Z1510/W/20/3253661	Granted	26.04.22



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## Appeal Decision

Inquiry Held on 17 to 20 and 24 November 2020

Site visit made on 23 November 2020

by G D Jones BSc(Hons) DipTP DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14<sup>th</sup> December 2020

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Appeal Ref: APP/Z1510/W/20/3253661

Land between Braintree Road and Long Green, Cressing, Braintree

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Begin Braintree Ltd against the decision of Braintree District Council.
  - The application Ref 18/00549/OUT, dated 20 April 2018, was refused by notice dated 5 December 2019.
  - The development proposed is described as outline application for residential development of up to 250 dwellings with access considered.
- 

### Decision

1. The appeal is allowed and outline planning permission is granted for residential development of up to 250 dwellings with access at Land between Braintree Road and Long Green, Cressing, Braintree in accordance with the terms of the application, Ref 18/00549/OUT, dated 20 April 2018, subject to the conditions contained within the Schedule at the end of this decision.

### Preliminary Matters

2. The proposal is for outline planning permission with access only to be determined at this stage and with appearance, landscaping, layout and scale reserved for future approval. Whilst not formally part of the scheme, I have treated the submitted details relating to these reserved matters as a guide as to how the site might be developed.
3. As outlined in the Addendum Statement of Common Ground, I have been asked to consider and determine the appeal on the basis of a proposed access drawing, reference 17126-012-A, that was not formally before the Council when it determined the appeal planning application. Nonetheless, its contents reflect what is shown in the indicative site layout plans that were the subject of the public consultation and before the Council at that time. Moreover, this revised proposed access plan has also been the subject of a separate, subsequent consultation exercise. Accordingly, I can see no reason why any party might be unreasonably deprived of the opportunity to be consulted on the changes or prejudiced as a result of accepting it. I have, therefore, assessed and determined the appeal on the basis of this revised drawing.
4. As a consequence of these revisions to the proposed access arrangements, at the Inquiry, the Council did not defend its fourth reason for refusal, concerning highways matters. During the Inquiry the Council also confirmed that, subject

to the completion of a legal agreement, which while agreed between the main parties, had yet to be completed at the time the Inquiry closed, it would not defend its fifth refusal reason concerning infrastructure, affordable housing and other mitigation. A legal agreement made under S106 of the Town and Country Planning Act 1990 (the S106 Agreement) has now been completed.

5. The reasons for refusal refer to the Publication Draft Braintree Local Plan (the emerging Local Plan). Nonetheless, as it is not yet part of the development plan and may be subject to change, including in respect to the policies cited in the refusal reasons, it carries limited weight only at this stage.

### Main Issues

6. In light of the foregoing, the main issues are:
  - Whether the location of the proposed development outside of the settlement boundaries is acceptable in principle, having regard to the relevant development plan policies, including those of the Cressing Neighbourhood Plan;
  - The effect of the proposed development on the living conditions of future residents, with particular regard to noise and odour;
  - Its effect on the character and appearance of the countryside between Braintree and Tye Green / Cressing; and
  - Whether any development plan conflict and harm arising, would be outweighed by any other considerations, including that the Council cannot currently demonstrate a Framework compliant supply of housing land.

### Reasons

#### *Location*

7. I deal with the first main issue identified above broadly in two parts. Firstly, here under this subheading, largely in respect to how the proposed development sits, as a matter of principle, with the adopted strategy for the location of new housing in Braintree District. And secondly, drawing on my conclusions in respect to all three other main issues, as part of the fourth main issue concerning the planning balance, which is where I come to an overall conclusion on whether the site is a suitable location for housing.
8. The strategy for the location of new development in the District, including housing, is set out in the development plan, notably for the purposes of this appeal in Policy RLP 2 of the Braintree District Local Plan Review 2005 (the Local Plan), Policy CS 5 of the Braintree Core Strategy 2011 (the Core Strategy) and, within the Parish of Cressing, Policy 7 of the Cressing Parish Neighbourhood Plan 2017-2033 (the CNP).
9. The appeal site is located beyond the boundaries of the nearest settlements, Braintree to the north and the village of Tye Green roughly to the south, as identified in the development plan. The defined settlement boundary of Braintree closest to the site runs to the north of the A120, a heavily trafficked dual carriageway, **while the closest point of Tye Green's defined boundary is on the western side of the B1018 Braintree Road.**
10. Local Plan Policy RLP 2 states that, with some exceptions, new development will be confined to within such settlement boundaries. Similarly, Core Strategy

Policy CS 5 states that development outside the designated settlement boundaries will be strictly controlled to uses appropriate to the countryside. Additionally, CNP Policy 7C states that new housing outside settlement boundaries should be an exception and comprise small-scale self-build or custom-build schemes. There is nothing to suggest that any of the exception criteria of these Policies would be met in this case.

11. Consequently, the appeal proposals conflict with Policies RLP 2 of the Local Plan, CS 5 of the Core Strategy and 7C of the CNP in this regard, such that the **development would be at odds with the area's strategy for the location of new housing.**

#### *Living Conditions*

12. A large proportion of the site's northern boundary abuts and, to an extent, wraps around an area of established commercial development, which has a waste transfer station (the WTS) located on its southernmost edge, immediately adjacent to the appeal site. Due to this relationship, chiefly in terms of the respective uses and their proximity, the existing commercial uses would have the potential to affect the living conditions of residents of the proposed development, particularly due to noise and odour.
13. The respective witnesses of the main parties have each undertaken their own assessments in respect to noise and to odour. Of these various assessments I favour **those of the appellant's witnesses** in respect to both noise and odour. There are a number of reasons for this, most notably because they appear to make reasonable assumptions, based on sufficiently comprehensive evidence, including reasonably extensive site surveys, applying appropriate methodology to the **site's context and the** development proposed.
14. **In contrast, the Council's witness's evidence is based, at least in part, on very** much less extensive survey information. Moreover, while the approaches advocated by the Council on these matters would be likely to result in a better residential environment for occupants of the appeal development, for instance due to their application of LA<sub>max</sub> for calculating noise impact, they do not appear to be necessary in order to secure sufficiently good living conditions having regard to the wider evidence.
15. In making this assessment I have taken into account that it might be necessary for some residents of the development to close windows of their homes to maintain satisfactory living conditions. Nonetheless, if this were to happen, it seems likely that it would only be occasionally.
16. I am also mindful of a number of other considerations which support the **appellant's evidence in this regard.** For instance, while the appeal site is undeveloped, there are existing residential uses in the vicinity of this neighbouring commercial area, the closest of which is a gypsy and traveller site, which also abuts the appeal site. Nonetheless, there is no clear history of noise or odour complaints resulting from the commercial uses, including the WTS.
17. Additionally, past assessments of the potential effects of the WTS on the living conditions of neighbours have not concluded that there would be a significant **effect on residents' living conditions. Indeed, planning permission for**

development at the WTS, concerning its hours of operation, appears to have been granted on this basis as recently as December 2019.

18. On the evidence before me, therefore, there is no good reason to conclude that, subject to controls that could be secured by planning conditions and to the careful consideration of reserved matters, the appeal development would not provide its residents with acceptable living conditions, including in terms of noise and odour, nor that use and enjoyment of the proposed open space would be significantly affected by neighbouring uses. On this basis it would accord with para 180 of the National Planning Policy Framework (the Framework) and Policy LPP 73 (Minimising Pollution and Safeguarding from Hazards) of the emerging Local Plan.

#### *Character and Appearance*

19. The appeal site lies in the countryside. Although it does not adjoin any defined settlement boundary, a substantial part of its zig-zagging northern boundary directly abuts part of the developed southern fringe of Braintree that lies to the south of the A120. In broad terms, the site is contained to the west by the B1018 Braintree Road, which leads to Tye Green, and to the east by Long Green Road. There are open fields to the south beyond which lies Tye Green. A public footpath crosses the central part of the site, running roughly north-south, and which continues within the site along part of its boundary with the commercial area to the north.
20. The site itself covers some 12ha, comprising three large arable fields / improved grassland and an area of semi-natural scrub woodland adjoining Braintree Road. Existing field boundaries within and around the edges of the site are, in the main, well defined by hedgerows. Overhead electricity lines cross the southern part of the site, while an associated pylon stands within it.
21. Although '**siting**' would be reserved for future consideration, an indicative proposed layout has been provided by the appellant. Having regard to the living conditions evidence, the current version of the indicative layout makes provision for a '**buffer**' area that sweeps around the WTS, within which there are no proposed dwellings shown. Rather, the buffer area is shown mainly to be used as open space, planting and landscaping, and as part of the route of the proposed access link road.
22. Notwithstanding any such likely separation between the built form of the developed site and that of the adjoining commercial area and its location to the south of the A120, subject to careful consideration of the layout and wider reserved matters, the proposed development need not appear as or have the feel of anything other than a part of Braintree as a settlement.
23. This is principally because of **the site's very close proximity** to the adjoining uses and buildings to the north and to the extent of the shared boundary between the site and the existing built up area. It is not unusual for new housing areas within a settlement not to abut an existing or proposed residential area. The fact that most of these nearby existing uses are commercial in nature rather than residential is of limited significance as the developed site would read as a continuation of the built form of the greater settlement due to its proximity. Furthermore, given its modest size, location and evident functional relationship with the homes that it would primarily



- serve, the proposed open space and associated planting would be seen as an integral part of the residential development rather than a feature that would segregate the developed site from Braintree.
24. There would also be a functional link given that residents of the development would be likely to use at least some of those very nearby uses, such as the pub and garden centre, and do so using the range of travel options that would be available to them, including pedestrian, cycle and vehicular. Although a little more distant and separated by major roads, including in most instances by the A120, residents of the development would also be likely to use the range of **facilities at Galley's Corner and those** a little to the north of the A120 at Braintree Freeport and further north within and near to the town centre. This would **further establish the development's functional relationship with** Braintree.
25. There are also other factors that would add to the sense that the appeal scheme would look and feel a part of Braintree. For instance, the housing proposed to the Long Green frontage could be designed to sit comfortably within an existing, undeveloped gap between the gypsy and traveller site and a pair of bungalows to the south that also abut the site. Furthermore, land to the north west, a little beyond Braintree Road, has planning permission to be developed as a DIY store. There is no reason to believe that that planning permission will not be implemented. If it were to be, as seems likely, it would deliver an even stronger urban context for the appeal development, further strengthening the physical relationship with this southern part of Braintree, notwithstanding the alignment of the designated settlement boundary.
26. Due to the foregoing factors and subject to its detailed design, the developed site would appear as and function as a part of Braintree. This in itself would **help ensure that it would not be seen as part of Tye Green, in spite of the site's** reasonably close proximity to this village. I recognise that there would be some constraints on new planting within the site, including those associated with the overhead powerlines and with the sight lines required for the proposed roads. Nonetheless, the intervening open fields and retained existing planting, which could be supplemented by some new planting within the site, would also contribute to ensuring that the development would look and feel part of Braintree, distinct and separate from Tye Green.
27. For these reasons, although the proposed development would reduce the physical gap between Braintree and Tye Green and its presence would be evident, particularly while traveling through the site along the realigned B1018 and on the right of way, and while not entirely consistent with the historic settlement pattern, it would not result in coalescence. On this basis, it would not conflict with Part D of CNP Policy 3.
28. Nonetheless, it would fail to maintain **'the' physical gap between Braintree and** Tye Green within the Open Countryside Buffer Area identified in Part Aii of CNP **Policy 3. It is important to note that the Policy refers to 'the gap' rather than 'a gap'. Consequently,** in this regard, the development would conflict with CNP Policy 3.
29. The appeal site is located within the Silver End Farmland Plateau Landscape Character Area (the SEFPLCA), which covers a very substantial area to the south east of Braintree, extending as far south as Witham. The SEFPLCA also covers the significant majority of Cressing Parish. The site manifests several

characteristics of the SEFPLCA, as does much of the surrounding land within the SEFPLCA to the south of Braintree in the vicinity of Tye Green. These characteristics include gently undulating farmland, irregular predominantly large arable fields marked by sinuous hedgerows, small woods and copses providing structure and edges in the landscape, mostly tranquil character away from the major roads, and scattered settlement pattern, with frequent small villages.

30. Development of the appeal site as proposed would inevitably change its character and appearance resulting in the harmful loss of many of those characteristic features within the site, including the self-seeded woodland. Nor would the development itself be small scale. Nonetheless, given **the site's** relative small size in the context of the very much larger SEFPLCA, be it its full extent or its extent within the Parish, and its fairly contained nature, the appeal development would not have a significant effect on the SEFPLCA at large or at the Parish level. Consequently, the appeal scheme does not conflict with CNP Policy 2.
31. At the Inquiry, it was put to me that, **even if the 'impact' of a proposed** development on the SEFPLCA within **the Parish were not 'significant'**, the three criteria of CNP Policy 2 would still need to be met in order to comply with the Policy. However, that is not how Policy 2 is worded and as such, in this case, those criteria do not have a bearing on whether the appeal development would accord with it or not.
32. In summary, for the reasons outlined above, the appeal development would, with careful control of the matters that would be reserved, appear as a part of Braintree and have a limited and largely localised effect on the area in the vicinity of the site. Nonetheless, it would diminish the physical gap between Tye Green and Braintree in conflict with the CNP and also alter the settlement pattern and result in the harmful loss of countryside that is characteristic of the area, that would, to a limited extent, be perceived from beyond the site, particularly while traveling along the B1018 and Long Green.
33. Consequently, while the appeal development would harm the character and appearance of the countryside between Braintree and Tye Green / Cressing, that harm would be moderate. Therefore, it would conflict, in this regard and in the other respects outlined above, with Policy RLP 2 of the Local Plan, Policies CS 5, CS 8 and CS 9 of the Core Strategy, and Policy 3A of the CNP.

#### *Other Issues and Planning Balance*

34. As outlined above, the appeal development would be at odds with the local adopted strategy for the location of new housing and would cause moderate harm to the character and appearance of the countryside of Cressing Parish between Braintree and Tye Green. It would also lead to the loss of Grade 2 **agricultural land, which is identified as being 'best and most versatile'** (BMV). As a consequence, the proposals conflict in these respects with Policy RLP 2 of the Local Plan, Policies CS 5, CS 8 and CS 9 of the Core Strategy, and Policies 3A and 7C of the CNP.
35. Bearing in mind para 213 of the Framework, although Policies CS 8 and CS 9 of the Core Strategy may not be entirely consistent with the Framework, purely as a benchmark for the purposes of making my decision, I have treated them, along with CNP Policy 3, as having undiminished weight.

36. The Council cannot currently demonstrate a Framework compliant supply of housing land. Although the main parties have differing views on the extent of the housing delivery shortfall, they have jointly asked me to determine the appeal on the basis that supply lies in the range of 3.72 to 4.52 years. As a consequence, the fact that the appeal development would be at odds with the local strategy for the location of new housing and conflict, in that regard, with the development plan, including with CNP Policy 7C, currently carries no more than moderate weight. In this regard, I note and agree with the other appeal decisions that have been put to me that indicate that the conflict with Policies RLP 2 and CS5 should attract no more than moderate weight in comparable circumstances.
37. Policy 7C applies only within Cressing Parish and as such it does not affect housing delivery elsewhere in the District. Nonetheless, its weight is also constrained at present as it has the potential to substantially restrict housing delivery in Cressing Parish on land that is located beyond the settlement boundaries and that does not already have planning permission for residential development, such that it could have a significant influence on housing delivery within the District overall. **In addition to the absence of a five years' supply of housing land**, this is in the related context of a Local Plan that planned for the **District's development** needs to 2011 only and where there appears to be little prospect of the emerging Local Plan being adopted in the near future.
38. In these circumstances the so-called tilted balance, as set out in para 11 of the Framework, applies to the assessment and determination of appeals of this nature. With reference to this, para 14 of the Framework adds that the adverse impact of allowing development that conflicts with a neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided that four of its criteria apply. There is disagreement between the main parties over whether or not one of these criteria is met, criterion (b), concerning whether the CNP contains policies and allocations to meet its identified housing requirement.
39. Irrespective of whether criterion (b) is met, as a benchmark for the purposes of making my decision, I have worked on the basis that all four criteria are met. I recognise that the CNP is recently adopted and that it went through the required statutory process and was examined against the basic conditions and other legal requirements. Nonetheless, in the particular circumstances of the case, para 14 of the Framework has a limited effect on the weight carried by the identified conflict with the CNP. There are a number of reasons for this, the most significant of which are outlined in the following three paragraphs.
40. The Framework does not define how the housing requirement referred to in its para 14(b) is to be derived. Although it differed at the time that the CNP was prepared and submitted, the government's Planning Practice Guidance (the PPG) does provide guidance to this end. Consistent with the PPG, the Parish Council requested a figure from the Council. However, no figure was provided.
41. In such circumstances, the PPG says that relevant policies, existing and emerging spatial strategy, and characteristics of the neighbourhood area can be taken into account, yet it appears that the CNP considered only the requirements of Cressing Parish as a proportion of the whole District's housing need, without clear regard to the wider needs of the District. In this context,

- the PPG refers to the use of the neighbourhood planning toolkit on housing needs assessment, but it appears that that toolkit was not used for the CNP.
42. Overall, the housing requirement figure in the CNP, while having been through the examination process, does not appear to have been tested in any significant way as part of that process.
43. In this context, given that the appeal scheme would bring a range of benefits, most notably the delivery of a substantial amount of market and affordable housing in an area which currently has issues with housing delivery, which together carry considerable weight in its favour, the identified harm and development plan conflict carries modest<sup>1</sup>, comparative weight bearing in mind the matters outlined above, and that the harm to the character and appearance of the area would be moderate and that the loss of BMV land carries limited weight given the large amount of such land in the District combined with the need to find sites for new housing.
44. Consequently, notwithstanding Framework para 14, in the current circumstances the adverse impacts of the appeal development would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Accordingly, it would be sustainable development in the terms of the Framework for which there is a presumption in its favour, such that the site is a suitable location for housing.

#### Other Matters

45. In the event that planning permission were to be granted and implemented the S106 Agreement, dated 9 December 2020, would secure the provision of on-site affordable housing at a rate of 40%; payments towards the provision of off-site outdoor and indoor sports facilities, allotments, healthcare services, early years and childcare provision, and visitor management measures in relation to Essex Coast Natura 2000 European Designations, and also support for the delivery of a travel plan for the appeal development; and the provision, maintenance and delivery of on-site public open space.
46. The Council has submitted a detailed statement (the CIL Statement), which addresses the application of statutory requirements to the planning obligations within the S106 Agreement and also sets out the relevant planning policy support / justification. I have considered the S106 Agreement in light of Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010 (as amended) and government policy and guidance on the use of planning obligations. Having done so, I am satisfied that the obligations therein would be required by and accord with the policies set out in the CIL Statement. Overall, I am satisfied that all of those obligations are directly related to the proposed development, fairly and reasonably related to it and necessary to make it acceptable in planning terms.
47. The site is located within the Zone of Influence of the Blackwater Estuary Special Protection Area (the SPA). Consequently, the appeal development would be likely to have a detrimental effect on the SPA through unmitigated additional recreational use. The Council has completed a 'Habitat Regulations Assessment', which has been reviewed by Natural England resulting in no objection to the appeal proposals subject to mitigation. As outlined above,

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<sup>1</sup> 'Modest' only in relative terms compared to the combined weight of the benefits.

such mitigation could be secured via the S106 Agreement. It is for me, as decision-taker and competent authority, to undertake an Appropriate Assessment of the appeal development under The Conservation of Habitats and Species Regulations 2017 (as amended). Having reviewed all of the evidence before me, I am content that mitigation would be required, as identified by the Council, and that it would be secured by the S106 Agreement, such that the proposed development would not have an adverse effect on the integrity of the SPA.

48. I have also been provided with a range of decision letters in respect to other planning appeals. While I am mindful of the need for consistency in decision-making, each application for planning permission must be determined on its individual merits and none of those decision letters have had a significant bearing on my decision.
49. In addition to the foregoing matters, concern has been expressed locally, including by Cressing Parish Council, in respect to local infrastructure, services and facilities as existing and proposed; the effects of the development on hedgerows, possible ridge and furrow field systems, biodiversity and the historic environment; car parking capacity at local stations; pedestrian / cycle links, including improvements to the right of way that crosses the site; employment opportunities in the area, including the potential for residents to have to commute outside the District; site contamination; the wider living conditions of residents; the usability of the proposed open space and absence of allotments; the cumulative effect of the development with other planned development; it may be premature / prejudicial to the local plan-making process and to the route of the A120; there should now be adequate housing land supply given recent consents and lack of need; the social effects on the community; highway safety, congestion and on-site parking; drainage and flooding; and that powerlines cross the site.
50. **These matters are largely identified and considered within the Council officer's report on the appeal development.** They were also before the Council when it prepared its evidence and when it submitted its case at the Inquiry and are largely addressed in its evidence and in the various statements of common ground. Other than as set out above, the Council did not conclude that they would amount to reasons to justify withholding planning permission. I have been provided with no substantiated evidence which would prompt me to **disagree with the Council's conclusions in these respects subject to the S106 Agreement and the imposition of planning conditions.**

#### Conditions and Conclusion

51. The Council and the appellant jointly prepared a list of draft conditions, which include the standard time limit / implementation conditions. I have considered these in the light of government guidance on the use of conditions in planning permissions and made amendments accordingly.
52. In order to provide certainty in respect to the matters that are not reserved for future consideration, a condition requiring that the development is carried out in accordance with the approved plans would be necessary. For that reason and to protect the character and appearance of the area, a condition limiting the number of dwellings permitted would also be necessary.

53. Conditions would be necessary to secure biodiversity and arboricultural mitigation, including details of lighting, to protect the character and appearance of the area, as well as wildlife and their habitat. Conditions to control ground floor levels of the permitted buildings, the provision of bin storage and further landscaping details would be necessary to help the development harmonise with its context. Conditions to control the details of surface and foul water drainage would also be necessary to reduce flood risk, to control surface water run-off and in the interests of public health.
54. Conditions would also be necessary to ensure that features of archaeological interest are properly examined, recorded and, where necessary, preserved. In **the interests of highway safety and to safeguard residents' living conditions**, conditions would also be necessary to ensure that the construction works proceed in accordance with a Construction Method Statement. Conditions requiring adequate remediation of any contamination affecting the site would be necessary to safeguard the health and well-being of future occupiers.
55. To promote sustainable modes of transport, reduce the need for travel and in the interests of highway safety, conditions to secure the implementation of a Residential Travel Plan, improvements to the right of way that crosses the site, and the upgrading of two existing nearby bus stops would be necessary. For these reasons, conditions would also be necessary to control the detail and provision of the proposed site access arrangements. With regard to the associated stopping sight visibility envelopes and control of any planting therein, the parameters suggested by the appellant, as informed by the Essex Design Guide, would be sufficient bearing in mind that those of the Design Manual for Roads and Bridges generally relate to the trunk road network.
56. A condition would also be necessary to secure, where needed, noise mitigation measures. In this regard, for the reasons outlined in the *Living Conditions* section above, the approach suggested by the appellant would suffice. However, a condition specifically to control facing materials to be used on the proposed buildings, as identified by the main parties, would be unnecessary given that 'appearance' would be a matter reserved for future consideration.
57. In conclusion, the proposed development would be at odds with the local strategy for the location of new housing, cause moderate harm to the character and appearance of the area and lead to the loss of BMV land in conflict with the development plan. However, in the current circumstances, notwithstanding Framework para 14, these adverse impacts would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. On that basis, the appeal scheme would represent sustainable development in the terms of the Framework, which is a material consideration that, in the particular circumstances of the case, outweighs the conflict with the development plan as a whole. Accordingly, subject to the identified conditions, the appeal is allowed.

*G D Jones*

INSPECTOR



## APPEARANCES<sup>2</sup>

### FOR THE LOCAL PLANNING AUTHORITY:

Emma Dring of Counsel

Instructed by Legal Services, Braintree District Council

She called

Michelle Bolger CMLI, Dip  
LA, BA, PGCE, BA

Pamela Sharp BSc (Hons),  
MCIEH

Timothy Havers BA, MSc,  
RTPI

Director of Michelle Bolger Expert Landscape  
Consultancy

Environmental Health Officer, Braintree  
District Council

Principal Development Management Planner,  
Braintree District Council

### FOR THE APPELLANT:

Paul Tucker of Queens Counsel<sup>3</sup>

Instructed by Rawdon Gascoigne, Emery  
Planning

He called

Simon Laws, DipLA, CMLI  
Donald Quinn, BSc (Hons),  
FIOA

Katrina Early Hawkins, BSc  
(Hons), MSc, MIAQM, CEnv  
Rawdon Gascoigne, MRTPI,  
BA Hons

Managing Member of ADP LLP

Managing Director of Hepworth Acoustics Ltd

Chairman of Smith Grant LLP

Director of Emery Planning

### INTERESTED PERSONS:

Cllr Susan Simpson  
Tony Perkins

Cressing Parish Council  
Local Resident

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<sup>2</sup> Although by the time the Inquiry opened highways matters were substantially a matter of common ground, a round table session on highways matters was held in order for the main parties to explain their respective positions on this matter and for them to field any questions. The session was attended by Harry Flexman, MSc (Hons), Associate Transport Planner of Connect Consultants on behalf of the appellant and by Martin Mason of Essex County Council as local highway authority.

<sup>3</sup> Mr Tucker was assisted by Freddie Humphreys of Counsel, however, he did not act as advocate for the appellant and attended primarily on the basis that Mr Tucker may not have been able to attend had the Inquiry extended into a sixth day, in which case he would have taken over as advocate on behalf of the appellant.

SCHEDULE OF CONDITIONS FOR APPEAL REF APP/Z1510/W/20/3253661:

1. Details of the scale, appearance and layout of the building(s), and the landscaping of the site, hereinafter referred to as "the reserved matters", shall be submitted to and approved in writing by the Local Planning Authority (LPA) before any development takes place and the development shall be carried out as approved.

Application for approval of the reserved matters shall be made to the LPA not later than 3 years from the date of this permission.

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

2. The submission of reserved matter applications pursuant to this outline planning permission shall together provide for no more than 250 dwellings.
3. The development hereby approved shall be carried out in accordance with the following approved plans:
  - Site Location Plan P01 REV05; and
  - Proposed Highway Layout 17126-012-A.
4. Any reserved matters application shall be supported by a Biodiversity Enhancement Strategy for Protected and Priority Species, which shall include:
  - Purpose and conservation objectives for the proposed enhancement measures;
  - Detailed designs to achieve stated objectives;
  - Locations of proposed enhancement measures by appropriate maps and plans;
  - Persons responsible for implementing the enhancement measures;
  - Details of initial aftercare and long-term maintenance (where relevant); and
  - A timetable for implementation.

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

5. Any reserved matters application that seeks approval of appearance, layout or scale of the building(s) shall be accompanied by full details of the location and design of the refuse bins and recycling materials separation, storage areas and collection points, including a timetable for the provision of these facilities. The development shall be carried out in accordance with the approved details.
6. Any reserved matters application relating to scale or layout shall be accompanied by full details of the finished levels, above ordnance datum, of the ground floor(s) of the proposed building(s), in relation to existing ground levels. The development shall be carried out in accordance with the approved details.
7. Any reserved matters application relating to layout shall be accompanied by an Arboricultural Report for approval by the Local Planning Authority detailing existing trees, shrubs and hedges on the site to be retained and those to be



removed. The Report shall also detail protection measures for trees, shrubs and hedges identified as being retained and the development shall be carried out in accordance with the approved Report.

8. Development shall not be commenced until the above approved details of the means of protecting all of the existing trees, shrubs and hedges to be retained on the site from damage during the carrying out of the development have been installed and such measures shall remain in place throughout the construction phase of development.

No materials, goods or articles of any description shall be stacked, stored or placed at any time within the limits of the spread of any of the existing trees, shrubs or hedges identified for retention.

No works involving alterations in ground levels, or the digging of trenches, or excavations of any kind, (including the laying or installation of drains, pipes, cables or other services) shall be carried out within the extent of the spread of any existing trees, shrubs and hedges identified for retention.

No machinery of any kind shall be used or operated within the extent of the spread of the existing trees, shrubs or hedges.

9. Prior to the commencement of development, a Biodiversity Construction Environmental Management Plan (BCEMP) shall be submitted to and approved in writing by the Local Planning Authority. The BCEMP shall include:

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

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

10. Prior to the commencement of development, a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the following:

- Verification of the suitability of infiltration of surface water for the development based on infiltration tests undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of the CIRIA SuDS Manual C753;

- Limiting discharge rates to 11l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change;
- Provide sufficient storage to ensure no off-site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event with a 10% allowance for urban creep;
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 100 year plus 40% climate change critical storm event - Final modelling and calculations for all areas of the drainage system;
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in Chapter 26 of the CIRIA SuDS Manual C753;
- Detailed engineering drawings of each component of the drainage scheme;
- A final drainage plan which details exceedance and conveyance routes, finished floor levels and ground levels, and the location and sizing of any drainage features;
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy;
- A Maintenance Plan detailing the maintenance arrangements for different elements of the surface water drainage system and maintenance activities / frequencies; and
- A timetable for implementation of the above.

The approved scheme shall be implemented thereafter in accordance with the approved timetable.

11. Prior to above ground construction, a scheme for on-site foul water drainage works, including connection point(s) and discharge rate(s), shall be submitted to and approved in writing by the Local Planning Authority. Prior to occupation of any phase of the development the approved works relating to that phase shall be carried out in complete accordance with the approved scheme.
12. No development or preliminary groundworks shall commence until a programme of archaeological evaluation has been secured and undertaken in accordance with a Written Scheme of Investigation (WSI) submitted to and approved in writing by the Local Planning Authority. The WSI shall include a mitigation strategy detailing the excavation / preservation strategy where appropriate and a timetable for the carrying out of this work. The development shall be carried out in accordance with the approved WSI.
13. A post-excavation assessment shall be submitted to the Local Planning Authority (LPA) within six months of the completion of fieldwork based upon the Written Scheme of Investigation approved under Condition 12, unless an alternative timescale is otherwise approved in writing in advance by the LPA. This shall result in the completion of post-excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

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

- Safe access to and from the site, including details of any temporary haul routes and the means by which these shall be closed off following the completion of the construction of the development;
- The parking of vehicles of site operatives and visitors;
- The loading and unloading of plant and materials;
- The storage of plant and materials used in constructing the development;
- The erection and maintenance of security hoarding, including decorative displays and facilities for public viewing, where appropriate;
- Wheel washing facilities;
- Measures to control the emission of dust and dirt during construction;
- A scheme for recycling / disposing of waste resulting from demolition and construction works;
- Delivery, demolition, site clearance and construction working hours;
- Details of how surface water runoff and groundwater shall be managed throughout the construction phase;
- Details of how the approved Statement shall be implemented and adhered to, including contact details (daytime and 24 hour) for specifically appointed individuals responsible for ensuring compliance; and
- Details of the keeping of a logbook on-site to record all complaints received from the public and the action taken in response. The logbook shall be available for inspection by the LPA and shall include information on the action taken in response to the complaint.

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

15. Prior to the commencement of development, an investigation and risk assessment, in addition to any assessment provided with the planning application, shall be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme shall be submitted to and approved in writing by the Local Planning Authority. The report of the findings shall include:

- A survey of the extent, scale and nature of contamination;
- An assessment of the potential risks to:
  - Human health,
  - Property (existing or proposed), including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - Adjoining land,
  - Groundwaters and surface waters,
  - Ecological systems, and
  - Archaeological sites and ancient monuments; and
- An appraisal of remedial options, and proposal of the preferred option(s).

This shall be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

16. Prior to the commencement of development, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment, has been prepared, and submitted to and approved in writing by the Local Planning Authority. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme shall ensure that the site does not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The development shall be carried out in accordance with the approved scheme.
17. Following the completion of measures identified in the remediation scheme as approved under Condition 16, a verification report that demonstrates the effectiveness of the remediation carried out shall be produced and submitted to and approved in writing by the Local Planning Authority prior to the occupation of any dwellings.
18. Notwithstanding Conditions 16 and 17, should contamination be found that was not previously identified or not considered in the approved remediation scheme, that contamination shall be made safe and reported immediately to the Local Planning Authority (LPA). The site shall be reassessed in accordance with Condition 15 and a separate remediation scheme shall be submitted to and approved in writing by the LPA. Such approved measures shall be implemented and completed prior to the first occupation of any parts of the development.
19. The landscaping scheme required by Condition 1 of this permission shall incorporate a detailed specification of hard and soft landscaping works and details of boundary treatments and means of enclosure. This shall include plant / tree types and sizes, plant numbers and distances, soil specification, seeding and turfing treatment, colour and type of material for all hard surface areas and method of laying, refuse storage, signs and lighting. It shall also include details of the position, design, height and materials of the boundary treatment and means of enclosure.

All areas of hardstanding shall be constructed using porous materials laid on a permeable base.

All planting, seeding or turfing contained in the approved details of the landscaping scheme shall be carried out in the first planting and seeding seasons after the commencement of the development.

All hard surface areas approved as part of the scheme shall be carried out before the first occupation of the buildings or upon the completion of the development whichever is the earlier.

Any trees or plants which die, are removed, or become seriously damaged or diseased within a period of 5 years from the completion of the development, shall be replaced in the next planting season with others of a similar size and species.

20. Prior to occupation of the dwellings hereby permitted, a lighting design scheme for public areas shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall identify those features on-site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging, and show how and where external lighting shall be installed (through the provision of appropriate lighting contour plans, isolux drawings and technical specifications) so that it can be clearly demonstrated that any areas to be lit shall not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the approved scheme and maintained thereafter in accordance with the scheme. No additional external lighting outside the curtilage of dwellings shall be installed without prior written consent from the Local Planning Authority.

21. No occupation of the development shall take place until a suitable access has been built from Long Green or the B1018 Braintree Road in the form of one of the proposed roundabout accesses approved under this planning permission, and no more than 50 dwellings shall be occupied until the approved link road and second roundabout access has been delivered in accordance with the details controlled by Condition 25.

22. Prior to the commencement of development, a scheme to upgrade two existing bus stops, namely the Braintree bound stop on Millennium Way (ID ref: FREEPOR6) and the Witham bound stop on B1018 between Galley's Corner and Fowler's Roundabout (ID ref: 3802502), shall be submitted to and approved in writing by the Local Planning Authority. The completion of these upgrades shall be carried out in accordance with the approved scheme prior to first occupation of the development.

23. Prior to the commencement of development, a scheme to upgrade the existing Public Right of Way Footpath 4 Crossing over that part of the route, which is within the site boundary, to include implementation timescales, shall be submitted to and approved in writing by the Local Planning Authority. The completion of the approved upgrades shall be in accordance with the approved details and timescales.

24. Prior to the commencement of development, a Residential Travel Plan for the developed site shall be submitted to and approved in writing by the Local Planning Authority. The approved Plan shall be implemented prior to first occupation of the development.

25. Prior to the commencement of development, a drawing detailing the simple priority access(es) along the link road between the proposed B1018 Braintree Road / site access roundabout and the Long Green / site access roundabout shall be submitted to and approved in writing by the Local Planning Authority. The drawing shall provide the general arrangement between the heads of the splitter islands at either end of the link road. The layout shall include:

- The site accesses which shall be simple priority T-junctions (without ghost island right turn lanes);
- A minimum 6.75m wide carriageway;

- A minimum 3.5m wide footway / cycleway on one side of the above carriageway and a minimum 2m wide footway on the other; and
- A minimum of two bus stops on the above carriageway.

Stopping sight visibility envelopes shall be provided as shown on approved drawing 17126-012-A, which shall be kept clear of obstructions between 0.6m and 2.4m (except for isolated slim objects). All trees shall be removed within the visibility envelopes unless otherwise approved in writing by the Local Planning Authority.

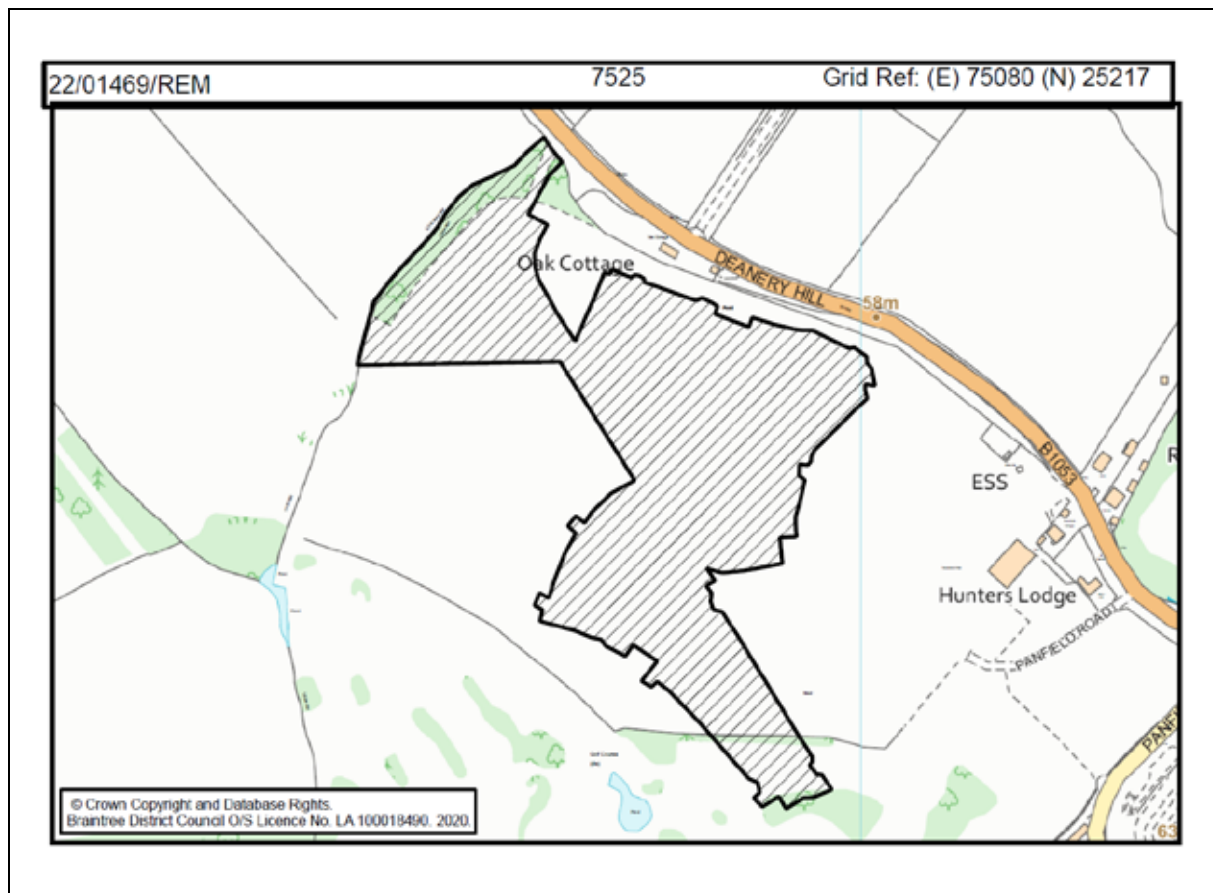
The development shall be carried out in accordance with the approved details and with the trigger points for the implementation of these details as set out in Condition 21.

26. Prior to the commencement of development, a detailed noise mitigation report shall be submitted to and approved in writing by the Local Planning Authority. The report shall detail measures that shall be incorporated into the development to ensure that the proposed residential development is adequately protected from such noise. The assessment shall be completed in line with BS8233. The development shall only be carried out in accordance with the approved details and shall be retained as such thereafter.

<b>Report to:</b> Planning Committee		
<b>Planning Committee Date:</b> 14th February 2023		
<b>For:</b> Decision		
<b>Key Decision:</b> No		<b>Decision Planner Ref No:</b> N/A
<b>Application No:</b>	22/01469/REM	
<b>Description:</b>	Application for Approval of Reserved Matters (in respect of Appearance, Landscaping, Layout and Scale) pursuant to outline planning permission 19/00786/OUT granted 09.04.2021 for: Erection of 162 no. one, two, three, four and five bedroom houses, bungalows and apartments plus associated parking and landscaping, together with the second section of the spine road from the Deanery Hill entrance.	
<b>Location:</b>	Towerlands, Panfield Road, Braintree	
<b>Applicant:</b>	Dandara Eastern, Majesty House, Avenue West, Skyline 120, Braintree, CM77 7AA	
<b>Agent:</b>	Michael Smith, JCN Design & Planning, 2 Exchange Court, London Road, Feering, CO5 9FB	
<b>Date Valid:</b>	26th May 2022	
<b>Recommendation:</b>	It is RECOMMENDED that the following decision be made:  § Application GRANTED subject to the Condition(s) & Reason(s) and Informative(s) outlined within Appendix 1 of this Committee Report.	
<b>Options:</b>	The Planning Committee can:  a) <b>Agree</b> the Recommendation b) <b>Vary</b> the Recommendation c) <b>Overturn</b> the Recommendation d) <b>Defer</b> consideration of the Application for a specified reason(s)	
<b>Appendices:</b>	<b>Appendix 1:</b>	Approved Plan(s) & Document(s) Condition(s) & Reason(s) and Informative(s)
	<b>Appendix 2:</b>	Policy Considerations
	<b>Appendix 3:</b>	Site History
<b>Case Officer:</b>	Timothy Havers For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2526, or by e-mail: <a href="mailto:timothy.havers@braintree.gov.uk">timothy.havers@braintree.gov.uk</a>	



## Application Site Location:





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

	<p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
<b>Background Papers:</b>	<p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> <li>§ Application Form</li> <li>§ All Plans and Supporting Documentation</li> <li>§ All Consultation Responses and Representations</li> </ul> <p>The application submission can be viewed online via the Council's Public Access website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a> by entering the Application Number: 22/01469/REM.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> <li>§ National Planning Policy Framework (NPPF)</li> <li>§ Braintree District Local Plan (2013 - 2033)</li> <li>§ Neighbourhood Plan (if applicable)</li> <li>§ Supplementary Planning Documents (SPD's) (if applicable)</li> </ul> <p>The National Planning Policy Framework can be viewed on the GOV.UK website: <a href="http://www.gov.uk/">www.gov.uk/</a>.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: <a href="http://www.braintree.gov.uk">www.braintree.gov.uk</a>.</p>

1. EXECUTIVE SUMMARY

- 1.1 Outline planning permission was granted for the residential-led re-development of the Towerlands site for up to 575 dwellings on 9th April 2021. Reserved matters for Phase 0 (Ecology habitat area) and Phase 1 (168 dwellings) have been approved and construction is underway on the site. A planning application has also been submitted for the site's Neighbourhood Centre, which has a resolution to grant planning permission following referral to Planning Committee.
- 1.2 The current Reserved Matters application is for Phase 2 of the development which would consist of 162 dwellings. The outline planning permission contains a Design Code and a set of Parameter Plans which all Reserved Matters applications must adhere to. The current proposal has been scrutinised by Officers and following a series of amendments is considered to comply with the outline planning permission's requirements, particularly in terms of its high design and layout quality.
- 1.3 The Towerlands site is allocated for residential led re-development in the Council's Adopted Local Plan and is one of the key strategic sites within the District in terms of delivering housing supply.

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 outside but adjacent to the Town Development Boundary of Braintree, sitting to the north-west of the existing settlement. Previously it operated as an Equestrian facility, a conference centre, and a golf course. It is now being re-developed as a residential led strategic development site. The first phase of the development which was previously granted reserved matters approval (Application Reference 21/03231/REM) is well underway. Phase 0 which consisted of an Ecology habitat area is complete.
- 5.2 The Towerlands site, as a whole, measures approximately 35 hectares and consisted of the following key components:
- A previously developed area containing a number of large buildings and two large car park areas
  - A number of former paddocks and a former ménage
  - A former golf course with associated trees and hedges
  - Boundary trees and hedges
- 5.3 Phase 1 of the development covers the south-eastern part of the site. Phase 0 (the ecology habitat area) is located in the north-western part of the site. The current phase (Phase 2) covers the central portion of the site running from north to south in a relatively linear fashion. The western side of the site will be subject to future reserved matters applications in due course.
- 5.4 The Towerlands site as a whole is bounded to the north by the B1053 (Deanery Hill). Panfield Lane is located to the east and abuts part of the site's boundary with the remaining southern and western boundaries abutting agricultural land and/or woodland. A stream runs through the south-western corner of the site where a small pond is also located.
- 5.5 In terms of the wider context, further countryside is located to the north and west, with Panfield village also being located to the west. A primarily

residential part of Braintree/Bocking sits to the east with Springwood Industrial Estate being located to the south.

- 5.6 The Towerlands site sits adjacent to an area of land which is also identified as a Strategic Growth Location (Panfield Lane) in the Adopted Local Plan which has planning permission for a residential-led scheme of up to 825 dwellings.
- 5.7 There are 4 existing vehicular access points to the site, three secondary accesses, one from Panfield Lane and two from the B1053, with the main entrance also being taken from the B1053.
- 5.8 In terms of gradient, the site shows a maximum levels difference of approximately 11 metres. In general terms the land is higher to the north, falling down towards the eastern part of the site where the buildings are located and to the south where the stream crosses the site.

## 6. PROPOSAL

- 6.1 Outline planning permission (Application Reference 19/00786/OUT) was granted on 9th April 2021 for the residential development of the site for:

*Outline planning application for up to 575 homes together with a 0.13ha site for early years and childcare nursery (D1), Up to 250sqm of local retail (A1) and up to 250sqm of community facilities (D1), green infrastructure including formal/informal open space and amenity space, provision of ecological mitigation area to north-west of developable area, landscaping including woodland and hedgerow planting, new vehicular accesses from the B1053 and Panfield Lane, closure of existing access from Deanery Hill (south), footway and cycleway network, supporting infrastructure (utilities including gas, electricity, water, sewerage, telecommunications (and diversions as necessary), diversion of public right of way, sustainable drainage systems, any necessary demolition and ground remodelling.*

- 6.2 All matters except access were reserved, meaning that the detailed appearance, landscaping, layout, and scale of the proposed development must be considered at the Reserved Matters stage with the access being fixed at the outline stage.

- 6.3 The current Reserved Matters application seeks permission for all the matters reserved at the outline permission stage for Phase 2 of the overall site's development. Phase 2 would consist of the following key elements:

- 162no. dwellings
- Associated parking, landscaping, and open space
- Sustainable Urban Drainage Scheme components
- Part of the main spine road for the development

- 6.4 The layout adheres to the previously approved Parameter Plans which identified the main parameters for the site including developable areas, the spine road's position and key areas of open space and landscaping.
- 6.5 The proposed dwellings would consist of a mixture of detached, semi-detached and terraced units ranging from 1 to 5 bedroom units.
- 6.6 The Applicant has also submitted, as part of the Reserved Matters details of the following:
- Fibre broadband strategy (required by Condition 6 of outline planning permission)
  - Details of landscaping (required by condition 5 of the outline planning permission)
  - Electric Vehicle Charging strategy (required by Condition 7 of outline planning permission)
  - Construction Environmental Management Plan and Biodiversity Enhancement Strategy (required by Conditions 8 and 9 of outline planning permission)
  - Details of finished floor levels (required by Condition 4 of the outline planning permission)
  - Tree Survey (required by Condition 11 of the outline planning permission)
  - Details of refuse and recycling facilities (required by Condition 10 of the outline planning permission)
- 6.7 The application is supported by a suite of documents which include:
- Affordable Housing Scheme details document
  - Landscape and Ecological Management Report
  - Drainage Strategy Report
  - Design and Compliance Statement
  - Full set of layout and design drawings

## 7. SUMMARY OF CONSULTATION RESPONSES

### 7.1 Anglian Water

#### 7.1.1 No Objection.

### 7.2 Essex Fire and Rescue

#### 7.2.1 Access for Fire Service purposes has been considered in accordance with the Essex Act 1987 - Section 13 and is acceptable provided that the arrangements are in accordance with the details contained in the Approved Document to Building Regulations B5. More detailed observations on access and facilities for the Fire Service will be considered at Building Regulation consultation stage.

- 7.2.2 It is the responsibility of anyone carrying out building work to comply with the relevant requirements of the Building Regulations.
- 7.2.3 The architect or Applicant is reminded that additional water supplies for firefighting may be necessary for this development. (Additional fire hydrants will be required within the development curtilage). The architect or Applicant is urged to contact Water Section at Service Headquarters, 01376 576000.
- 7.2.4 There is clear evidence that the installation of Automatic Water Suppression Systems (AWSS) can be effective in the rapid suppression of fires. Essex County Fire & Rescue Service (ECFRS) therefore uses every occasion to urge building owners and developers to consider the installation of AWSS.
- 7.3 Essex Police
- 7.3.1 Whilst there are no apparent concerns with the layout to comment further, we would require the finer detail such as the proposed lighting, boundary treatments and physical security measures.
- 7.3.2 We would welcome the opportunity to consult on this development to assist the developer demonstrate their compliance with this policy by achieving a Secured by Design Homes award. An SBD award is only achieved by compliance with the requirements of the relevant Design Guide ensuring that risk commensurate security is built into each property and the development as a whole.
- 7.4 Health and Safety Executive (HSE)
- 7.4.1 No objection. This proposed development is located within the combined inner/middle HSE consultation zones and outer zone of a Major Accident Hazard Pipeline (MAHP): 5 Feeder Gestingthorpe/Braintree (Ref 1853/7600) as well as outside of the consultation zones.
- 7.4.2 The housing is located within the outer zone of the MAHP. HSE would not advise against housing within the outer zone.
- 7.4.3 It has been confirmed that the green area to the north of the site that is located within the inner HSE consultation zone, does **not** contain any facilities that would encourage members of the public to gather.
- 7.4.4 HSE would not advise against landscaping such as this within the combined inner/middle zone.
- 7.4.5 This consultation has been considered using HSE's Land Use Planning Methodology. Consequently, HSE does not advise, on safety grounds, against the granting of planning permission in this case.

7.5 National Grid

7.5.1 No objection. Proposal is in close proximity to a high-pressure pipeline.

7.6 National Highways

7.6.1 No objection.

7.7 Natural England

7.7.1 Advise that they wish to make no comment.

7.8 Historic England

7.8.1 Advise that they wish to make no comment.

7.9 BDC Ecology

7.9.1 No objection following the submission of additional information. Condition required relating to a strategy for hedgehog highways. Encourage the submission of a Biodiversity Net Gain Assessment although recognise that this is not a formal requirement. Condition requested relating to Habitats Regulation Assessment.

7.10 BDC Environmental Health

7.10.1 No objection.

7.11 BDC Housing Officer

7.11.1 This application seeks detailed approval for a scheme of 162 residential dwellings including 50 affordable housing dwellings. I confirm that we are happy this meets affordable housing Policy LPP31.

	No	Affordable Rent	Shared Ownership
1 bed 2 person flats	2	2	0
2 bed 4 person flats	9	9	0
2 bed 4 person houses	24	12	12
3 bed 5 person Houses	9	6	3
3 bed 5 person W/C bungalows (Cat 3)	2	2	0
4 bed 7 person houses	4	4	0
	50	35	15

7.11.2 We are happy to support this application as it provides opportunity to deliver a significant number of new affordable homes in the District.



## 7.12 BDC Landscape

7.12.1 The proposals have addressed most landscape concerns. A suitable tree removal and tree protection plan have been provided. A few amendments to the landscape scheme are however requested. Within unadoptable parking areas there is the opportunity for the increase of permeability and water run-off mitigation in accordance with the Design Code.

7.12.2 In relation to soft landscaping the following points/comments are raised:

- Verges should be kept free of utilities and reserved for trees. Existing utilities should be subject to root barriers.
- Tree pit detail must accord with the Design Code.
- Proposed species must accord with the Design Code/Essex Tree Palette. The proposed pleached trees (plots 242-249 and 226-255) are not appropriate for this location being too high maintenance and unsuitable for a parking area.

## 7.13 BDC Waste

7.13.1 The waste collection points need to be within 20 metres from where refuse collection vehicles can safely stop. Any shared driveways that BDC collection vehicles will need to drive over in order to reach collection points to achieve the 20 metre drag distance will need to be built and maintained to a standard equivalent to adopted highway and BDC will require written indemnity stating that Braintree District Council will not be liable for any damage caused to the shared driveway as a result of driving over it.

7.13.2 The bin stores for flat blocks will need to be large enough to cater for 45 litres of storage per person per week for refuse, and another 45 litres per person per week for recycling. The store will also need to cater for 15cm around the perimeter of each bin so that waste operatives can manoeuvre the bins without trapping their hands. The bin stores will need to be within 15 metres from where the collection vehicle can safely stop, be a level surface, have large enough doors to get the bins in and out, be free of shingle, and have drop kerbs where required.

## 7.14 ECC Archaeology

7.14.1 No objection. All phases of archaeological fieldwork have been completed for the above site and no further fieldwork will be required. There are no recommendations for this application.

## 7.15 ECC Highways

7.15.1 Have reviewed the latest revised layout and confirm that subject to a standard transition being provided where a footway leads into a shared surface and/or private drive as set out in the Essex Design Guide, from a highway and transportation perspective the Highway Authority has no comments to make on the proposal.

7.16 ECC Historic Buildings Consultant

7.16.1 No objection. Some house types are more successful than others in achieving a positive contribution to local character and distinctiveness.

7.16.2 Overall, I have no objections to the layout, heights, boundary treatments, hard and soft landscaping proposals, although I believe a little more could be done to ensure the development makes a positive contribution to local character and distinctiveness. However, I do not find that the reserved matters proposed would result in harm to the significance of any nearby heritage assets and I have no objections.

7.17 ECC SUDS

7.17.1 No objection.

8. PARISH / TOWN COUNCIL

8.1 Parish Council

8.1.2 No response received.

9. REPRESENTATIONS

9.1 One objection has been received at the time of writing and is summarised below:

- Will eradicate biodiversity.
- Comments made will be ignored.
- Site has thousands of trees, few of which will be left.
- Traffic situation is dire.
- Dangerous site entrance on Panfield Lane.
- Another 1000 residents for North Braintree with poor infrastructure, traffic and pollution is not a good idea.
- Towerlands (like Straits Mill) is an excellent carbon capture area.
- Policy seems to be just to cram houses into Braintree District.
- Affordable housing required but in the right place with easy access to transport system.
- A120 unlikely to be built for years – building on this side of Braintree is a bad idea.
- Plans should be refused due to traffic congestion and impact on nature.

## 10. PRINCIPLE OF DEVELOPMENT

- 10.1 The principle of the residential development of the site has been established under the original outline planning permission (Application Reference 19/00786/OUT) which was granted on 9th April 2021. This included the detailed site access points.
- 10.2 The current application seeks approval only for the reserved matters pursuant to the outline planning permission for Phase 2 of the development consisting of:
- Appearance;
  - Landscaping;
  - Layout; and
  - Scale.
- 10.3 It is therefore these reserved matters which must be assessed in detail.

## 11. SITE ASSESSMENT

### 11.1 Appearance, Layout and Scale

- 11.1.1 Policy LPP52 of the Adopted Local Plan requires a high standard of design and layout in all developments. Policy SP7 of the Adopted Local Plan states that all new development must meet high standards of urban and architectural design.
- 11.1.2 At the national level, the NPPF is also clear in its assertion at Paragraph 126 that:
- ‘The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities’.*
- 11.1.3 There is therefore a strong policy basis for achieving a high degree of quality in terms of the appearance, layout and scale of the development whilst ensuring that it complies with the outline planning permission for the site.
- 11.1.4 Phase 2 of the development consists of 162 dwellings, positioned relatively centrally within the site and running from the north-west to the south-east. It contains two development parcels to the west of the site’s main spine road and six to the east.
- 11.1.5 The location of the built form is in accordance with the approved Parameter Plans for the site. Phase 2 also includes the second half of the spine road itself and a number of areas of open space; landscaping and SUDs

features. Again, all of these are in accordance with the outline planning permission.

- 11.1.6 In terms of the detail of the proposal, the built form spans parts of 4 of the character areas identified in the Design Code consisting of the Parkland Edge North, The Avenue, The Lanes, and the Barns Rural Edge.
- 11.1.7 The Parkland Edge North fronts on to the linear area of open space/green infrastructure along the site's eastern boundary. It utilises detached and semi-detached dwellings of 2 and 2.5 storey as sought by the Design Code. Red and brown bricks would be used with cream render and black timber boarding and grey or red tiles.
- 11.1.8 The Avenue is of a different character with a wide tree lined street at its heart and a consistent built frontage made up of dwellings of a similar typology and size. Building heights are up to 3 storeys. All are red brick with grey and red roof tiles.
- 11.1.9 The Lanes is situated in the heart of the development and is more intimate in its character with higher density housing of up to 3 storeys in height and consisting primarily of terraced, semi-detached and link detached dwellings. Materials consist of red and buff multi bricks, cream render and grey and red roof tiles.
- 11.1.10 The Barns Rural Edge forms an important frontage to the countryside to the north of the site. Development is of a lower density and arranged on the outer edge into courtyard formations which create a permeable edge to the development. Materials consist of red brick and black timber boarding with plain red/brown tiles or grey reconstituted slate. Building heights are 2 to 2.5 storey with some 3 storey to emphasise key points. Phase 2 of the development just touches on the inner side of this character area.
- 11.1.11 Overall the proposed house types accord with the Design Code with more traditional designs and house types used in the Parkland Edge and The Avenue and a more contemporary approach employed in The Lanes. In the Barns Rural Edge character area barn like architecture is used with simple pitched roofs. Overall, the design quality is high as are the materials used and the design features employed.
- 11.1.12 Internally, all house types meet the Nationally Described Space Standards (NDSS), standards which set out the required internal space standards for new dwellings of all tenures.
- 11.1.13 The development is also compliant with the Essex Design Guide in terms of proposed garden sizes and back-to-back distances between new dwellings.
- 11.1.14 With regard to the proposed housing mix, the scheme consists of the following dwelling mix with 112 market dwellings and 50 affordable dwellings:

### **Market Mix**

40no. 2 bed  
61no. 3 bed  
9no. 4 bed  
2no. 5 bed

### **Affordable Mix**

2no. 1 bed  
33no. 2 bed  
11no. 3 bed  
4no. 4 beds

- 11.1.15 The dwelling mix covers a range of sizes for both private and affordable tenures although should also be read in the context of the wider site given that this is a phased development of a large scale. The Council's Affordable Housing Officer has confirmed his agreement with the proposed affordable mix in terms of meeting identified need.
- 11.1.16 In addition to the above built form, Phase 2 includes several other key components. Part of the circular footway and cycleway would be provided, (the finished route will loop 2km in length around the Towerlands site). Part of the large informal meadow area located at the northern end of the site is also encapsulated within this Phase.
- 11.1.17 Overall the layout, appearance and scale of the proposal is considered to be acceptable. Layout in relation to green infrastructure and landscaping is discussed in more detail below.

### **11.2 Landscaping**

- 11.2.1 The Applicant proposes a hard and soft landscaping scheme across the reserved matters site which has been reviewed by the Council's Landscape Officer and Urban Design Consultant.
- 11.2.2 The site's green infrastructure accords with the approved Parameter Plans and Design Code for the outline planning permission.
- 11.2.3 The site boundary for this phase covers a chunk of the large informal meadow area which runs along the top of the site.
- 11.2.4 Tree planting is proposed extensively across the site except for areas where it is prevented by infrastructure easements which prevent it. The outline planning permission and associated Design Code pre-dates the new NPPF requirement for tree line streets by some way, however substantial street planting is still achieved and plays an important part role in helping to establish the street hierarchy within the site. The spine road or 'The Avenue' is characterised by formal, regular, rhythmic tree planting with

larger trees sitting within spacious verges which will result over time in a tree lined boulevard which will sit at the top of the street hierarchy.

- 11.2.5 Lower order secondary and tertiary streets and cul-de-sacs also contain tree planting as a key feature in accordance with the Design Code. The Applicant has worked with Officers to increase and maximise tree planting to these areas wherever possible whilst remaining in accordance with the Design Code and the wider vision for the site. In common with Phase 1, innovative solutions such as planting trees within the forward most section of front gardens and placing them under the care of management companies have been utilised, to achieve planting in areas which previously have not been able to accommodate trees with any certainty because of concerns over their protection, care, and longevity.
- 11.2.6 Towerlands is a site which contains a high number of trees planted across it, many dating from the site's previous use as a golf course. The loss of these trees was assessed at the outline planning application stage where it was acknowledged that retaining extensively and randomly planted tree cover across this strategic site was not compatible with achieving a high quality and well laid out strategic development which used the land effectively and employed the principles of good place making. Trying to randomly locate small, disjointed parcels of development in amongst clusters of existing trees was neither achievable nor appropriate, however Officers have worked with the Applicant both to maximise tree planting and to ensure that opportunities to minimise tree loss are taken where possible. There is also an expectation in relation to the outline planning permission for a net gain of tree planting over tree loss to be achieved on the Towerlands site.
- 11.2.7 In accordance with the outline planning permission, the Applicant has submitted a detailed tree survey for the reserved matters land parcel. Tree loss is restricted to those areas where it is an essential requirement, such as where trees sit within development parcels or where they are positioned where infrastructure such as spine roads need to be constructed. For this phase of the development two groups of trees, part of a further 5 groups of trees and one freestanding tree, would need to be felled. All are Category C trees. A total of 154 new trees would be planted within this reserved matters scheme.
- 11.2.8 BDC Landscape have raised a concern relating to the proposed use of pleached trees in the parking areas for Plots 242-249 and 226-255, primarily due to their maintenance requirements. However, the use of these trees has been specifically agreed as part of the urban design approach to these parking courts and is important in terms of the character and street scene quality in those areas. The issue of maintenance has been discussed and the maintenance regime for the Towerlands site is well capable of covering off the required maintenance for these two areas which are very small relative to the size of the Towerlands site. It is therefore considered that the urban design need for this tree type outweighs the landscape concern identified.

11.2.9 The sites hard landscaping varies. The spine road, footways and the circular cycleway would be constructed from tarmac whilst block paving would be used across the site for lower order streets and driveways. BDC Landscape have questioned whether there are any further opportunities to increase permeability in private/communal parking areas, however the sites SUDs scheme has been scrutinised by the Lead Local Flood Authority and deemed acceptable.

11.2.10 Overall the site's proposed landscaping is carefully considered and of an acceptable standard.

### 11.3 Ecology

11.3.1 The Ecological impact of developing the site was assessed in full at the outline planning permission stage and is not for specific consideration as a reserved matter, although an Ecological Enhancement Strategy for the site is required by way of planning condition.

11.3.2 However, this phase of the development does contain areas of proposed ecological habitat, in particular along the site's northern boundary where part of the extensive wildflower meadow area is located. Information has also been submitted and assessed in relation to Condition 8 (Construction Environmental Management Plan) and Condition 9 (Biodiversity Enhancement Strategy) of the outline planning permission.

11.3.3 The Council's Ecology Officer has reviewed the application and raised no objection on ecology grounds subject to a condition relating to the submission of a hedgehog highway strategy. A condition relating to Habitat Regulations Assessment was also requested however this matter has already been addressed in full at the outline planning permission stage and does not need to be re-secured.

11.3.4 Overall the proposal is considered to be acceptable in Ecological terms.

### 11.4 Highway Considerations

11.4.1 The impact of the development on the highway network and the acceptability of the access points were assessed at the outline planning application stage and access is not a reserved matter. Parking provision and the internal site layout are however for consideration.

11.4.2 With regard to site layout, ECC Highways have been consulted and have no objection to the site's internal layout in highway terms provided that a standard transition is provided where a footway leads into a shared surface and/or private drive as set out in the Essex Design Guide.

11.4.3 Cycle provision is well catered for with part of the proposed cycle network around the wider Towerlands site forming part of this phase and allowing residents to cycle safely away from the road.

- 11.4.4 In terms of parking, private provision would be made across the site in accordance with the Essex Parking Standards (2009) with the required 1 space per 1 bed dwelling and 2 spaces per two or more bed dwellings. Visitor parking would be spread around the development and would also be in accordance with the standards.
- 11.4.5 With regard to electric vehicles, there is a condition attached to the outline planning permission which requires one charging point to be provided per dwelling. The Applicant makes provision for a charging point for every dwelling in the proposed layout for this phase of the Towerlands development either in the form of a dedicated socket in a garage or by providing the appropriate cable infrastructure and ducting to allow the installation of a parking space charging point.
- 11.4.6 Overall, parking provision on the site is considered to be acceptable.
- 11.5 Impact upon Neighbouring Residential Amenity
- 11.5.1 In terms of neighbouring amenity, this phase of the development does not directly abut any existing residential development. Oak Cottage is however located in relatively close proximity to the north-eastern boundary of Phase 2, albeit an area of land which falls within Phase 1 sits in-between.
- 11.5.2 The approved parameter plans for the outline planning permission and the relevant sections of the Design Code addressed this relationship comprehensively, ensuring that buffer zones were carefully established to protect the amenity of the occupiers of this existing dwelling. The closest new dwelling would be located over 35m from the rear elevation of Oak Cottage and the detail of the landscaping scheme located on the land in between is covered by a previous planning condition.
- 11.5.3 Overall the current reserved matters layout adheres to the previously approved buffer zones, and it is not considered that the proposed development would result in any unacceptable degree of loss of amenity to existing residents in planning terms in relation to loss of privacy, sunlight, daylight, or outlook/having an overbearing impact.
- 11.5.4 Internally, the site layout is also compliant with the Essex Design Guide in terms of garden sizes and back-to-back distances between new dwellings and would provide an acceptable degree of amenity to future occupiers of the new dwellings.
- 11.6 Flooding and Drainage Strategy
- 11.6.1 Flood risk and drainage were considered at the outline planning application stage and a detailed set of related conditions are attached to the outline planning permission in relation to this.



11.6.2 Phase 2 of the development includes associated SUDs features although the majority of the site's SUDs infrastructure was approved under Phase 1. For the site as a whole, the Applicant proposed to utilise a sustainable urban drainage (SUDS) system incorporating a number of SUDs basins located around the periphery of the site with the majority concentrated in linear fashion along the southern edge of the site layout and others located on the northern and eastern parts of the site. Runoff would be limited to green field rates with water being released appropriately into the existing ditch network. In addition, some underground attenuation is required to alleviate potential flooding.

11.6.3 With regard to foul water, for the Towerlands site as a whole, two gravity piped systems would convey flows to one of two foul water pumping stations located in the north and south of the Site. These pumping stations will then pump to separate high points within the site whereby foul flows would be conveyed out of the site through a new gravity piped sewer to the existing Anglian Water public foul water network near Churchill Terrace southeast of the Site. Again, a detailed condition is attached to the outline planning permission in relation to this.

11.6.4 The SUDS conditions and foul water drainage condition attached to the outline planning permission remain in place covering the full technical detailed drainage strategy for the site.

11.6.5 In relation to the current reserved matters, Essex County Council have been consulted as the Lead Local Flood Authority and have no objection to the proposal. Anglian Water have been consulted as the statutory undertaker for foul water and also have no objection.

## 11.7 Habitat Regulations Assessment (HRA / RAMS)

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

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

11.7.2 HRA mitigation was secured at the outline planning application stage under Application Reference 19/00786/OUT and therefore no further mitigation is required in relation to this Reserved Matters application.

## 11.8 Heritage

11.8.1 The likely heritage impact of the proposed development of the site was assessed at the outline planning application stage. The reserved matters land parcel does not sit in close proximity to any heritage assets although there are a number in the wider area. The Council's Historic Buildings Consultant has been consulted and raises no objection stating that:

*‘Overall, I have no objections to the layout, heights, boundary treatments, hard and soft landscaping proposals, although I believe a little more could be done to ensure the development makes a positive contribution to local character and distinctiveness. However, I do not find that the reserved matters proposed would result in harm to the significance of any nearby heritage assets and I have no objections’.*

11.8.2 Historic England have also been consulted and have confirmed that they do not wish to make any comment on the application.

11.8.3 Overall, no heritage harm is identified, and the heritage impact of the proposal is considered to be acceptable.

## 11.9 Condition Compliance

11.9.1 Conditions 4 to 11 of the outline planning permission are ‘compliance conditions’, requiring the Applicant to submit details relevant to the condition as part of each reserved matters application. For reference these are set out below:

- Condition 4 – Requires details of finished site levels;
- Condition 5 – Requires details of landscaping;
- Condition 6 – Requires a strategy for fibre broadband provision;
- Condition 7 – Requires a strategy for electric vehicle charging point provision;
- Condition 8 – Requires a Construction Environmental Management Plan;
- Condition 9 – Requires a Biodiversity Enhancement Strategy;
- Condition 10 – Requires details of refuse/recycling facilities;
- Condition 11 – Requires a Tree Survey.

11.9.2 An initial assessment of site levels has been completed as part of the proposed design and layout and with regard to impact upon existing neighbour amenity. However a condition is recommended to ensure that the Applicant is still required to provide a final levels drawing showing proposed finished floor levels and proposed finished ground levels for approval. Electric vehicle charging provision is discussed under the highway section of this report and is also considered to be acceptable. The Applicant has also confirmed that they will provide fibre broadband connections to all dwellings. The submitted Construction Environmental Management Plan and Biodiversity Enhancement Strategies have been assessed and are considered to be acceptable, as are the details of refuse/recycling facilities and the tree survey details.

11.9.3 Finally, landscaping has also been discussed in the above report and is considered to be acceptable.

11.9.4 Overall it is therefore considered that Conditions 5 – 11 of the Outline Planning Permission have been complied with for Phase 2 of the reserved

matters for the site and details for Condition 4 will be further required by way of a condition attached to this reserved matters.

12. CONCLUSION

- 12.1 The principle of the residential development of the site is established under the existing outline planning permission (Application Reference 19/00786/OUT). The Applicant seeks permission for reserved matters pursuant to this outline consent consisting of the appearance, landscaping, layout, and scale of Phase 2 of the Towerlands development.
- 12.2 There are no objections from the relevant statutory consultees and Officers consider that the proposed appearance, landscaping, layout, and scale of the development is acceptable in planning terms.
- 12.3 Overall it is considered that the Phase 2 Reserved Matters proposal constitutes a well-designed and carefully considered proposal and accordingly it is recommended that the Reserved Matters are approved.

13. RECOMMENDATION

- 13.1 It is RECOMMENDED that the following decision be made:

Application GRANTED in accordance with the Approved Plans and Documents, and subject to the Condition(s) & Reason(s), and Informative(s) outlined within APPENDIX 1.

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

## APPENDIX 1:

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

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

<b>Plan Description</b>	<b>Plan Ref</b>	<b>Plan Version</b>
Tree Plan	JBA 21 187 TR02	N/A
Other	DN001-PH2-SS-01	N/A
Proposed Plans	DN001-PH2-3BBa-01	N/A
Proposed Plans	DN001-PH2-BEb-02	N/A
Proposed Plans	DN001-PH2-FRb-02 rev. A	N/A
Proposed Plans	DN001-PH2-FRd-04	N/A
Proposed Plans	DN001-PH2-GOCa-01	N/A
Proposed Plans	DN001-PH2-GOCb-02	N/A
Proposed Plans	DN001-PH2-GOCc-03	N/A
Proposed Plans	DN001-PH2-HEe-05	N/A
Proposed Plans	DN001-PH2-HEf-06	N/A
Proposed Plans	DN001-PH2-MAe-05	N/A
Proposed Plans	DN001-PH2-VYa-01 rev. A	N/A
Proposed Plans	DN001-PH2-VYb-02 rev. A	N/A
Proposed Plans	DN001-PH2-VYc-03 rev. A	N/A
Proposed Plans	DN001-PH2-WDb-02 A	N/A
Other	102. Affordable Housing Scheme JCN (19 January 2023)	N/A
Other	103. Broadband Strategy JCN (26 April 2022)	N/A
Other	105. Barter Hill Drainage Strategy Report Braintree Phase 2 (May 2022)	N/A
Other	106. Electric Vehicle Charging Strategy (31 September 2023)	N/A
Other	107. Guide to the Management of Landscape and Ecological Areas rev. A JBA 21-187 (October 2021)	N/A
Other	108. Bioscan Report E2063r2 May 2022 (BES & CEMP for Phase 2) (May 2022)	N/A
Other	109. Bioscan UK Ltd Ecology Response Letter 23rd January 2023	N/A
Proposed Plans	DN001-PH2-CSc-03 rev. A	N/A
Parking Strategy	DN001-PH2-PL-04	C
Site Plan	DN001-PH2-PL-03	REV E
Site Masterplan	DN001-MP-02	REV D
Site Plan	DN001-PH2-PL-02	REV L
Parking Strategy	DN001-PH2-PL-04	REV C
Parking Strategy	DN001-PH2-PL-04A	REV B
Proposed Plans	DN001-PH2-PL-05	REV B
Proposed Plans	DN001-PH2-PL-06	REV B

Proposed Plans	DN001-PH2-PL-07	REV B
Location Plan	DN001-PH2-PL-09	REV B
Proposed Plans	DN001-PH2-PL-10	REV B
Landscaping	JBA 21/187-39	REV C
Landscaping	JBA 21/187-36	REV C
Landscaping	JBA 21/187-37	REV C
Landscaping	JBA 21/187-38	REV C
Landscaping	JBA 21/187-40	REV C
Landscaping	JBA 21/187-41	REV C
Landscaping	JBA 21/187-45	REV C
Landscaping	JBA 21/187-42	REV C
Landscaping	JBA 21/187-43	REV C
Landscaping	JBA 21/187-44	REV C
Landscaping	JBA 21/187-46	REV C
Landscaping	JBA 21/187-47	REV C
Landscaping	JBA 21/187-48	REV C
Landscaping	JBA 21/187-49	REV C
Street elevation	DN001-PH2-ST-01	REV B
Street elevation	DN001-PH2-ST-02	REV B
Street elevation	DN001-PH2-ST-03	REV B
Street elevation	DN001-PH2-ST-04	REV B
Street elevation	DN001-PH2-ST-05	REV D
Proposed Plans	DN001-PH-BKA-01	REV B
Proposed Block Plan	DN001-PH-BKA-02	REV C
Proposed Plans	DN001-PH-BKB-01	REV B
Proposed Plans	DN001-PH-BKB-02	REV B
Proposed Plans	DN001-PH2-BC-01	N/A
Landscaping	JBA 21/187-DT02	N/A
Landscaping	JBA 21/187-DT03	N/A
Landscaping	JBA 21/187-DT04	N/A
Proposed Plans	DN001-PH2-BEA-01 REV A	N/A
Proposed Plans	DN001-PH2-CHA-01 REV A	N/A
Proposed Plans	DN001-PH2-CHC-03 REV A	N/A
Proposed Plans	DN001-PH2-CSA-01 REV A	N/A
Proposed Plans	DN001-PH2-CSB-02 REV A	N/A
Proposed Plans	DN001-PH2-CSD-04 REV A	N/A
Proposed Plans	DN001-PH2-CSE-05 REV A	N/A
Proposed Plans	DN001-PH2-CSF-06 REV A	N/A
Proposed Plans	DN001-PH2-GOA-01 REV A	N/A
Proposed Plans	DN001-PH2-GOB-02 REV A	N/A
Proposed Plans	DN001-PH2-GOC-03 REV A	N/A
Proposed Plans	DN001-PH2-GR-01 REV 00	N/A
Proposed Plans	DN001-PH2-GR-02 REV 00	N/A
Proposed Plans	DN001-PH2-GR-03 REV 00	N/A
Proposed Plans	DN001-PH2-GR-04 REV 00	N/A
Proposed Plans	DN001-PH2-GR-05 REV 00	N/A
Proposed Plans	DN001-PH2-GR-06 REV 00	N/A
Proposed Plans	DN001-PH2-HA50A-01 REV A	N/A
Proposed Plans	DN001-PH2-HEA-01 REV A	N/A

Proposed Plans	DN001-PH2-HEB-02 REV A	N/A
Proposed Plans	DN001-PH2-HEC-03 REV A	N/A
Proposed Plans	DN001-PH2-HED-04 REV A	N/A
Proposed Plans	DN001-PH2-KLA-01 REV A	N/A
Proposed Plans	DN001-PH2-KIB-02 REV A	N/A
Proposed Plans	DN001-PH2-MAA-01 REV A	N/A
Proposed Plans	DN001-PH2-MAB-02 REV A	N/A
Proposed Plans	DN001-PH2-MAC-03 REV A	N/A
Proposed Plans	DN001-PH2-MAD-04 REV A	N/A
Proposed Plans	DN001-PH2-PAA-01 REV A	N/A
Proposed Plans	DN001-PH2-PEB-02 REV A	N/A
Proposed Plans	DN001-PH2-PECC-03 REV A	N/A
Proposed Plans	DN001-PH2-PECA-01 REV A	N/A
Proposed Plans	DN001-PH2-PECB-02 REV A	N/A
Location Plan	DN001-PH2-PL-01 REV A	N/A
Site Masterplan	DN001-MP-02 rev. D	N/A
Drainage Details	8541-500-001 rev. A	N/A
Tree Plan	JBA 21 187 TP01	N/A
Tree Plan	JBA 21 187 TP02	N/A
Tree Plan	JBA 21 187 TP03	N/A
Tree Plan	JBA 21 187 TR01	N/A
Tree Plan	JBA 21 187 TR03	N/A

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

##### Condition 1

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

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

##### Condition 2

Notwithstanding the provisions of Classes A, B and C of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015, (or any Order revoking or re-enacting that Order) no windows or doors (other than those originally approved) shall be installed in the northern side elevation of Plot 319 and no side extensions, front extensions or roof extensions or alterations (including the addition of any windows) shall be made to Plots 315 to 319 inclusive.

Reason: To protect the amenity of the occupiers of the existing adjacent dwelling.

##### Condition 3

Notwithstanding the provisions of Classes A, B and C of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015, (or any Order revoking or re-enacting that Order) no rear extensions or rear roof extensions shall be added to any of the dwellings hereby permitted without first obtaining planning permission from the Local Planning Authority.

Reason: To protect the amenity of the occupants of the new dwellings.

#### Condition 4

Prior to the commencement of development in Phase 2 details of the proposed finished floor levels (above ordnance datum) of the ground floors of all the proposed buildings in relation to existing ground levels and of proposed finished site levels (including gardens) in relation to existing ground levels shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To safeguard neighbour amenity.

#### Condition 5

The garages hereby permitted shall only be used for the parking of vehicles or for domestic storage associated with the relevant dwelling and shall not be used for living accommodation.

Reason: To ensure adequate parking and garage space is provided within the site in accordance with the standards adopted by the local planning authority.

#### Condition 6

Throughout Phase 2 a standard transition shall be provided where a footway leads into a shared surface and/or private drive as per set out in the Essex Design Guide and required by Essex County Council as the statutory Highways Authority.

Reason: In the interests of highway safety and promoting sustainable transport modes.

#### Condition 7

All shared (non-adoptable) driveways which Braintree District Council Refuse Collection Vehicles will be required to drive on in order to ensure that waste operatives do not exceed the 20 metre bin drag distance (as set out on the approved Refuse Layout Drawing) shall be built and maintained to an adoptable standard capable of accommodating the required refuse vehicles. Prior to the first occupation of any dwellings accessed by such shared (unadoptable) driveways written indemnity shall be submitted to and approved in written by the Local Planning Authority and shall be accompanied by a detailed plan showing the sections of highway to which the indemnity relates.

Reason: To ensure that refuse collections can take place to serve future residents in the interests of amenity.

#### Condition 8

Prior to the implementation of any permanent fencing a Hedgehog Highways Strategy shall be submitted to and approved in writing by the Local Planning Authority. This shall contain the locations of the proposed Hedgehog friendly fencing shown on appropriate scale maps and plans. The measures and/works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.

Reason: To deliver bespoke biodiversity net gains and allow the LPA to discharge its biodiversity duty under the s40 of the NERC Act 2006 (Priority habitats & species).

#### Positive and Proactive Statement

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



## APPENDIX 2:

### POLICY CONSIDERATIONS

#### National Planning Guidance

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

#### Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP2	Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
SP6	Infrastructure & Connectivity
SP7	Place Shaping Principles
LPP19	Strategic Growth Location - Former Towerlands Park Site
LPP31	Affordable Housing
LPP35	Housing Mix, Density and Accessibility
LPP42	Sustainable Transport
LPP43	Parking Provision
LPP47	Built and Historic Environment
LPP48	An Inclusive Environment
LPP50	Provision of Open Space, Sport and Recreation
LPP52	Layout and Design of Development
LPP63	Natural Environment and Green Infrastructure
LPP65	Tree Protection
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP67	Landscape Character and Features
LPP70	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP71	Climate Change
LPP72	Resource Efficiency, Energy Generation and Energy Efficiency
LPP74	Flooding Risk and Surface Water Drainage
LPP75	Surface Water Management Plan
LPP76	Sustainable Urban Drainage Systems
LPP77	External Lighting
LPP78	Infrastructure Delivery and Impact Mitigation

### APPENDIX 3:

#### SITE HISTORY

<b>Application No:</b>	<b>Description:</b>	<b>Decision:</b>	<b>Date:</b>
02/00207/T56	Erection of 15m lattice tower and equipment housing	Granted	25.03.02
04/00336/COU	Conversion of redundant buildings to two dwellings	Refused	02.08.04
04/00337/FUL	Construction of new manege	Granted	28.07.04
04/00348/OUT	Erection of new golf clubhouse	Refused	28.07.04
04/01702/FUL	Removal of condition 2 of Planning Permission P/BTE/0998/82 to allow premises to be used outside the currently permitted hours of 9.00 - 22.00 hours	Granted	19.10.04
04/01801/FUL	Extension to existing practice ring to main area of equestrian centre	Granted	13.10.04
84/01040/P	Alterations and extensions to changing rooms.	Granted	11.09.84
84/00226/P	Erection of extension to stable block.	Granted	05.04.84
82/00998/P	Proposed erection of building for indoor green bowling rink.	Granted	07.12.82
81/01177/P	Proposed building to house standby generator.	Granted	16.10.81
80/01483/P	Proposed retention of existing equestrian centre, with the removal of condition 8, relating to its use.	Granted	02.12.80
79/01052/P	Extension to main equestrian centre to provide additional seating.	Granted	15.08.79
79/01519/P	Extension to sports building.	Refused	24.01.80
79/00657/P	Erection of sports building.		24.07.79
77/01419/P	Extension of approved main equestrian centre building by the addition of one bay (20ft) to the	Granted	12.01.78

	practice ring.		
77/00110/P	Proposed hay barn.	Granted	29.03.77
77/01119/P	Construction of an oxygest sewage disposal plant.	Granted	25.11.77
77/00058/P	Erection of a horses swimming pool building in connection with the Equestrian Centre.	Granted	15.02.77
76/01165/P	Equestrian centre and horse breeding establishment including managers house.	Granted	07.12.76
75/00558/P	Erection of managers house.	Refused	23.09.75
83/01349/P	Change of use of land from use in connection with equestrian activities to golf course and use in connection with equestrian centre.	Granted	06.02.84
89/01328/P	Erection Of Extension To Provide Golf Professional Shop, Workshop, Store & Office	Granted	01.08.89
95/01225/FUL	Construction of access for emergency vehicles	Granted	10.01.96
97/00259/FUL	Proposed access for emergency vehicles - amendment to Planning Approval 95/01225/FUL	Granted	11.06.97
98/01416/FUL	Proposed internal alterations to form first floor gymnasium and new external fire escape	Granted	17.11.98
05/00484/FUL	Erection of extension to sports centre to provide swimming pool	Withdrawn	06.05.05
06/00788/COU	Change of use of land from agricultural to equestrian use and/or golf	Granted	25.07.06
07/00268/FUL	Erection of extension to sports centre to provide swimming pool and foyer extension	Granted	10.05.07
07/00643/FUL	Erection of 60-bed two storey hotel	Refused	02.07.07
08/01426/FUL	Variation of condition 4 of planning application	Refused	08.09.08

	06/00788/COU to provide for the felling of 12 no. trees and partially remove boundary hedge/scrub		
08/00108/DAC	Application for approval of details reserved by condition 2 of approval 06/00788/COU - Change of use of land from agricultural to equestrian use and/or golf	Granted	15.12.08
14/01033/HDG	Notice of intent to carry out works to a hedge - Remove 6 metres of hedge	Withdrawn	28.08.14
15/00007/SCO	Town & Country Planning Act 1990 (as amended), Town & Country Planning (Environmental Impact Assessment) Regulations 2011 - Screening & Scoping Opinion Request - Outline application for the site clearance and development of up to 1,150 homes, up to 5,000sq.m of B1 employment, and up to 3000sq.m of other commercial uses including a local centre with retail	Screening/ Scoping Opinion Adopted	30.06.15
17/00006/SCR	Town & Country Planning Act 1990 (as amended), Town & Country Planning (Environmental Impact Assessment) Regulations 2011 - Screening Opinion Request - Proposed residential-led, mixed-use development comprising: 1. Demolition of existing buildings and structures; 2. Construction of 600 new dwellings including affordable homes; 3. Primary school or contributions towards new primary school provision in the locality;	Screening/ Scoping Opinion Adopted	08.08.17

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

	access and other ancillary works.		
19/00786/OUT	Outline planning application for up to 575 homes together with a 0.13ha site for early years and childcare nursery (D1), Up to 250sqm of local retail (A1) and up to 250sqm of community facilities (D1), green infrastructure including formal/informal open space and amenity space, provision of ecological mitigation area to north-west of developable area, landscaping including woodland and hedgerow planting, new vehicular accesses from the B1053 and Panfield Lane, closure of existing access from Deanery Hill (south), footway and cycleway network, supporting infrastructure (utilities including gas, electricity, water, sewerage, telecommunications (and diversions as necessary), diversion of public right of way, sustainable drainage systems, any necessary demolition and ground remodelling.	Granted with S106 Agreement	09.04.21
21/01900/DAC	Application for approval of details as reserved by condition 3 of approved application 19/00786/OUT	Granted	19.10.21
21/02625/DAC	Application for approval of details as reserved by condition 17 of approved application 19/00786/OUT	Granted	19.10.21
21/03199/DAC	Application for approval of details as reserved by condition 3 of approved application 19/00786/OUT	Granted	13.07.22
21/03210/ADV	Display of non illuminated	Granted	21.12.21

	- 1 x V-Stack Sign, 5 x Flags, 1 x Totem Sign		
21/03231/REM	<p>Application for approval of Reserved Matters for appearance, landscaping, layout and scale for Phase 1, comprising 168 no. two, three, four and five bedroom houses plus associated parking and landscaping, together with public open space, a play area, sustainable drainage infrastructure and the first section of the spine road from the Panfield Lane entrance, pursuant to outline planning permission 19/00786/OUT (Outline planning application for up to 575 homes together with a 0.13ha site for early years and childcare nursery (D1), Up to 250sqm of local retail (A1) and up to 250sqm of community facilities (D1), green infrastructure including formal/informal open space and amenity space, provision of ecological mitigation area to north-west of developable area, landscaping including woodland and hedgerow planting, new vehicular accesses from the B1053 and Panfield Lane, closure of existing access from Deanery Hill (south), footway and cycleway network, supporting infrastructure (utilities including gas, electricity, water, sewerage,</p>	Granted	13.04.22

	telecommunications (and diversions as necessary), diversion of public right of way, sustainable drainage systems, any necessary demolition and ground remodelling.)		
21/03438/DAC	Application for approval of details as reserved by conditions 14 and 22 of approved application (in relation to demolition stage of development only) 19/00786/OUT	Granted	14.09.22
21/03439/DAC	Application for approval of details as reserved by condition 27 of approved application 19/00786/OUT	Granted	13.07.22
21/03500/DAC	Application for approval of details as reserved by condition 16 of approved application 19/00786/OUT	Granted	25.04.22
21/03608/REM	Application for approval of Reserved Matters for appearance, landscaping, layout and scale for the ecological mitigation area at the northern end of the site (Phase 0) pursuant to outline planning permission 19/00786/OUT (Outline planning application for up to 575 homes together with a 0.13ha site for early years and childcare nursery (D1), Up to 250sqm of local retail (A1) and up to 250sqm of community facilities (D1), green infrastructure including formal/informal open space and amenity space, provision of ecological mitigation area to north-west of developable area, landscaping including woodland and hedgerow planting, new vehicular	Granted	23.03.22



	accesses from the B1053 and Panfield Lane, closure of existing access from Deanery Hill (south), footway and cycleway network, supporting infrastructure (utilities including gas, electricity, water, sewerage, telecommunications (and diversions as necessary), diversion of public right of way, sustainable drainage systems, any necessary demolition and ground remodelling.)		
21/03714/DAC	Application for approval of details as reserved by conditions 14 & 22 of approved application 19/00786/OUT	Granted	14.09.22
22/00322/NMA	Non-Material Amendment to permission 19/00786/OUT granted 09.04.2021 for: Outline planning application for up to 575 homes together with a 0.13ha site for early years and childcare nursery (D1), Up to 250sqm of local retail (A1) and up to 250sqm of community facilities (D1), green infrastructure including formal/informal open space and amenity space, provision of ecological mitigation area to north-west of developable area, landscaping including woodland and hedgerow planting, new vehicular accesses from the B1053 and Panfield Lane, closure of existing access from Deanery Hill (south), footway and cycleway network, supporting	Granted	14.09.22

	infrastructure (utilities including gas, electricity, water, sewerage, telecommunications (and diversions as necessary), diversion of public right of way, sustainable drainage systems, any necessary demolition and ground remodelling. Amendment would allow:-Update to the text of condition 15 to specifically exclude the ecological mitigation area (Phase 0) from the restriction on the commencement of development.		
22/00534/NMA	Non-Material Amendment to permission 19/00786/OUT granted 09.04.2021 for: Outline planning application for up to 575 homes together with a 0.13ha site for early years and childcare nursery (D1), Up to 250sqm of local retail (A1) and up to 250sqm of community facilities (D1), green infrastructure including formal/informal open space and amenity space, provision of ecological mitigation area to north-west of developable area, landscaping including woodland and hedgerow planting, new vehicular accesses from the B1053 and Panfield Lane, closure of existing access from Deanery Hill (south), footway and cycleway network, supporting infrastructure (utilities including gas, electricity, water, sewerage,	Granted	24.03.22

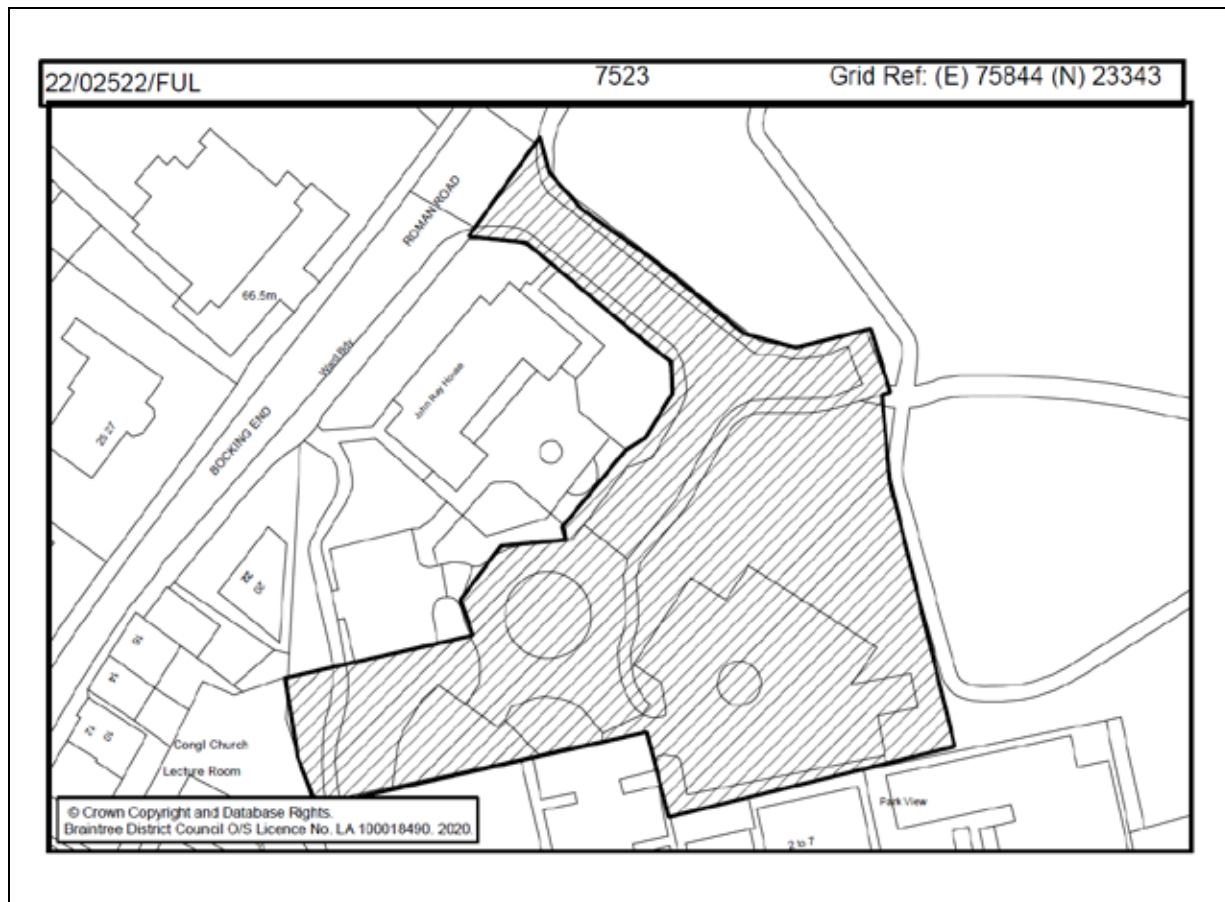
	telecommunications (and diversions as necessary), diversion of public right of way, sustainable drainage systems, any necessary demolition and ground remodelling. Amendment would allow for: Change in parameter plan to reflect the form of development approved for the Parkland Edge - South Character Area.		
22/00895/DAC	Application for approval of details as reserved by condition 18 of approved application 19/00786/OUT	Granted	13.07.22
22/00899/DAC	Application for approval of details as reserved by condition 19 (Detailed Suds Scheme) and 21 (Maintenance Plan) of approved application 19/00786/OUT	Pending Consideration	
22/00901/DAC	Application for approval of details as reserved by condition 20 (SuDS) ,24 (Contamination) ,25 (Contamination), and 26 (Contamination) of approved application 19/00786/OUT	Pending Consideration	
22/00904/DAC	Application for approval of details as reserved by condition 29 (Bus Stops) of approved application 19/00786/OUT	Pending Consideration	
22/00907/DAC	Application for approval of details as reserved by condition 34 of approved application 19/00786/OUT	Granted	07.11.22
22/00914/DAC	Application for approval of details as reserved by condition 35 of approved application 19/00786/OUT	Pending Consideration	
22/00915/DAC	Application for approval of details as reserved by condition 41 (Materials) of approved application	Pending Consideration	

	19/00786/OUT		
22/01142/DAC	Application for approval of details as reserved by condition 36 (Piling) of approved application 19/00786/OUT	Pending Consideration	
22/01704/DAC	Application for approval of details as reserved by condition 2 of approved application 21/03231/REM	Pending Consideration	
22/01900/DAC	Application for approval of details as reserved by condition 6 of approved application 21/03231/REM	Pending Consideration	
22/02084/FUL	Creation of a mixed-use building at the Neighbourhood Centre, comprising retail and community uses on the ground floor and office use on the two upper floors, plus an associated car park, hard and soft landscaping, and a recycling centre.	Pending Decision	
22/03145/NMA	Non-Material Amendment to approved application 19/00786/OUT granted 09.04.2021 for: Outline planning application for up to 575 homes together with a 0.13ha site for early years and childcare nursery (D1), Up to 250sqm of local retail (A1) and up to 250sqm of community facilities (D1), green infrastructure including formal/informal open space and amenity space, provision of ecological mitigation area to north-west of developable area, landscaping including woodland and hedgerow planting, new vehicular accesses from the B1053 and Panfield Lane, closure	Granted	25.11.22

	<p>of existing access from Deanery Hill (south), footway and cycleway network, supporting infrastructure (utilities including gas, electricity, water, sewerage, telecommunications (and diversions as necessary), diversion of public right of way, sustainable drainage systems, any necessary demolition and ground remodelling. Amendment would allow for:</p> <ul style="list-style-type: none"> <li>- Amendment to the wording of the approved Parameter Plan: Development Framework (UNX003/PP/001 rev F) and the Design Code to reflect the use of the upper floors of the Neighbourhood Centre as office space rather than residential use, as proposed by application 22/02084/FUL.</li> </ul>		
22/03353/DAC	Application for approval of details as reserved by condition 10 (Internal highway network) of approved application 21/03231/REM	Pending Consideration	
23/00080/DAC	Application for approval of details as reserved by condition 33 (Archaeology) of approved application 19/00786/OUT	Pending Consideration	

<b>Report to:</b> Planning Committee		
<b>Planning Committee Date:</b> 14th February 2023		
<b>For:</b> Decision		
<b>Key Decision:</b> No		<b>Decision Planner Ref No:</b> N/A
<b>Application No:</b>	22/02522/FUL	
<b>Description:</b>	Erection of 29no. flats with associated access, parking, and amenity area	
<b>Location:</b>	Land Adjacent Weavers Park, Courtauld Road, Braintree	
<b>Applicant:</b>	Weavers Park Limited, c/o Phase 2 Planning, 270 Avenue West, Skyline 120, Great Notley, CM77 7AA	
<b>Agent:</b>	Mrs Lisa Skinner, Phase 2 Planning, 270 Avenue West, Skyline 120, Great Notley, Braintree, CM77 7AA	
<b>Date Valid:</b>	28th September 2022	
<b>Recommendation:</b>	It is RECOMMENDED that the following decision be made:  § Application REFUSED for the reasons outlined within Appendix 1 of this Committee Report.	
<b>Options:</b>	The Planning Committee can:  a) <b>Agree</b> the Recommendation b) <b>Vary</b> the Recommendation c) <b>Overturn</b> the Recommendation d) <b>Defer</b> consideration of the Application for a specified reason(s)	
<b>Appendices:</b>	<b>Appendix 1:</b>	Reason(s) for Refusal Submitted Plan(s) / Document(s)
	<b>Appendix 2:</b>	Policy Considerations
	<b>Appendix 3:</b>	Site History
<b>Case Officer:</b>	Melanie Corbishley For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2527, or by e-mail: <a href="mailto:melanie.corbishley@braintree.gov.uk">melanie.corbishley@braintree.gov.uk</a>	

## Application Site Location:



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



	<p>understanding.</p> <p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
<b>Background Papers:</b>	<p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> <li>§ Application Form</li> <li>§ All Plans and Supporting Documentation</li> <li>§ All Consultation Responses and Representations</li> </ul> <p>The application submission can be viewed online via the Council's Public Access website:  <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a> by entering the Application Number: 22/02522/FUL.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> <li>§ National Planning Policy Framework (NPPF)</li> <li>§ Braintree District Local Plan (2013 - 2033)</li> <li>§ Neighbourhood Plan (if applicable)</li> <li>§ Supplementary Planning Documents (SPD's) (if applicable)</li> </ul> <p>The National Planning Policy Framework can be viewed on the GOV.UK website: <a href="http://www.gov.uk/">www.gov.uk/</a>.</p> <p>The other abovementioned policy documents can be viewed on the Council's website:  <a href="http://www.braintree.gov.uk">www.braintree.gov.uk</a>.</p>

1. EXECUTIVE SUMMARY

- 1.1 The application site is located within the Town Boundary of Braintree, adjacent to Weavers Park. To the north of the site is the Grade II listed John Ray House, and to the south is Tabor House, which is a non-designated heritage asset. The whole site lies within the Braintree Conservation Area.
- 1.2 Directly to the south of the application site is a three-storey residential development containing flats and a building occupied by Mencap. The application site is predominantly laid to block paving, with an area of soft landscaping containing a group of trees to the east. Part of the site lies within an area of land defined as 'Informal Recreation' space by the Adopted Local Plan.
- 1.3 This application seeks full planning permission for the erection of a four-storey building containing 29 flats. 20 one-bed units and 9 two-bed units. The submitted plans show that vehicular access to the site would be from Bocking End and that 37 parking spaces would be provided, two of which would be accessible spaces. The plans also include the provision of a bin store and a cycle store.
- 1.4 The proposals would result in a moderate level of less than substantial harm to the significance of the Grade II Listed John Jay House and low level of less than substantial harm to of the Braintree Town Centre Conservation Area and would also result in harm the non-designated Tabor House. Further harm is caused by the poor layout and design of the proposals, poor internal amenity for future residents, unacceptable loss of trees, unneighbourly relationship with existing occupiers, sub-standard parking spaces along with the insufficient financial contribution in lieu of on-site affordable housing.
- 1.5 Part of the application site includes land designated as 'informal recreation' space. Policy LPP50 of the Adopted Local Plan states that existing open space shall not be built on unless a robust and up to date assessment has been undertaken which clearly demonstrates that the space is surplus to requirements. Policy LPP50 goes onto state that in considering planning applications which could impact on open space, the Council shall weigh any benefits being offered to the community against the loss of open space that will occur. No such assessment has been provided.
- 1.6 As set out above, Officers consider that the proposed development would result in 'less than substantial harm' to the significance of designated and non-designated heritage assets. In accordance with Paragraph 11d) (i) of the NPPF, where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless, the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. In this case the identified heritage harm provides clear reason for refusing the application.

- 1.7 On this basis, Paragraph 11d) (ii) of the NPPF is not engaged. However, in the event that the tilted balance was to apply, Officers consider that the harm identified within this report would significantly and demonstrably outweigh the public benefits and the application should be refused in any event.

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 the Town Boundary of Braintree, adjacent to Weavers Park. To the north of the site is the Grade II listed John Ray House, and to the south is Tabor House, which is a non-designated heritage asset. The whole site lies within the Braintree Conservation Area.
- 5.2 Directly to the south of the application site is a three-storey residential development containing flats and a building occupied by Mencap.
- 5.3 The application site is predominantly laid to block paving, with an area of soft landscaping containing a group of trees to the east. Part of the site lies within an area of land defined as 'Informal Recreation' space by the Adopted Local Plan.
- 5.4 Part of the site was owned by Braintree District Council but was sold in December 2021. Officers confirm that none of the site is owned by Braintree District Council.

6. PROPOSAL

- 6.1 This application is seeking full planning permission for the erection of a four-storey building containing 29 flats. 20 one-bed units and 9 two-bed units ranging in floor area from 47sq.m to 74sq.m.
- 6.2 The submitted plans show that vehicular access to the site would be from Bocking End and that 37 parking spaces would be provided, two of which would be accessible spaces. The plans also include the provision of a bin storey and a cycle store.

## 7. SUMMARY OF CONSULTATION RESPONSES

### 7.1 Anglian Water

- 7.1.1 Assets Affected - There are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development boundary that may affect the layout of the site. An informative is requested.
- 7.1.2 Wastewater Treatment - The foul drainage from this development is in the catchment of Bocking Water Recycling Centre which currently does not have capacity to treat the flows the development site. Anglian Water are obligated to accept the foul flows from the development with the benefit of planning consent and would therefore take the necessary steps to ensure that there is sufficient treatment capacity should the Planning Authority grant planning permission.
- 7.1.3 Used Water Network - The development will lead to an unacceptable risk of flooding downstream. Anglian Water will need to plan effectively for the proposed development, if permission is granted. Anglian Water will need to work with the applicant to ensure any infrastructure improvements are delivered in line with the development. A full assessment cannot be made due to lack of information, the applicant has not identified a point of connection, discharge regime (pump/gravity) if pumped Anglian Water require a discharge rate to be documented.
- 7.1.4 Anglian Water therefore request a condition requiring an on-site drainage strategy.
- 7.1.5 Surface Water Disposal - The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer. Anglian Water has reviewed the submitted documents Flood risk assessment and drainage documentation, which states suds will be utilised with a connection made at 1l/s into the public network and can confirm that these are acceptable to us. Anglian Water require these documents to be listed as approved plans/documents if permission is granted.

### 7.2 Essex Police

- 7.2.1 Braintree District Local Plan 2022 states: LPP52 (h) Designs and layouts shall promote a safe and secure environment, crime reduction and prevention, and shall encourage the related objective of enhancing personal safety with the maximum amount of natural surveillance of roads, paths and all other open areas and all open spaces incorporated into schemes LPP52 (j) The design and level of any lighting proposals will need to be in context with the local area, comply with national policy and avoid or minimise glare, spill and light pollution on local amenity, intrinsically dark

landscapes and nature conservation LPP52 (m). The development proposed should not have a detrimental impact on the safety of highways or any other public right of way, and its users.

- 7.2.2 Whilst there are no apparent concerns with the layout we do note that some of the ground floor apartments have French doors opening into a 'private amenity area' surrounded by a low hedge (when mature) affording little or no security to that apartment or the building should this room be vacant even for a moment in time whilst these doors are left open. To comment further we would require the finer detail such as the proposed lighting, access control/visitor entry system, mail delivery system and physical security measures. We would welcome the opportunity to consult on this development to assist the developer demonstrate their compliance with this policy by achieving a Secured by Design Homes award. An SBD award is only achieved by compliance with the requirements of the relevant Design Guide ensuring that risk commensurate security is built into each property and the development as a whole.

### 7.3 NHS

- 7.3.1 Financial contribution of £14,200 is sought in order to increase capacity for the benefit of patients of the primary care network operating in the vicinity of the proposed development. This may be achieved through any combination of extension, reconfiguration or relocation of premises and/or clinical staff recruitment or training.

### 7.4 BDC Ecology

- 7.4.1 No objection subject to securing:

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

### 7.5 BDC Environmental Health

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

### 7.6 BDC Housing, Research and Development

- 7.6.1 In accordance with Affordable Housing Policy, 30% of these flats (equalling 9) are required to be provided as affordable housing. To address housing need the Housing Officer would usually want to secure a mix of flats types and tenure on site. Typically, there would be a 70/30 tenure mix of rented units over shared ownership, equating to 6 and 3 units respectively, shown in the table below.

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

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

7.6.3 The Housing Officer feels therefore a more appropriate approach in this case is to seek a commuted payment in lieu of affordable housing. The usual methodology when calculating commuted payments is to formulate the calculation on the amount of subsidy an RP would require to purchase comparable homes elsewhere. This subsidy is based on market values for each of the unit types shown above, less what an RP could typically offer for the flats if they were being provided on site. Two RP's have been approached and have provided figures on market values along with sums that theoretically could be offered. These figures have been averaged for the purpose of calculating the commuted sum.

7.6.4 Accordingly, the Housing Officer recommends a commuted payment of £534,500 should be sought and secured by a Section 106 agreement.

## 7.7 BDC Landscape Services

7.7.1 Landscape Services is unable to support this application as it unsuitable for the setting and character of the area. The submitted proposals fail to deliver a sympathetic and contextual layout and it is therefore considered this development would have an unacceptable and negative impact on the existing trees and the local character.

## 7.8 BDC Waste Services

7.8.1 The revised bin and cycle store drawing, does not take the previous comments from BDC Waste into consideration. Having two sets of doors to try and keep open, whilst trying to manoeuvre any type of bin is awkward, and not reasonable to ask. Thought needs to be taken to remove the outer most doors so that bin operatives are not having to negate two sets of doors, whilst also trying to move bins.

## 7.9 ECC Education

7.9.1 No contributions sought.

## 7.10 ECC Highways

- 7.10.1 Having reviewed the submitted information, ECC Highways confirm that from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to conditions requiring the submission of a construction traffic management plan and the provision of the vehicular and pedestrian access arrangements shown on the planning applications drawings and residential travel information packs.

## 7.11 ECC Historic Building Consultant

- 7.11.1 The proposal would result in a level of less than substantial harm to the significance of the Grade II Listed John Jay House and the Braintree Town Centre Conservation Area and would also result in harm the non-designated Tabor House.
- 7.11.2 The NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use (Paragraph 202).

## 7.12 ECC SUDS

- 7.12.1 No objection. A number of conditions are requested.

## 8. PARISH / TOWN COUNCIL

- 8.1 N/A

## 9. REPRESENTATIONS

- 9.1 11 representations were received from 10 addresses making the following comments:
- Loss of habitat for wildlife
  - The building would be an eyesore and is too large
  - The proposal with dominate the park
  - Erosion of character and history of local area
  - Disturbance during construction work for local residents
  - Weavers Park, Tabor House and the nursery were left to the people of Braintree by the Courtauld family- How has this public space been bought to be built on?
  - Dramatic increase in traffic movements along a small access, that could be dangerous for users of the nursery
  - Insufficient car parking of the nursery
  - Loss of view from existing buildings
  - Extra traffic could be dangerous for dogs that are walked in Weavers Park



- Loss of privacy and increased overlooking to existing residents
- Noise and disturbance from the units on the peace and tranquillity of the park and local residents
- Loss of trees
- Loss of light to neighbouring properties
- Harmful to the designated heritage assets- the Conservation Area and listed building
- The proposals far exceed the level of development indicated by the Local Plan
- The site is not 'brownfield' as there has never been a building on the site and is just a disused car park
- Do not agree that the site is derelict, as it was left to become overgrown Existing hedging was removed prior to nesting season
- Insufficient parking for the proposals
- Increase in air pollution
- Dense housing would increase the transmission of infectious diseases
- Concern about construction traffic movements
- Concerns that newts have been found on the site
- Overdevelopment of the site
- Concern that the development will become a 'buy to let' enclave
- No objection as the parking for Tabor House will not be compromised

## 10. PRINCIPLE OF DEVELOPMENT

### 10.1 National Planning Policy Framework (NPPF)

- 10.1.1 As set out in Paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 of the NPPF explains that achieving sustainable development means that the planning system has three overarching objectives: economic; social; and environmental; which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives).
- 10.1.2 Paragraph 9 of the NPPF outlines that planning decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area. In addition, paragraph 38 of the NPPF prescribes that local planning authorities should approach decisions on proposed development in a positive and creative way and that decision makers at every level should seek to approve applications for sustainable development where possible.
- 10.1.3 Paragraph 12 of the NPPF sets out that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making. In addition, paragraph 47 of the NPPF states that planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

- 10.1.4 The NPPF underlines the Government's objective of significantly boosting the supply of homes. In this regard, Paragraph 60 of the NPPF highlights the importance of ensuring that there is a sufficient amount and variety of land that can come forward where it is needed, that specific housing requirements are met, and that land with permission is developed without unnecessary delay. Paragraph 74 of the NPPF outlines that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against (in the case of Braintree District) our 'local housing need' plus the relevant buffer.
- 10.1.5 In this regard, and in considering the overall planning balance as to whether the proposed development subject to this application constitutes sustainable development, an important material consideration in this case is whether the Council can robustly demonstrate a 5 Year Housing Land Supply. This will affect whether Paragraph 11 of the NPPF is engaged and consequently the weight that can be attributed to the Development Plan (see below).
- 10.2 5 Year Housing Land Supply
- 10.2.1 The Council has an up-to-date Local Plan which has an approved minimum housing target of 716 new homes per year in the District between 2013 and 2033.
- 10.2.2 To this annual supply the Council must add the backlog which it has not delivered at that level since the start of the Plan period. This figure is recalculated each year and as of April 2022 stands at 1,169 across the 5 Year Housing Land Supply.
- 10.2.3 The Council must also apply a buffer to the housing land supply based on the results of the Housing Delivery Test. In the latest results published on the 14th January 2022, the Council had delivered 125% of the homes required. This means that the Council is required to apply the lowest level of buffer at 5%.
- 10.2.4 Taking the above into account, the Council's latest 5 Year Housing Land Supply position for 2022-2027 shows a supply of 4.86 years. This position is marginal and with a number of strategic sites starting to deliver homes alongside other permissions, that situation is likely to change.
- 10.2.5 Nevertheless, as the Council cannot demonstrate the required 5 Year Housing Land Supply, the 'tilted balance' pursuant to Paragraph 11d) of the NPPF is engaged. It also means that the most important Development Plan policies relevant to the provision of housing are out-of-date. However, this does not mean that Development Plan policies should be completely disregarded. It is for the decision-maker to determine the weight to be attributed to the conflict with those policies.

### 10.3 The Development Plan

- 10.3.1 The Council's statutory Development Plan consists of the Braintree District Local Plan 2013-2033.
- 10.3.2 The application site is located within the Town Development Boundary in Braintree, where new development is considered acceptable in principle in accordance with Policy LPP1 of the Adopted Local Plan.
- 10.3.3 Part of the application site includes land designated as 'informal recreation' space. Policy LPP50 of the Adopted Local Plan states that existing open space shall not be built on unless a robust and up to date assessment has been undertaken which clearly demonstrates that the space is surplus to requirements. Policy LPP50 goes on to state that in considering planning applications which could impact on open space, the Council shall weigh any benefits being offered to the community against the loss of open space that will occur. The Council will seek to ensure that all proposed development takes account of, and is sensitive to, the local context. No such assessment has been provided by the Applicant. Officers therefore consider that the proposals conflict with Policy LPP50.

## 11. SITE ASSESSMENT

### 11.1 Location and Access to Services and Facilities

- 11.1.1 Where concerning the promotion of sustainable transport, the NPPF in Paragraph 105 states that the planning system should actively manage patterns of growth; and that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions and improve air quality and public health.
- 11.1.2 The strategy set out in the Adopted Local Plan within Policy SP3 is to concentrate growth in the most sustainable locations by adopting a spatial strategy that promotes development in the most sustainable locations, where there are opportunities for walking, cycling and public transport links to shops, services and employment. This means that 'the broad spatial strategy for the District should concentrate development in Braintree, Witham and the A12 corridor and Halstead.'
- 11.1.3 In this case, the site is within one of the District's main towns, has good access to local services and facilities as well as good public transport links. As such it is a sustainable location which weighs in favour of the development.

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

- 11.2.1 Paragraph 126 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.

- 11.2.2 Paragraph 130 states that planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting.
- 11.2.3 Paragraph 134 states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.
- 11.2.4 Policy SP7 of the Adopted Local Plan states that all new development must meet high standards of urban and architectural design and provides a number of place making principles.
- 11.2.5 In addition to this, Policy LPP52 of the Adopted Local Plan also seeks to secure the highest possible standards of design and layout in all new development and the protection and enhancement of the historic environment.
- 11.2.6 Officers consider that the application site is a very exposed and public site within the Conservation Area and consider that it provides a setting for John Ray House. Officers consider that given the sensitive and significant heritage qualities of the location, there is an expectation that any potential development of the site would need to be of the highest design quality which is sympathetic to its sensitive surroundings.
- 11.2.7 Officers consider that the appearance of the building proposed is a contrived mass with a single block form which lacks design quality, finesse, and authenticity, all of which should be attained here in this sensitive location.
- 11.2.8 Officers consider that the design of the four-storey block is contrived and lacks authenticity. The unrealistic roofscape is a poorly realised disguise for a large flat roof. This poor aesthetic is exacerbated by an overly complicated arrangement of gables and flat roofs that have no sympathy to the sincere typologies of the former school and its gymnasium.
- 11.2.9 There are scarce examples of four storey forms anywhere in the town, save the converted fire station, but Officers consider that this dishonest design fails to be guided by the simple forms and good details that inform its context. The resultant bulk and height features, contrived roof shapes at differing heights with visually unsightly interfaces and awkward articulations, add to the overly complex and visually insensitive design.
- 11.2.10 Officers consider that the elevation drawings show poor detail and are unjustified in such a sensitive location. The proposed fenestration lacks the

visual weight of a good sill detail, while the headers are nothing more than the low-cost soldier course. Officers consider that this crudeness is amplified by the soldier course banding spread ubiquitously across parapets and gables which is a poor-quality unifying detail that adds to the alien and poor-quality appearance.

- 11.2.11 The application of Juliet enclosures to windows over the first and second floors is also considered by Officers to be a poor, and a low quality detail, which only adds to the poor, generic aesthetic proposed by the four storey building.
- 11.2.12 Officers consider that the most insensitive elevation is the western one, facing John Ray House. On this façade the poor elements of detail, composition and contrived forms have a wholly negative impact on the setting of the listed building. This is an unsympathetic design and does not meet the 'good design' expected in Paragraph 134 of the NPPF.
- 11.2.13 The proposed bin and cycle store is to be located in a prominent location between the new block and Tabor House. It would back onto a number of the existing parking spaces that serve Tabor House. Currently there is no boundary treatment to the rear of these spaces. The hard landscaping plan indicates that a 2.2m high black metal fence would be located to the rear of these existing car parking spaces. The store would be nearly 12m in length and 2.4m high with a flat roof. Officers consider that the combination of the new black metal fence and the siting of a large flat roof building, would in an incongruous feature, not appropriate for this sensitive location.
- 11.2.14 To the west of the proposed block, is a large area of car parking, providing 35 spaces. The stark, entirely hard landscaped car park has no trees or landscaping proposed leaving the substandard spaces visually unmitigated. The National Design Guide states that car parking should not dominate the public realm. Officers consider that in this sensitive location of a Conservation Area, specific landscaping would be required to mitigate the visual impacts of the large expanse of car parking. The car parking area is therefore considered to be overly dominant and highly detrimental in the context of the sensitive location.
- 11.2.15 The submitted plans indicate that a pedestrian access from Coggeshall Road would be provided to the south of the site utilising existing footpath that runs within the curtilage of the site operated by Mencap. There is no existing footpath that runs within the Mencap site and therefore the site would not be connected to Coggeshall Road. This element of the proposals included in the Design and Access Statement and the landscaping plan is misleading and cannot be delivered.
- 11.2.16 Officers are not satisfied that the proposals are acceptable in terms of design, layout and appearance and its impact upon the character and appearance of the area. The proposal is therefore considered to be contrary to Policies SP7 and LPP52 of the Adopted Local Plan and the NPPF.

### 11.3 Amenity for Future Occupiers

- 11.3.1 Paragraph 174 in the NPPF states that ‘planning policies and decisions should ensure that development that create places that are safe with a high standard of amenity for all existing and future occupants of land and buildings’. Policy LPP52 of the Adopted Local Plan also states that residential developments shall provide a high standard of accommodation and amenity for all prospective occupants. Policy LPP35 requires all new development to be in accordance with the Nationally Described Space Standards (NDSS).
- 11.3.2 The NDSS sets out the requirements for the gross internal floor area of new dwellings at a defined level of occupancy as well as floor areas. For one-bedroom dwellings two floor areas are provided, one person occupancy would require at least 39sq.m and for two-person occupancy, at least 50sq.m would be required. For two-bedroom dwellings two floor areas are provided, three-person occupancy would require at least 61sq.m and for four-person occupancy, at least 70sq.m would be required.
- 11.3.3 Flats 1 and 2 are one bedroom, two-person occupancy dwellings and have floor areas that are 7m below the minimum requirement of 50sq.m. Flats 8 and 15 are two-bedroom, four-person occupancy dwellings and have floor areas that are 4m below the minimum requirement of 70sq.m. Flat 26 is a one bedroom, two-person occupancy dwelling and has a floor area of 3.5m below the minimum requirement of 50sq.m.
- 11.3.4 Officers consider that the internal layout of the flats is poor, particularly in relation to the siting of the kitchens. These spaces lack natural light and would be wholly reliant on electric illumination. Many of the bathrooms are the same and it is considered that both of these elements are compromised in order to achieve the maximum amount of development within the new block. The treatment of the internal arrangements is considered to be poor design and not a layout Officers are happy to accept given the impact upon the living conditions for future occupiers.
- 11.3.5 Many of the flats are single aspect, face north and have small windows. Officers are of the view that the quality of the internal space within these dwellings would be poor with an unacceptable level of light. The accommodation on the third floor is considered to be of a very poor standard with many flats dependant on rooflights for daylight. Flat 27 has no window to the habitable room as illustrated on the third-floor plan. Flat 24 has a bedroom without a window, only a roof light.
- 11.3.6 In addition to the poor level of internal amenity space for residents, the outdoor amenity provision is inadequate for some and non-existent for other residents. The submitted plans indicate that the ground floor flats would have access to small areas of amenity space. However, some of these spaces are located along the northern elevation of the building would receive inadequate sunlight, being in the shadow of the four storey building.

The landscaping plans indicate that these spaces would be enclosed by hedging, thus not making them private, as required by the Essex Design Guide 2005. Furthermore, these spaces need to provide a safe a defensible space around the building otherwise residents would be exposed to the publicly accessible space around the building. However, to ensure that these spaces are sufficiently private a quality enclosure is likely to have a detrimental impact on the setting of the Conservation Area.

- 11.3.7 Occupants of the upper three floors do not have access to any private communal outdoor space. Officers do acknowledge that there would be access to the public park, however this is not an acceptable substitute for private, secure communal areas where clothes can be dried, and privacy created. The Essex Design Guide 2005 requires 25sq.m of communal private space per flat. Overall, this would equate to a provision of 725sq.m in total of communal amenity space, enclosed at eye level. Officers do not consider that this can be adequately achieved at this site, without causing undue harm to the Conservation Area.
- 11.3.8 The proposals are therefore unacceptable, resulting in a poor level of internal and external amenity for future occupiers, contrary to Policies SP7, LPP35 and LPP52 of the Adopted Local Plan, the Essex Design Guide, and the NPPF.

#### 11.4 Heritage

- 11.4.1 The application site is located within the Braintree Town Centre Conservation Area and also within the immediate setting of the Grade II Listed John Ray House which was built in 1928-9 and designed by the County architect, John Stuart. It was built as a gymnasium (now converted to a children's nursery) for the Braintree County High School, which is immediately to the south-west of the site. The site therefore is within what was once the school grounds. The high school building, now known as Tabor House, has a distinctive appearance and is a non-designated heritage asset, which makes a beneficial contribution to the Conservation Area.
- 11.4.2 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that when considering a grant of planning permission that affects a listed building special regard shall be given to the desirability of preserving its setting.
- 11.4.3 Paragraph 199 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 11.4.4 Paragraph 201 states that where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage

asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- a) The nature of the heritage asset prevents all reasonable uses of the site; and
- b) No viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- c) Conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
- d) The harm or loss is outweighed by the benefit of bringing the site back into use.

11.4.5 Policies LPP47 and LPP57 of the Adopted Local Plan seek to conserve local features of architectural, historic and landscape importance and the setting of listed buildings.

11.4.6 The site is located within the Conservation Area Boundary. Policy LPP53 of the Adopted Local Plan states *'The Council will encourage the preservation and enhancement of the character and appearance of designated Conservation Areas and their settings. These include the buildings, open spaces, landscape and historic features and views into, out from and within the constituent parts of designated areas. Built or other development within or adjacent to a Conservation Area and affecting its setting will be permitted provided that all the following criteria are met.*

- a. Where the proposal enhances the character, appearance and essential feature of the Conservation Area or its setting;*
- b. Details of existing buildings which make a positive contribution to the character and appearance of the Conservation Area will be retained;*
- c. Building materials are of high quality and appropriate to the local context'.*

11.4.7 The application site lies within the immediate setting of the Grade II listed John Ray House. Policy LPP57 of the Adopted Local Plan states that *'Development of internal, or external alterations, or extensions, to a listed building or listed structure (including any structures defined as having equivalent status due to being situated within the curtilage of a listed building and locally listed heritage assets) and changes of use will be permitted when all the following criteria are met:*

*For designated heritage assets:*

*The development meets the tests set out in national policy.*

*For all heritage assets:*

- a. The works or uses include the use of appropriate materials and finishes*
- b. The application submitted contains details of the significance of the heritage asset, within a Heritage Statement which should include any contribution made by their setting*



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

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

- 11.4.8 To the southeast of the site is the Grade II Listed Essex County Library, although the Historic Buildings Consultant agrees with the Heritage Statement which concludes that due to the physical separation from the site, there would be no adverse impact on the listed Library’s setting.
- 11.4.9 However, the Historic Buildings Consultant has concerns regarding the impact of the scheme on the Conservation Area, the listed Gymnasium (now a children’s nursery) and the non-designated Tabor House. The undeveloped nature of the site forms an open backdrop to Weavers Park and the listed Gymnasium, and the Historic Buildings Consultant does not agree with the Heritage Statement that concludes the proposed development and the introduction of a new built frontage to the park is a benefit. In Officers view it is the current open and undeveloped nature of the site that is beneficial.
- 11.4.10 The Historic Buildings Consultant considers that there is a direct historic and functional link between the listed Gymnasium (nursery) and former school (Tabor House) and the views of the Listed building and the non-designated heritage asset, within the former grounds of the school, allow the appreciation of this aspect of their significance. The main façade of the listed Gymnasium faces south-east, inwards into the former school grounds and directly towards the site. This façade is distinctive, with a colonnade and the surviving elevational treatment contributes to its architectural quality and significance.
- 11.4.11 Currently it is possible to appreciate this architectural interest from several positions within the environs of the site and from within the site itself, which form the setting of the listed building. Although the proposed block of flats does not sit directly between the listed building and the school, it would be a detracting element within this setting, impeding on the viewers ability to appreciate the significance of the gymnasium and interrupting the legibility of the historic link it has with the school. In part, this is due to the scale and massing of the proposed building. Following on from pre-application engagement, the reduction of the gable and roof height of the development from four to three storeys at the end adjacent to the Listed building is noted but would not be effective in sufficiently reducing its over-dominant presence. The block is over-bulky and the oversized scale competes with the form of the listed building and Tabor House for dominance. Along with the excess of gables, the crown roof form further increases the volume of the building.

- 11.4.12 The appearance of the building is also not considered appropriate for this part of the Conservation Area or the setting of the listed building and Tabor House. While red brick and slate roof tiles are fitting, the overall appearance of the repetitive façades, the fenestration, rooflights, and Juliet balconies are incongruous with this part of the Conservation Area.
- 11.4.13 The NPPF states that local planning authorities should look for opportunities for new development within Conservation Areas and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably (Paragraph 206). The Historic Buildings Consultant does not find that the scheme preserves or enhances the setting of the heritage assets, or the character of the Conservation Area. In addition, the Historic Buildings Consultant does not find that the scheme makes a positive contribution to local character and distinctiveness in contrast to Paragraph 197c of the NPPF.
- 11.4.14 The proposal would result in a moderate level of less than substantial harm to the significance of the Grade II Listed John Jay House and low level of less than substantial harm to of the Braintree Town Centre Conservation Area and would also result in harm to the non-designated Tabor House.
- 11.4.15 The NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use (Paragraph 202).
- 11.4.16 Officers are not satisfied that the proposals are acceptable and consider them to be contrary to Policies LPP47, LPP53 and LPP57 of the Adopted Local Plan and the NPPF. The conflict with these policies provides a clear reason for refusing the development on the basis that it is not considered that the public benefits of the proposal would outweigh the heritage harm.

## 11.5 Ecology

- 11.5.1 Policy LPP64 of the Adopted Local Plan seeks to ensure that the developer undertakes an ecological survey and demonstrate adequate mitigation plan is in place to ensure no harm to protected species or priority species.
- 11.5.2 Policy LPP66 of the Adopted Local Plan states, if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or as a last resort compensated for then planning permission should be refused.
- 11.5.3 The Council's Ecologist has reviewed the Preliminary Ecological Assessment (ACJ Ecology Ltd, August 2022), and Biodiversity Impact Assessment (ACJ Ecology Ltd, August 2022), submitted by the Applicant,

relating to the likely impacts of development on designated sites, protected and priority species/habitats.

- 11.5.4 The Council's Ecologist is satisfied that sufficient ecological information is available for determination for this Application and that with appropriate mitigation measures secured, the development can be made acceptable. Therefore, the mitigation measures as detailed in the Preliminary Ecological Assessment (ACJ Ecology Ltd, August 2022), must be secured and implemented in full. This is necessary to conserve protected and priority species, particularly nesting birds. However, the applicant is reminded that hedgehogs are protected under Schedule 6 of the Wildlife and Countryside Act (WCA) 1981, which prohibits killing and trapping by certain methods. They are also a UK Priority species under the NERC Act (SEC.41) 2006. The species is therefore considered one of the UK's target species to avoid further population decline. The Council's Ecologist therefore recommends that a Biodiversity Method statement for hedgehogs, should also be secured by condition to ensure protection during vegetation clearance works and during the construction period.
- 11.5.5 The Council's Ecologist also supports the conclusions of the submitted Biodiversity Impact Assessment (ACJ Ecology Ltd, August 2022), and Defra Biodiversity Metric 3.1 - Calculation Tool. This demonstrates that an increase of 10.92% Habitat units will be achieved for this scheme. As a result, measurable biodiversity net gains will be able to be delivered for this scheme, as outlined under Paragraph 174d & 180d of the National Planning Policy Framework 2021, and the Council's Ecologist recommends that a Landscape and Ecological Management Plan should be secured as a condition of consent. This should set out the detailed management and monitoring plan to achieve the aims and objectives of the Biodiversity Metric, as well as the implementation and aftercare of any bespoke biodiversity enhancements.
- 11.5.6 The Council's Ecologist recommends that the bespoke biodiversity enhancement measures should be delivered for this application, to secure net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework 2021. This should be secured as a condition of any consent and bespoke enhancements should also be provided including native planting and the provision of integrated swift nesting bricks. Ideally this should consist of 1 x integrated universal swift bricks on each property, as these are known to be beneficial to a range of bird species. The Council's Ecologist also recommends that the hedgehog friendly fencing/gaps should be incorporated and detailed on the Biodiversity Enhancement Layout. As a result, the Council's Ecologist recommends that a Landscape and Ecological Management Plan should be secured as a condition of consent, which would set out the detailed management plan to achieve the aims and objectives of the Biodiversity Metric, as well as the implementation and aftercare of any bespoke biodiversity enhancements.
- 11.5.7 Furthermore, the site contains proposed residential development which is situated within the 22km Zone of Influence (ZOI) for the Blackwater

SPA/Ramsar site, and Essex Estuaries SAC. Therefore, Natural England's standard advice should be followed to ensure compliance with the Habitats Regulations. The LPA is therefore advised that a financial contribution should be secured in line with the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS), which will need to be secured by legal agreement or S111. Payment.

- 11.5.8 The Council's Ecologist indicates that the impacts of the proposals will be minimised such that the proposal is acceptable subject to the conditions requiring compliance with the submitted ecological appraisal, the submission of a hedgehog method statement, a biodiversity enhancement layout, and a landscape and ecological management plan.

#### 11.6 Trees and Landscaping

- 11.6.1 The NPPF states in Paragraph 131, '*trees make an important contribution to the character and quality of urban environments and can also help mitigate and adapt to climate change. Planning policies and decisions should seek to ensure... that existing trees are retained wherever possible*'.
- 11.6.2 Policy LPP65 of the Adopted Local Plan states, '*trees which make a significant positive contribution to the character and appearance of their surroundings will be retained unless there is a good arboricultural reason for their removal for example, they are considered to be dangerous or in poor condition*'.
- 11.6.3 Policy SP7 of the Adopted local Plan states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. It goes on to state that new development should enhance the public realm through additional landscaping, street furniture and other distinctive features that help to create a sense of place.
- 11.6.4 The site lies within the Conservation Area and faces onto the parkland setting that provides a valuable and relatively open, amenity space in this part of the town; the boundaries to the park are well defined by a mosaic of semi-mature and mature trees which provide an attractive prospect for the visitor. The proximity of a building of this scale and elevation will inevitably dominate the views across this part of the park closing off a relatively open prospect and creating a discordant note with a development proposal that is out of character for the setting.
- 11.6.5 The Arboricultural Report provided by Andrew Day identifies the removal of several Category C trees to facilitate the construction (namely T7 -13, G1 and G3). The tree protection plan shows the retention of T1 – T3 to the south of the building and T14 within the parkland frontage. Whilst it is acknowledged that the construction could be undertaken without damaging the root protection zones of trees T1 – T3 – the canopies will be very close to the construction area and still likely to be damaged. The root protection zone of T14 will lie within the construction area and although methods have

been suggested for mitigating any damage it is considered to be too close; all these trees are identified as Category B trees with at least 20 years useful life, currently ranging from 14 -18 metres in height and expected in that time to increase in height and canopy spread creating further shade and enclosure. The trees will be enclosed in a narrow space between the existing buildings and the new development where they will have limited space to flourish and provide a useful amenity.

- 11.6.6 A building of this elevation with retained semi-mature trees on the south facing aspect - and within the wider setting of the adjacent parkland, will inevitably generate requests for tree reduction and/or removal because of anxiety over the size of the trees or the shading/nuisance that they are considered to generate by future residents. The intention to retain trees in this setting is likely to be a point of contention after occupation and inevitably the trees will be diminished by stealth.
- 11.6.7 The proposed development is too large for the setting and blocks the views from Tabour House to John Ray House. The development is imposing and changes the character of the area in a negative way. The proposed building is also too close to neighbouring properties and will block residents' views of Weavers Park and diminish levels of sun light to their properties. The loss of light created by this development, shown in the Daylight Analysis is unacceptable. The loss of light also poses an issue for the health of the trees on site, particularly trees T1 – T6 which would effectively be sandwiched between two properties with reduced sunlight.
- 11.6.8 The submitted application includes no meaningful tree planting to offset the proposed tree loss. If suitable replacement planting is proposed as stated in the Arboricultural Report, then the details should have been shown within the context of the application details to demonstrate that this new planting is viable.
- 11.6.9 The Hard and Soft Landscape General Arrangement Plan shows an area of soft landscaping north of the proposed building with naturalistic play. However, the existing trees in this area have not been surveyed in the Arboricultural Report. The Arboricultural Report should survey all trees on the site and any trees on neighbouring land that could be affected by the development and this has not been provided. Furthermore, it is unclear from the Tree Protection Plan if trees T4 and G2 are to be removed or not, as their root protection areas are not shown on the plan.
- 11.6.10 Officers are not satisfied that the proposals are acceptable and consider them to conflict with Policies SP7 and LPP65 of the Adopted Local Plan and the NPPF.
- 11.7 Impact upon Neighbouring Residential Amenity
- 11.7.1 The NPPF requires a good standard of amenity for all existing and future occupants of land and buildings. Policy LPP52 of Adopted Local Plan

states that there shall be no undue or unacceptable impact on the amenity of any nearby residential property.

- 11.7.2 To the south of the application site is a building occupied by Mencap, a three-storey block of flats (2-7 Park View) and Braintree Nursing Home. At its closest point, the four-storey building would be located just over 7m from the boundary with the Park View flats. The rear elevation of the Park View flats contains 10-bedroom windows and two lounge windows, spread over three floors. It is considered that this distance is not sufficient and that the current outlook from the existing flats would be materially harmed, to their detriment. Officers consider that the resulting relationship between the new and existing flats would be unneighbourly and unacceptable impact upon neighbouring residential amenity.
- 11.7.3 Officers are not satisfied that the proposals are acceptable and consider them to conflict with Policy LPP52 of the Adopted Local Plan and the NPPF.

#### 11.8 Highway Considerations

- 11.8.1 Paragraph 111 of the NPPF states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residential residual cumulative impacts on the road network would be severe.
- 11.8.2 With the National Planning Policy Framework in mind, particularly Paragraph 111, the Highway Authority has reviewed the planning application and supporting Transport Assessment against its own Development Management Policies to ensure the proposal site can be accessed safely, any additional trips would not be detrimental to highway safety and capacity and to ensure as far as possible the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.
- 11.8.3 The Highway Authority have raised no objection subject to conditions relating to submission of a construction management plan, construction of vehicular and pedestrian access and a travel pack.
- 11.8.4 Policy LPP43 of the Adopted Local Plan seek to ensure sufficient vehicle/cycle parking is provided within new developments.
- 11.8.5 The Essex Parking Standards 2009 requires the minimum of one space per one-bedroom flats and two spaces per two-bedroom flat, which results in 38 spaces. In addition to this 10 visitor parking spaces would be required. The plans indicate that 37 car parking spaces would be provided, but no visitor spaces.
- 11.8.6 The Essex Parking Standards 2009 states that the preferred bay size for cars would be 5.5m by 2.9m, and that the minimum bay size would be 5m by 2.5m, however these dimensions are only to be used in exceptional

circumstances. All of the parking bays provided measure 5m by 2.5m, and Officers do not consider that exceptional circumstances apply for this site to allow for the minimum bay size requirements here. The 37 spaces shown could not therefore be provided.

- 11.8.7 A separate bike store is indicated on the submitted plans and would be located to the south of new block. It would be attached to the proposed bin store. The Parking Standards requires one covered bike parking space per new dwelling and 29 spaces would be provided.
- 11.8.8 The proposals would conflict with Policy LPP43 of the Adopted Local Plan and the Essex Parking Standards 2009, as the parking spaces provided are sub-standard in size and that no visitor parking spaces are provided within the development.

#### 11.9 Refuse and Recycling

- 11.9.1 Policy LPP52 of the Adopted Local Plan states that designs shall incorporate details of waste storage and collection arrangements, including provision for recycling, within the site to ensure that the impact on amenity and character are considered and recycling is optimised.
- 11.9.2 During the life of the application, updated details were submitted with regards the bin and cycle store. BDC Waste Team have assessed the revised details and raise concerns with regards access into and out of the bin store for both residents and operatives. Keeping two sets of doors open whilst manoeuvring bins or depositing rubbish would be extremely difficult.
- 11.9.3 Officers are not satisfied that the proposals are acceptable and consider them to conflict with Policy LPP52 of the Adopted Local Plan.

#### 11.10 Affordable Housing

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

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

- 11.10.3 However, this block is designed with a single entrance, stair core and shared common areas and consequently is not considered suitable for on-site affordable housing. It has been confirmed by a number of Register Providers (RP's) that they would have no interest in purchasing affordable homes within a design arrangement such as this. The Housing, Development and Research Officer feels therefore a more appropriate approach in this case is to seek a commuted payment in lieu of affordable housing. The usual methodology when calculating commuted payments is to formulate the calculation on the amount of subsidy an RP would require to purchase comparable homes elsewhere. This subsidy is based on market values for each of the unit types shown above, less what an RP could typically offer for the flats if they were being provided on site. Two RP's have been approached and have provided figures on market values along with sums that theoretically could be offered. These figures have been averaged for the purpose of calculating the commuted sum. Accordingly, it is considered that a commuted payment of £534,500 should be sought and secured by s106 agreement.
- 11.10.4 Members are advised that the applicant has chosen to design the proposed development so that all of the flats are accessed by a single access point. The unacceptability of this design approach was raised with the Applicant during the pre-application discussions such the Applicant was aware that RP's would raise objection and would be unlikely to purchase flats that are designed with this access arrangement.
- 11.10.5 During the life of the application, and following the comments made by BDC Housing, Development and Research Officer, the Applicant submitted a, affordable housing statement prepared by Kift Consulting Ltd (KCL).
- 11.10.6 Kift Consulting conclude that a fair and reasonable approach would be for the commuted sum payment to be set at a level which captures some of the additional development value but also brings the land value back to £510,000. The result of this is that the commuted sum suggested by the Applicant is £199,400, equating to £335,100 less than the amount requested by the Council's Housing, Research and Development Officer.
- 11.10.7 Officers conclude that this level of financial contribution would be insufficient and would not accord with Policy LPP31 of the Adopted Local Plan.
- 11.10.8 Following the submission of this statement, Officers engaged the services of an independent consultant to assess its contents and conclusions. The consultant provided a full response with regards the viability of the site and concluded that there was a residual value of £1,058,000. This means that revenue is higher than costs. With the land value benchmark, at



(maximally) £100,000 this means a surplus of £958,000, which can go towards Section 106 requirements.

- 11.10.9 The independent specialist made the following conclusions with regards the commuted sum calculation:

*'I note that the Council seeks a contribution towards Affordable Housing of £534,500. I have run my appraisal as follows to determine what I believe is a fair commuted sum:*

<i>Residual value at 30% Affordable Housing</i>	<i>£1,058,000</i>
<i>Residual value at 0% Affordable Housing</i>	<i>£1,553,000</i>
<i>Difference in residual value</i>	<i>£495,000.</i>

*This places the sum sought (at 534,500) in the correct 'ballpark'. In addition (using my calculation) there is an additional £958,000 available for other Section 106 contributions'.*

- 11.10.10 Officers have assessed the conclusions made by the independent consultant and conclude that the financial contribution sought by BDC Housing, Development and Research team in lieu of an on-site provision of affordable housing is appropriate. As the Applicant wishes to only provide less than half of this figure, Officers can only conclude that the proposals are not acceptable and do not comply with Policy LPP31 of the Adopted Local Plan or the NPPF.

- 11.10.11 The Applicant has submitted comments on the Council's independent assessment, which is currently being assessed. Members will be provided with an update at the Planning Committee meeting.

#### 11.11 Flooding and Drainage Strategy

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

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

- 11.11.3 The application is supported by a Flood Risk Assessment Drainage Strategy (prepared by Ingent Consulting Engineers dated August 2022).

- 11.11.4 The Lead Local Flood Authority (LLFA) have been consulted and raise no objection to the proposals and recommend a number of conditions.

## 11.12 Habitat Regulations Assessment (HRA / RAMS)

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

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

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

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

11.12.4 The proposed mitigation measures would consist of the securing of a financial contribution of £137.71 per dwelling erected towards off-site visitor management measures at the above protected sites.

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

## 12. PLANNING OBLIGATIONS

12.1 Paragraph 56 of the NPPF sets out that planning obligations should only be sought where they are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. This is in accordance with Regulation 122 of the Community Infrastructure Levy (CIL) Regulation. The following identifies those matters that the District Council would seek to secure through a planning obligation, if it were proposing to grant it permission.

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

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

- § Financial contributions towards new or expanded facilities and the maintenance thereof
  - § On-site construction of new provision
  - § Off-site capacity improvement works and/or
  - § The provision of land
- 12.4 Developers and landowners must work positively with the Council, neighbouring authorities and other infrastructure providers throughout the planning process to ensure that the cumulative impact of development is considered and then mitigated, at the appropriate time, in line with their published policies and guidance.
- 12.5 The following are identified those matters that the District Council would seek to secure through a planning obligation, if it were preparing to grant permission and the applicant has agreed to enter in to a S106 agreement in respect of these matters (other than affordable housing which is not proposed within the scheme):

### **Affordable Housing**

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

### **Health**

- 12.7 NHS England advise that the development is likely to impact the GP practice within the vicinity of the application site and that the practice do not have sufficient capacity to meet the demand arising from a development of this size. A financial contribution of £14,200 is sought to increase capacity for the benefits of patients of the primary care network operating in the vicinity of the proposed development. This may be achieved through any combination of extension, reconfiguration, or relocation of premises and/or clinical staff, recruitment, or training.

### **Open Space**

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

also a requirement to secure the on-going maintenance/management of any open space provided on site. These aspects could be secured through a S106 Agreement.

### **Essex RAMS**

- 12.10 The site is situated within the Zone of Influence (ZOI) for the Blackwater Estuary SPA/Ramsar site.
- 12.11 As such, the developer is required to pay a financial contribution towards off-site visitor management measures for the Blackwater Estuary SPA and Ramsar site, currently £137.71 per dwelling for the uplift in the number of dwellings (29no) which equates to £3,993.59.
- 12.12 Subject to the above matters being incorporated into a legal agreement to ensure their provision, the development would be made acceptable in these respects. No such agreement is in place at the present time and therefore the development fails to satisfactorily mitigate the impacts of the development on local infrastructure and is contrary to Policies SP6, LPP31, LPP50 and LPP78 of the Adopted Local Plan.

### **13. PLANNING BALANCE AND CONCLUSION**

- 13.1.1 The presumption in favour of sustainable development sits at the heart of the NPPF. The Framework is clear in its instruction at Paragraph 11d), that for decision-taking this means where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date (this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in Paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years), granting permission unless:
  - i. The application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
  - ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 13.1.2 As the Council cannot currently demonstrate a 5 Year Housing Land Supply, the 'titled balance' pursuant to Paragraph 11d) of the NPPF would be engaged. As a consequence, the most important Development Plan policies relevant to the provision of housing are currently out-of-date due to a lack of 5 Year Housing Land Supply. However this does not mean that Development Plan policies should be completely disregarded. It is for the decision-maker to determine the weight to be attributed to the conflict with those policies. In this regard it is considered that Policy LPP1 of the

Adopted Local Plan, which seeks to restrict development outside defined development boundaries to uses appropriate to the countryside, can only be afforded moderate weight. Similarly, it is considered that Policy SP3, which sets out the spatial strategy for North Essex, can only be afforded less than significant, but more than moderate weight.

- 13.1.3 In this case, it is considered that pursuant to Paragraph 11d) (i) that the application of policies in the Framework provide a clear reason for refusing the proposed development. This is because there are adverse impacts in regard to designated heritage assets.
- 13.1.4 As set out above, Officers consider that the proposed development would result in 'less than substantial harm' to the significance of designated and non-designated heritage assets. In accordance with Paragraph 11d) (i) of the NPPF, where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless, the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. In this case the identified heritage harm provides clear reason for refusing the application.
- 13.1.5 The titled balance as set out in Paragraph 11d) (ii) of the NPPF is not therefore engaged in this instance, however for completeness the adverse impacts and benefits of the proposal are set out below.

## 13.2 Summary of Adverse Impacts

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

### **Heritage Harm**

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

### **Layout and Design**

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

### **Insufficient Affordable Housing Contribution**

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

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

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

#### **Delivery of Market Dwelling**

- 13.3.2 The development would deliver 29no. market dwellings. Although the LPA cannot demonstrate a 5-year housing land supply, only moderate weight is assigned to this benefit, given the scale of development proposed.

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

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

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

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

### **13.4 Conclusion**

- 13.4.1 As set out above, Officers consider that the proposed development would result in 'less than substantial harm' to the significance of designated and non-designated heritage assets. In accordance with Paragraph 11d) (i) of the NPPF, where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless, the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. In this case the identified heritage harm provides clear reason for refusing the application.
- 13.4.2 On this basis, Paragraph 11d) (ii) of the NPPF is not engaged. However, in the event that the tilted balance was to apply, Officers consider that the harm identified within this report would significantly and demonstrably outweigh the public benefits and the application should be refused in any event.

14. RECOMMENDATION

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

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

## APPENDIX 1:

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

#### Submitted Plan(s) / Document(s)

<b>Plan Description</b>	<b>Plan Ref</b>	<b>Plan Version</b>
Proposed Roof Plan	0212_GA04_I4	N/A
Existing Elevations	0212_EX02_I1	N/A
Existing Elevations	0212_EX03_I1	N/A
Proposed 1st Floor Plan	0212_GA01_I3	N/A
Proposed 2nd Floor Plan	0212_GA02_I3	N/A
Proposed 3rd Floor Plan	0212_GA02_I3	N/A
Proposed Elevations	0212_GA03_I3	N/A
Proposed 3rd Floor Plan	0212_GA03_I3	N/A
Proposed Elevations	0212_GE01_I3	N/A
Proposed Sections	0212_SE00_I1	N/A
Tree Plan	REV 2	N/A
Drainage Details	001	N/A
Site Plan	0212_EX01 i1	N/A
Proposed Ground Floor Plan	0212_GA00_I6	N/A
Proposed Site Plan	0212_SS01_I7	N/A
Location / Block Plan	0212_SS00_I2	N/A
Landscaping	120_101 D	N/A
Proposed Plans	0212_PR_B_I2	N/A

#### Reason(s) for Refusal

##### Reason 1

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

##### Reason 2

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



### Reason 3

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

The proposals amount to poor design and layout failing to add to the quality of the area and an overdevelopment of the site contrary to Policies SP7, LPP35, LPP52 and LPP65 of the Braintree District Local Plan 2013-2033, the Essex Design Guide and the National Planning Policy Framework.

### Reason 4

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

### Reason 5

The proposed development would trigger the requirement for:

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

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

### Positive and Proactive Statement

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

## APPENDIX 2:

### POLICY CONSIDERATIONS

#### National Planning Guidance

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

#### Braintree District Local Plan 2013 - 2033

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

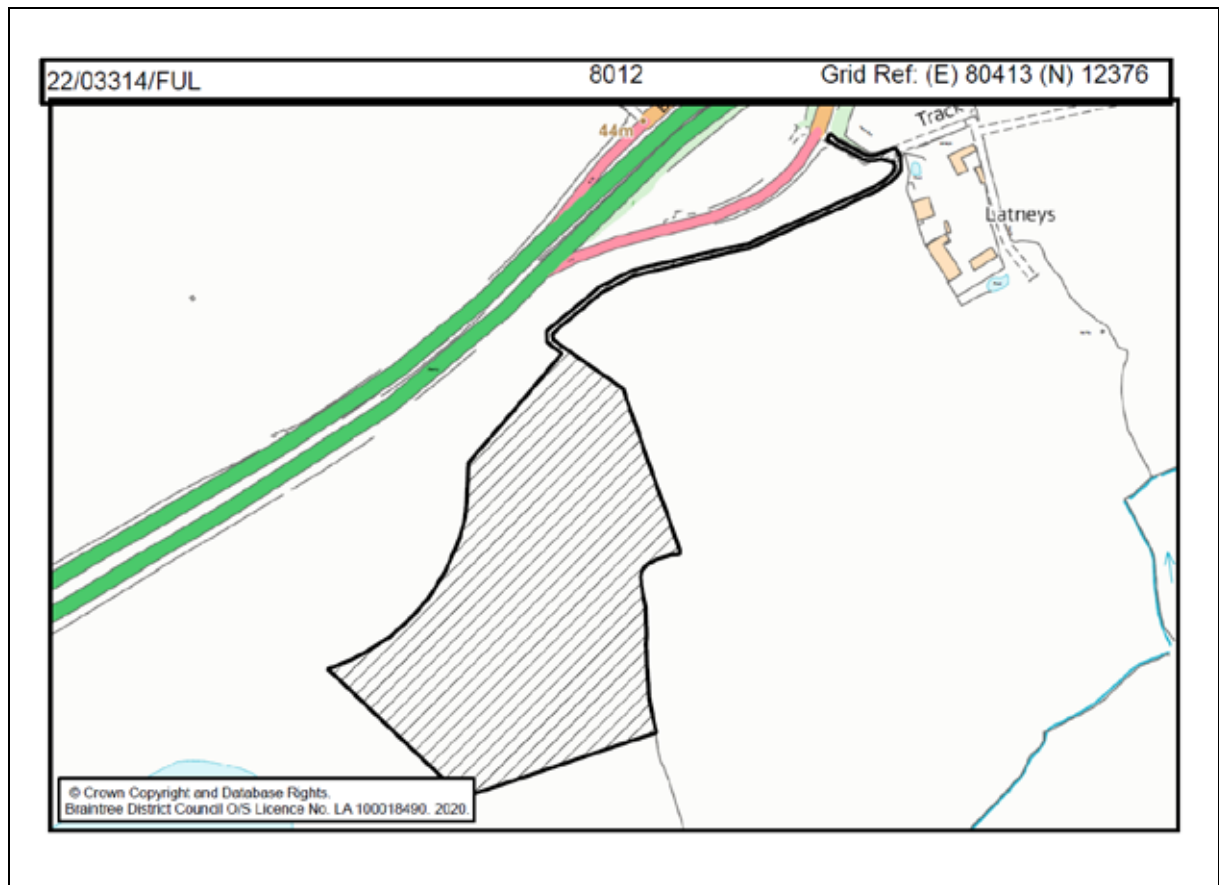
APPENDIX 3:

SITE HISTORY

<b>Application No:</b>	<b>Description:</b>	<b>Decision:</b>	<b>Date:</b>
98/00498/TPO	Notice of intent to carry out works to protected trees - Tidy up and raise crown to one beech	Granted	07.05.98
19/00015/TPO	Notice of intent to carry out works to tree protected by Tree Preservation Order 5/86 - Reduce height of Beech tree by 4.5 metres, cut sides in by 3.5 metres and lift crown to 3 metres high, remove dead wood from tree.	Part Grant, Part Refused	18.02.19
20/00050/TPO	Notice of intent to carry out works to tree protected by Tree Preservation Order 5/86 - Beech Tree - Reduce height and spread by 2m to 2.5m leaving a balanced crown structure. Prune on a triennial cycle to maintain.	Part Grant, Part Refused	30.04.20

<b>Report to:</b> Planning Committee		
<b>Planning Committee Date:</b> 14th February 2023		
<b>For:</b> Decision		
<b>Key Decision:</b> No		<b>Decision Planner Ref No:</b> N/A
<b>Application No:</b>	22/03314/FUL	
<b>Description:</b>	Change of use to ecological mitigation area 9 (linked to the A12 widening scheme) including the creation of 3 ponds, creation of 12 bunds and a wider area of land re-grading from on-site excavated material, perimeter fencing and associated landscaping	
<b>Location:</b>	Land South East Of Hatfield Road, Hatfield Peverel	
<b>Applicant:</b>	Mr Kampanila Kaluba, National Highways, Woodlands, Bedford, MK41 6FS	
<b>Agent:</b>	Mrs Sophie Douglas, Jacobs, 1 City Walk, London, LS11 9DX	
<b>Date Valid:</b>	5th December 2022	
<b>Recommendation:</b>	It is RECOMMENDED that the following decision be made:  § Application GRANTED subject to the Condition(s) & Reason(s) and Informative(s) outlined within Appendix 1 of this Committee Report.	
<b>Options:</b>	The Planning Committee can:  a) <b>Agree</b> the Recommendation b) <b>Vary</b> the Recommendation c) <b>Overturn</b> the Recommendation d) <b>Defer</b> consideration of the Application for a specified reason(s)	
<b>Appendices:</b>	<b>Appendix 1:</b>	Approved Plan(s) & Document(s) Condition(s) & Reason(s) and Informative(s)
	<b>Appendix 2:</b>	Policy Considerations
	<b>Appendix 3:</b>	Site History
<b>Case Officer:</b>	Melanie Corbishley For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2527, or by e-mail: <a href="mailto:melanie.corbishley@braintree.gov.uk">melanie.corbishley@braintree.gov.uk</a>	

**Application Site Location:**



<b>Purpose of the Report:</b>	The Committee Report sets out the assessment and recommendation of the abovementioned application to the Council's Planning Committee. The report sets out all of the material planning considerations and the relevant national and local planning policies.
<b>Financial Implications:</b>	The application was subject to the statutory application fee paid by the Applicant for the determination of the application.
<b>Legal Implications:</b>	<p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either set out the relevant Conditions &amp; Reasons and any Informatives, or the Reasons for Refusal if applicable.</p> <p>All relevant policies are set out within the report, within Appendix 2.</p>
<b>Other Implications:</b>	The application has been subject to public consultation and consultation with relevant statutory and non-statutory consultees. All responses received in response to this consultation are set out within the body of this Committee Report.
<b>Equality and Diversity Implications:</b>	<p>Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:</p> <ul style="list-style-type: none"> <li>a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act;</li> <li>b) Advance equality of opportunity between people who share a protected characteristic and those who do not;</li> <li>c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.</li> </ul> <p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p>

	<p>The consideration of this application has not raised any equality issues.</p>
<b>Background Papers:</b>	<p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> <li>§ Application Form</li> <li>§ All Plans and Supporting Documentation</li> <li>§ All Consultation Responses and Representations</li> </ul> <p>The application submission can be viewed online via the Council's Public Access website:  <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a> by entering the Application Number: 22/03314/FUL.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> <li>§ National Planning Policy Framework (NPPF)</li> <li>§ Braintree District Local Plan (2013 - 2033)</li> <li>§ Hatfield Peverel Neighbourhood Plan</li> <li>§ Supplementary Planning Documents (SPD's) (if applicable)</li> </ul> <p>The National Planning Policy Framework can be viewed on the GOV.UK website: <a href="http://www.gov.uk/">www.gov.uk/</a>.</p> <p>The other abovementioned policy documents can be viewed on the Council's website:  <a href="http://www.braintree.gov.uk">www.braintree.gov.uk</a>.</p>

## 1. EXECUTIVE SUMMARY

- 1.1 The application seeks full permission for an ecological mitigation area to facilitate the translocation of reptile populations prior to the construction of the A12 and would contribute to Biodiversity Net Gain of the A12 works. The ecological mitigation area would include ponds, basking banks / bunds, features for reptiles, and associated hedgerow and grassland planting, enclosed by 1.1 metre high fencing.
- 1.2 The principle for the change of use to an ecological area is supported by a number of Policies within the Adopted Local Plan (Policies SP7 and LPP64) which encourage biodiversity creation and enhancement measures, and net gain in priority habitats. Support is also attributed to the NPPF (Paragraphs 174 and 180) which requires planning to contribute to and enhance the natural and local environment by protecting and enhancing sites of biodiversity value, and also seeks to secure measurable net gains for biodiversity. Although the development would result in the loss of Grade 2 agricultural land, weight is attributed to the fact that this site would enable the mitigation measures and features to be easily integrated and embedded with existing nearby habitats, and that to achieve this outcome, it would inevitably require the loss of such agricultural land. Overall, the principle of development is considered acceptable.
- 1.3 In terms of layout and landscape impacts, the development would inevitably result in a change in the character of the land, altering from an open agricultural field to an ecological area with artificial land formation and features, and subdivision of an existing larger field parcel. The impact of this change would primarily be seen from public views along the PROW to the north east. However, it is considered that the impact would be reduced due to the modest change associated with the re-levelling work, limited height of the bunds and other features, and low level and appropriately designed fencing. On this basis, it is not considered that the development would result in harm to the character and appearance of the local landscape.
- 1.4 Access to the site for construction purposes would be via an A12 slip road that also serve a commercial kennels. Due to the low level of vehicles associated with the development (a total of 52 vehicle movements a day) Officers conclude that there would be no harmful impact to the highway network. The submitted Construction Traffic Management Plan (CTMP) satisfactorily sets out how traffic management would be undertaken throughout the construction period and provides for appropriate management of vehicles, including to prevent conflict with pedestrians on the PROW.
- 1.5 The development would result in no significant ecological constraints and any impacts can be addressed via mitigation proposed. Equally, the proposed soft landscaping scheme is acceptable, and the creation of biodiversity net gain is supported.



- 1.6 In terms of neighbouring amenity, given the distance from neighbours, the relatively low level of vehicle movements, restricted construction working hours, and dust mitigation measures (all as set out within the CTMP), the development would result in no unacceptable harm to neighbouring amenity.
- 1.7 Taking the above factors into account, the application is recommended for approval subject to conditions.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

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

3. POLICY CONSIDERATIONS

- See Appendix 2

4. SITE HISTORY

- See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

- 5.1 The site is located to the south-west of Witham and to the north-east of Hatfield Peverel and covers a total area of 5.44 hectares (including the land required for the access to the site from the public highway and the main site area wherein the ponds and landscaping would be formed).
- 5.2 The main area of the application site is irregular in shape and includes an access track that connects to the A12 to the north. The first section of the site access would run along the road that serves Latneys Kennels. This road also serves as a route for a public right of way (PROW 90\_29).
- 5.3 To the north west of the site lies the A12, to the south west lies a private fishing lake and the village of Hatfield Peverel and to the east is an existing vegetation belt.
- 5.4 The main part of the site lies within arable use. The Agricultural Land Classification (ALC) is Grade 2.
- 5.5 The site is located within Flood Zone 1. A Flood Risk Assessment (FRA) has been submitted with the application.
- 5.6 There are no Tree Preservation Orders (TPOs) within the site boundary.
- 5.7 A further public right of way lies approximately 48m to the south west of the application site (PROW 90\_40).

6. BACKGROUND TO THE PROPOSAL

- 6.1 The proposal forms part of the wider Nationally Significant Infrastructure Project (NSIP) proposed for widening the A12 between Chelmsford and Colchester. A Development Consent Order (DCO) application for this NSIP was accepted for examination by the Planning Inspectorate on the 12th of September 2022.

- 6.2 The DCO identifies a number of ecological mitigation areas to help mitigate the impacts of the A12. The Applicant (National Highways) is seeking full permission under the Town and Country Planning Act 1990 for 16 ecological mitigation areas through the submission of 13 planning applications across the Districts of Braintree, Colchester and Chelmsford in order to enable the creation of habitats in advance of the A12 construction.
- 6.3 The ecological mitigation areas have already been identified within the DCO which provides a high-level indicative layout for each ecological mitigation area. This planning application provides the detailed design with regards to the scale and nature of the proposal and how the ecological mitigation area would be constructed, operated, and maintained.
7. PROPOSAL
- 7.1 The application proposes the change of use of land to an ecological mitigation area (linked to the A12 widening scheme) including the creation of 3 ponds, creation of 12 bunds from on-site excavated material, perimeter fencing and associated landscaping.
- 7.2 The development would include the introduction of:
- 3 ponds with aquatic and marginal planting;
  - 12 bunds (basking banks);
  - An area of wider land regrading;
  - Features for reptiles including hibernacula and log piles;
  - Approximately 14503 m<sup>2</sup> of intermittent trees and shrubs;
  - The seeding of species rich grassland;
  - Timber post and wire fencing to the perimeter of the site;
  - 1 metal field gate access.
- 7.3 The main route of vehicles to access the site would be via the B1389 (A12 Junction 21 Southbound entry slip) and the existing asphalt road access road towards Latney's Kennels. Latney's Kennels is the only business at the end of this access road. An existing farm gate would be used to access an existing field track which provides access to ecological mitigation area 9. A small number of excavators and dumpers (up to 2 each) would be taken to site (and remain on site for the duration of the works) to be utilised to for the excavation of three ponds, construction of bunds and the distribution of arisings within ecological mitigation area.
- 7.4 The daily workforce is not expected to exceed more than 10 people. The main workforce would arrive by a single vehicle (6 persons) in a single daily trip from the existing A12 Scheme Kelvedon Compound. It is expected up to 4 other vehicles would bring workers to site, with car sharing ensuring that vehicle numbers are kept to a minimum. Cumulatively at the peak, there would be up to 15 light vehicles (cars and vans) trips per day (in and out of site). Delivery of materials to the site would be via HGVs and up to 6 trips in a day. The deliveries would likely be via a single vehicle on

turnaround limiting the impact on parking, use of the road and interface with pedestrians.

- 7.5 The submission details that the construction period would be approximately 2 months.
- 7.6 There would be no public access to the site. (A perimeter fence is proposed to be erected to prevent public access).
- 7.7 The proposal does not fall within any of the descriptions of development for the purposes of the definition of 'Schedule 1 or 2 Development', as set out within the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. An Environmental Impact Assessment is therefore not required.

## 8. SUMMARY OF CONSULTATION RESPONSES

### 8.1 Cadent Gas / National Grid

- 8.1.1 No objection in principle.

### 8.2 Environment Agency

- 8.2.1 No comments.

### 8.3 Essex Wildlife Trust

- 8.3.1 No comments received.

### 8.4 Health and Safety Executive

- 8.4.1 HSE does not advise, on safety grounds, against the granting of planning permission in this case.

### 8.5 National Highways

- 8.5.1 No comment.

### 8.6 BDC Ecology

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

### 8.7 BDC Environmental Health

- 8.7.1 No adverse comments. Conditions suggested regarding construction hours.

8.8 BDC Landscape Services

- 8.8.1 This change of use and appearance are acceptable. No objection to the proposed planting palette. Landscape Services considers the proposals to be generally acceptable.

8.9 ECC Archaeology

- 8.9.1 The Planning Statement submitted with the application states that the area has been subject to archaeological trial trenching as part of the archaeological evaluation carried out in advance of the proposals for the A12 widening. This site was included in those works and no mitigation was requested for any further archaeological investigation. Based on our current understanding there would be no requirement for archaeological investigation for the above site.

8.10 ECC Highways

- 8.10.1 No objection to the submitted CTMP.

8.11 ECC Local Lead Flood Authority (LLFA) - SUDS

- 8.11.1 Comment that as an ecological feature have any concerns/comments to make in terms of flood risk.

9. PARISH / TOWN COUNCIL

9.1 Hatfield Peverel Parish Council

- 9.1.1 No comments.

10. REPRESENTATIONS

- 10.1 The application was advertised by way of site notices, newspaper notification and neighbour letter.
- 10.2 One third party letter of objection has been received raising the following comments:
- The development would prejudice the management of the land and have implications on the business;
  - There is no prospect of consent being granted by the landowner for these works to be carried out and that this must weigh against the proposals in the planning balance.
- 10.3 A response has also been received from the North East Essex Badger Group who have no comments to make.

## 11. PRINCIPLE OF DEVELOPMENT

### 11.1 The Development Plan

- 11.1.1 The Council's statutory Development Plan consists of the Braintree District Local Plan 2013-2033 and the Hatfield Peverel Neighbourhood Plan (Adopted December 2019).
- 11.1.2 The principle for the change of use to an ecological area is supported by a number of Policies within the Adopted Local Plan. Policy SP7 of the Adopted Local Plan requires new development to 'incorporate biodiversity creation and enhancement measures', whilst Policy LPP64 of the Adopted Local Plan states that 'proposals that result in a net gain in priority habitat will be supported in principle'.
- 11.1.3 As noted above the site does fall within the boundary of the Hatfield Peverel Neighbourhood Plan, however Officers do not consider that the proposals conflict with the Plan.
- 11.1.4 Further policy support can be attributed to the NPPF. Paragraph 174 of the NPPF requires planning to contribute to and enhance the natural and local environment by protecting and enhancing site of biodiversity value, whilst Paragraph 180 states that 'development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.'
- 11.1.5 It is therefore considered that in terms of the principle of development, the proposed scheme would be in compliance with the Development Plan, and policy within the NPPF.
- 11.1.6 An objection to the proposal has been received from the landowner, who has stated that their consent will never be given for the proposals to be carried out. They conclude by stating that this should weigh against the proposals in the planning balance. Matters regarding land ownership and consent fall outside the planning regime and therefore do not carry weight in the planning balance.

## 12. SITE ASSESSMENT

### 12.1 Loss of Agricultural Land

- 12.1.1 Paragraph 174(b) of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by recognising '...the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland'.

- 12.1.2 In this regard, the loss of the existing agricultural land is a material consideration. The Agricultural Land Classification (ALC) provides a method for assessing the quality of agricultural land within England and Wales. Land is graded between 1 and 5, depending on the extent to which physical or chemical characteristics impose long-term limitations on agricultural use. Grades 1, 2 and 3a are defined as the best and most versatile (BMV) land. The development site is categorised as Grade 2.
- 12.1.3 The majority of agricultural land in the District is BMV, including a high proportion of the higher Grade 2 land. This includes alternative land in the Witham area. Paragraph 6.29 of the Local Plan confirms that the use of BMV for development is inevitable. Although the loss of the Grade 2 agricultural land is regrettable (the loss of agricultural land is around 2 hectares), it is at worst sequentially neutral in the consideration of BMV. Weight is also attributed to the fact that this site would enable the mitigation measures and features to be easily integrated and embedded with existing nearby habitats, and that to achieve this outcome, it would inevitably require the loss of such agricultural land. In this regard, the development is considered to not conflict with Paragraph 174 of the NPPF, as it would contribute to and enhance the natural and local environment (Paragraph 174(b)), whilst providing net gains for biodiversity (Paragraph 174(d)).

12.2 Layout appearance and Impact upon the Character and Appearance of the locality including the local landscape

- 12.2.1 As set out above, the application proposes the creation of a number of different features across the site to provide for habitats for a variety of differing species. The most notable features would be the creation of the ponds and bunds.
- 12.2.2 Across the site 3 ponds are to be created, which would all lie in the eastern portion of the site. In terms of scale, these measure between 41 and 28 metres in length and 14 to 18 metres in width. The ponds would vary in profile and depth and vary between 0.3m depth to a maximum depth of 1.8m. The ponds would be planted with an aquatic planting mix, reedbed planting and marginal planting.
- 12.2.3 The creation of 12 bunds / basking banks created from excavated material are also proposed across the site. These vary from around 6.6m x 9.8m in size to 19.5m x 7.3m. In terms of height, they are all a maximum height of 1 metre. In terms of their finish, the southern side would form a gentle slope which would be covered with a layer of gravel or scree to limit vegetation growth, whilst the remaining sides would be allowed to vegetate with grass or scrub vegetation to offer safe escape habitats from predators.
- 12.2.4 The application also seeks some wider re-grading of the land with the depositing of excess material from the excavation works. The area affected by the re-levelling is roughly rectangular in shape and is located to the south of the main site. Although the application does not include sections of the existing and proposed ground levels, the proposed plans do include

existing topographical information. Given that the level change only amounts to a maximum height increase of 0.5 metres, Officers are content that the consideration in terms of visual impact can be readily assessed. It is considered that the re-grading would only result in a relatively modest increase over the highlighted area, where there is a natural change in the land levels (the land falls from the west to the east). In addition, the submission details that the edges of this re-levelled area would be graded back into the adjacent land to form sweeping gradients, which would assist in minimising its visual impact. This element of the proposal would be read in conjunction with the aspects of the development and is not considered to result in adverse harm to the wider character and appearance of the locality.

- 12.2.5 In addition, the application also proposes a number of smaller features designed specifically for reptiles. These include the creation of 12no. log piles across the site. The log piles are to be constructed of multiple size and shape cut timber, stacked randomly. Each log pile would be at around 1 metre wide and 2 metres long, with a height of around 0.5 to 1 metre (the lower-level timbers would be dug approx. 0.10 metres into the ground surface to provide stability to the pile).
- 12.2.6 To further support reptiles, is the creation of 22no. hibernacula features across the site. These are to be constructed to provide potential habitat for hibernating amphibians and reptiles. These would be 1 metre square and would be a maximum 0.3m high. The pile would be covered with a coir membrane over which soil or turf would be laid to allow grass vegetation to establish, though some rubble extrusions would be present around the edges (not covered in soil/turf) to allow access for sheltering animals.
- 12.2.7 Extensive new planting is proposed across the site, including woodland planting of trees and shrubs (14503 m<sup>2</sup>), wildflower planting, and intermittent trees and shrubs. Wet grasslands are proposed to surround all three ponds and 16 new individual trees are proposed to be planted across the site. In selecting the species for the planting, regard has been had to the Essex County Council guide to informing tree species (Place Services: Essex Tree Palette, A guide to choosing the most appropriate tree species for Essex sites according to landscape character and soil type, 2018), and ecological considerations. It is considered that the proposed planting mix would be appropriate for this location and would reinforce the landscape character and biodiversity of surrounding landscape.
- 12.2.8 In addition to the planting within the site, extensive new hedging is proposed along the southern and northern boundaries of the site. A total of 430 metres of new hedging is proposed. Officers consider that these new lengthy sections of hedging are a positive aspect of the development and would assist in the development assimilating into the landscape.
- 12.2.9 Lastly, a 1.1-metre-high timber post and wire fence would be erected around the perimeter of the ecology area site, (in addition to a metal field gate to allow access for maintenance etc. as and when required). This is



required to prevent access (as previously noted, there would be no public access to the site). Whilst this would create a somewhat arbitrary subdivision of the wider field parcel, it would, due to the low height and appropriate design (timber construction / post and wire), be appropriate to the rural context of the site, and given the need for it, is considered appropriate.

- 12.2.10 Overall, the development would inevitably result in a change in the character of the land, altering from an open agricultural field to an ecological area with artificial land formation and features, and subdivision of an existing larger field parcel. The impact of this change would primarily be seen from public views along the PROW to the north east of the main ecological mitigation site area. However, it is considered that the impact would be reduced due to the modest change associated with the re-levelling work, limited height of the bunds and other features, and low level and appropriately designed fencing. Officers consider that the extensive new planting, including 14503 m<sup>2</sup> of intermittent trees and shrubs, 16 new trees and 430 metres of new hedging would assist in assimilating the proposals into the wider landscape. In addition, the development would be seen against the backdrop of the existing landscaping to the east. On this basis, it is not considered that the development would result in harm to the character and appearance of the local landscape and would not conflict with Policy HPE5 of the Hatfield Peverel Neighbourhood Plan which seeks to ensure that the landscape setting of the village will be protected.

### 12.3 Heritage

- 12.3.1 The site lies outside of any Conservation Area and there are no listed buildings located within 800 metres of the application site.
- 12.3.2 The Planning Statement submitted with the application states that the area has been subject to archaeological trial trenching as part of the archaeological evaluation carried out in advance of the proposals for the A12 widening. This site was included in those works and no mitigation was requested for any further archaeological investigation.
- 12.3.3 ECC Archaeology have therefore concluded that there will be no requirement for archaeological investigation for the application site.

### 12.4 Ecology and Landscape

- 12.4.1 The application is submitted with a Biodiversity Statement and Mitigation Plan to indicate the impacts of the development upon designated sites, protected and Priority species / habitats, in addition to the information contained within the submitted plans and other supporting documentation. Officers are satisfied that sufficient ecological information is available for determination.
- 12.4.2 The Biodiversity Statement and Mitigation Plan confirms that there are no Ramsar sites, Special Protection Areas (SPA's) and Special Area of

Conservation (SAC's) within 2km of the proposed development. No Local Nature Reserves are located within 250metres and equally there are no Local Wildlife Sites (LWSs) within 250 metres. In addition, there are no Ancient Woodlands, National Nature Reserves or Special Road Verges within 250 metres of the site.

- 12.4.3 The Biodiversity Statement and Mitigation Plan has confirmed no significant ecological constraints, and that any impacts can be addressed via mitigation proposed. An Impact Assessment and Conservation Payment Certificate has been prepared by Natural England and signed by National Highways for the Proposed A12 widening DCO and that this site technically would be covered under the Essex District Level Licencing Strategy for Great Crested Newt. This provides certainty for the LPA of the likely impacts on designated sites, Protected and Priority Species & Habitats and, with appropriate mitigation measures secured, the development can be made acceptable. The mitigation measures identified in the Biodiversity Statement and Mitigation Plan should be secured and implemented in full, as this is necessary to conserve protected and Priority species and a condition is imposed to secure this.
- 12.4.4 Officers support the design of the ponds, which have been designed to fully maximise biodiversity potential in line with the biodiversity metrics, whilst considering the potential functional use of the waterbodies by notable species. The inclusion of the hibernacula and log piles, which have also been designed appropriately with consideration of the soil and the site topography, is also welcomed. The management of these habitat features is detailed within the submission and details that the aftercare plans would be relevant for a 20-year period, to ensure that the habitat creation would be successfully implemented.
- 12.4.5 Further support is also given to the creation of biodiversity net gain (BNG). Officers are content that the development would secure at least 10% BNG, a desire outlined with Paragraph 174d and 180d of the NPPF. Indeed, the submission details that the development site would result in a net increase of 250.79% of Habitat units and 100% of Hedgerow units.
- 12.4.6 In addition, Officers consider the approach to soft landscaping for the site to be acceptable. As detailed above, the proposed planting mix for the hedging, together with the wider marginal planting, aquatic planting mix and reedbeds would be appropriate for this location and would reinforce the landscape character and biodiversity of the surrounding landscape. It is also highlighted that no trees, hedgerows, or other established planting would be removed, and no development would occur within the root protection area of existing trees, (apart from the new perimeter fencing and their installation would be supervised and agreed by an ecologist or arboricultural clerk of works and that the excavations would be hand dug). The plans include details for the siting of tree protection fencing which would be required to be installed prior to the commencement of development. In terms of the wider consideration of the impact upon the local landscape character, this has been set out above.

## 12.5 Highway Considerations

- 12.5.1 Access to the site for construction purposes would be via an A12 slip road, which also serve Latneys Kennels (B1389). This road also serves Public Right of Way (PROW) Hatfield Peverel 29. Although this road is used to access the kennels business and the associated residential property, existing traffic levels are low. The level of traffic that the development would generate is also considered relatively limited. Two excavators and dumpers would be taken to site and would remain on site for the duration of the works and there would be 5 vehicles daily for staff (the main workforce would utilise carsharing from the main A12 Compound in Kelvedon). In addition, at the peak, there would be up to a further 15 light vehicles (cars and vans) trips per day, and delivery of materials to the site would be via an HGV with up to 6 trips per day. The traffic movements per day would equate to 26 vehicles in and 26 vehicles out – a total of 52 movements. The low numbers of traffic, and adequacy of the existing access and road, mean that no traffic management would be required at the junction of the B1389 and the access road to Latney's Kennels.
- 12.5.2 The application has been submitted with a Construction Traffic Management Plan (CTMP) which sets out how traffic management would be undertaken throughout the construction period.
- 12.5.3 The Highway Authority have been consulted on the application and are content that the level of traffic generated from the development would not give rise to any adverse impact to highway capacity nor in terms of highway safety.
- 12.5.4 In addition, safety of pedestrians along the length of the PROW has been fully considered. There is a pavement along the access road, which means that pedestrians would be segregated from construction traffic. Members are advised that the CTMP sets out that temporary signage would be installed to warn other road users and users of the PROW of the presence of construction vehicles.
- 12.5.5 The CTMP also addresses matters of dust, stating that although it is not envisaged that large quantities of dust would be produced during the works if dust does become an issue, it would be suppressed by a towable dust suppression unit. Wheel washing would also be undertaken to ensure that the wheels and undercarriages of vehicles would be clean prior to using the public highway, but that if any material still makes it onto the highway or access roads it would be cleaned by a road sweeper.
- 12.5.6 The Highway Authority have reviewed the CTMP and find the contents acceptable. Subject to the imposition of a condition to secure that the development be carried out in accordance with the CTMP, the development would be acceptable in terms of highway considerations.

## 12.6 Impact upon Neighbouring Residential Amenity

- 12.6.1 In terms of neighbouring impacts arising from the development, given the distance from neighbours, there would be no detrimental impact with the ecological site area itself (either during construction works within the site, nor once it is completed and 'in use / operational').
- 12.6.2 The only impact to neighbours would be from access during the construction period from the associated traffic movements. As detailed above, the access to the site is via an A12 slip road that serves a commercial kennels with a total daily movements of 52 vehicles. Given the relatively low number of vehicle movements and the distance to neighbours, it is not anticipated that any neighbours would be unduly impacted from noise disturbance of similar.
- 12.6.3 In addition, the CTMP details that the construction hours would be from 08:00 to 18:00, Monday to Friday during the summer and 08:00 to 17:00 between November – February. Any weekend working would be carried out, when required, within the working hours set out above. This would also limit any harm to neighbouring amenity. In addition, it is noted that the construction period is short (approximately 2 months).
- 12.6.4 The CTMP also details that whilst matters of dust is not considered to be an issue, if dust does become an issue it would be suppressed by a towable dust suppression unit.
- 12.6.5 Overall, given these matters, it is considered that the development would result in no detrimental harm to neighbouring amenity.

## 12.7 Flooding and Drainage Strategy

- 12.7.1 The site lies wholly within Flood Zone 1. The application has been supported by a Flood Risk Assessment. The FRA demonstrates that the development would have a negligible impact on flood risk. No objection has been raised by the Environment Agency and ECC Suds team.

## 13. CONCLUSION

- 13.1 The principle for the change of use to an ecological area is acceptable in principle and is supported by Policies within the Adopted Local Plan and the NPPF which encourage biodiversity creation and enhancement, and net gain in priority habitats. The loss of the Grade 2 agricultural land has been justified.
- 13.2 The development would result in a change in the character of the land, altering from an open agricultural field to an ecological area with artificial land formation and features, and subdivision of an existing larger field parcel, however, it is considered that the impact would be reduced due to the modest change height / level changes proposed, the extensive

proposed planting across the site and to its perimeter, and as the development would be seen against the backdrop of the existing landscaping to the site boundaries.

- 13.3 The proposed access for construction purposes is considered appropriate and due to the low level of vehicles associated with the development, it is concluded that there would be no harmful impact to the highway network. The submitted CTMP satisfactorily sets out how traffic management would be undertaken throughout the construction period and provides for appropriate management of vehicles, including to prevent conflict with pedestrians on the PROW.
- 13.4 The development would result in no significant ecological constraints and any impacts can be addressed via mitigation proposed. Equally, the proposed soft landscaping scheme is acceptable and the creation of biodiversity net gain is supported.
- 13.5 There would be no detrimental impact upon neighbouring amenity.
- 13.6 Taking into account the above, it is considered that the proposal complies with the Development Plan when taken as a whole. Officers consider that there are no material considerations, that indicate that a decision should be made other than in accordance with the Development Plan.

#### 14. RECOMMENDATION

- 14.1 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 Plans & Documents

<b>Plan Description</b>	<b>Plan Ref</b>	<b>Plan Version</b>
Proposed Site Plan	HE551497 JAC ELS 5_SCHME DR L 0315	PO2
Landscaping	HE551497 JAC ELS 5_SCHME DR L 0316	PO2
Section	HE551497 JAC ELS 5_SCHME DR L 0353	PO1
	Sheet 1 of 2	
Section	HE551497 JAC ELS 5_SCHME DR L 0354	PO1
	Sheet 2 of 2	
Other	HE551497 JAC EBD 5_SCHME DR LE 0005	PO1
Location Plan	HE551497-JAC-EGN-5_SCHME-SK-GI-0013	N/A
Existing Site Plan	HE551497 JAC ELS 5_SCHME DR L 0210	N/A
Fencing Layout/Details	HE551497 EBD 5_SCHME DR LE 0001	P03
General	Construction Traffic Management Plan (January 2023)	N/A
Tree Survey	Environmental Technical Note. Tree Protection Measures- National Highways (January 2023)	N/A

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

##### Condition 1

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

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

##### Condition 2

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

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

##### Condition 3

The development hereby permitted shall be carried out in accordance with the approved Construction Traffic Management Plan (January 2023).

Reason: In the interests of highway safety and convenience (including pedestrians) and neighbouring amenity.

#### Condition 4

All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained within the Biodiversity Statement and Mitigation Plan (including Biodiversity Net Gain Assessment) (National Highways, December 2022), the Habitat Maintenance Plan (National Highways, November 2022), and Series 3000 Landscape & Ecology Specification Appendix 30 (National Highways, November 2022).

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

#### Condition 5

No development, including preparatory works or construction, shall commence until the tree protection fencing as shown on drawing HE551497 JAC ELS 5\_SCHME DR L 0315 Rev P02 and detailed within Environmental Technical Note -Tree Protection Measures (January 2023) has been fully implemented. The means of protection shall remain in place until the completion of the development.

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

#### Positive and Proactive Statement

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

## APPENDIX 2:

### POLICY CONSIDERATIONS

#### National Planning Guidance

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

#### Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP47	Built and Historic Environment
LPP52	Layout and Design of Development
LPP59	Archaeological Evaluation, Excavation and Recording
LPP63	Natural Environment and Green Infrastructure
LPP64	Protected Sites
LPP65	Tree Protection
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP67	Landscape Character and Features
LPP71	Climate Change
LPP74	Flooding Risk and Surface Water Drainage
LPP75	Surface Water Management Plan

#### Hatfield Peverel Neighbourhood Plan

HPE1	Natural Environment and Biodiversity
HPE5	Protection of Landscape Setting



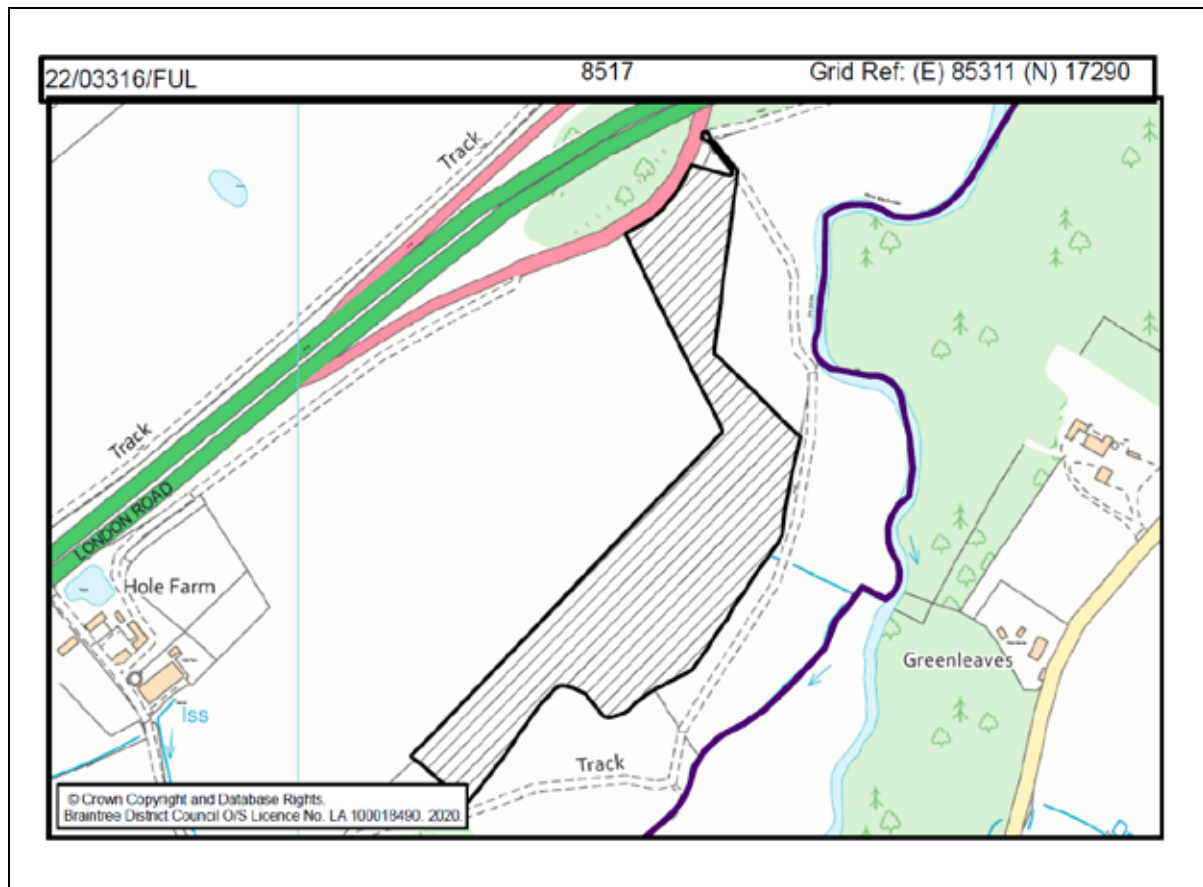
APPENDIX 3:

SITE HISTORY

N/A.

<b>Report to:</b> Planning Committee		
<b>Planning Committee Date:</b> 14th February 2023		
<b>For:</b> Decision		
<b>Key Decision:</b> No		<b>Decision Planner Ref No:</b> N/A
<b>Application No:</b>	22/03316/FUL	
<b>Description:</b>	Change of use to ecological mitigation area 16 (linked to the A12 widening scheme) including the creation of 3 ponds, creation of 2 bunds and the raising of ground level from on-site excavated material, perimeter fencing and associated landscaping	
<b>Location:</b>	Land South Of Cranes Lane, Kelvedon	
<b>Applicant:</b>	Mr Kampandila Kaluba, National Highways, Woodlands, Bedford, MK41 6FS	
<b>Agent:</b>	Mrs Sophie Douglas, Jacobs, 1 City Walk, London, LS11 9DX	
<b>Date Valid:</b>	8th December 2022	
<b>Recommendation:</b>	It is RECOMMENDED that the following decision be made:  § Application GRANTED subject to the Condition(s) & Reason(s) and Informative(s) outlined within Appendix 1 of this Committee Report.	
<b>Options:</b>	The Planning Committee can:  a) <b>Agree</b> the Recommendation b) <b>Vary</b> the Recommendation c) <b>Overturn</b> the Recommendation d) <b>Defer</b> consideration of the Application for a specified reason(s)	
<b>Appendices:</b>	<b>Appendix 1:</b>	Approved Plan(s) & Document(s) Condition(s) & Reason(s) and Informative(s)
	<b>Appendix 2:</b>	Policy Considerations
	<b>Appendix 3:</b>	Site History
<b>Case Officer:</b>	Peter Lang For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2536, or by e-mail: <a href="mailto:peter.lang@braintree.gov.uk">peter.lang@braintree.gov.uk</a>	

## Application Site Location:



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

	<p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
<b>Background Papers:</b>	<p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> <li>§ Application Form</li> <li>§ All Plans and Supporting Documentation</li> <li>§ All Consultation Responses and Representations</li> </ul> <p>The application submission can be viewed online via the Council's Public Access website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a> by entering the Application Number: 22/03316/FUL.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> <li>§ National Planning Policy Framework (NPPF)</li> <li>§ Braintree District Local Plan (2013 – 2033)</li> <li>§ Kelvedon Neighbourhood Plan</li> <li>§ Supplementary Planning Documents (SPD's) (if applicable)</li> </ul> <p>The National Planning Policy Framework can be viewed on the GOV.UK website: <a href="http://www.gov.uk/">www.gov.uk/</a>.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: <a href="http://www.braintree.gov.uk">www.braintree.gov.uk</a>.</p>

## 1. EXECUTIVE SUMMARY

- 1.1 The application seeks full planning permission for an ecological area to facilitate the translocation of reptile populations prior to the expansion of the A12. This would concomitantly create a new and enhanced habitat that would support Biodiversity Net Gain objectives. This ecological mitigation area would include ponds, bunds, ground regrading, and associated tree, shrub, and grassland planting. This entire site would be enclosed by timber fencing approximately 1.1m high.
- 1.2 The principle for the change of use to an ecological area is supported by a number of Policies within the Adopted Local Plan (Policies SP7 and LPP64) which encourage biodiversity creation and enhancement measures, and net gain in priority habitats. There is also support from the NPPF (Paragraphs 174 and 180) which requires planning to contribute to and enhance the natural and local environment by protecting and enhancing sites of biodiversity value, and also seeks to secure measurable net gains for biodiversity. Although the development would result in the loss of Grade 3a agricultural land, weight is attributed to the fact that this site would enable the mitigation measures and features to be easily integrated and embedded with existing nearby habitats, and that to achieve this outcome, it would inevitably require the loss of such agricultural land. Overall, the principle of development is considered acceptable.
- 1.3 In terms of layout and landscape impacts, the development would inevitably result in a change in the character of the land, altering from an open agricultural field to an ecological area with artificial land formation and features, thereby subdividing an existing larger field parcel. The impact of this change would primarily be seen from public views along the PROW to the west and from vehicles and pedestrians along the A12 to the north. Additional views may be available from the PROW running eastwards from the site's entrance. However, it is considered that the impact would be reduced due to the modest change associated with the re-levelling work, limited height of the bunds and other features, and low level and appropriately designed fencing. In addition, the development would be seen against the backdrop of the existing landscaping along the River Blackwater to the south.
- 1.4 Access to the site for construction purposes would be via the B1024, a slip lane feeding onto the southbound A12. Due to the low level of vehicles associated with the development (a maximum of 15 vehicle movements a day) and given that these are primarily 'light vehicles' with a smaller number of heavy good vehicles, there would be no harmful impact to the highway network. The submitted Construction Traffic Management Plan (CTMP) satisfactorily sets out how traffic management would be undertaken throughout the construction period and provides for appropriate management of vehicles, including to prevent conflict with pedestrians on the PROW.

- 1.5 In terms of heritage there would be no harm to the setting of nearby listed buildings and no harm to the setting of the Kelvedon Conservation Area. A condition is imposed to provide for archaeology monitoring.
- 1.6 In regard to ecology and landscape considerations, the location of the site is not in immediate proximity to any ecological features of note. The development would result in no significant ecological constraints and there is a Biodiversity Net Gain identified. Equally, the proposed soft landscaping scheme is considered acceptable for a site of this usage.
- 1.7 The site is mostly located within Flood Zone 1, but parts of it are located within Flood Zones 2 and 3. Although the NPPF categorises 'nature conservation and biodiversity' as 'water compatible development', and as such the development is considered appropriate within all Flood Zones, there is a requirement to apply the 'sequential test'. The LPA have undertaken the sequential test and conclude that there are clear and justified reasons why the development needs to be located at this site and that there are no other suitable or available other sites of lower flood risk which could accommodate the proposed development.
- 1.8 Furthermore, the application is submitted with the required Flood Risk Assessment, which demonstrates that the development would have a negligible impact on flood risk. The Local Lead Flood Authority and the Environment Agency raise no objections to the development.
- 1.9 In terms of neighbouring amenity, given the distance from neighbours, the relatively low level of vehicle movements and limited size of vehicles, and dust mitigation measures (all as set out within the CTMP), as well as a condition to restrict hours of working, the development would not result in any detrimental harm to neighbouring amenity.
- 1.10 There are no identifiable contamination risks for these works.
- 1.11 Taking the above summarised analysis into account, the application is recommended for approval subject to planning conditions.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE
- 2.1 This application is being reported to Planning Committee in accordance with Part A of the Council's Scheme of Delegation as the application is 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 to the south-west of Kelvedon and covers a total area of some 4.07 hectares. This area includes all of the land required to access the site and to carry out the proposed works.
- 5.2 This site is of an irregular shape and is located on the southern side of the A12 with the majority of its area set away from this road by an agricultural field. To its south-west are some agricultural and residential buildings beyond which is the Essex County Fire and Rescue Headquarters. To the south is the river Blackwater with an associated willow plantation, whilst to the west is more farmland, beyond which is the A12 and Kelvedon village. This site slopes gently downhill from the A12 towards the river Blackwater.
- 5.3 The site would be accessed from an existing access of the B1024 as it feeds onto the A12.
- 5.4 The main part of the site lies within arable use. The Agricultural Land Classification (ALC) is Grade 3a.
- 5.5 The majority of the site is located within Flood Zone 1 with other parts falling within Flood Zones 2 and 3. A Flood Risk Assessment (FRA) has been submitted with the application.
- 5.6 There are no Tree Preservation Orders (TPOs) within the site boundary.
- 5.7 The site is not located within a Conservation Area. The nearest listed buildings include the Grade II\* listed Hole Farm to the west. Outside of the Braintree District and lying to the south is Great Braxted Mill and its various Grade II listed buildings. Also within the Maldon District to the east are the Grade II listed Greenleaves and Ashman's Farm. All of these buildings are within approximately 300m of the proposed site.
- 5.8 Furthermore, the site is identified as being partially within a heritage asset with a non-designated status. This designation is due to the archaeological



artefacts having previously been found and satellite imagery indicating historical signs of activity.

- 5.9 There no Public Rights Of Ways (PROWs) that directly run through the application site. However, it is noted that a PROW runs to the west and south of the site. Moreover, the proposed access to the site off the B1024 also serves as the entrance to a PROW running eastward towards Kelvedon.

## 6. BACKGROUND TO THE PROPOSAL

- 6.1 The proposal forms part of the wider Nationally Significant Infrastructure Project (NSIP) proposed for widening the A12 between Chelmsford and Colchester. A Development Consent Order (DCO) application for this NSIP was accepted for examination by the Planning Inspectorate on the 12th of September 2022.
- 6.2 The DCO identifies a number of ecological mitigation areas to help mitigate the impacts of the A12. The Applicant (National Highways) is seeking full permission under the Town and Country Planning Act 1990 for 16 ecological mitigation areas through the submission of 13 planning applications across the Districts of Braintree, Colchester, and Chelmsford in order to enable the creation of habitats in advance of the A12 construction.
- 6.3 The ecological mitigation areas have already been identified within the DCO which provides a high-level indicative layout for each ecological mitigation area. This planning application provides the detailed design with regards to the scale and nature of the proposal and how the ecological mitigation area would be constructed, operated, and maintained.

## 7. PROPOSAL

- 7.1 Planning permission is sought for an ecological mitigation area that is linked to the A12 widening project. This site is proposed to support the translocation of reptile populations prior to the start these works while also mitigating the wider net loss of biodiversity. The habitats created would contribute to Biodiversity Net Gain of the A12 works.
- 7.2 The application proposes a change of use to an ecological area. This would include the construction of:
- Three ponds of up to 1.8m in depth, together with aquatic and marginal planting;
  - Two bunds created from on-site excavated material, up to a metre in height;
  - An area of wider re-grading of land with excess on-site excavated material;
  - Wider tree, shrub and grassland planting;
  - Creation of features for reptiles including hibernacula and log piles;

- Timber post and wire fencing around the perimeter of the site to a height of 1.1 metres and 1 metal field gate access to a height of 1.4metres.
- 7.3 For construction purposes, the site would be accessed from the B1024 slip road onto the A12 using an existing field access. No haul road would therefore be required but it is indicated that in the event of wet weather, temporary matting would be placed along the access track and access point to protect the ground or vehicles. Two excavators and dumpers would be used during construction.
- 7.4 All existing trees and hedgerows adjacent to the site would remain unaffected both during the construction period and thereafter in terms of the long-term use of the site.
- 7.5 The submission details that the construction period would be approximately 2 months. If granted permission, it is anticipated that works would commence in March 2023. In the event that the Development Consent Order of the A12 widening scheme is not granted, an assessment would be made as to whether this area would be maintained or restored back to agricultural use (subject to the relevant permissions).
- 7.6 There would be no public access to this site, and the proposed timber fence around the perimeter of the site would secure this.
- 7.7 The proposal does not fall within any of the descriptions of development for the purposes of the definition of ‘Schedule 1 or 2 Development’, as set out within the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. An Environmental Impact Assessment is therefore not required.

## 8. SUMMARY OF CONSULTATION RESPONSES

### 8.1 Environment Agency

- 8.1.1 Confirmation that the site lies within Flood Zone 3a and Flood Zone 2. The application is ‘water compatible’ but is required to pass the Sequential Test and be supported by a Flood Risk Assessment.
- 8.1.2 Comment that the proposed log piles and hibernacula features would be located within Flood Zone 1 and that the only aspects to be located within Flood Zone 3 are intermittent trees and scrub, therefore the proposed works which would not take up flood storage or increase flood risk elsewhere such that compensatory flood storage is not required.

### 8.2 Health and Safety Executive

- 8.2.1 Response received stating that the proposed site does is not located within any major hazard site or in proximity to a major accident pipeline.

- 8.3      Historic England
- 8.3.1    No Comment.
- 8.4      National Highways
- 8.4.1    No Comment.
- 8.5      Natural England
- 8.5.1    No objection as the proposed development is not considered to have significant adverse impacts on statutorily protected nature conservation sites or landscapes.
- 8.6      BDC Ecology
- 8.6.1    No objection subject to the imposition of a condition requiring the works to be completed in accordance with the ecological report and management plan recommendations.
- 8.7      BDC Environmental Health
- 8.7.1    No objection subject to conditions controlling the hours of work and to prevent the burning of waste on site.
- 8.8      BDC Landscape Services
- 8.8.1    No objection to the proposed works or the plant species proposed.
- 8.9      ECC Archaeology
- 8.9.1    Comment that the application site is located within proximity of a non-designated heritage asset where numerous artifacts have been found, and that there is wider evidence from satellite imagery that there may be further finds within the application site. Recommend the imposition of a condition for archaeological evaluation and monitoring.
- 8.10     ECC Highways
- 8.10.1   Confirm that the submitted construction traffic management plan is acceptable and should be secured via condition. Request the imposition of other informatives relating to PROWs, construction, and climate change.
- 8.11     ECC Historic Building Consultant
- 8.11.1   Comment that the development would not have a detrimental impact on the setting of heritage assets.

8.12 ECC Local Lead Flood Authority (LLFA) - SuDS

8.12.1 No objection.

9. PARISH / TOWN COUNCIL

9.1 Kelvedon Town Council

9.1.1 Responded with no objection to the application.

10. REPRESENTATIONS

10.1 The application was advertised by way of site notices, newspaper notification and neighbour letter.

10.2 In addition, owing to the proximity of the site to the administrative boundary with Maldon District Council, this Local Authority was also notified.

10.3 No third party comments have been received but the Ramblers Association have responded with the following comments:

- Footpath 30 (at the site entrance) is already 'muddy and puddled', with any construction access – improvements are required to the footpath;
- There is no footway on the Kelvedon footpath 30 side of the slip road, (except for a short section under the National Highways A12 Cranes Underbridge);
- Request that the highway verge on the south side of the slip road, which is in the ownership of National Highways, is improved to provide an even trip-free off-road pedestrian access route.

10.4 In addition to the above, the East Essex Badger Group was consulted who responded to say they had no comment on the proposed works.

11. PRINCIPLE OF DEVELOPMENT

11.1 The Development Plan

11.1.1 The Council's statutory Development Plan consists of the Braintree District Local Plan 2013-2033, and the Kelvedon Neighbourhood Plan (Adopted July 2022).

11.1.2 The principle for the change of use to an ecological area is supported by a number of Policies within the Adopted Local Plan. Policy SP7 of the Adopted Local Plan requires new development to 'incorporate biodiversity creation and enhancement measures', whilst Policy LPP64 of the Adopted Local Plan states that 'proposals that result in a net gain in priority habitat will be supported in principle'.

11.1.3 Further policy support can be attributed to the NPPF. Paragraph 174 of the NPPF requires planning to contribute to and enhance the natural and local

environment by protecting and enhancing site of biodiversity value, whilst Paragraph 180 states that ‘development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.’

- 11.1.4 It is therefore considered that in terms of the principle of development, the proposed scheme would be in compliance with the Development Plan, and policy within the NPPF.

## 12. SITE ASSESSMENT

### 12.1 Loss of agricultural land

- 12.1.1 Paragraph 174(b) of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by recognising ‘...the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland’.
- 12.1.2 In this regard, the loss of the existing agricultural land is a material consideration. The Agricultural Land Classification (ALC) provides a method for assessing the quality of agricultural land within England and Wales. Land is graded between 1 and 5, depending on the extent to which physical or chemical characteristics impose long-term limitations on agricultural use. Grades 1, 2 and 3a are defined as the best and most versatile (BMV) land. The development site is categorised as Grade 3a.
- 12.1.3 As detailed, this application is to provide a reptile receptor site to support the translocation of reptile populations prior to the construction of the A12. This would create new and enhanced habitats and as highlighted by the sequential test would be connected to an existing adjacent habitat. It is for these reasons that this agricultural land was considered suitable for this development.
- 12.1.4 In addition, the majority of agricultural land in the District is BMV, including a high proportion of the higher Grade 2 land. This includes alternative land in the Kelvedon area. Paragraph 6.29 of the Local Plan confirms that the use of BMV for development is inevitable. Although the loss of the Grade 3a agricultural land is regrettable (the loss of agricultural land is around 4.07 hectares), it is at worst sequentially neutral in the consideration of BMV. Weight is also attributed to the fact that this site would enable the mitigation measures and features to be easily integrated and embedded with existing nearby habitats, and that to achieve this outcome, it would inevitably require the loss of such agricultural land. In this regard, the development is considered to not conflict with Paragraph 174 of the NPPF, as it would contribute to and enhance the natural and local environment

(Paragraph 174(b)), whilst providing net gains for biodiversity (Paragraph 174(d)).

12.2 Layout appearance and Impact upon the Character and Appearance of the locality including the local landscape

- 12.2.1 The application proposes the creation of multiple different features across the site to provide habitats for a range of differing species. The most prominent proposed features include the ponds, trees, and bunds.
- 12.2.2 Three ponds of varying depths and sizes are proposed along the southern area of the site with each surrounded by aquatic and marginal planting, as well as reedbeds. The southernmost of these ponds would measure some 1.8m deep with a footprint measuring at its largest width some 38.5m. The middle pond would measure some 1.5m deep with a maximum width of 34.5m with the northernmost measuring some 1.2m wide with a its widest section measuring some 24.3m.
- 12.2.3 Excavated material from the ponds would be utilised in the re-grading of the wider site. This would result in a roughly triangular area of the northern side of the site being raised some 0.5m above ground level. With the relatively limited amount of this level change, Officers are content that the consideration of its visual impact can be readily assessed. Due to the site generally sloping downwards from north to south and with this relatively modest increase over the highlighted area, it is considered that there would be limited impacts from this. Additional weight is attached to the boundary treatment which would further assist in minimising its visual impact. Notwithstanding the potential visibility of the site from the PROW running from the site entrance to the east, this element of the proposal would be read in conjunction with the aspects of the development and is not considered to result in adverse harm to the wider character and appearance of the locality.
- 12.2.4 Two bunds for reptile basking are proposed, with one located towards the north of the site (within the wider area of land re-grading) and the other located to the southern side of the site. These bunds would have a maximum height of some 1.0 metres with a footprint some 2.5 x 1 metres. These bunds would be constructed with plantings on one side and gravel or an equivalent material on the southern side to create a plant-free basking area.
- 12.2.5 The proposal would also include various reptile friendly features scattered throughout the entire site. The proposed Hibernacula (a total of 14), which consist of submerged and mounded dead wood and stones to create a hibernation spot, would not exceed 1.0 metre in height and would be covered in topsoil. The proposed log piles (a total of 11) would not exceed 1.0 metre in height. Both of these features would not exceed 2m x 1m in area.

- 12.2.6 The proposed planting within the site includes multiple native trees with other areas of shrubs, wildflowers, and grassland throughout. These extensive soft landscaping features would further increase the biodiversity gained from the site encouraging a greater variety of fauna species.
- 12.2.7 Around the boundary of the entire site, a mixed hedge with intermittent trees is proposed. With the length of this measuring some 1300 metres, this would be an extensive new landscape feature with its own associated biodiversity benefits.
- 12.2.8 Along the site boundary, there would also be a three-wire fence with wooden posts some 1.1 metres high. A metal gate some 1.4 metres in height is proposed for the entrance. These elements are considered to be modest in scale and of an appropriate rural design to assimilate appropriately into the landscape.
- 12.2.9 The proposed development would result in a change of character of the land, altering from an open agricultural field to an ecological area with artificial land formation and man-made features. The impact of this change would be seen from public views from the A12 and B1024, however given that vehicles would be travelling past the site at speed the impact would be limited. The impact of the change would be most readily seen from the nearby PROW's, including PROW No 92\_27 which extends southwards from Hole Farm to its crossing along the River Blackwater, as well as the PROW starting at the vehicular access (PROW No 92\_30). However, as detailed above, due to the relatively limited scale with any substantial elements above ground level only a few metres high, this would reduce the impact of the proposed development. More broadly, with the site sloping downwards from the A12 towards the site, this would allow it to be read within the backdrop of the willow plantation further to the south. Furthermore, the extensive hedgerow planting proposed as well as the wider planting within the site would soften the development and assist in its integration into the local landscape. Taking this into account, it is considered that the development would result in relatively limited visual impacts and it is not considered that the proposal would result in detrimental harm to the character and appearance of the local landscape.

### 12.3 Heritage

- 12.3.1 The site lies outside of any Conservation Area. In terms of nearby listed buildings, the closest to the application site are: Hole Farm, a Grade II\* listed building to the north west; Mill House, a Grade II listed building with an associated listed outbuildings and bridge; Greeneaves, a Grade II listed building to the south west; and Ashman's Farmhouse, a Grade II listed building further to the south west. These are all within 300 metres of the application site. With the exception of Hole Farm, all fall outside of the Braintree District.
- 12.3.2 Due to the limited scale of the development above ground level and the separation to these heritage assets, there would be no harm to the setting

of these listed buildings. The development would similarly not impact upon the setting of any Conservation Area. The Council's Historic Building Consultant has raised no objection to the proposed development.

- 12.3.3 Another heritage consideration is the archaeology that may be found on this site. The Essex Historic Environment Record (HER) records a non-designated heritage asset as lying partially within the proposed site. In addition, numerous artifacts have been found within the site and other potential features can be observed from the air.
- 12.3.4 As the proposed development involve the disturbance of the ground within this site, this has the potential to destroy any archaeological remains that exist below ground level. The planning statement indicates that some archaeological investigations have been undertaken to determine the impact of the development on any unknown archaeological remains.
- 12.3.5 ECC Archaeology has reviewed the submission and is content that this is not a constraint to development subject to the imposition of a condition requiring monitoring and investigation. Discussions in respect of this condition is ongoing with the Applicant, and an update will be provided to Members at the Planning Committee meeting.
- 12.4 Ecology and Landscape
  - 12.4.1 The application has been submitted with various biodiversity and ecology related documents and plans. These documents provide an analysis of the site's proximity to any designated sites, protected and priority species/habitats, and detail construction measures and long-term maintenance proposals.
  - 12.4.2 There are no Special Protection Areas (SPA's), Special Area of Conservation (SAC's), Local Wildlife Sites (LWS), Local Nature Reserves, National Nature Reserves, Special Road Verges or Ramsar sites within 250metres of the site. The nearest identifiable feature of note is Kelvedon Hall Wood Local Wildlife Site (LWS) containing Ancient and Semi-Natural Woodland, which is located approximately 440metres to the south. Two priority habitats were identified within 250metres of the application site. These include for a Broadleaved woodland to the south and deciduous woodland to the north.
  - 12.4.3 The Biodiversity Statement and Mitigation Plan has confirmed no significant ecological constraints, and that any impacts can be addressed via mitigation proposed.
  - 12.4.4 Officers are in support of the design of the ponds and other proposed features, which have been designed to fully maximise biodiversity. Due to their design, the development would create a habitat for a variety of species including for the reptiles to be translocated onto this site. The management of these habitat features is detailed within the submission and details that



the aftercare plans within and beyond a 5-year period, to ensure that the habitat creation would be successfully implemented.

- 12.4.5 The Biodiversity Net Gain (BNG) of the site was also calculated within the submitted Biodiversity Net Gain Metric Calculations. Officers are satisfied that the development would secure at least 10% of this gain, a desire outlined within Paragraph 174d and 180d of the NPPF. The submitted information outlines that change in biodiversity units forecast for this ecological mitigation area is 288.03% for area-based habitat units and 100.00% for hedgerow units.
- 12.4.6 In addition, Officers are supporting of the extensive hedgerow planting to the site boundary and wider tree and shrub planting across the site. The proposal would introduce a mix of plant species that are considered appropriate to the site context.
- 12.4.7 With regards to the impact on trees, it is noted that there are number of existing established trees just outside of the southern boundary of the site. These are not subject to a TPO but should be sought to be protected from any adverse impacts resulting from the development. The proposed site plan indicates the root protection areas of these trees and the application also details means of protective fencing to be erected. These details are considered to be sufficient in ensuring that these trees are protected, and a condition is imposed to secure these measures.

## 12.5 Highway Considerations

- 12.5.1 Access to the site for construction purposes would be via an existing farm track that feeds from the B1024, a slip lane feeding onto the southbound A12. No improvements would be required to the access road, access point or field track to facilitate this construction. The level of traffic generated by the development is considered to be relatively limited with the 2no. required excavators and dumpers to be kept on site for the duration of the works. The daily workforce is not considered to exceed 10 people with the majority arriving in shared vehicles from the existing A12 Scheme Kelvedon Compound. It is expected that there would be up to 15 light vehicle trips per day, with deliveries of materials via Heavy Goods Vehicles consisting of up to a further 6 trips a day. These deliveries would likely be via a single vehicle turnaround. On top of this, it is outlined that there would be at its peak be up to 15 light vehicle trips per day in and out of the site.
- 12.5.2 This application has been accompanied by a Construction Traffic Management Plan (CTMP) which explains how traffic management during the construction period would be managed. As well as outlined the anticipated traffic movements as set out above, this document also details that the delivery and collection of heavy plant machinery would require temporary 2 way traffic lights to be installed on the B1024. This would be booked with Essex County Council prior to this happening. Temporary signage is also proposed to warn other road users and pedestrians of the presence of construction vehicles.

- 12.5.3 In the event of wet weather, temporary construction matting may be placed along the access track and access point to protect the grounds and vehicles. This would only be implemented as required and removed once construction is complete.
- 12.5.4 The nearby PROWs and pedestrian footpaths would remain uninhibited with signage displayed to warn pedestrians of vehicle movements. Given the proposed measures, Officers are content that the development would not cause any safety issues with pedestrians.
- 12.5.5 Regarding the control of dust, dirt and mud, the CTMP outlines that a towable dust suppression may be utilised, and that prior to leaving the site, any plant or equipment would be checked and if necessary jet washed. Any material that manages to get onto the highway or access road would be cleaned by a road sweeper.
- 12.5.6 Essex Highways and National Highways have both been consulted on these proposed arrangements and following the submission of the CTMP do not object to this proposal. Subject to the imposition of a condition to secure that the development be carried out in accordance with the CTMP, the development would be acceptable in terms of highway considerations.
- 12.6 Impact upon Neighbouring Residential Amenity
- 12.6.1 The application site is located to the south of the A12 within an existing area of arable land. The closest residential properties are Hole Farm to the north-west and the associated cluster of buildings around it. To the south of the site on the other side of the River Blackwater are a number of residential properties. It is noted that this site is in proximity to the A12 which is a material source of noise and activity within this setting.
- 12.6.2 In terms of neighbouring amenity impacts resulting from the development, due to the separation to the nearest residential properties and limited scale of the development, it is not considered that there would be any detrimental impacts resulting from the ecological site area itself. This includes during the construction works and the long-term operational use of the site.
- 12.6.3 More broadly with this application, it is apparent that efforts have been made to mitigate the potential impacts on neighbouring amenity. This includes using a construction access along the B1024 that is even further away from nearby residential properties. In addition, and as noted above, the CTMP also provides details of dust suppression methods to be implemented where necessary.
- 12.6.4 In their representation, Environmental Health have indicated that they have no objection subject to condition controlling the hours of work and the prevention of burning of waste on the site. During the application process, it was noted that these recommended hours differed from that contained

within the CTMP. Following correspondence with the Agent it is agreed that the recommended hours of working as set out by the Environmental Health response would be more suitable given the multiple residential dwellings within 300 metres of the application site. A separate condition is therefore imposed to secure this.

- 12.6.5 Overall, it is therefore considered that the development would result in no detrimental harm to neighbouring residential amenity.

12.7 Flooding and Drainage Strategy

- 12.7.1 The site is mostly located within Flood Zone 1, but parts of it are located within Flood Zones 2 and 3. The Flood risk vulnerability classification within the NPPF categorises 'nature conservation and biodiversity' as 'water compatible development', and as such the development is considered appropriate within Flood Zone 2 and 3. (It is noted that the habitats intended for use by hibernating animals are to be located outside of these flood risk areas).
- 12.7.2 Despite falling to be appropriate development within Flood Zones 2 and 3, there is a requirement to apply the 'sequential test'. Paragraph 162 of the NPPF explains that the aim of the sequential test is to direct development to areas with the lowest probability of flooding and sets out a sequential approach in order to achieve this. This requires that development can be located in Flood Zone 2 and then Flood Zone 3, only if there are no reasonably available sites in Flood Zone 1.
- 12.7.3 In accordance with legislation, Officers have undertaken the sequential test in this case and determine that there are justified reasons relating to wider objectives relating to the DCO and specific ecological considerations as to why this site has been selected. The primary reason is that the site benefits ecologically from being connected, albeit separated by an access track, to a willow plantation to the south and the River Blackwater beyond. The resulting connectivity of habitats would support the long term sustainability and stability of the reptile population creating areas of available habitats in the long term.
- 12.7.4 Further justification relates to the benefits from improving the biodiversity status of the land and to avoid impacting existing habitats and environmental constraints. There are also practical reasons for this site being chosen including its proximity to the A12 and the presence of nearby tracks for access.
- 12.7.5 In addition, the Applicant has set out how other areas of land of lower flood risk within proximity of the Willow Plantation and River Blackwater would not meet with the particular needs for ecological mitigation. It is understood that there are specific landowner issues with adjacent land which would prevent adequate access. The area of these sites may also not be adequate and could have greater impacts on the nearby listed buildings.

- 12.7.6 The conclusion of Officers is that there are clear and justified reasons why the development needs to be located at this site and why it cannot be located to an alternative site of lower flood risk. Other sites of lower flood risk which could fulfil this need, are not considered suitable or available to accommodate the proposed development. The sequential test is therefore passed, and as set out within the 'Flood risk vulnerability and flood risk compatibility table', there is no requirement to undertake the Exceptions Test.
- 12.7.7 In addition to the sequential test, there is also a requirement for a Flood Risk Assessment (FRA) to accompany the application. Accordingly, a FRA has been submitted with this application. This document states that the proposal is considered to have a negligible impact on flood risk elsewhere as there would be no increase in impermeable land and no interruption of groundwater flows or displacement of groundwater elsewhere. There would also be negligible impacts on existing fluvial or surface water flood storage capacity or flows. Within the site and within its proximity are no underground pipes that may be impacted by the works.
- 12.7.8 The Local Lead Flood Authority (LLFA) and the Environment Agency have reviewed the FRA and raise no objections. No conditions are required to be imposed in this regard.

## 12.8 Contamination

- 12.8.1 The site is not within or in proximity to any identified contaminated ground, with the area having historically been in agricultural use. The proposed development is therefore not considered to raise any concerns in this regard.

## 13. CONCLUSION

- 13.1 The principle for the change of use to an ecological area is acceptable in principle and is supported by Policies within the Adopted Local Plan and the NPPF which encourage biodiversity creation and enhancement, and net gain in priority habitats. The loss of the Grade 3a agricultural land has been justified.
- 13.2 The development would result in a change in the character of the land, altering from an open agricultural field to an ecological area with artificial land formation and features, and subdivision of an existing larger field parcel. However, it is considered that the impact would be reduced due to the modest change in levels and the low height of the features proposed, and as the development would be seen against the backdrop of the existing and proposed landscaping to the site boundaries.
- 13.3 The proposed access for construction purposes is considered appropriate and due to the low level of vehicles associated with the development, there would be no harmful impact on the highway network. The submitted CTMP satisfactorily sets out how traffic management would be undertaken

throughout the construction period and provides for appropriate management of vehicles, including to prevent conflict with pedestrians on the PROW.

- 13.4 There would be no harm to the setting of the nearby listed buildings and no harm to the setting of the Kelvedon Conservation Area. However, owing to the potential archaeological impact of the proposal, a pre-commencement condition is recommended for ensure that no harm is caused. As referenced above, this is subject to further discussion with the Applicant, and an update will be provided to Members at the Planning Committee meeting.
- 13.5 In regard to ecology and landscape considerations, the location of the site is not considered to harm any existing identified ecological assets. The development would result in no significant ecological constraints and any impacts can be addressed via mitigation proposed. Equally, the proposed soft landscaping scheme is considered extensive and appropriate for this site. In addition, the creation of biodiversity net gain is supported.
- 13.6 The FRA demonstrates that the development would have a negligible impact on flood risk. The Local Lead Flood Authority and the Environment Agency raise no objections to the development. The Sequential Test has been passed.
- 13.7 There would be no detrimental impact upon neighbouring amenity.
- 13.8 Matters in relation to contamination are acceptable with no adverse risks identified.
- 13.9 Taking into account the above, it is considered that the proposal complies with the Development Plan when taken as a whole. Officers consider that there are no material considerations, that indicate that a decision should be made other than in accordance with the Development Plan.

14. RECOMMENDATION

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

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

## APPENDIX 1:

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

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

<b>Plan Description</b>	<b>Plan Ref</b>	<b>Plan Version</b>
Proposed Plans	HE551497-JAC-EBD-5_SCHME-DR-LE-0005	P01
Proposed Site Plan	HE551497-JAC-ELS-5_SCHME-DR-L-0326	P02
Proposed Site Plan	HE551497-JAC-ELS-5_SCHME-DR-L-0327	P02
Landscaping	HE551497-JAC-ELS-5_SCHME-DR-L-0328	P02
Proposed Sections	HE551497-JAC-ELS-5_SCHME-DR-L-0343	P01
Proposed Sections	HE551497-JAC-ELS-5_SCHME-DR-L-0344	P01
Proposed Plans	HE551497-JAC-EBD-5_SCHME-DR-LE-0001	P03
Location Plan	HE551497-JAC-EGN-5_SCHME-SK-GI-0015	P01

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

##### Condition 1

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

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

##### Condition 2

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

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

##### Condition 3

The development hereby permitted shall be carried out in accordance with the approved Construction Traffic Management Plan for Ecological Mitigation Area 16 (January 2023).

Reason: In the interests of highway safety and convenience (including pedestrians) and neighbouring amenity.

#### Condition 4

All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained the Biodiversity Statement and Mitigation Plan (National Highways, December 2022), the Habitat Maintenance Plan (National Highways, November 2022), Series 3000 Landscape & Ecology Specification Appendix 30 (National Highways, November 2022), Ecological Mitigation Areas Standard Details Ecological Habitat Features PO2 (Jacobs Ltd, November 2022).

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

#### Condition 5

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

Monday to Friday 0800 hours - 1800 hours

Saturday 0800 hours - 1300 hours

Bank Holidays & Sundays - No work

Reason: To protect the amenities of the occupiers of nearby residential properties and the surrounding areas.

#### Condition 6

No development, including preparatory works or construction, shall commence until the tree protection fencing as shown within Plan Numbers HE551497-JAC-ELS-5\_SCHME-DR-L-0327 Rev P02, HE551497-JAC-ELS-5\_SCHME-DR-L-0326 Rev P02 and the 'Tree Protection Measures' document has been fully implemented. The means of protection shall remain in place until the completion of the development.

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

#### Condition 7

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

b) No development or preliminary groundworks of any kind shall take place until the completion of the programme of archaeological investigation identified in the WSI defined in 1 above and the submission of a mitigation strategy detailing the excavation / preservation strategy.

c) Within 6 months of the date of completion of the archaeological fieldwork a post excavation assessment shall be submitted to and approved in writing by the Local Planning Authority. This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

Reason: To properly provide for archaeology.

#### Informative(s)

##### Informative 1

The Public Right of Way (PRoW) network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PRoW is considered to be a breach of this legislation. The public's rights and ease of passage over Footpath 30 Kelvedon should be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way. The grant of planning permission does not automatically allow development to commence. In the event of works affecting the highway, none should be permitted to commence until such time as they have been fully agreed with the Highway Authority. In the interests of highway user safety this may involve the applicant temporarily closing the definitive route using powers included in the aforementioned Act. All costs associated with this should be borne by the applicant and any damage caused to the route should be rectified by the applicant within the timescale of the closure.

##### Informative 2

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

##### Informative 3

Mitigating and adapting to a changing climate is a national and Essex County Council priority. The Climate Change Act 2008 (amended in 2019) commits the UK to achieving net-zero by 2050. In Essex, the Essex Climate Action Commission proposed 160+ recommendations for climate action. Essex County Council is working with partners to achieve specific goals by 2030, including net zero carbon development. All those active in the development sector should have regard to these goals and applicants are invited to sign up to the Essex Developers Group Climate Charter [2022] and to view the advice contained in the Essex Design Guide. Climate Action Advice guides for residents, businesses and schools are also available.

#### Positive and Proactive Statement

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



## APPENDIX 2:

### POLICY CONSIDERATIONS

#### National Planning Guidance

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

#### Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP47	Built and Historic Environment
LPP52	Layout and Design of Development
LPP57	Heritage Assets and their Settings
LPP59	Archaeological Evaluation, Excavation and Recording
LPP63	Natural Environment and Green Infrastructure
LPP64	Protected Sites
LPP65	Tree Protection
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP67	Landscape Character and Features
LPP71	Climate Change
LPP74	Flooding Risk and Surface Water Drainage
LPP75	Surface Water Management Plan

#### Kelvedon Neighbourhood Plan 2017-2033

HE3	Non-Designated Heritage Assets
NE3	Protection of Green Infrastructure And Biodiversity
NE8	Flood Prevention

APPENDIX 3:

SITE HISTORY

N/A.