

# PLANNING COMMITTEE AGENDA

**Tuesday 3rd May 2022 at 7.15pm**

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

**THIS MEETING IS OPEN TO THE PUBLIC**

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

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

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

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

**Membership:-**

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

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

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

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

A WRIGHT  
Chief Executive

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

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

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

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

The Agenda allows for a period of up to 30 minutes for Public Question Time. Members of the public wishing to speak are requested to register by contacting the Governance and Members Team on 01376 552525 or email [governance@braintree.gov.uk](mailto:governance@braintree.gov.uk) by **midday on the second working day** before the day of the Committee meeting. For example, if the Committee Meeting is on a Tuesday, the registration deadline is midday on Friday, (where there is a Bank Holiday Monday you will need to register by midday on the previous Thursday). The Council reserves the right to decline any requests to register to speak if they are received after this time.

**Members of the public who have registered to speak during Public Question Time are requested to indicate when registering if they wish to attend the Planning Committee meeting ‘in person’ at Causeway House, Bocking End, Braintree, or to participate remotely. People who choose to join the meeting remotely will be provided with the relevant link and joining instructions for the meeting.**

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

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

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

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

**Public Attendance at Meeting:** The Council has reviewed its arrangements for this decision making meeting of the Planning Committee in light of the continuing Covid pandemic. In order to protect the safety of people attending the meeting, Councillors and Officers will be in attendance at Causeway House, Bocking End, Braintree. Members of

the public may also attend the meeting 'in person', but priority will be given to those people who have registered to speak during Public Question Time. Members of the public will be able to view and listen to the meeting either as a live broadcast, or as a recording following the meeting, via the Council's YouTube channel at <http://www.braintree.gov.uk/youtube>

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

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

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

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

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

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

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

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

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

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

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

## **PUBLIC SESSION**

## **Page**

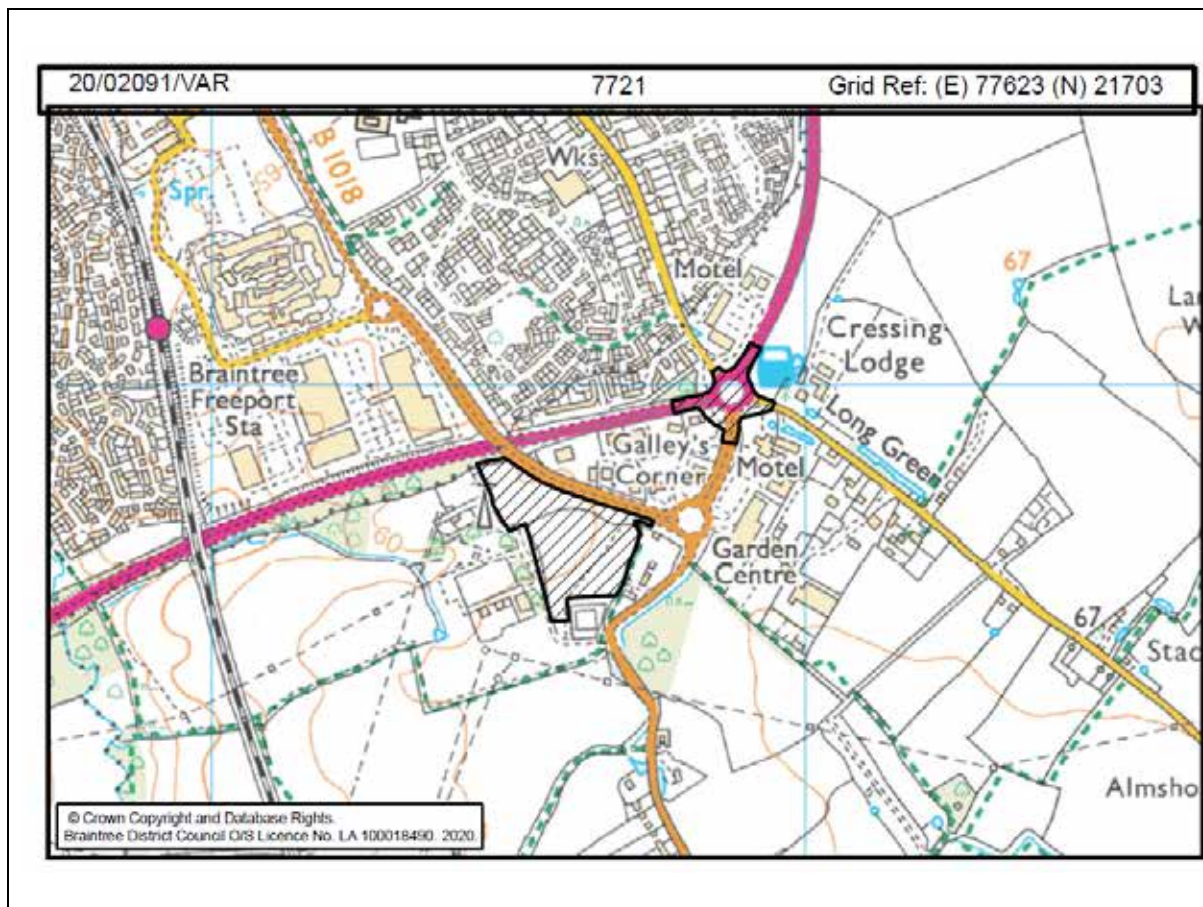
- 1 Apologies for Absence**
- 2 Declarations of Interest**  
To declare the existence and nature of any Disclosable Pecuniary Interest, Other Pecuniary Interest, or Non-Pecuniary Interest relating to Items on the Agenda having regard to the Code of Conduct for Members and having taken appropriate advice where necessary before the meeting.
- 3 Minutes of the Previous Meeting**  
To approve as a correct record the Minutes of the meeting of the Planning Committee held on 19th April 2022 (copy to follow).
- 4 Public Question Time**  
(See paragraph above)
- 5 Planning Applications**  
To consider the following planning applications
- 5a App. No. 20 02091 VAR – Land off Millennium Way, CRESSING** **6-45**
- 5b App. No. 21 00493 OUT – Land adjacent to Conies Farm, Oak Road, HALSTEAD** **46-81**
- 5c App. No. 21 01962 OUT – 72 Little Yeldham Road, LITTLE YELDHAM** **82-106**
- 5d App. No. 22 00305 HH – 2 Coniston Close, GREAT NOTLEY** **107-119**
- 6 Urgent Business - Public Session**  
To consider any matter which, in the opinion of the Chairman, should be considered in public by reason of special circumstances (to be specified) as a matter of urgency.
- 7 Exclusion of the Public and Press**  
To agree the exclusion of the public and press for the consideration of any Items for the reasons set out in Part 1 of Schedule 12(A) of the Local Government Act 1972.  
*At the time of compiling this Agenda there were none.*

**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.

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| <b>Report to:</b> Planning Committee         |  |   |
| <b>Planning Committee Date:</b> 3rd May 2022 |  |   |
| <b>For:</b> Decision                         |  |   |
| <b>Key Decision:</b> No                      |  | <b>Decision Planner Ref No:</b> N/A   |
| Application No:                              | 20/02091/VAR   |   |
| Description:                                 | Variation of Condition 35 (Galleys Corner Roundabout Improvements) & Condition 36 (Fowlers Farm Roundabout Improvements) of permission 13/01476/FUL granted 29/09/2017 for Erection of DIY retail warehouse with associated access, car parking and landscaping and improvement works to the A120/B1018.                       |   |
| Location:                                    | Land Off Millennium Way, Cressing  |   |
| Applicant:                                   | The Williams Group   |   |
| Agent:                                       | Emery Planning Partnership Ltd   |   |
| Date Valid:                                  | 8th December 2020  |   |
| <b>Recommendation:</b>                       | It is RECOMMENDED that the following decision be made:<br><br>§ Application GRANTED subject to the completion of a Deed of Variation to the Section 106 accompanying the original permission 13/01476/FUL, and subject to the Condition(s) & Reason(s) and Informative(s) outlined within Appendix 1 of this Committee Report. |   |
| <b>Options:</b>                              | The Planning Committee can:<br><br>a) <b>Agree</b> the Recommendation<br>b) <b>Vary</b> the Recommendation<br>c) <b>Overturn</b> the Recommendation<br>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)<br>Condition(s) & Reason(s) and Informative(s) |
|  | <b>Appendix 2:</b>   | Policy Considerations   |
|  | <b>Appendix 3:</b>   | Site History  |
| <b>Case Officer:</b>                         | Mathew Wilde<br>For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2512, or by e-mail: <a href="mailto:mathew.wilde@braintree.gov.uk">mathew.wilde@braintree.gov.uk</a>  |   |

## Application Site Location:





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| <b>Purpose of the Report:</b>              | The Committee Report sets out the assessment and recommendation of the above mentioned application to the Council's Planning Committee. The report sets out all of the material planning considerations and the relevant national and local planning policies.  |
| <b>Financial Implications:</b>             | <p>The application was subject to the statutory application fee paid by the Applicant for the determination of the application.</p> <p>As outlined above, it is recommended that the decision is subject to a Deed of Variation to the original S106 accompanying permission 13/01476/FUL. This is to ensure that the previously agreed contributions / requirements are carried over into this application.</p> <p>Financial implications may arise should the decision be subject to a planning appeal or challenged via the High Court.</p>  |
| <b>Legal Implications:</b>                 | <p>Any legal implications arising out of a Section 106 Agreement will be set out in more detail within the body of this Committee Report.</p> <p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, and completion of the Deed of Variation a formal decision notice will be issued which will either set out the relevant Conditions &amp; Reasons and any Informatives, or the Reasons for Refusal if applicable.</p> <p>All relevant policies are set out within the report, within Appendix 2.</p> |
| <b>Other Implications:</b>                 | The application has been subject to public consultation and consultation with relevant statutory and non-statutory consultees. All responses received in response to this consultation are set out within the body of this Committee Report.  |
| <b>Equality and Diversity Implications</b> | Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:   |



|                                  |  |
|----------------------------------|--|
|                                  | <p>a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act;</p> <p>b) Advance equality of opportunity between people who share a protected characteristic and those who do not;</p> <p>c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.</p> <p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>  |
| <p><b>Background Papers:</b></p> | <p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> <li>§ Application Form</li> <li>§ All Plans and Supporting Documentation</li> <li>§ All Consultation Responses and Representations</li> </ul> <p>The application submission can be viewed online via the Council's Public Access website:<br/> <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a> by entering the Application Number: 20/02091/VAR.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> <li>§ National Planning Policy Framework (NPPF)</li> <li>§ Braintree District Local Plan Review (2005)</li> <li>§ Braintree District Core Strategy (2011)</li> <li>§ Braintree District Shared Strategic Section 1 Local Plan (2021)</li> <li>§ Braintree District Publication Draft Section 2 Local Plan (2017)</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> |

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|  | <p>The other abovementioned policy documents can be viewed on the Council's website:<br/><a href="http://www.braintree.gov.uk">www.braintree.gov.uk</a>.</p> |
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1. EXECUTIVE SUMMARY

- 1.1 This application (Application Reference 20/02091/VAR) seeks to vary Condition 35 (Galley's Corner Roundabout Improvement Scheme) and Condition 36 (Fowlers Farm Roundabout Improvement Scheme) attached to planning permission reference 13/01476/FUL.
- 1.2 The Applicant requested that Conditions 35 and 36 are amended to remove the 'prior to commencement of development' trigger to allow for general (non roundabout) construction works to continue at the site while technical highway discussions go on in the background (regarding the roundabouts). The applicant also sought to remove the requirement in the conditions that further details of the roundabout schemes are to be submitted to and approved by the local planning authority on the basis. This was on the basis that these matters would be agreed with the Highway Authority or National Highways through a separate Highway S278 Agreements.
- 1.3 BDC Officers consider that the removal of the 'prior to commencement of development' trigger can be removed from both conditions without prejudicing the delivery of the roundabout improvement schemes. Due to the fact that the Galley's Corner roundabout forms part of the development (within the red line area), but the Fowler's Farm roundabout does not (it falls outside the red line area) the way in which the conditions are proposed to be reworded are slightly different. However, both conditions prevent the DIY retail warehouse opening for trade until the improvement schemes have been implemented and are operation.
- 1.4 However, BDC Officers are not satisfied with the Applicant's proposal to remove the requirement that details of the roundabout improvement schemes be approved by the local planning authority be removed. It is necessary for BDC to retain control of the details of the roundabout improvement schemes in order that the Council can be satisfied that the schemes adequately mitigate the impacts of the development. This is particularly important given that the improvement works were identified as required mitigation through the Environmental Statement (ES) pursuant to the Environmental Impact Assessment (EIA) Regulations. Furthermore, as the improvement works to Galley's Corner form part of the development for which planning permission is granted, it is necessary that the planning authority retain control over the details to be approved.
- 1.5 As such, it is recommended that Conditions 35 and 36 are amended in so far as removing the 'prior to commencement' restriction, but not to remove the requirement that further details of the improvement schemes be submitted and approved. In addition further amendments to the wording of the conditions are recommended in order to improve clarity and, in respect of condition 35, to remove requirements to provide certain details which are no longer necessary.
- 1.6 The two relevant statutory consultees in this case are National Highways (for Condition 35) and Essex Highways (for Condition 36). This is because

National Highways have responsibility national strategic road network, while Essex Highways have responsibility for the local adopted road network. Both National Highways and Essex Highways agree with the changes put forward by BDC Officers to Conditions 35 and 36 respectively.

- 1.7 Officers are therefore recommending that Members approve the variation to Condition 35 (Condition 34 as set out within Appendix 1) and Condition 36 (Condition 35 as set out within Appendix 1) in the form set out in paragraphs 10.5.2 and 10.6.2 below.
- 1.8 It should also be noted that development has already commenced on the site, without the abovementioned conditions being discharged. This is discussed within the report below.

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 of Braintree, immediately to the south of Millennium Way (B1018). The site comprises an area of land of approximately 3.1 hectares in size. It is subdivided into two fields: a small field in the northern most part of the site is separated from the larger field by a central hedgerow. In addition, the application site incorporates Galley's Corner roundabout.
- 5.2 The north-eastern boundary of the site comprises the Millennium Way highway embankment. The south-eastern boundary is defined by a belt of scrub vegetation and mature hedgerow with some mature trees which act as a buffer to the two adjacent residential properties. The western boundary comprises another mature hedgerow and trees which act as a buffer to the large electricity substation to the west. The northern-most part of the application site is bound by the A120. There is an existing public right of way to the east of the site.
- 5.3 The site is not located within a Conservation Area and is not situated within the vicinity of any nearby Listed Buildings, Scheduled Ancient Monuments or any other designated heritage assets. It is however located in the Farmland plateau landscape character area as defined by the Adopted Cressing Neighbourhood Plan. It is also within an area identified to potentially be safeguarded for the new A120 route.
- 5.4 The application site is located outside of the Braintree Town Development Boundary and Cressing Village envelope in an area of countryside as designated in the Adopted Local Plan. It is however allocated for Retail Warehousing within the Section 2 Plan.

6. PROPOSAL

- 6.1 This application (Application Reference 20/02091/VAR) seeks to vary Condition 35 (Galley's Corner Roundabout Improvement Scheme) and Condition 36 (Fowlers Farm Roundabout Improvement Scheme) attached

to planning permission 13/01476/FUL granted on 29/09/2017, for the erection of DIY retail warehouse store with associated access, car parking and landscaping and improvement works to the A120/B1018.

6.2 Under planning permission 13/01476/FUL, Condition 35 read as follows:

*“A. No development shall commence unless and until details of the Galley's Corner Roundabout Improvement Scheme have been submitted to and approved in writing by the Local Planning Authority. The Galley's Corner Roundabout Improvement Scheme shall generally conform to Drawing No. C4-10051-014 Rev D dated Sept 2012 and shall include but not be limited to details of CCTV provision and appropriate traffic control systems. The Galley's Corner Roundabout Improvement Scheme shall also include drawings and documents showing:*

- i. How the improvement interfaces with the existing highway alignment and carriageway markings including lane destinations;*
- ii. Full construction details relating to the highways improvement. This should include any modification to existing structures or proposed structures, with supporting analysis;*
- iii. Full signing and lighting details where applicable;*
- iv. Confirmation of full compliance with Departmental Standards (DMRB) and Policies (or approved relaxations/departure from standards);*
- v. Evidence that the scheme is fully deliverable within land in the control of either the Highway Authority or the Applicant;*
- vi. An independent Stage 2 Road Safety Audit (taking account of any Stage 1 Road Safety Audit recommendations) carried out in accordance with Departmental Standards (DMRB) and Advice Notes; and*
- vii. An Appraisal Summary Table (AST) in accordance with the requirements of the D.E.T.R. publication "A New Deal for Trunk Roads in England: Guidance on the new approach to appraisal - July 1998".*

*B. The Galley's Corner Roundabout Improvement Scheme shall only be carried out in accordance with the details approved by the Local Planning Authority pursuant to 'A' above. The Galley's Corner Roundabout Improvement Scheme shall be implemented and completed to the satisfaction of the Local Planning Authority. The DIY Store shall not be opened for trade unless and until the Galley's Corner Roundabout Improvement Scheme has been delivered and is fully operational.”*

6.3 Under planning permission 13/01476/FUL, Condition 36 read as follows:

*A. No development shall commence unless and until details of the Fowlers Farm Roundabout Improvement Scheme have been submitted to and approved in writing by the Local Planning Authority. The Fowlers Farm Roundabout Improvement Scheme shall generally conform to Drawing No. 10051-B3-015-A dated May 15 and shall include but not be limited to details of traffic signals on the circulatory carriageway of the Fowlers Farm roundabout and on the B1018 south bound approach to the Fowlers Farm*

*roundabout, together with CCTV provision and appropriate traffic control systems.*

*The Fowlers Farm Roundabout Improvement Scheme shall only be carried out in accordance with the details approved by the Local Planning Authority pursuant to 'A' above. The Fowlers Farm Roundabout Improvement Scheme shall be implemented and completed to the satisfaction of the Local Planning Authority. The DIY Store shall not be opened for trade unless and until the Fowlers Farm Roundabout Improvement Scheme has been delivered and is fully operational.*

- 6.4 The description of the proposal put forward by the Applicant was as follows:

*“Variation of conditions 35 & 36 of permission 13/01476/FUL granted 29/09/2017 for Erection of DIY retail warehouse with associated access, car parking and landscaping and improvement works to the A120/B1018.*

*Condition 35 to read:*

*A - The development will be completed in accordance with the approved Galleys Corner Roundabout Improvement Scheme. The scheme shall generally conform to Drawing No. C4-10051-014 Rev D dated Sept 2012.*

*B - The DIY Store shall not be opened for trade unless and until the S278 works for the Galleys Corner Roundabout Improvement Scheme have been delivered and are fully operational.*

*Condition 36 to read:*

*A - The development will be completed in accordance with the approved Fowlers Farm Roundabout Improvement Scheme and shall generally conform to Drawing No. C4-1005-B3-015-A dated May 15*

*B - The DIY Store shall not be opened for trade unless and until S278 works for the Fowlers Farm Roundabout Improvement Scheme have been delivered and are fully operational.”*

- 6.5 The rationale behind the Applicant's proposed amendment is firstly to remove the pre-commencement of development restriction for both conditions, so that further construction activity can take place at the site while the roundabout improvement schemes are still being agreed separately with National Highways/Essex Highways.

- 6.6 In addition, the Applicant proposes to also remove the requirement in the conditions that further details of the roundabout schemes be submitted to and approved by the local planning authority on the basis that these matters would be agreed with the Highway Authority or National Highways through a separate Highways S278 Agreement.



7. SUMMARY OF CONSULTATION RESPONSES

7.1 National Highways (formerly Highways England)

7.1.1 Offered no objection in principle to the change of wording to Condition 35 relating to works at the Galleys Corner Roundabout. National Highways did however request that Condition 35 be amended in a further in February 2021 response (see below):

7.1.2 Originally, Condition 35 was proposed by the Applicant to be changed to:

*“A - The development will be completed in accordance with the approved Galleys Corner Roundabout Improvement Scheme. The scheme shall generally conform to Drawing No. C4-10051-014 Rev D dated Sept 2012.*

*B - The DIY Store shall not be opened for trade unless and until the S278 works for the Galleys Corner Roundabout Improvement Scheme have been delivered and are fully operational.”*

7.1.3 During the course of the application, National Highways requested that the wording of Condition 35 be amended to (February 2021):

*“A. The development will be completed in accordance with the approved Galley's Corner Roundabout Improvement Scheme. The scheme shall generally conform to Drawing No. C4-10051-014 Rev D dated Sept 2012.*

*B. The Galleys Corner Improvement scheme works will not commence until a Section 278 Agreement has been agreed with National Highways (the national highway authority), which requires the highway design to be technically approved and funding for the scheme to be assured.*

*C. The DIY Store shall not be opened for trade unless and until the Galley's Corner Roundabout Improvement Scheme have been delivered and are fully operational.”*

7.1.4 Officers raised concerns with this wording as it forgoes any control that BDC would have to ensure that the Galleys Corner Roundabout Improvement Scheme would adequately mitigate the impacts of the development. It is not considered that the Drawing No. C4-10051-014 Rev D dated Sept 201 is sufficiently detailed to provide that reassurance. Furthermore, as the improvement works to Galley's Corner form part of the development for which planning permission is granted, it is necessary that the planning authority retain control over the details to be approved.

7.1.5 Following discussions between BDC Officers and National Highways, the following wording was agreed:

*“A. No development under this planning permission shall take place in respect of the Galley's Corner roundabout (A120/B1018) unless and until details of the improvement works to the roundabout (“the Galley's Corner*

*Roundabout Improvement Scheme”) have been submitted to and approved in writing by the Local Planning Authority (in consultation with National Highways). The Galley’s Corner Roundabout Improvement Scheme shall generally conform to Drawing No. C4-10051-014 Rev D dated Sept 2012 and shall include but not be limited to details of CCTV provision and appropriate traffic control systems. The Galley’s Corner Roundabout Improvement Scheme shall also include drawings and documents showing:*

- i. How the improvement interfaces with the existing highway alignment and carriageway markings including lane destinations;*
- ii. Full construction details relating to the highways improvement. This should include any modification to existing structures or proposed structures, with supporting analysis;*
- iii. Full signing and lighting details where applicable;*
- iv. Confirmation of full compliance with Departmental Standards (DMRB) and Policies (or approved relaxations/departure from standards);*
- v. Evidence that the scheme is fully deliverable within land in the control of either the Highway Authority or the Applicant;*
- vi. An independent Stage 2 Road Safety Audit (taking account of any Stage 1 Road Safety Audit recommendations) carried out in accordance with Departmental Standards (DMRB).*

*B. Development of the Galley’s Corner roundabout (A120/B1018) under this planning permission shall only take place in accordance with the Galley’s Corner Roundabout Improvement Scheme approved by the Local Planning Authority pursuant to ‘A’ above.*

*C. The DIY retail warehouse shall not be opened for trade unless and until the Galley’s Corner Roundabout Improvement Scheme has been delivered and is fully operational.”*

- 7.1.6 National Highways confirmed that they did not object to the removal of the pre-commencement requirement. In addition, it was considered that condition (vii) was no longer necessary, nor was the reference to advice notes in condition (vi).

## 7.2 ECC Highways

- 7.2.1 Essex Highways reviewed the Applicant’s suggested amendments to condition 36 and originally raised no comments on the proposed condition changes. However, BDC Officers also sought changes to the suggested condition amended wording reflecting the concerns outlined in respect of condition 35 (see Paragraph 7.1.4 above).

The Applicant’s proposed amended condition was:

*“A - The development will be completed in accordance with the approved Fowlers Farm Roundabout Improvement Scheme and shall generally conform to Drawing No. C4-1005-B3-015-A dated May 15.*

*B - The DIY Store shall not be opened for trade unless and until S278 works for the Fowlers Farm Roundabout Improvement Scheme have been delivered and are fully operational*

7.2.2 BDC Officers have proposed changes the amended condition to:

*“The DIY retail warehouse shall not be opened for trade unless and until:*

*A. Details of the improvements works to the Fowlers Farm roundabout (B1018/Millennium Way) (“the Fowlers Farm Roundabout Improvement Scheme”) have been submitted to and agreed in writing by the Local Planning Authority. The Fowlers Farm Roundabout Improvement Scheme shall generally conform to Drawing No. 10051-B3-015-A dated May 15 and shall include but not be limited to details of traffic signals on the circulatory carriageway of the Fowlers Farm roundabout and on the B1018 south bound approach to the Fowlers Farm roundabout, together with CCTV provision and appropriate traffic control systems.; and*

*B. The Fowlers Farm Roundabout Improvement Scheme has been delivered and is fully operational.”*

7.2.3 Essex Highways have considered that the revised wording put forward by BDC Officers and consider that it would in accordance with the Highway Authorities Development Management Policies.

## 8. PARISH / TOWN COUNCIL

### 8.1 Cressing Parish Council

8.1.1 No comments received.

## 9. REPRESENTATIONS

9.1 No other representations have been received on this application.

## 10. PRINCIPLE OF DEVELOPMENT

10.1 Planning permission (Application Reference 13/01476/FUL) has been granted for the erection of a DIY retail warehouse with associated access, car parking and landscaping and improvement works to the A120/B1018.

10.2 This application (Application Reference 20/02091/VAR) seeks to vary Condition 35 (Galley's Corner Roundabout Improvement Scheme) and Condition 36 (Fowlers Farm Roundabout Improvement Scheme) attached to planning permission reference 13/01476/FUL.

10.3 The Planning Practice Guidance states that in deciding an application under Section 73 of the Town and Country Planning Act 1990, the Local Planning Authority must only consider the condition(s) that are the subject of the application – it is not a complete re-consideration of the application. It

also states that the original planning permission will continue to exist whatever the outcome of the application under section 73.

#### 10.4 Commencement of Works

- 10.4.1 It should be noted that some on-site construction work (earth removal and a large trench) have already been completed at the site. The development therefore commenced without the pre-commencement conditions (Conditions 35 and 36) being discharged. The Applicant had however submitted a discharge of condition (Application Reference 20/00609/DAC) to discharge these conditions in April 2020, however this discharge of condition remains outstanding. For the avoidance of doubt the development commenced after the submission of the Discharge of Condition application had been submitted.
- 10.4.2 The reason for the delay in determining application reference 20/00609/DAC is that National Highways and Essex Highways are still finalising the finer technical requirements for the roundabout improvement works. All other pre-commencement conditions attached to application 13/01476/FUL have already been discharged to allow development to proceed (apart from on the North West part of the site where a further archaeological trench needs to be dug). There are some other conditions which are required to be discharged before any above ground development takes place.
- 10.4.3 As such, the Applicant seeks consent to amend Conditions 35 and 36 to remove the 'prior to commencement of development' restriction, so that construction works (for the DIY store and parking) can progress further as appropriate without further prejudicing the requirements of Conditions 35 and 36.
- 10.4.4 Given the breach of Conditions 35 and 36, and the nature of works that have taken place so far, Officers sought advice from Counsel on whether the development should be considered to have lawfully commenced (meaning that the planning permission would be implemented and therefore valid in perpetuity) or not.
- 10.4.5 In summary, Counsel considered three key issues in making a judgement on this matter:
- A – Did the works undertaken constitute “a material operation comprised in the development”?
- B – Are Conditions 35 and 36 true “conditions precedent”, such that a failure to comply with them would ordinarily prevent lawful commencement?, and
- C – Are there any recognised exemptions?
- 10.4.6 In regards to A, Counsel considered that the development undertaken constituted a material operation by virtue of the earthwork and trench which has been dug at the site. His advice was that, so long as the works

undertaken were consistent with, and referable to, permission 13/01476/FUL, then they would be sufficient to for development to have begun. Officers are satisfied that the works undertaken are consistent with, and referable to, permission 13/01476/FUL

- 10.4.7 In regards to B, Counsel considered that, properly construed, both conditions 35 and 36 were “conditions precedent”. This was both due to the wording of the condition and the fact that the conditions went to the “heart of the permission.”
- 10.4.8 In regards to C, ordinarily works in breach of conditions precedent cannot lawfully commence development. However, the law recognises a number of exemptions to this general principle. Counsel considered that the exemptions would likely apply on the facts of this case for a number of reasons. Firstly, on the basis that the Discharge of Condition application (DAC), which had been made well in advance of the date on which the permission was due to expire, remains outstanding. This DAC cannot be discharged though as finer technical discussions about the roundabout improvements are still ongoing. Secondly, as a result of the circumstances surrounding the current section 73 application, which had again been made well in advance of the date on which the permission was due to expire. This application was made at the suggestion of National Highways, who do not oppose the removal of the pre-commencement element of condition 35 (a position shared by Essex Highways in respect of condition 36). Both National Highways and Essex Highways provided their consultation responses well before 1st May 2021 when the original Permission would have expired (raising no objection to the removal of the pre-commencement requirement). Thus had the application been determined favourably at planning Committee within the relevant time period following these responses – then there would have been no question of the development being in breach of a condition precedent, or that the original Permission had been implemented.
- 10.4.9 As such, Counsel’s advice was that there was good reason to consider that, despite not discharging all pre-commencement conditions, development had lawfully commenced. Therefore, Counsel’s opinion was that the planning permission should be considered to have been implemented.
- 10.4.10 Owing to the above, Officers have not recommended that Condition 1 (Time Limit) attached to 13/01476/FUL is reimposed on any S73 consent as the original permission has been implemented and is therefore an extant permission. Consequently, and as set out within Appendix 1 of this Report, this has meant that all previous conditions have reduced in number by 1. For example, Condition 2 attached to 13/01476/FUL is recommended to be Condition 1 attached to this application (20/02091/VAR), while Condition 35 attached to 13/01476/FUL is recommended to be Condition 34 attached to this application (20/02091/VAR).

10.5 Condition 35: Galley's Corner Roundabout Improvement Scheme

10.5.1 Condition 35 (Galley's Corner Roundabout Improvement Scheme) was originally approved as follows:

*"A. No development shall commence unless and until details of the Galley's Corner Roundabout Improvement Scheme have been submitted to and approved in writing by the Local Planning Authority. The Galley's Corner Roundabout Improvement Scheme shall generally conform to Drawing No. C4-10051-014 Rev D dated Sept 2012 and shall include but not be limited to details of CCTV provision and appropriate traffic control systems. The Galley's Corner Roundabout Improvement Scheme shall also include drawings and documents showing:*

- i. How the improvement interfaces with the existing highway alignment and carriageway markings including lane destinations;*
- ii. Full construction details relating to the highways improvement. This should include any modification to existing structures or proposed structures, with supporting analysis;*
- iii. Full signing and lighting details where applicable;*
- iv. Confirmation of full compliance with Departmental Standards (DMRB) and Policies (or approved relaxations/departure from standards);*
- v. Evidence that the scheme is fully deliverable within land in the control of either the Highway Authority or the Applicant;*
- vi. An independent Stage 2 Road Safety Audit (taking account of any Stage 1 Road Safety Audit recommendations) carried out in accordance with Departmental Standards (DMRB) and Advice Notes; and*
- vii. An Appraisal Summary Table (AST) in accordance with the requirements of the D.E.T.R. publication "A New Deal for Trunk Roads in England: Guidance on the new approach to appraisal - July 1998".*

*B. The Galley's Corner Roundabout Improvement Scheme shall only be carried out in accordance with the details approved by the Local Planning Authority pursuant to 'A' above. The Galley's Corner Roundabout Improvement Scheme shall be implemented and completed to the satisfaction of the Local Planning Authority. The DIY Store shall not be opened for trade unless and until the Galley's Corner Roundabout Improvement Scheme has been delivered and is fully operational."*

10.5.2 BDC Officers propose that Condition 35 (Condition 34 as set out within Appendix 1) is amended as follows:

*"A. No development under this planning permission shall take place in respect of the Galley's Corner roundabout (A120/B1018) unless and until details of the improvement works to the roundabout ("the Galley's Corner Roundabout Improvement Scheme") have been submitted to and approved in writing by the Local Planning Authority (in consultation with National Highways). The Galley's Corner Roundabout Improvement Scheme shall generally conform to Drawing No. C4-10051-014 Rev D dated Sept 2012*

*and shall include but not be limited to details of CCTV provision and appropriate traffic control systems. The Galley's Corner Roundabout Improvement Scheme shall also include drawings and documents showing:*

- i. How the improvement interfaces with the existing highway alignment and carriageway markings including lane destinations;*
- ii. Full construction details relating to the highways improvement. This should include any modification to existing structures or proposed structures, with supporting analysis;*
- iii. Full signing and lighting details where applicable;*
- iv. Confirmation of full compliance with Departmental Standards (DMRB) and Policies (or approved relaxations/departure from standards);*
- v. Evidence that the scheme is fully deliverable within land in the control of either the Highway Authority or the Applicant;*
- vi. An independent Stage 2 Road Safety Audit (taking account of any Stage 1 Road Safety Audit recommendations) carried out in accordance with Departmental Standards (DMRB).*

*B. Development of the Galley's Corner roundabout (A120/B1018) under this planning permission shall only take place in accordance with the Galley's Corner Roundabout Improvement Scheme approved by the Local Planning Authority pursuant to 'A' above.*

*C. The DIY retail warehouse shall not be opened for trade unless and until the Galley's Corner Roundabout Improvement Scheme has been delivered and is fully operational."*

- 10.5.3 The proposed amendments remove the requirement that details of the improvement scheme are to be submitted and approved by the Council prior to the commencement of development. Instead, the amended condition would require the details to be submitted and approved prior to any works to Galley's Corner taking place under the permission. This would allow for work on other (non roundabout) elements of the development to progress without being in breach of condition 35. National Highways do not object to the removal of the pre-commencement requirement. Further, as noted above, the Council consider that the development has been lawfully commenced. Therefore, the pre-commencement requirement is not necessary.
- 10.5.4 However, the proposed amendment would not remove the requirement that details of the improvement scheme are to be submitted and approved by BDC. For the reasons set out above (see Paragraph 7.1.4) BDC Officer's consider that this element of the condition remains necessary in order to ensure that the improvement works adequately mitigate the impacts of the development, and because the works to Galley's Corner form part of the development permitted under the planning permission.
- 10.5.5 Importantly, the reworded condition includes the caveat at C that "the DIY Retail warehouse shall not be opened for trade unless and until the Galley's Corner Roundabout Improvement Scheme has been delivered and is fully



operational.” As such, this still means that the roundabout works will need to be delivered in full and be operational prior to the store opening.

10.5.6 Other minor amendments include the removal of the requirement that *“The Galley's Corner Roundabout Improvement Scheme shall be implemented and completed to the satisfaction of the Local Planning Authority”* on the basis that it is not necessary (in light of the requirement in B) and the removal of some of the detail required to be submitted following discussions with National Highways.

10.5.7 It should be noted that construction traffic for the DIY store would utilise a temporary access route via National Grid land to the south of the site. Once the Galleys Corner access has been created, then the temporary access route would close. Details of the Construction Management Plan, including the use of this route have already been agreed under Discharge of Condition Reference 20/00150/DAC.

10.5.8 Due to all of the above, Officers are satisfied that Condition 35 (Condition 34 as set out within Appendix 1) can be amended to the suggested wording without compromising the requirement for and details of the implementation of the Galleys Corner Improvement scheme. National Highways have raised no objection to this.

#### 10.6 Fowlers Farm Roundabout Improvement Scheme

10.6.1 Condition 36 (Fowlers Farm Roundabout Improvement Scheme) currently reads as follows:

A. *No development shall commence unless and until details of the Fowlers Farm Roundabout Improvement Scheme have been submitted to and approved in writing by the Local Planning Authority. The Fowlers Farm Roundabout Improvement Scheme shall generally conform to Drawing No. 10051-B3-015-A dated May 15 and shall include but not be limited to details of traffic signals on the circulatory carriageway of the Fowlers Farm roundabout and on the B1018 south bound approach to the Fowlers Farm roundabout, together with CCTV provision and appropriate traffic control systems.*

B. *The Fowlers Farm Roundabout Improvement Scheme shall only be carried out in accordance with the details approved by the Local Planning Authority pursuant to 'A' above. The Fowlers Farm Roundabout Improvement Scheme shall be implemented and completed to the satisfaction of the Local Planning Authority. The DIY Store shall not be opened for trade unless and until the Fowlers Farm Roundabout Improvement Scheme has been delivered and is fully operational.*

10.6.2 BDC Officers propose that Condition 36 is amended as follows:

*The DIY retail warehouse shall not be opened for trade unless and until:*

- A. *Details of the improvements works to the Fowlers Farm roundabout (B1018/Millennium Way) ("the Fowlers Farm Roundabout Improvement Scheme") have been submitted to and agreed in writing by the Local Planning Authority. The Fowlers Farm Roundabout Improvement Scheme shall generally conform to Drawing No. 10051-B3-015-A dated May 15 and shall include but not be limited to details of traffic signals on the circulatory carriageway of the Fowlers Farm roundabout and on the B1018 south bound approach to the Fowlers Farm roundabout, together with CCTV provision and appropriate traffic control systems.; and*
- B. *The Fowlers Farm Roundabout Improvement Scheme has been delivered and is fully operational."*
- 10.6.3 The substance of the changes to Condition 36 are similar to that of Condition 35; the prior to commencement of development trigger is proposed to be removed
- 10.6.4 The justification behind this change remains the same as set out in paragraph 10.5.3 above, however the works relate to the Fowlers Farm roundabout improvements instead of the Galleys Corner roundabout improvements.
- 10.6.5 Due to the fact that, unlike Galley's Corner, works to the Fowler's Farm roundabout do not form part of the development granted consent by the planning permission (they are offsite works which will be authorised under a section 278 Highways Agreement) the wording of the proposed condition 36 is different to that of condition 35. However, importantly it still requires before the DIY store opens that: (a) that details of the improvement scheme are to be submitted to and approved by the Council; and (b) that the approved scheme is delivered and fully operational.
- 10.6.6 It should be noted that the Applicant also proposed to remove the requirement that details of the improvement scheme be submitted to and approved by the Council, much like Condition 35. For the same reasons as set out above in respect of Condition 35, BDC Officers consider that this requirement within the continues to be necessary to ensure that the improvement works to Fowler's Farm roundabout adequately mitigate any impacts of the development.
- 10.6.7 Due to all of the above, Officers are satisfied that Condition 36 (now Condition 35) can be amended to the suggested wording without compromising the implementation of the Fowlers Farm roundabout improvement scheme.
- 10.7 Cressing Neighbourhood Plan
- 10.7.1 Since the application was determined in 2017, the Cressing Neighbourhood Plan has been adopted. The neighbourhood plan sets out some additional

requirements such as that of Policy 10, for electric charging points to be provided.

- 10.7.2 While Officers acknowledge this requirement by Policy 10 for electric car charging, owing to the extant nature of the permission, in this case Officers do not consider it reasonable to insist that changes are made, or additional conditions added to the extant consent. As such, in this case the development would be in partial conflict with the Neighbourhood Plan.

## 11. PLANNING OBLIGATIONS

- 11.1 The original application permission (13/01476/FUL) secured a number of benefits including:

- £10,000 footpath improvement contribution;
- Travel plan and monitoring fee; and
- No occupation until Braintree Road Crossing Improvement Scheme has been dedicated as highway under a S72 Agreement.

- 11.2 These requirements will continue to be applicable via the Deed of Variation.

## 12. CONCLUSION

- 12.1 The Planning Practice Guidance states that in deciding an application under Section 73 of the Town and Country Planning Act 1990, the local planning authority must only consider the condition(s) that are the subject of the application – it is not a complete re-consideration of the application. It also states that the original planning permission will continue to exist whatever the outcome of the application under section 73.

- 12.2 In this case, the application proposes to amend the wording to Conditions 35 and 36 attached to 13/01476/FUL. It is considered that the condition changes to remove the ‘pre-commencement’ trigger do not undermine the ability to secure both roundabout improvement schemes and the ability to ensure that these are provided prior to the first use of the development for commercial purposes. The Applicant’s proposed changes to remove the requirement that further details of the roundabout schemes are to be submitted to and approved by the Council are not supported for the aforementioned reasons.

- 12.3 The development does not include electric charging points as required by the Neighbourhood Plan. The development would therefore be in conflict with the Neighbourhood Plan. However, it is considered that this conflict is outweighed by the benefits of the development, and the extant nature of the permission is an important material consideration.

- 12.4 Overall, it is considered the development is acceptable and Officers are therefore recommending approval.

13. RECOMMENDATION

- 13.1 It is therefore RECOMMENDED that subject to the applicant entering into a Deed of Variation to the S106 of the Town and Country Planning Act 1990 (as amended) the Planning Development Manager or an authorised Officer be authorised to GRANT planning permission under delegated powers in accordance with the Approved Plans and Documents, and subject to the Condition(s) & Reason(s), and Informative(s) outlined within APPENDIX 1.
- 13.2 Alternatively, in the event that a suitable planning obligation is not agreed within three calendar months of the date of the resolution to GRANT planning permission by the Planning Committee, the Planning Development Manager may use his delegated authority to refuse the application.

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

## APPENDIX 1:

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

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

| <b>Plan Description</b> | <b>Plan Ref</b> | <b>Plan Version</b> |
|-------------------------|-----------------|---------------------|
| Existing Site Plan      | 0301            | D                   |
| Site Plan               | 0310            | K                   |
| Levels                  | 0312            | D                   |
| Floor Plan              | 0320            | C                   |
| Roof Plan               | 0321            | B                   |
| Elevations              | 0351            | D                   |
| Elevations              | 0350            | C                   |
| 3D Visual Plan          | 0352            | A                   |
| Location Plan           | 0300            | E                   |
| Elevations              | 300             | P-00                |

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

1.

##### Approved Plans

The development hereby permitted shall be carried out in accordance with the approved plans listed above, except as follows:

- The external treatment and cladding proposed for the building, as indicated on Drawing Numbers: 0350 Revision C (Building Elevations); 0351 Revision D (Building Elevations); 0352 Revision A (Visualisations) and the 'DIY Store Proposed Specification' dated September 2016 is not approved; and instead shall be carried out in accordance with the Revised Façade/Cladding Treatment plan as set out in Condition 2 below.
- The proposed parapet detail as indicated on Drawing Numbers: 0321 Revision B (Building Roof Plan); 0350 Revision C (Building Elevations); 0351 Revision D (Building Elevations); 0352 Revision A (Visualisations) and the 'DIY Store Proposed Specification' dated September 2016 is not approved; and instead shall be carried out in accordance with the Revised Façade/Cladding Treatment plan as set out in Condition 2 below.

Reason: To ensure a satisfactory quality of development that is in keeping with the character and appearance of the surrounding area and does not prejudice the appearance of the locality.

2.  
Revised Façade/Cladding Treatment

The Façade/Cladding treatment for the development shall only be carried out in accordance with Drawing No. 300 REV P-00 dated April 2019 and shall thereafter be retained as approved.

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

3.  
Samples of External Materials

The development shall only be carried out in accordance with the approved materials submitted with 19/00887/DAC which are as follows:

- Masonry Base - 'Forticrete Splitface Bathstone'  
(<https://www.forticrete.co.uk/products/architectural-masonry/splitface>)
- RAL colour swatches for RAL 2008, 2009, 2010, 2012, 7016, 9003 and 'Sirius Colourcoat Prisma' from Tata Steel (RAL 9006).

The development shall thereafter be retained as approved.

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

4.  
Tree and Hedgerow Protection

The development shall only be carried out in accordance with Tree Protection Plan Ref: BRNTRE-4-RET-6312.

The approved means of protection shall be installed prior to the commencement of any building, engineering works or other activities on the site and shall remain in place until after the completion of the development to the complete satisfaction of the Local Planning Authority.

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.

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 unless the express consent in writing of the Local Planning Authority has previously been obtained. No machinery of any kind shall be used or operated within the extent of the spread of the existing trees, shrubs, hedges.

The Local Planning Authority shall be notified in writing at least 5 working days prior to the commencement of development on site.

Reason: To ensure existing trees, shrubs and hedges are retained as they are considered essential to enhance the character of the development.

5.

#### Tree and Hedgerow Removal

The development shall be carried out in accordance with Tree Protection Plan and bat survey plan Ref: BRNTRE-4-RET-6312. The development shall only be carried out in accordance with the approved details.

Reason: To ensure existing trees, shrubs and hedges are retained as they are considered essential to enhance the character of the development, to ensure that any trees that are proposed to be removed from the site do not have a detrimental impact upon ecology and to ensure that appropriate mitigation is secured as identified within the submitted Environmental Statement.

6.

#### Bird Nesting Season

No vegetation clearance or trees/hedgerow removal shall take place during the bird nesting season (1st March to 31st August).

Reason: In order to protect nesting birds that may be present on the application site in accordance with the mitigation identified within the submitted Environmental Statement.

7.

#### Landscaping Scheme

The development shall only be carried out in accordance with the approved landscaping scheme W2231 1001\_G\_PLANNING 15.07.20 and BRAINTREE B3.

All areas of hardstanding shall be constructed using porous materials laid on a permeable base, unless otherwise agreed within the approved sustainable urban drainage SuDs scheme.

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 agreed 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.

Reason: To enhance and mitigate the appearance of the development, in the interests of amenity and privacy, and to preserve and enhance the ecological value of the application site in accordance with the mitigation identified within the submitted Environmental Statement.

8.

#### Management Proposals for Landscaping Scheme

The DIY Store shall not be opened for trade unless and until a landscape and habitat management strategy, has been submitted to and approved in writing by the Local Planning Authority. The operation and use of the site shall accord with the approved landscape and habitat management strategy.

Reason: To enhance and mitigate the appearance of the development, in the interests of amenity and privacy, and to preserve and enhance the ecological value of the application site.

9.

#### Bird/Bat Boxes

The development shall be carried out in accordance with measures set out in the Protection of Breeding Birds Report by Avian Ecology as discharged under 18/01460/DAC. The development shall only be implemented in accordance with the approved details and thereafter shall be so retained. The DIY Store shall not be opened for trade unless and until the approved details have been implemented.

Reason: To enhance the ecological value of the application site.

10.

#### Great Crested Newt Survey

The development shall be carried out in accordance with the mitigation submitted with 19/01460/DAC; namely the Great Crested Newt Survey by Avian Ecology, dated April 2018. The development shall only be carried out in accordance with the approved details. The DIY Store shall not be opened for trade unless and until the approved details have been implemented.

Reason: To ensure appropriate mitigation is provided for Great Crested Newts as appropriate.

11.

#### Great Crested Newt Mitigation

The development shall be carried out in accordance with the details submitted with 19/02302/DAC; namely the Landscape Plan W2331 1001\_F, Report by Avian ecology and the pond profile details. The development shall only be carried out in accordance with the approved details. The DIY Store shall not be opened for trade

unless and until the approved details have been implemented.

Reason: In order to enhance the ecological habitat on the application site for Great Crested Newts and other amphibians in accordance with the mitigation identified within the submitted Environmental Statement.

12.

#### External Lighting

No above ground development shall commence unless and until details of any proposed external lighting for the site have been submitted to and approved in writing by the Local Planning Authority. The details shall include a layout plan with beam orientation and a schedule of equipment in the design (luminaire type, mounting height, aiming angles, luminaire profiles and energy efficiency measures).

The details shall include the mitigation measures recommended within the submitted Environmental Statement, namely:

- The use of white LED lighting without UV;
- Keeping lighting levels low at all times and incorporation of dimmers to reduce light levels after hours and after 10pm;
- Keeping column heights at 6metres; and
- Use of lighting shields to contain the light and reduce bright spots visibility from a distance which may confuse the wildlife.

All lighting shall be installed, retained and operated in accordance with the approved details. No other sources of external illumination shall be installed on the application site.

Reason: To protect the amenities of the occupiers of nearby residential properties and the surrounding area and to protect ecological habitats on the application site.

13.

#### Archaeology

No development or preliminary groundworks of any kind shall take place in the unsurveyed area to the north west of the development (as identified within the archaeological evaluation document & supplementary method statement) until the applicant has secured the implementation of a programme of archaeological evaluation in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details.

Reason: To enable full investigation and recording of this site of archaeological importance. It is required prior to commencement of development as starting works could disrupt potential archaeological remains.

14.  
SuDs

The development shall be carried out in accordance with the approved SUDS details:

- Storm Drainage System calculations
- Phase 1 Drainage Layout (3 of 3): 17-142-S(52)503 Rev.3
- Phase 1 Drainage Layout (2 of 3): 17-142-S(52)502 Rev.3
- Phase 1 Drainage Layout (1 of 3): 17-142-S(52)501 Rev.3
- Phase 1 Windes Model & Area Plan: 17-142-S(52)509 Rev.1
- Phase 1 External Works Surfacing Layout: 17-142-S(90)510 Rev. 2

The scheme shall only be implemented in accordance with the approved details. The DIY Store shall not be opened for trade unless and until the approved details have been implemented.

Reason: To prevent the increased risk of flooding, both on and off site, and to ensure that a satisfactory surface water drainage scheme is provided for the development.

15.  
Boundary Treatment, including acoustic mitigation

The development shall only be carried out in accordance with the following approved plans related to boundary treatments and acoustic mitigation:

- External Works - Barrier & Fencing Layout (1 of 3): 12345-CW-XX-ZZ-M3-A-XXXX-S1.RVT Rev.P01.01
- External Works - Barrier & Fencing Layout (2 of 3): 12345-CW-XX-ZZ-M3-A-XXXX-S1.RVT Rev.P01.01
- External Works - Barrier & Fencing Layout (3 of 3): 12345-CW-XX-ZZ-M3-A-XXXX-S1.RVT Rev.P01.01

The enclosures as approved shall be provided on site prior to the first opening of the DIY Store for trade and shall thereafter be retained as approved.

Reason: In order to secure the satisfactory development of the site and in the interests of visual amenity and to protect the amenities of the occupiers of nearby residential properties, the surrounding area and to minimise nuisance caused by pollution in the interests of residential amenity in accordance with the mitigation identified within the submitted Environmental Statement.

16.  
Service Road

No above ground works shall commence unless and until details of the proposed surface treatment of the access road and proposed speed limit restrictions to mitigate the noise impact from HGV and other delivery, service and maintenance vehicles have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details. The approved details shall be implemented prior to the first opening of the DIY Store for

trade and shall thereafter be retained as approved.

Reason: In the interest of nearby residential amenity.

17.

Plant (Roof)

No above ground development shall take place unless and until full details, including specification, location and design of the proposed roof top plant/ventilation system, as shown in principle with the 'DIY Store proposed specification' dated September 2016, has been submitted to and approved in writing to the Local Planning Authority. The development shall only be carried out in accordance with the approved details and shall thereafter be retained as approved. No further plant equipment/extraction/air handling units shall be installed on any area of the roof or parapet of the building.

Reason: In the interest of visual amenity and in the interest of nearby residential amenity.

18.

Plant (Service Yard)

No above ground development shall take place unless and until full details, including specification, location and design of any plant, extraction/air handling equipment, or air conditioning condenser units proposed in the service yard area, as indicated on Drawing No. 0310 Rev K, have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details and shall thereafter be retained as approved. No further plant equipment/extraction/air handling units or air conditioning condenser units shall be installed on any area of the building or within the application site.

Reason: In the interest of visual amenity and in the interest of nearby residential amenity.

19.

Dust & Mud

Construction of the development shall only be carried out in accordance with the Dust and Mud Method Statement as submitted dated 4th August 2020 under 20/00150/DAC. The approved dust and mud method statement scheme shall be adhered to throughout the site clearance and construction process.

Reason: These details are required to ensure mitigation measures are in place to protect the amenities of the occupiers of nearby residential properties, the surrounding area and to minimise nuisance caused by pollution in the interests of residential amenity.

20.

Construction Method Statement

Construction of the development shall only be carried out in accordance with the Construction Method Statement dated 19 May 2020 as submitted under 20/00150/DAC. The approved Statement shall be adhered to throughout the construction period. The development shall provide for the following all clear of the highway:

- Safe access to/from the site
- The parking of vehicles of site operatives and visitors
- Loading and unloading of plant and materials
- Storage of plant and materials used in constructing the development
- Wheel and underbody washing facilities
- The safe guarding of the Public Rights of Way during construction

Reason: These details are required to ensure mitigation measures are in place in the interest of highway safety, sustainability and to safeguard the amenity of nearby residential properties.

21.

White noise reversing alarms

No above ground development shall take place unless and until, full details of white noise reversing alarms for delivery vehicle, forklifts and other mechanical equipment that will access/use the site for delivery, servicing and maintenance purposes shall be submitted to and approved in writing by the Local Planning Authority. Only the approved alarms will be permitted for use on the site by delivery vehicles, forklifts and other mechanical equipment used on site.

Reason: To protect the amenities of the occupiers of nearby residential properties, the surrounding area and to minimise nuisance caused by pollution in the interests of residential amenity.

22.

Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. No further development shall take place unless and until:

1. An investigation and risk assessment must be undertaken in accordance with the following requirements:
  - i. A survey of the extent, scale and nature of contamination;
  - ii. 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;
  - Archeological sites and ancient monuments.
- iii. An appraisal of remedial options, and proposal of the preferred option(s).

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

2. Where remediation is necessary, no further development shall take place until 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 the Local Planning Authority for approval. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will 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.
3. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, and submitted to the Local Planning Authority for approval.

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

23.

#### Deliveries

There shall be no HGV or other delivery/service/maintenance vehicle movements to, from or within the premises outside the following times:

- 08:00-20:00 Monday to Saturdays
- No movements on Sundays or Public/Bank Holidays

Reason: To protect the amenities of the occupiers of nearby residential properties, the surrounding area and to minimise nuisance caused by pollution in the interests of residential amenity.

24.

#### Burning of Waste

No burning of refuse, waste materials or vegetation shall be undertaken in connection with any site clearance or during the construction of the development.

Reason: To protect the amenities of the occupiers of nearby residential properties, the surrounding area and to minimise nuisance caused by pollution in the interests of residential amenity.

25.

Site Clearance

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:

- 08:00-18:00 Monday to Friday
- 08:00-13:00 Saturday
- No work on Sundays, Public/Bank Holidays

Reason: To protect the amenities of the occupiers of nearby residential properties, the surrounding area and to minimise nuisance caused by pollution in the interests of residential amenity.

26.

Piling

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 system of piling shall be adhered to throughout the construction process.

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

27.

Site Access

The DIY Store shall not be opened for trade unless and until the site access has been constructed and implemented as shown in principle on Drawing No. C4-10051-SK141010.1 dated Oct 2014 in accordance with further details to be submitted to and approved in writing by the Local Planning Authority. The details shall include a visibility splay of 2.4 by 70 metres to the east. The development shall only be carried out in accordance with the approved details and shall thereafter retained as approved. The access shall be kept free from any obstruction at all times.

Reason: In the interest of highway safety.

28.

Cycle Parking Details

The cycle parking shall be carried out in accordance with the information dated 19.05.2020 and the Broax specification and Mansfield specification under 19/01721/DAC. The cycle parking provision shall be implemented in accordance with



the approved details and shall thereafter be retained.

Reason: In the interest of promoting sustainable modes of transport.

29.

Parking Spaces

The DIY Store shall not be opened for trade unless and until the vehicle parking area indicated on the approved plans, including any accessible parking spaces for disabled users, have been hard surfaced, sealed and marked out in parking bays, in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details. The vehicle parking area and associated turning area shall be retained as approved 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.

Reason: In the interest of highway safety and to ensure sufficient parking provision is provided on the application.

30.

Use Restriction

The premises shall only be used for the sale of bulky comparison goods consisting of building and DIY products, garden products and plants, pets and pet supplies, furniture, carpets, floor coverings and household furnishings, electrical and gas products, vehicle accessories and parts, bicycles and cycle accessories, office supplies, computers and accessories, caravans, tents and camping and boating equipment and any other goods which are ancillary and related to the main use of the premises for the sale of bulky comparison goods.

Reason:

For the avoidance of doubt on the scope of this permission and to ensure that the use of the site does not have a detrimental impact upon the vitality and viability of Braintree Town Centre.

31.

Subdivision / Mezzanine Floor Restriction

There shall be no subdivision of the DIY Store hereby granted planning permission and no additional internal floor space shall be created, including the insertion of mezzanine floors.

Reason: For the avoidance of doubt on the scope of this permission and to ensure that the use of the site does not have a detrimental impact upon the vitality and viability of Braintree Town Centre.

32.

PD Removal

Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order amending, revoking and re-enacting that Order) no enlargement of the DIY Store as permitted by Class A of Part 7 of Schedule 2 of that Order shall be carried out without first obtaining planning permission from the Local Planning Authority.

Reason: For the avoidance of doubt on the scope of this permission, to control any future extension proposals to ensure that the use of the site does not have a detrimental impact upon the vitality and viability of Braintree Town Centre.

33.

Hours of Opening

The premises shall not be open for trade outside the following hours:

- Mondays to Fridays: 07.00-21:00
- Saturdays: 07:00-20:00
- Sundays: 10:00-16:00
- Public and Bank Holidays: 10:00-16:00

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

34.

Galley's Corner Roundabout Improvement Scheme

A. No development under this planning permission shall take place in respect of the Galley's Corner roundabout (A120/B1018) unless and until details of the improvement works to the roundabout ("the Galley's Corner Roundabout Improvement Scheme") have been submitted to and approved in writing by the Local Planning Authority (in consultation with National Highways). The Galley's Corner Roundabout Improvement Scheme shall generally conform to Drawing No. C4-10051-014 Rev D dated Sept 2012 and shall include but not be limited to details of CCTV provision and appropriate traffic control systems. The Galley's Corner Roundabout Improvement Scheme shall also include drawings and documents showing:

- i. How the improvement interfaces with the existing highway alignment and carriageway markings including lane destinations;
- ii. Full construction details relating to the highways improvement. This should include any modification to existing structures or proposed structures, with supporting analysis;
- iii. Full signing and lighting details where applicable;
- iv. Confirmation of full compliance with Departmental Standards (DMRB) and Policies (or approved relaxations/departure from standards);
- v. Evidence that the scheme is fully deliverable within land in the control of either

- the Highway Authority or the Applicant;
- vi. An independent Stage 2 Road Safety Audit (taking account of any Stage 1 Road Safety Audit recommendations) carried out in accordance with Departmental Standards (DMRB).
- B. Development of the Galley's Corner roundabout (A120/B1018) under this planning permission shall only take place in accordance with the Galley's Corner Roundabout Improvement Scheme approved by the Local Planning Authority pursuant to 'A' above.
- C. The DIY retail warehouse shall not be opened for trade unless and until the Galley's Corner Roundabout Improvement Scheme has been delivered and is fully operational.

Reason: To ensure that the A120, B1018 and Galley's Corner Roundabout will continue to fulfil its purpose as part of the Strategic Road Network.

35.

Fowlers Farm Roundabout Improvement Scheme

The DIY retail warehouse shall not be opened for trade unless and until:

- A. Details of the improvements works to the Fowlers Farm roundabout (B1018/Millennium Way) ("the Fowlers Farm Roundabout Improvement Scheme") have been submitted to and agreed in writing by the Local Planning Authority. The Fowlers Farm Roundabout Improvement Scheme shall generally conform to Drawing No. 10051-B3-015-A dated May 15 and shall include but not be limited to details of traffic signals on the circulatory carriageway of the Fowlers Farm roundabout and on the B1018 south bound approach to the Fowlers Farm roundabout, together with CCTV provision and appropriate traffic control systems.; and
- B. The Fowlers Farm Roundabout Improvement Scheme has been delivered and is fully operational."

Reason: To ensure that the A120, B1018 and Galley's Corner Roundabout will continue to fulfil its purpose as part of the Strategic Road Network.

36.

Vehicle Detection Loops for Roundabout Improvement Scheme

The DIY Store shall not be opened for trade unless and until details for the provision of vehicle detection loops at appropriate locations including the A120 approaches to Galleys Roundabout, Braintree Road (B1018), Cressing and the B1018 southbound approach to the Fowlers Farm roundabout to assist with the local management of traffic and queue lengths during peak times, in conjunction with the delivery of the Galleys Corner and Fowlers Farm roundabout improvement schemes, have been submitted to and approved in writing by the Local Planning Authority. The DIY Store shall not be opened for trade unless and until the approved details have been

delivered and are fully operational.

Reason: To ensure that the A120, B1018 and Galley's Corner Roundabout will continue to fulfil its purpose as part of the Strategic Road Network.

37.

Relocation of Bus Stop

The DIY Store shall not be opened for trade unless and until the bus stop on Millennium Way has been relocated and upgraded to current Essex County Council specification in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the development is accessible by more sustainable modes of transport.

Positive and Proactive Statement

*The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and has granted 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 Development Framework Core Strategy 2011

|     |  |
|-----|--|
| CS5 | The Countryside                        |
| CS6 | Retailing and Town Centre Regeneration |
| CS7 | Promoting Accessibility for All        |
| CS8 | Natural Environment and Biodiversity   |

#### Braintree District Local Plan Review 2005

|       |  |
|-------|--|
| RLP2  | Town Development Boundaries and Village Envelopes                      |
| RLP4  | Prevention of Town Cramming  |
| RLP35 | Non- Conforming and Un-Neighbourly Industry                            |
| RLP36 | Industrial and Environmental Standards                                 |
| RLP40 | Minor Industrial and Commercial Development in the Countryside         |
| RLP49 | Pedestrian Networks  |
| RLP50 | Cycleways  |
| RLP51 | Cycle Parking  |
| RLP52 | Public Transport   |
| RLP53 | Generators of Travel Demand  |
| RLP54 | Transport Assessments2   |
| RLP55 | Travel Plans   |
| RLP56 | Vehicle Parking  |
| RLP58 | Galleys Corner Special Policy Area                                     |
| RLP62 | Development Likely to Give Rise to Pollution, or the Risk of Pollution |
| RLP63 | Air Quality  |
| RLP64 | Contaminated Land  |
| RLP65 | External Lighting  |
| RLP69 | Sustainable Drainage   |
| RLP71 | Water Supply, Sewerage and Land Drainage                               |
| RLP72 | Water Quality  |
| RLP73 | Waste Minimisation   |
| RLP76 | Renewable Energy   |
| RLP80 | Landscape Features and Habitats  |
| RLP81 | Trees, Woodlands, Grasslands and Hedgerows                             |
| RLP84 | Protected Species  |
| RLP90 | Layout and Design of Development                                       |
| RLP91 | Site Appraisal   |
| RLP92 | Accessibility  |
| RLP93 | Public Realm   |

|        |  |
|--------|--|
| RLP105 | Archaeological Evaluation                |
| RLP106 | Archaeological Excavation and Monitoring |
| RLP118 | Retail Warehouse Development             |
| RLP164 | Environmental Impact Assessment          |

#### Braintree District Shared Strategic Section 1 Local Plan (2021)

|     |   |
|-----|---|
| SP1 | Presumption in Favour of Sustainable Development                  |
| SP2 | Recreational disturbance Avoidance and Mitigation Strategy (RAMS) |
| SP3 | Spatial Strategy for North Essex                                  |
| SP5 | Employment  |
| SP6 | Infrastructure & Connectivity                                     |
| SP7 | Place Shaping Principles  |

#### Braintree District Draft Section 2 Local Plan (2017)

|       |  |
|-------|--|
| LPP1  | Development Boundaries   |
| LPP2  | Location of Employment Land  |
| LPP3  | Employment Policy Areas  |
| LPP7  | Design and Layout of Employment Policy Areas and Business Uses     |
| LPP10 | Retailing and Regeneration   |
| LPP44 | Sustainable Transport  |
| LPP45 | Parking Provision  |
| LPP48 | New Road Infrastructure  |
| LPP50 | Built and Historic Environment                                     |
| LPP51 | An Inclusive Environment   |
| LPP55 | Layout and Design of Development                                   |
| LPP67 | Natural Environment and Green Infrastructure                       |
| LPP68 | Protected Species, Priority Spaces and Priority Habitat            |
| LPP69 | Tree Protection  |
| LPP70 | Protection, Enhancement, Management and Monitoring of Biodiversity |
| LPP74 | Climate Change   |
| LPP78 | Flooding Risk and Surface Water Drainage                           |
| LPP81 | External Lighting  |
| LPP82 | Infrastructure Delivery and Impact Mitigation                      |

#### Cressing Parish Neighbourhood Plan 2017-2033

|           |  |
|-----------|--|
| Policy 1  | Protecting and Enhancing the Natural Environment                     |
| Policy 2  | Protection of Special and Sensitive Landscapes                       |
| Policy 4  | Protecting the Historic Environment                                  |
| Policy 5  | Infrastructure, Services, and Utilities                              |
| Policy 6  | Protecting and Enhancing Community Facilities and Public Open Spaces |
| Policy 8  | Design, Layout, Scale, Character, and Appearance of New Development  |
| Policy 9  | Economy  |
| Policy 10 | Provision of Electric Vehicle Charging Points                        |
| Policy 11 | Developer Contributions  |

### Other Material Considerations

None.

### Statement on Draft Local Plan

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

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

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

The local authority is now moving forward with the examination of Section 2 of the Draft Local Plan and a consultation on the main modifications closed on 24th January 2022. In accordance with Paragraph 48 of the NPPF, from the day of publication the Council can give weight to the policies of this emerging Draft Section 2 Local Plan ("the Section 2 Plan") and the weight that can be given is related to:

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

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

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

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

### APPENDIX 3:

#### SITE HISTORY

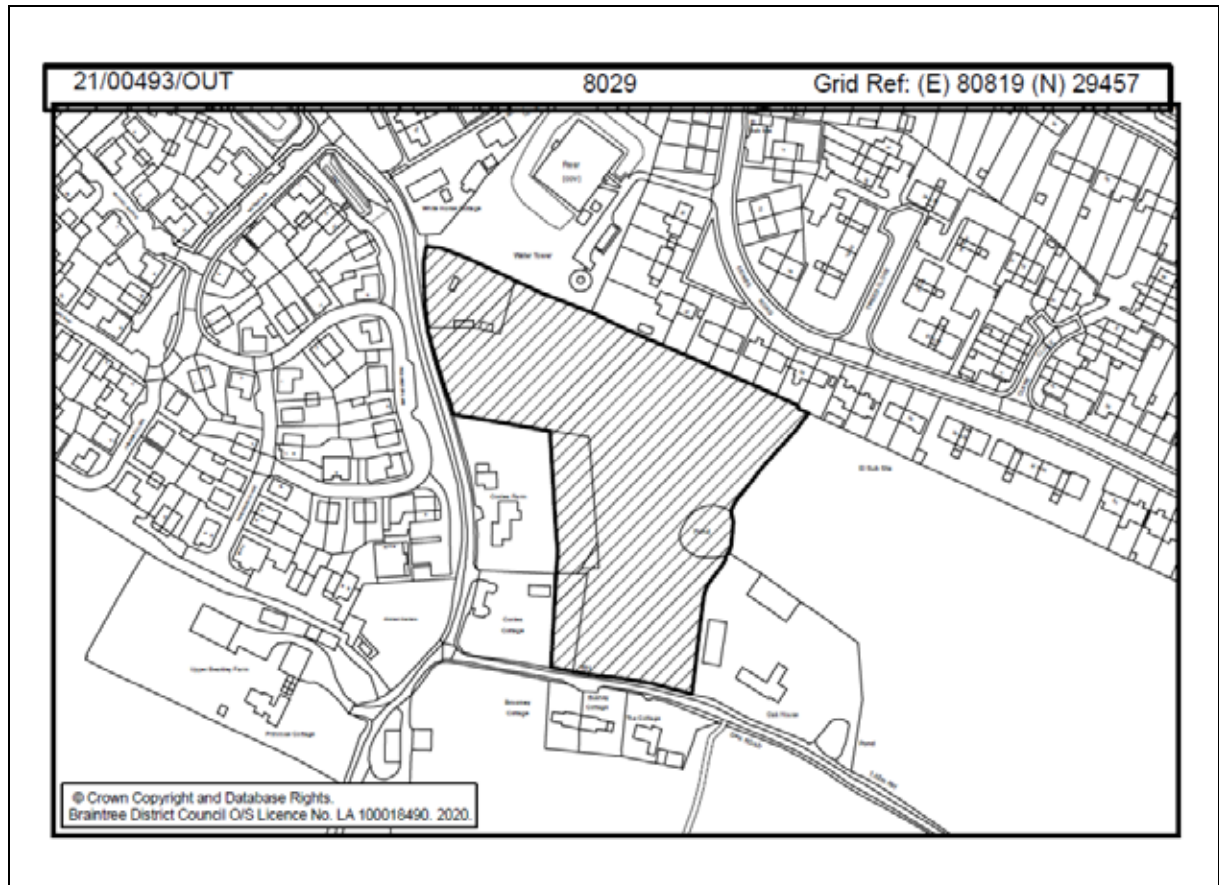
| <b>Application No:</b> | <b>Description:</b>   | <b>Decision:</b>            | <b>Date:</b> |
|------------------------|---|-----------------------------|--------------|
| 89/00123/P             | Retail Park With Associated Car Parking And Servicing   | Granted with S52 Agreement  | 18.05.89     |
| 89/01000/P             | Construction Of Highway Access To Proposed Business/Retail Park   | Granted                     | 29.06.89     |
| 11/00008/SCR           | Screening opinion request for the redevelopment of the site for 7 no. retail units (13,401m2 gross) and associated highway works  |                             | 17.10.11     |
| 12/00001/SCO           | Scoping opinion request for land south of Millennium Way, Freeport Outlet Village   |                             | 22.03.12     |
| 13/01476/FUL           | Erection of DIY retail warehouse with associated access, car parking and landscaping and improvement works to the A120/B1018  | Granted with S106 Agreement | 29.09.17     |
| 18/00005/SCR           | Town & Country Planning Act 1990 (as amended), Town & Country Planning (Environmental Impact Assessment) Regulations 2011 - Screening Request - Proposed development for the erection of an A1 (bulky goods) retail unit        | Pending Decision            |              |
| 18/01940/DAC           | Application for approval of details reserved by Condition 3 of approved application 13/01476/FUL - Erection of DIY retail warehouse with associated access, car parking and landscaping and improvement works to the A120/B1018 | Granted                     | 02.08.19     |
| 19/00887/DAC           | Application for approval of details reserved by Condition 4 of approved application 13/01476/FUL -  | Granted                     | 02.08.19     |



|              |  |                          |          |
|--------------|--|--------------------------|----------|
|              | Erection of DIY retail warehouse with associated access, car parking and landscaping and improvement works to the A120/B1018   |                          |          |
| 19/01352/FUL | Construction of a Class A1 food store (Aldi) with associated car parking, access roads, servicing and landscaping, including the reconfiguration of the car park for the approved DIY store. | Pending Consideration    |          |
| 19/01721/DAC | Application for approval of details reserved by conditions 8, 15, 16 and 29 of approved application 13/01476/FUL   | Granted                  | 15.09.20 |
| 19/01771/DAC | Approval of details reserved by condition 12 of approved application 13/01476/FUL  | Application Returned     |          |
| 19/02302/DAC | Application for approval of details reserved by condition 12 of approval 13/01476/FUL  | Granted                  | 03.08.20 |
| 20/00150/DAC | Application for approval of details reserved by conditions 14, 20 and 21 of approved application 13/01476/FUL  | Part Grant, Part Refused | 05.08.20 |
| 20/00609/DAC | Application for approval of details reserved by conditions 35 and 36 of approved application 13/01476/FUL  | Pending Consideration    |          |

|  |   |  |
|--|---|--|
| <b>Report to:</b> Planning Committee         |   |  |
| <b>Planning Committee Date:</b> 3rd May 2022 |   |  |
| <b>For:</b> Decision                         |   |  |
| <b>Key Decision:</b> No                      |   | <b>Decision Planner Ref No:</b> N/A                      |
| <b>Application No:</b>                       | 21/00493/OUT  |  |
| <b>Description:</b>                          | Outline planning permission with all matters reserved for 39 dwellings  |  |
| <b>Location:</b>                             | Land Adjacent Conies Farm Oak Road Halstead   |  |
| <b>Applicant:</b>                            | Mr Mark Reeves, 12 Benfield Way, Braintree, CM7 3YS   |  |
| <b>Date Valid:</b>                           | 27th April 2021   |  |
| <b>Recommendation:</b>                       | It is RECOMMENDED that the following decision be made:<br><br>§ Application REFUSED for the reasons outlined within Appendix 1 of this Committee Report.  |  |
| <b>Options:</b>                              | The Planning Committee can:<br><br>a) <b>Agree</b> the Recommendation<br>b) <b>Vary</b> the Recommendation<br>c) <b>Overturn</b> the Recommendation<br>d) <b>Defer</b> consideration of the Application for a specified reason(s)               |  |
| <b>Appendices:</b>                           | <b>Appendix 1:</b>  | Reason(s) for Refusal<br>Submitted Plan(s) / Document(s) |
|  | <b>Appendix 2:</b>  | Policy Considerations                                    |
|  | <b>Appendix 3:</b>  | Site History   |
| <b>Case Officer:</b>                         | Melanie Corbishley<br>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:<br/> <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a> by entering the Application Number: 21/00493/OUT.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> <li>§ National Planning Policy Framework (NPPF)</li> <li>§ Braintree District Local Plan Review (2005)</li> <li>§ Braintree District Core Strategy (2011)</li> <li>§ Braintree District Shared Strategic Section 1 Local Plan (2021)</li> <li>§ Braintree District Publication Draft Section 2 Local Plan (2017)</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:<br/> <a href="http://www.braintree.gov.uk">www.braintree.gov.uk</a>.</p> |

1. EXECUTIVE SUMMARY

- 1.1 The application site is approximately 1.52 hectare in size and is located on the south-eastern edge of Halstead, outside of the town boundary. The parish boundary with Halstead Rural and Greenstead Green lies along the stretch of Oak Road to the south of the application site.
- 1.2 The site is located to the north-east of Oak Road, and to the west of Tidings Hill. The northern edge of the site abuts the rear gardens of houses on Conies Road and Grange Close. To the east of the site are Conies Farm and Conies Cottage and beyond these properties is Richardson Lane which forms part of the David Wilson development.
- 1.3 To the east of the site there is a large separate parcel of land that benefits from outline planning permission for up to 70 dwellings (Application Reference 18/01876/OUT). This permission has now expired. A full planning application for the same site, for the erection of 80 dwellings including affordable homes, public open space including local equipped area for play, access from Tidings Hill, sustainable drainage systems, landscaping and all associated infrastructure and development (Application Reference 21/03101/FUL) was recently reported to Planning Committee, where Members resolved to grant planning permission subject to a Section 106 Agreement.
- 1.4 This application seeks Outline Planning Permission, with all matters reserved, for the development of 39 dwellings. Whilst all matters are reserved, the applicant has provided details of the vehicular and pedestrian accesses from Oak Road.
- 1.5 The application site is not allocated for development and lies beyond any designated town or village development boundary in either the Adopted Local Plan and Section 2 Plan. This weighs against the development in the Planning Balance, along with the harm to the character and appearance of the local area due to the significant loss of trees and hedging along Oak Road, the inability to accommodate 39 dwellings, harm to existing and proposed residential amenity and inevitable harm to the nearby protected oak tree. In addition, planning contributions for education, open space and affordable housing have not been secured by a completed S106 agreement.
- 1.6 When considering the flat planning balance and having regard to the adverse impacts and benefits outlined above and having regard to the requirements of the NPPF as a whole, Officers have concluded that the benefits of the proposal are clearly and significantly outweighed by the harms, including the harm arising from the conflict with the Development Plan, such that planning permission should be refused in line with the Development Plan.

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 approximately 1.52 hectare in size and is located on the south-eastern edge of Halstead, outside of the town boundary. The parish boundary with Halstead Rural and Greenstead Green lies along the stretch of Oak Road to the south of the application site.
- 5.2 The site is located to the north-east of Oak Road, and to the west of Tidings Hill. The northern edge of the site abuts the rear gardens of houses on Conies Road and Grange Close.
- 5.3 To the east of the site are Conies Farm and Conies Cottage and beyond these properties is Richardson Lane which forms part of the David Wilson development.
- 5.4 The site is roughly 'L' shaped and all of the boundaries are well treed and create a self-contained site. Just beyond the eastern portion of the site is a large protected oak tree.
- 5.5 To the east of the site there is a large separate parcel of land that benefits from outline planning permission for up to 70 dwellings (Application Reference 18/01876/OUT). This permission has now expired. A full planning application for the erection of 80 dwellings including affordable homes, public open space including local equipped area for play, access from Tidings Hill, sustainable drainage systems, landscaping and all associated infrastructure and development (Application Reference 21/03101/FUL) is currently being considered by Officers.

6. PROPOSAL

- 6.1 This application seeks Outline Planning Permission, with all matters, for the development of 39 dwellings.
- 6.2 Whilst all matters are reserved, the applicant has provided details of the vehicular and pedestrian accesses from Oak Road.

6.3 Applications for outline planning permission seek to establish whether the scale and nature of a proposed development would be acceptable to the local planning authority, before a fully detailed proposal is put forward. Besides access all other matters regarding the development (access; appearance; landscaping; layout; and scale) are Reserved Matters.

6.4 The application is also supported by a suite of documents which include:

- Planning, Design and Access Statement
- Ecological Appraisal
- Envirocheck Report and Maps
- Flood Assessment
- Transport Report and Access Plan

6.5 The density of the development would be approximately 25 dwellings per hectare over an area of 1.52ha.

## 7. SUMMARY OF CONSULTATION RESPONSES

### 7.1 Anglian Water

7.1.1 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. Anglian Water request an informative to be included on any decision notice.

7.1.2 The foul drainage from this development is in the catchment of Halstead Water Recycling Centre that will have available capacity for these flows.

7.1.3 This response has been based on the following submitted documents: Application Form, Site Location Plan, Flood Risk Assessment and Design and Access Statement 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. We 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, a discharge regime, if pumped we would require a discharge rate. We therefore request a condition requiring an on-site drainage strategy.

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



7.1.5 A planning condition is requested.

## 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. The following matters need to be addressed before access for fire service purposes can be considered satisfactory: As no scale was provided with the plans the officer was unable to determine if the following conditions have been applied:

- § The surface should be capable of sustaining a load of 18 tonnes (26 tonnes in the case of aerial appliances).
- § Changes of direction by bends should have a radius of not less than 8.9 metres to the outer edge.
- § The overall width of the access fire path should be not less than 3.7 metres.
- § Headroom should not be less than 3.7 metres and 4 metres in the case of aerial appliances.
- § Turning circles should be available in dead end roads longer than 20

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

## 7.3 Essex Police

7.3.1 BDC RPL90 (viii) states - Designs and layouts shall promote a safe and secure environment, crime reduction and prevention and shall encourage the related objective of enhancing personal safety.

7.3.2 There is insufficient detail within this application to make any meaningful comment on in relation to security. 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 the risk commensurate security is built into each property and the development as a whole.

7.3.3 From experience pre-planning consultation is always preferable in order that security, landscaping and lighting considerations for the benefit of the intended residents and those neighbouring the development are agreed prior to a planning application.

## 7.4 Natural England

7.4.1 It has been identified that this development falls within the 'Zone of Influence' (Zoi) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS); see our recent advice to your authority on this issue (our ref: 244199, dated 16th August 2018) for further information.

- 7.4.2 In the context of your duty as competent authority under the provisions of the Habitats Regulations, it is anticipated that, without mitigation, new residential development in this area and of this scale is likely to have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when considered 'in combination' with other plans and projects. The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Braintree District Council, working together to mitigate the effects arising from new residential development. Once adopted, the RAMS will comprise a package of strategic measures to address such effects, which will be costed and funded through developer contributions.
- 7.4.3 We therefore advise that you consider, in line with our recent advice, whether this proposal falls within scope of the RAMS as 'relevant development'. Where it does, this scale of development would fall below that at which Natural England would offer bespoke advice on this issue. However, in such cases we advise that you must undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation; you should not grant permission until such time as the HRA has been undertaken and the conclusions confirmed.
- 7.5 NHS
- 7.5.1 Financial contribution of £19,300 requested in order to increase capacity for the benefit of patients of Elizabeth Courtauld Surgery. This may be achieved through any combination of extension, reconfiguration or relocation of premises and/or staff recruitment or training.
- 7.6 BDC Ecology
- 7.6.1 Holding objection due to insufficient ecological information for a European Protected Species (Great Crested Newts).
- 7.7 BDC Environmental Health
- 7.7.1 No objections to the proposed development on environmental health grounds. Notes that all matters apart from the principle of development and access are reserved.
- 7.7.2 Given the absence of any historically contaminative land uses on or adjacent to this site, the Environmental Health Officer does not consider that contaminated land is a material consideration with respect to this development.
- 7.7.3 The site is not situated near to any significant noise sources so environmental noise is also not a material factor with respect this application. The site is situated in an area with relatively good air quality

and as such a detailed air quality assessment is not required in this instance.

## 7.8 BDC Housing Research and Development

- 7.8.1 In accordance with Policy CS2 of adopted Core Strategy to seek affordable housing, the proposal for up to 39 residential dwellings requires 30% of the dwellings to be provided as affordable housing which would equate to 11 homes. Although it is acknowledged that details concerning the mix of affordable dwellings will be subject of a reserved matters application, the indicative affordable housing mix below would be considered appropriate to match evidence of housing need.

|                      | No | Affordable Rent | Shared Ownership |
|----------------------|----|-----------------|------------------|
| 2 bed 4 person house | 6  | 4               | 2                |
| 3 bed 5 person house | 4  | 2               | 2                |
| 4 bed 7 person house | 1  | 1               | 0                |
| Total                | 11 | 7               | 4                |

- 7.8.2 Other requirements concerning affordable housing that should be considered are as follows:

- § Affordable dwellings should be deliverable without reliance on public subsidy.
- § All affordable dwellings that are accessed at ground floor level should be compliant with Building Regulations Part M(2).
- § Affordable dwellings should meet NDSS.

## 7.9 BDC Landscape Services

- 7.9.1 No comments received.

## 7.10 BDC Waste Services

- 7.10.1 There are no details explaining access for waste and recycling collections. We require a detailed refuse strategy detailing where residents will leave their waste receptacles on collection day, and also where they will be stored when it is not collection day. We require the access road to be built to a standard equivalent to adopted highway. We will not be able to walk further than 20 metres each way to carry out collections to each property, therefore the collection point for each property needs to be within 20 metres of where our waste collection vehicle stops on the adopted highway.

## 7.11 ECC Archaeology

- 7.11.1 The Essex Historic Environment (HER) Record shows that the proposed development will affect a site of archaeological interest. The Essex Historic Environment (HER) Record shows that the proposed development lies to the west of an area of recorded cropmark features for enclosures and a ring

ditch. To the west an archaeological evaluation and excavation found evidence of prehistoric and medieval activity. A Roman bronze buckle was recovered from near Stones Farm to the east of the site. The evidence from the surrounding area suggest there is potential for archaeological remains from the prehistoric to medieval periods to survive. The land was historically associated with Coneys Farm which is depicted on the Tithe maps of c.1840 and a pond is located within the development area which has the potential to preserve waterlogged or organic remains.

7.11.2 A number of planning conditions are requested.

#### 7.12 ECC Education

7.12.1 Financial contributions requested. £60,611 for Early Years and Childcare, £177,395.40 for Primary School Transport, £39,273 for Secondary School Transport and £3034.20 for local library enhancements.

#### 7.13 ECC Highways

7.13.1 All residential developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to the Advance Payments Code, Highways Act 1980. The developer will be served with an appropriate notice within 6 weeks of building regulations approval being granted and prior to commencement of the development must provide guaranteed deposits, which will ensure the new street is constructed in accordance with a specification sufficient to ensure future maintenance as highway by the Highway Authority

7.13.2 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 management plan, the provision of the vehicular and pedestrian accesses, provision of residential travel packs for all new occupiers, the surface material for the proposed access and the closure of an existing access.

#### 7.14 ECC Suds

7.14.1 Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, the LLFA wish to issue a holding objection to the granting of planning permission based on the following:

- § A preliminary drainage plan needs to be provided to show how water will be conveyed, stored, treated and discharged.
- § A discharge location needs to be clearly identified.
- § Existing greenfield rates need to be calculated and it should be demonstrated that it is viable to discharge at the greenfield 1 in 1 year rate. • Preliminary storage calculations need to be provided, including an allowance for urban creep and climate change.

8. PARISH / TOWN COUNCIL

8.1 Halstead Town Council

8.1.1 Cllr Fincken, seconded by Cllr Pell proposed that HTC object strongly to this application for the following reasons:

- This is a single track road that has quiet lane status pending. No footpaths or passing places and leads into Tidings Hill that also can't cope with any more traffic as is also not wide enough in places. The road also floods and the road surface is in a terrible condition.
- The widening of the road at the site entrance is not sympathetic to a country road/lane where walkers are in abundance.
- Oak Road has pending Quiet Lane status, and is not suitable for a development of this extent.
- There are no footpaths or pavements at the side of the road.
- There was a previous application for this site which was refused.
- The design and access statement is out of date.
- The road traffic accident statistics are out of date.
- The site plan is not to scale.
- Highways are slow to engage with the planning department and public in making comments.
- There is no room for more housing in the town, as the current infrastructure cannot support an increase in population.
- The development is environmentally unfriendly and would displace a great deal of wildlife.
- There will be a loss of trees, which is likely to lead to more flooding.
- Local businesses will be affected.
- There are also deep concerns among local residents relating to loss of privacy.
- A road safety assessment is needed.

8.1.2 This was unanimously agreed.

8.2 Greenstead Green and Halstead Rural Parish Council

8.2.1 No objection.

9. REPRESENTATIONS

9.1 27 representations received making the following comments:

- Loss of countryside view
- The wooded area is a habitat for animals, and the development would result in its loss
- Oak Road is narrow, is not suitable for extra traffic and is in a poor state of repair
- Reduction in value on nearby properties

- Noise and disturbance during construction works
- Access would cause congestion
- Oak Road is often under water
- This is a further urbanisation of Halstead
- Insufficient capacity at local doctors, dentists and schools
- Increased traffic using the A131
- Flooding assessment dates from 2000-2003 and is therefore irrelevant as it does not take into account recent nearby development
- Already significant development near the site
- The site entrance needs to be sympathetic to the country lane
- Parking does not comply with Essex Space Standards
- House types look too small and would fall under the Nationally Described Space Standards
- The proposals offer nothing back to the local community
- There are no accessible footpaths along Oak Road
- Increased light pollution in the area
- Issues regarding anti-social behaviour
- Concerns about flooding from the site, as it is waterlogged
- Detrimental impact on local businesses along Oak Road
- Loss of privacy
- Concerns about damage to property

## 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 publishes a 5 year housing land trajectory as of 31st March each year. The most recent position therefore is that of 31st March 2021. Within the published trajectory, the forecast supply amounted to a 5.34 year supply of housing based on a 5% buffer.
- 10.2.2 At its Full Council meeting on 22nd February 2021, Braintree District Council approved the adoption of the Shared Strategic Section 1 Local Plan. On its adoption, the Council must meet the housing requirement set out in that Plan. This is a minimum of 14,320 homes between 2013-2033 or an annual average of 716 new homes per year. This replaces the previous consideration of housing need based on the Standard Methodology.
- 10.2.3 The latest Housing Delivery Test (HDT) results were published in January 2022. The new results (which include an allowance for the impact of the current pandemic) confirm that Braintree District achieved 125% supply against target and the usual 5% buffer is maintained. This applies from the day of publication of the results.
- 10.2.4 The Council's Housing Land Supply position has recently been contested as part of an appeal at Land off Brain Valley Avenue, Black Notley (Appeal Reference: APP/Z1510/W/21/3281232). Within the appeal decision dated 20th January 2022, the Inspector concluded at Paragraph 54 that the housing supply 2021-2026 would be in excess of the 5,352 requirement; and that therefore the Council can demonstrate an up-to-date housing land supply and the titled balance pursuant to Paragraph 11d) of the NPPF is not engaged.

- 10.2.5 Accordingly, given all the evidence before it, including the housing requirement from the Shared Strategic Section 1 Local Plan and the use of a 5% buffer, and having regard to the above appeal decision, the Council considers that the current 5 Year Housing Land Supply for the District is 5.1 years.
- 10.2.6 In addition, the current supply position does not include sites which are proposed to be allocated within the Section 2 Local Plan but do not yet have planning permission or a resolution to grant planning permission.
- 10.2.7 These allocations without permission are being tested at the Section 2 Plan Examination. Once the Section 2 Plan is adopted, these sites will become adopted allocations and greater weight can be given to them. It will also improve the prospects of these being included within the deliverable supply, where there is clear evidence that there is a realistic prospect that housing will be delivered on the site within five years.
- 10.3 The Development Plan
- 10.3.1 Currently the Council's statutory Development Plan consists of the Braintree District Local Plan Review (2005), the Braintree District Core Strategy (2011), and the Braintree District Shared Strategic Section 1 Local Plan (2021).
- 10.3.2 The application site is located outside of a designated village envelope/town development boundary and as such is located on land designated as countryside in the Adopted Local Plan (2005) and the Core Strategy (2011).
- 10.3.3 Policy RLP2 of the Adopted Local Plan states that new development will be confined to areas within Town Development Boundaries and Village Envelopes. Outside these areas countryside policies will apply. Policy CS5 of the Adopted Core Strategy specifies that development outside Town Development Boundaries and Village Envelopes will be strictly controlled to uses appropriate within the countryside in order to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside.
- 10.3.4 The application site is not proposed for allocation for development in the emerging Section 2 Plan. The proposed development is therefore contrary to the Section 2 Plan, in particular Policy LPP1 of the Section 2 Plan which states that outside development boundaries development will be strictly controlled to uses appropriate to the countryside.
- 10.3.5 The proposed development is therefore considered to be contrary to the Adopted Development Plan and the emerging Section 2 Plan.
- 10.3.6 Members are advised that the site to the north of the site lies development within the existing Town Boundary of Halstead. To the west is the recently completed David Wilson development and to the east is a Bellway site



which was recently reported to Planning Committee where Members resolved to grant planning permission for 80 dwellings (Application Reference 21/03101/FUL). To the south of the site along Oak Road, there are three properties. Consequently, the application site has built development on at least three sides. Given this, Officers consider that a reason for refusal based solely on the conflict with the principle of development could not be substantiated and defended successfully at appeal.

#### 10.4 Call for Sites

10.4.1 The site was the subject of a Call for Sites submission HATR297 but the site was rejected for inclusion as a housing allocation.

10.4.2 This site was discussed at the Local Plan meeting on 25<sup>th</sup> May 2016.

10.4.3 The Local Plan Sub Committee's reasons for rejecting the site as a Local Plan allocation included the following: The site has been considered already as HTR2. The site was not included in the site allocations plan because its allocation would represent an intrusion into the countryside in an area identified as Page 25 of 102\_ having a high sensitivity to change and would result in a less defensible development boundary. The Local Plan Sub Committee have had the opportunity to approve this site as a residential allocation and have not done so due to the abovementioned reasons.

### 11. SITE ASSESSMENT

#### 11.1 Location and Access to Services and Facilities

11.1.1 Paragraph 124 of the NPPF states that decisions should ensure that developments that generate significant traffic movements are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised.

11.1.2 Policy CS7 of the Adopted Core Strategy states that future development will be provided in accessible locations to reduce the need to travel. The site is located adjacent to the town boundary for Halstead and is within reasonable walking distance to the services and facilities provided within Halstead and local bus stop connections.

11.1.3 Policy RLP53 of the Adopted Local Plan states that major new development proposals that are likely to generate significant levels of travel demand will only be permitted where:

- Direct public transport services exist, or there is potential for the development to be well served by public transport.
- The layout of the development has been designed to ensure that access to existing or potential public transport lies within easy walking distance of the entire site.

- 11.1.4 The strategy set out in the emerging Section 2 Plan is to concentrate growth in the most sustainable locations - that is, 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 nearby shops, services and employment opportunities. This means for the new Local Plan: "That the broad spatial strategy for the District should concentrate development in Braintree, planned new garden communities, Witham and the A12 corridor, and Halstead".
- 11.1.5 Overall it is considered that the site is located in a sustainable location on the edge of Halstead. Given the location of the site, it is considered that the site is not isolated and would not conflict with the requirements of Policy CS7 and this weighs in favour the proposal in the overall planning balance.
- 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 In addition to this, Policy RLP90 of the Adopted Local Plan requires designs to recognise and reflect local distinctiveness in terms of scale, density, height and massing of buildings, and be sensitive to the need to conserve local features of architectural and historic importance, and also to ensure development affecting the public realm shall be of a high standard of design and materials, and use appropriate landscaping. Policy LPP55 of the Section 2 Plan 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.
- 11.2.4 This is an outline application where design, layout, scale and landscaping are reserved matters. A basic indicative layout plan has been submitted in support of the application.
- 11.2.5 Whilst the layout of the development is a matter reserved for consideration at a later date, Officers have to be satisfied that the site is capable as accommodating the number of dwellings proposed along with suitable space for policy compliant level of car parking, garden space, open space and SuDs.

- 11.2.6 Officers consider that the submitted indicative layout plan is extremely vague and has not provided Officers the opportunity to assess whether the site can accommodate the 39 dwellings proposed. Based on the level of on-site public space required, along with the requirement for the provision of street trees within an area of land managed by a management company beyond the front garden of each dwelling, Officers are not satisfied that the site is large enough to accommodate the number of dwellings proposed.
- 11.2.7 Furthermore each dwelling would require at least two car parking spaces, which are not visually dominant in the new streetscene and a policy compliant level of private garden space, and the site is not sufficient in size to accommodate these elements in addition to those in paragraph 11.2.6.
- 11.2.8 Overall it is considered that the proposal fails to demonstrate that the site can accommodate 39 dwellings contrary to Policy SP7 of the Section 1 Plan, Policy RLP90 of the Adopted Local Plan, Policy LPP55 of the Section 2 Plan and the NPPF.
- 11.2.9 The proposed highway access drawing ref. JG01 rev 3 and latterly comments submitted by Essex Highways namely - *The site access as shown in principle on the submitted drawing JG01 Rev 3. The access shall include but not be limited to visibility splays with dimensions of 2.4m by 37m in both directions and these splays shall be kept clear of all obstruction over 600mm in height.* - will have significant implications for the boundary vegetation along Oak Road - which in its current form contributes to the character of this part of Oak Road.
- 11.2.10 At this point along Oak Road, the character changes dramatically from the suburban appearance created by the David Wilson development to a much more rural streetscene. The existing vegetation on both sides of the road and the reduced width of the road, contribute to this character. Officers consider that the loss of this amount of vegetation required in order to create the vehicular access and visibility splays would have a significant and detrimental impact on the rural character along this section of Oak Road.
- 11.2.11 To conclude Officers consider that as the proposal has not effectively demonstrated that the site can accommodate 39 dwellings and combined with the detrimental impact the proposal would have on the character of Oak Road by virtue of the loss of a significant amount of vegetation, the application conflicts with Policies RLP2 and RLP80 of the Adopted Local Plan, Policies CS5 and CS8 of the Adopted Core Strategy, Policies LPP1 and LPP72 of the Section 2 Plan and the NPPF.
- 11.3 Trees and Hedgerows
- 11.3.1 Policy RLP80 of the Adopted Local Plan states that where development is proposed close to existing features, it should be designed and located to ensure that their condition and future retention will not be prejudiced. Additional landscaping including planting of native species of trees and other flora may be required to maintain and enhance these features.

- 11.3.2 Policy CS8 of the Adopted Core Strategy states that all development proposals will take account of the potential impacts of climate change and ensure the protection and enhancement of the natural environment, habitats and biodiversity and geo-diversity of the District.
- 11.3.3 Policy LPP71 of the Section 2 Plan states that in its decision-making on applications, the Local Planning Authority will take into account the different roles and character of the various landscape areas in the District, and recognise the intrinsic character and beauty of the countryside, in order to ensure that any development permitted is suitable for the local context. Furthermore where development is proposed close to existing features, it should be designed and located to ensure that the condition and future retention/management will not be prejudiced but enhanced where appropriate.
- 11.3.4 There is a large protected oak tree located outside the site but close to the eastern boundary. The application is not supported by any specialist arboricultural information. This information should have been provided when the application was submitted as not only is there the nearby protected tree, but the site boundaries are well treed and as outlined above a significant amount of vegetation will have to be removed to create the vehicular access.
- 11.3.5 Whilst this information has not been submitted and the submitted information does not indicate that the tree is proposed to be removed, Officers judge that due to the size of the oak tree and its associated root protection area and according to the indicative layout plan, at least four or five of the proposed dwellings along with the proposed road could not be constructed without significant harm being caused to the protected tree.
- 11.3.6 As set out earlier in this report, the proposed access is likely to result in a significant loss of vegetation along Oak Road in or to create the access and the required visibility splays.
- 11.3.7 Therefore as set out earlier in this report, Officers are not content that the site can be developed for 39 dwelling without unacceptable harm to the protected tree and the rural character of Oak Road, contrary to Policy RLP80 of the Adopted Local Plan, Policy CS8 of the Core Strategy and LPP71 of the Section 2 Plan.
- 11.4 Ecology
- 11.4.1 Policy RLP84 of the Adopted Local Plan states that planning permission will not be granted for development which would have an adverse impact on badgers, or species protected under various UK and European legislation. Where development is proposed that may have an impact on these species the District Council will require the applicant to carry out a full ecological assessment. Where appropriate, the Planning Authority will impose conditions and/or planning obligations to:

- a) Facilitate the survival of individual members of the species
  - b) Reduce disturbance to a minimum; and
  - c) Provide supplementary habitats.
- 11.4.2 These sentiments are reiterated in Policies LPP68 and LPP70 of the Section 2 Plan.
- 11.4.3 The Council's Ecologist has reviewed the Preliminary Ecological Appraisal (Hillier Ecology, December 2020), supplied by the applicant, relating to the likely impacts of development on designated sites, Protected and Priority species & habitats and is not satisfied that there is sufficient ecological information available for determination.
- 11.4.4 This is because the Preliminary Ecological Appraisal (Hillier Ecology, December 2020) has stated that the pond on the application site has 'Good' Suitability for Great Crested Newts (as assessed using the Habitat Suitability Index), but as the eDNA survey conducted in 2018 was negative, has concluded that no further survey effort for Great Crested Newts is required. However, the Council's Ecologist notes that there is another pond approximately 87 metres to the south east of the application site that has not been considered for Great Crested Newts and it appears that there is suitable terrestrial habitat connectivity between the two ponds.
- 11.4.5 The Council's Ecologist therefore recommends that further assessment is required to confirm the presence/absence of Great Crested Newts as there is a reasonable likelihood that Great Crested Newts, if present in this pond, could have commuted to the application pond since the eDNA test was undertaken in 2018. This additional assessment has not been completed and submitted to the Local Planning Authority.
- 11.4.6 It is highlighted that the Local Planning Authority must consider the guidance under Paragraph 99 of the ODPM Circular 06/2005. This advises that the presence or otherwise of protected species, and the extent to which they might be affected by the proposed development, must be established before planning permission is granted. Therefore, if there is a reasonable likelihood of protected species being present and affected by the development, the surveys should be completed and any necessary measures to protect the species should be in place before the permission is granted (Based on the judgement in the *Mrs Brown (Appellant) v Mid Suffolk Council* [2017] - APP/W3520/W/17/3174638).
- 11.4.7 In addition, the Local Planning Authority, as a competent authority, should have regard to the requirements of The Conservation of Habitats and Species 2017 (as amended) when reaching planning decisions and must not leave this until the licence application stage. (Based on the judgement in the *Hack Green Group (Appellant) v Cheshire East Council* [2006] - APP/R0660/W/15/3131662). Therefore, it is highlighted if a European Protected Species Mitigation Licence is required, any measures to support the licence must also be outlined prior to determination. This is necessary

to allow certainty to the Local Planning Authority that a Licence may be granted. Consequently, further information is required to provide the LPA with certainty of impacts on legally Protected and Priority species and enable it to demonstrate compliance with its statutory duties, including its biodiversity duty under s40 NERC Act 2006.

- 11.4.8 The Local Planning Authority has not received the additional assessment work related to Great Crested Newts and in the absence of this information the proposal is contrary to Policy RLP84 of the Adopted Local Plan, Policy CS8 of the Adopted Core Strategy and Policy LPP70 of the Section 2 Plan.

11.5 Impact upon Neighbouring Residential Amenity

- 11.5.1 The NPPF requires a good standard of amenity for all existing and future occupiers of land and buildings. Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Section 2 Plan states that development shall not cause undue or unacceptable impacts on the amenities of nearby residential properties.
- 11.5.2 The application is seeking outline permission and layout is a matter for consideration at a later date and therefore it is not possible to fully assess the impact it would have on the amenity of neighbouring occupiers.
- 11.5.3 An indicative layout plan has been submitted in support of the application and this shows that the 7 new dwellings are proposed along the northern boundary of the site and would back onto the properties 18 to 30 Conies Road to the north.
- 11.5.4 The Essex Design Guide sets out that a minimum back-to-back distance of 25m should be achieved between two storey dwellings and in this case the distances vary from approximately 14.5m and 21.5m.
- 11.5.5 These distances are significantly below the minimum distances set out in the Essex Design Guide and would result in poor relationships between the new and existing dwellings, in terms of outlook and privacy, and the proposals would therefore conflict with Policy RLP90 of the Adopted Local Plan and the Essex Design Guide.
- 11.5.6 Officers consider that this is a further reason for reaching the conclusion that the site would not be able to successfully accommodate 39 dwellings.

11.6 Highway Considerations

- 11.6.1 Paragraph 111 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 11.6.2 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.

- 11.6.3 The application is an outline, with all matters reserved including access. However during the life of the application Officers have sought access information from the applicant to ensure that the site could be safely accessed both by vehicles and pedestrians.
- 11.6.4 This information has been provided by the Applicant, which shows an extension to the existing pavement on the western side of Oak Road, and the provision of a pavement on the opposite side of Oak Road that would run into the site. The details also show a new pedestrian access with visibility splays, that ECC Highways are satisfied with, in both directions. A number of conditions are requested including the submission of a construction traffic management plan, provision of the access arrangements for both vehicles and pedestrians in accordance with drawings JG01 rev 3, provision of residential travel information packs, the surface material for the access and the closure of the existing access onto Oak Road.
- 11.6.5 As set out in earlier in this report, whilst no objection has been raised by ECC Highways with regards to the technical details associated with the access, Officers raise significant concerns regarding the loss of vegetation required to facilitate it.
- 11.7 Drainage and Flooding
- 11.7.1 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.
- 11.7.2 Policy CS8 of the Core Strategy states that the Council will minimise exposure of people and property to the risks of flooding by following the national guidance. SUDS will be used wherever possible to reduce flood risk, promote groundwater recharge, enhance biodiversity and provide amenity benefit, unless, following an adequate assessment, soil conditions and/or engineering feasibility dictate otherwise. Policy LPP78 of the Section 2 Plan reflects the spirit of this.
- 11.7.3 In respect of surface water drainage, the application is supported by a Surface Water Drainage Strategy. Essex County Council's SuDS team is not satisfied that adequate surface water drainage can be achieved and raise a holding objection.

11.7.4 The position of the LLFA is supported by Anglian Water who have suggested that their preferred method of surface water disposal would be to be a sustainable drainage system (SuDS).

11.7.5 In the absence of this information and the objection raised by Essex County Council it is therefore considered that the application is contrary to Policy CS8 of the Core Strategy and Policy RLP69 of the Adopted Local Plan.

## 11.8 Archaeology

11.8.1 The Essex Historic Environment (HER) Record shows that the proposed development will affect a site of archaeological interest. The Essex Historic Environment (HER) Record shows that the proposed development lies to the west of an area of recorded cropmark features for enclosures and a ring ditch. To the west an archaeological evaluation and excavation found evidence of prehistoric and medieval activity. A Roman bronze buckle was recovered from near Stones Farm to the east of the site. The evidence from the surrounding area suggest there is potential for archaeological remains from the prehistoric to medieval periods to survive. The land was historically associated with Coneys Farm which is depicted on the Tithe maps of c.1840 and a pond is located within the development area which has the potential to preserve waterlogged or organic remains.

11.8.2 Essex County Council recommends that a condition is placed on any grant of consent which requires a programme of archaeological trial trenching and excavation to be undertaken, given that there is the potential for Roman and Medieval to Post Medieval archaeology to be disturbed or destroyed by the proposed development. Such a condition could reasonably be placed on any grant of consent.

## 11.9 Habitat Regulations Assessment (HRA / RAMS)

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

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

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

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



11.9.4 The proposed mitigation measures would consist of the securing of a financial contribution of £127.30 per dwelling erected towards offsite visitor management measures at the above protected sites.

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

## 12. PLANNING OBLIGATIONS

12.1 Paragraph 56 of the NPPF sets out that planning obligations should only be sought where they are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. This is in accordance with Regulation 122 of the Community Infrastructure Levy (CIL) Regulations. 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 **Affordable Housing** – Policy CS2 of the Adopted Core Strategy 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 rural areas.

12.3 In accordance with Policy CS2 of the Core Strategy, the outline proposal for up to 39 residential dwellings requires 30% to be provided as affordable housing which would equate to 11 affordable dwellings to be secured by s106 agreement.

12.4 **Education** – Financial contribution of £60,611 is sought for Early Years and Childcare, £177,395.40 towards Primary Education Transport, £39,273 towards secondary transport and £3,034.20 towards local library enhancements.

12.5 **Open Space** – Policy CS10 of the Adopted Core Strategy states that the Council will ensure that there is a good provision of high quality and accessible green space. New developments are required to make appropriate provision for publicly accessible green space or improvement of existing accessible green space in accordance with adopted standards.

12.6 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 and a financial contribution towards an outdoor equipped play area.

12.7 A financial contribution would be sought for outdoor sport and allotments. There is also a requirement to secure the on-going maintenance of any public open space provided on site. These aspects could be secured through a S106 Agreement.

- 12.8 **NHS** – A financial contribution of £19,300 is sought in order to increase capacity for the benefit of patients of Elizabeth Courtauld Surgery. This may be achieved through any combination of extension, reconfiguration or relocation of premises and/or staff recruitment or training.
- 12.9 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 therefore fails to satisfactorily mitigate the impacts of the development on local infrastructure and is contrary to Policies CS2, CS10 and CS11 of the Core Strategy, Policy RLP138 of the Adopted Local Plan and Policy LLP82 of the Section 2 Plan.

### 13. PLANNING BALANCE AND CONCLUSION

- 13.1.1 As set out within Paragraph 47 of the NPPF, planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In this case the application site is located outside of a designated village envelope/town development boundary and is therefore located within the countryside, where new development is strictly controlled to uses appropriate within the countryside in order to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside. There is therefore a presumption that the application should be refused unless there are material reasons to grant planning permission.
- 13.1.2 Paragraph 60 of the NPPF sets out the Government's objective of significantly boosting the supply of homes. The main mechanism within the NPPF for achieving this is the requirement that local planning authorities demonstrate a five-year supply of deliverable housing land, assessed against housing need. In this regard, the Council is currently able to demonstrate a Housing Land Supply of 5.1 years against its housing need. As such the Council is presently meeting this objective.
- 13.1.3 Until the adoption of the Section 2 Plan, the sites which are proposed to be allocated but do not yet have planning permission or a resolution to grant planning permission, have not been included within the 5 Year Housing Land Supply calculation.
- 13.1.4 As such, although the Council can currently demonstrate a 5 Year Housing Land Supply, this is finely balanced, and currently only marginally exceeds the 5 year threshold.
- 13.1.5 As the Council can demonstrate the required 5 Year Housing Land Supply, the 'tilted balance' pursuant to Paragraph 11d) of the NPPF is not engaged due to a lack of housing land supply. It is therefore necessary to identify the most important policies for determining the application and to establish whether these are out-of-date. Paragraph 219 of the NPPF states that existing policies should not be considered out-of-date simply because they were adopted prior to the publication of the Framework. Due weight should

be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater weight that may be given).

- 13.1.6 In this case the basket of policies which are considered to be the most important for determining the application are Policies SP1, SP3 and SP7 of the Section 1 Plan, Policies RLP2, RLP69, RLP80, RLP84 and RLP90 of the Adopted Local Plan and Policy CS5 and CS8 of the Core Strategy.
- 13.1.7 Policy SP1 of the Section 1 Plan states that when considering development proposals the Local Planning Authority will take a positive approach that reflects the presumption in favour of sustainable development contained within the NPPF, and will seek to approve proposals wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. Policy SP3 of the Section 1 Plan sets out the spatial strategy for North Essex, namely to accommodate development within or adjoining settlements according to their scale, sustainability and existing role both within each individual Districts, and where relevant, across the wider strategic area. Further growth will be planned to ensure existing settlements maintain their distinctive character and role, to avoid coalescence between them and to conserve their setting. As the Section 1 Plan has been found to be sound and recently adopted by the Council, it is considered that both policies are consistent with the NPPF and can be afforded full weight. Neither are out-of-date.
- 13.1.8 Whilst the primary purpose of Policy RLP2 of the Adopted Local Plan is to restrict development to development boundaries, and thus resist it in the countryside, it is considered that the policy remains broadly consistent with the Framework's approach of protecting the countryside from harmful development, and is not hindering the Council in delivering housing growth within the District. The policy is not out-of-date, and can be given moderate weight. The aims of Policy CS5 of the Core Strategy are much wider as the policy seeks to amongst other things, protect and enhance the landscape character and amenity of the countryside. As it is effectively seeking to preserve the intrinsic character and beauty of the countryside – an objective contained within the NPPF – it is considered that this policy is not out-of-date and can be given significant weight.
- 13.1.9 Policy RLP90 of the Adopted Local Plan states that the Council will seek a high standard of layout and design in all developments, large and small. The layout, height, mass and overall elevational design of buildings and developments shall be in harmony with the character and appearance of the surrounding area; including their form, scale and impact on the skyline in the locality. It is considered that the policy is consistent with the Framework as it seeks to secure sustainable development. The policy is not out-of-date, and can be given full weight. A similar sentiment is repeated in the relevant Section 2 Plan, LPP55.
- 13.1.10 Policy RLP80 of the Adopted Local Plan requires that new development must successfully integrate into the local landscape and that proposals that

fail to do so will not be permitted. Policy CS8 of the Core Strategy is a wide ranging policy concerning the natural environment and biodiversity. Amongst other things the policy requires that consideration is given to landscape impact. It states that development must have regard to the character of the landscape and its sensitivity to change and, where development is permitted, it will need to enhance the locally distinctive character of the landscape in a manner that accords with the Landscape Character Assessment for the area. The underlying objectives of Policies RLP80 and CS8 are to protect the landscape character and amenity of the countryside and require a decision maker to consider the established landscape character and its sensitivity to change and are considered to both be consistent with paragraph 174(b) of the NPPF and are not considered to be out of date and can be given significant weight.

- 13.1.11 Policy RLP84 states that planning permission will not be granted for development, which would have an adverse impact on badgers, or species protected under various UK and European legislation, or on the objectives and proposals in National or County Biodiversity Action Plans as amended. The objectives of this policy is considered to be consistent with chapter 15 of the NPPF, and is therefore not out of date and can be given significant weight.
- 13.1.12 Policy RLP69 states that where appropriate the District Council will require developers to use sustainable drainage techniques. The objectives of this policy is considered to be consistent with Paragraph 167 of the NPPF, and is therefore not out of date and can be given significant weight.
- 13.1.13 When considering the basket of the most important policies for the determination of this application as a whole, it is considered that the policies are not out-of-date and are broadly consistent with the Framework.
- 13.1.14 Given that the Council can demonstrate a 5 Year Housing land Supply, and the basket of policies are not otherwise out-of-date, the 'flat' (or untitled) planning balance must still be undertaken which weighs the adverse impacts of the proposed development, including the conflict with the Development Plan, against the public benefits of the proposal.
- 13.1.15 In undertaking this flat planning balance, such an assessment must take account of the economic, social and environmental impact of the proposed development. As set out in Paragraph 8 of the NPPF, achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and needed to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):
  - an economic objective (to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure);

- a social objective (to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being); and
- an environmental objective (to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy).

## 13.2 Summary of Adverse Impacts

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

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

- 13.2.2 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Paragraph 15 of the NPPF emphasises that the planning system should be "genuinely plan led".
- 13.2.3 The proposed development would conflict with Policy RLP2 of the Adopted Local Plan and Policy CS5 of the Core Strategy with regard to the Council's spatial strategy as it proposes development outside of defined development boundaries and within the countryside. Significant weight is given to this conflict.

### **Conflict with the Section 2 Plan**

- 13.2.4 The proposed development would conflict with Policy LPP1 of the Section 2 Plan as it proposes development outside the defined development boundaries and within the countryside. Furthermore the proposal would conflict with Policy LPP71 of the Section 2 Plan as the proposal would result in the intrusion of development into the countryside and would result in a detrimental impact upon the character and amenity of the countryside.
- 13.2.5 The proposals would conflict with Policies LPP68 and LPP69 of the Section 2 Plan, as insufficient information has been submitted with regards protected species and tree protection.
- 13.2.6 The proposals would conflicts LPP78, LPP79 and LPP80 as insufficient surface water drainage has been submitted. However, until the Section 2 Plan is adopted, only limited weight can be attributed to the conflict with these policies.

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

- 13.2.7 The proposal proposed conflicts with Policy RLP80 of the Adopted Local Plan and Policy CS8 of the Core Strategy as the proposal would result in the loss of a significant amount of vegetation along Oak Road. The proposed development would result in a detrimental impact upon the character and amenity of the countryside. Significant weight is given to the conflict with these policies.

### **Design and Layout**

- 13.2.8 The proposal fails to demonstrate that 39no. units can be accommodated on the site and generally failing to secure a high standard of design or good level of amenity for future and existing occupiers contrary to Policy RLP90 of the Adopted Local Plan. This conflict is afforded significant weight.

### **Harm to Trees**

- 13.2.9 The proposal fails to provide any information with regards the protected tree located close to the eastern boundary of the site and the vegetation removal required in order to create the vehicular access and this weighs against the proposal and is afforded significant weight.

### **Ecology**

- 13.2.10 The proposal fails to provide sufficient information with regards protected species and this weighs against the proposal and is afforded significant weight.

### **Surface Water Drainage**

- 13.2.11 The proposal fails to provide sufficient surface water drainage information and this weighs against the proposal and is afforded significant weight.

## **13.3 Summary of Public Benefits**

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

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

- 13.3.2 The development would facilitate the provision of 39no.new dwellings, comprising 28no. market houses and 11no. affordable houses. This is afforded significant weight.

### **Economic and Social Benefits**

- 13.3.3 The proposal would undoubtedly deliver economic benefits during the construction period and economic and social benefits following occupation

of the development, in supporting local facilities. In view of the scale of development proposed, this is afforded moderate weight.

### **Section 106 Obligations**

13.3.4 Should it have been entered into the proposals would have secured a number of Section 106 obligations including the aforementioned affordable housing, open space, education, library enhancements and health contributions.

13.3.5 The Section 106 benefits are afforded limited weight, as the obligations are mitigating the impacts of the development in accordance with planning policy.

### **13.4 Planning Balance**

13.4.1 When considering the flat planning balance and having regard to the adverse impacts and benefits outlined above, and having regard to the requirements of the NPPF as a whole, Officers have concluded that the benefits of the proposal are outweighed by the harms, including the harm arising from the conflict with the development plan, such that planning permission should be refused in line with the Development Plan.

13.4.2 Notwithstanding the above, even if the 'tilted balance' was engaged, it is considered that the adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Against this context, it would be recommended that planning permission be refused for the proposed development.

### **14. RECOMMENDATION**

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

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

## APPENDIX 1:

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

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

| Plan Description     | Plan Ref   | Plan Version |
|----------------------|------------|--------------|
| Access Details       | JG01       | 3            |
| Site Plan            | AC-A-002   | N/A          |
| Location Plan        | N/A        | N/A          |
| Topographical Survey | 26129SE-01 | N/A          |

#### Reason(s) for Refusal

1.

The application site lies outside the Town Boundary of Halstead. The proposal would have a major visual impact on the rural character of the area through the loss of trees and hedges to enable the proposed vehicle access and the required visibility splays in either direction to be constructed. Furthermore, it has not been demonstrated that the site can satisfactorily accommodate the 39 dwellings, failing to secure a high level of amenity for both existing and future occupiers and causing the inevitable harm to a protected tree, contrary to the principles and guidance set out in the NPPF, Policy SP7 of the Adopted Section 1 Plan, Policies RLP2, RLP80 and RLP90 of the Adopted Local Plan, Policies CS5 and CS8 of the Adopted Core Strategy, and Policies LPP55 and LPP71 of the Draft Section 2 Local Plan.

2.

Insufficient information has been submitted in relation to proposals for a sustainable urban drainage system such it has not been possible for the Local Planning Authority to make an assessment. The proposal is therefore considered to be contrary to the NPPF, Policies RLP78 and RLP80 of the Adopted Local Plan, and Policy CS8 of the Adopted Core Strategy.

3.

Insufficient information has been submitted in relation to protected species, as such it has not been possible for the Local Planning Authority to make an assessment. The proposal is therefore considered to be contrary to the NPPF and Policy RLP84 of the Adopted Local Plan.

4.

No information has been submitted in relation to the protected tree located to the east of the site, as such it has not been possible for the Local Planning Authority to make an assessment. The proposal is therefore considered to be contrary to the NPPF, Policy RLP80 of the Adopted Local Plan, and Policy CS8 of the Core Strategy.



5.

The proposed development would trigger the requirement for:

- The delivery of 30% affordable housing on site;
- A financial contribution towards Early Years and Childcare, Primary Education Transport, Secondary School Transport and Local Library Enhancements;
- The provision, maintenance and delivery of public open space, outdoor sports and allotments.
- Financial contribution in order to increase capacity for the benefit of patients of Elizabeth Courtauld Surgery. This may be achieved through any combination of extension, reconfiguration or relocation of premises and/or staff recruitment or training.

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 Policies CS2, CS10 and CS11 of the Core Strategy, the Open Space Supplementary Planning Document (SPD) and Policy LPP82 of the Draft Section 2 Local Plan.

#### Positive and Proactive Statement

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

## APPENDIX 2:

### POLICY CONSIDERATIONS

#### National Planning Guidance

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

#### Braintree District Local Development Framework Core Strategy 2011

|      |  |
|------|--|
| CS2  | Affordable Housing                             |
| CS5  | The Countryside                                |
| CS7  | Promoting Accessibility for All                |
| CS8  | Natural Environment and Biodiversity           |
| CS10 | Provision for Open Space, Sport and Recreation |

#### Braintree District Local Plan Review 2005

|        |   |
|--------|---|
| RLP2   | Town Development Boundaries and Village Envelopes   |
| RLP7   | Housing and Mixed Use Sites                         |
| RLP8   | House Types   |
| RLP9   | Design And Layout of Housing and Mixed Use Areas    |
| RLP10  | Residential Density                                 |
| RLP53  | Generators of Travel Demand                         |
| RLP56  | Vehicle Parking                                     |
| RLP69  | Sustainable Drainage                                |
| RLP80  | Landscape Features and Habitats                     |
| RLP81  | Trees, Woodlands, Grasslands and Hedgerows          |
| RLP84  | Protected Species                                   |
| RLP90  | Layout and Design of Development                    |
| RLP105 | Archaeological Evaluation                           |
| RLP106 | Archaeological Excavation and Monitoring            |
| RLP138 | Provision of Open Space in New Housing Developments |

#### Braintree District Shared Strategic Section 1 Local Plan (2021)

|     |   |
|-----|---|
| 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  |

#### Braintree District Draft Section 2 Local Plan (2017)

|       |                                |
|-------|--------------------------------|
| LPP1  | Development Boundaries         |
| LPP17 | Housing Provision and Delivery |

|       |  |
|-------|--|
| LPP33 | Affordable Housing   |
| LPP37 | Housing Type and Density   |
| LPP44 | Sustainable Transport  |
| LPP45 | Parking Provision  |
| LPP50 | Built and Historic Environment                                     |
| LPP53 | Provision for Open Space, Sport and Recreation                     |
| LPP55 | Layout and Design of Development                                   |
| LPP68 | Protected Species, Priority Spaces and Priority Habitat            |
| LPP69 | Tree Protection  |
| LPP70 | Protection, Enhancement, Management and Monitoring of Biodiversity |
| LPP71 | Landscape Character and Features                                   |
| LPP78 | Flooding Risk and Surface Water Drainage                           |
| LPP79 | Surface Water Management Plan                                      |
| LPP80 | Sustainable Urban Drainage Systems                                 |

### Other Material Considerations

Affordable Housing Supplementary Planning Document (2006)  
 Essex Coast RAMS Supplementary Planning Document (2020)  
 Essex Design Guide for Mixed Use and Residential Areas (2005)  
 External Artificial Lighting Supplementary Document (2009)  
 Open Space Supplementary Planning Document (2009)  
 Parking Standards – Design and Good Practice (2009)  
 Urban Place Supplement Guidance (2007)

### Statement on Draft Local Plan

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

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

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

The local authority is now moving forward with the examination of Section 2 of the Draft Local Plan and a consultation on the main modifications closed on 24th January 2022. In accordance with Paragraph 48 of the NPPF, from the day of publication the Council can give weight to the policies of this emerging Draft Section 2 Local Plan ("the Section 2 Plan") and the weight that can be given is related to:

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

The extent to which there are unresolved objections to relevant policies (the less

significant the unresolved objections, the greater the weight that may be given); and

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

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

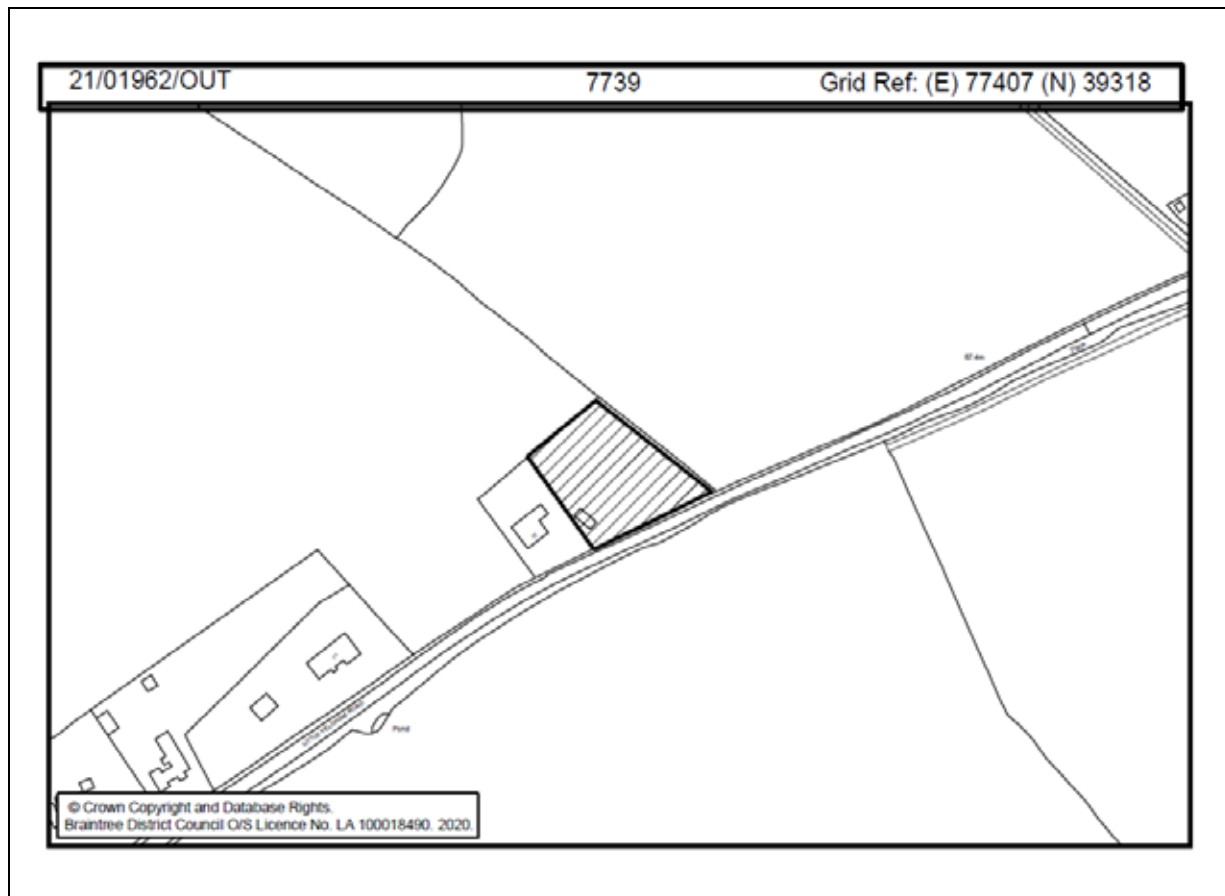
APPENDIX 3:

SITE HISTORY

None.

|  |  |  |
|--|--|--|
| <b>Report to:</b> Planning Committee         |  |  |
| <b>Planning Committee Date:</b> 3rd May 2022 |  |  |
| <b>For:</b> Decision                         |  |  |
| <b>Key Decision:</b> No                      |  | <b>Decision Planner Ref No:</b> N/A                          |
| <b>Application No:</b>                       | 21/01962/OUT   |  |
| <b>Description:</b>                          | Outline planning application with all matters reserved for the demolition of a shop and construction of 2no. dwellings   |  |
| <b>Location:</b>                             | 72 Little Yeldham Road, Little Yeldham, Essex  |  |
| <b>Applicant:</b>                            | Mr S Jennings, C/o Laneton Design  |  |
| <b>Agent:</b>                                | Laneton Design, 12 Benfield Way, Braintree, Essex, CM7 3YS   |  |
| <b>Date Valid:</b>                           | 31st August 2021   |  |
| <b>Recommendation:</b>                       | It is RECOMMENDED that the following decision be made:<br><br>§ Application REFUSED for the reasons outlined within Appendix 1 of this Committee Report.   |  |
| <b>Options:</b>                              | The Planning Committee can:<br><br>a) <b>Agree</b> the Recommendation<br>b) <b>Vary</b> the Recommendation<br>c) <b>Overturn</b> the Recommendation<br>d) <b>Defer</b> consideration of the Application for a specified reason(s)      |  |
| <b>Appendices:</b>                           | <b>Appendix 1:</b>   | Reason(s) for Refusal<br><br>Submitted Plan(s) / Document(s) |
|  | <b>Appendix 2:</b>   | Policy Considerations  |
|  | <b>Appendix 3:</b>   | Site History   |
| <b>Case Officer:</b>                         | Juliet Kirkaldy<br>For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2558, or by e-mail: <a href="mailto:juliet.kirkaldy@braintree.gov.uk">juliet.kirkaldy@braintree.gov.uk</a> |  |

**Application Site Location:**



|  |   |
|--|---|
| <b>Purpose of the Report:</b>              | The Committee Report sets out the assessment and recommendation of the abovementioned application to the Council's Planning Committee. The report sets out all of the material planning considerations and the relevant national and local planning policies.   |
| <b>Financial Implications:</b>             | <p>The application was subject to the statutory application fee paid by the applicant for the determination of the application.</p> <p>There are no direct financial implications arising out of the decision, notwithstanding any costs that the Council may be required to pay from any legal proceedings. Financial implications may arise should the decision be subject to a planning appeal or challenged via the High Court.</p>   |
| <b>Legal Implications:</b>                 | <p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either set out the relevant Conditions &amp; Reasons and any Informatives, or the Reasons for Refusal if applicable.</p> <p>All relevant policies are set out within the report, within Appendix 2.</p>   |
| <b>Other Implications:</b>                 | The application has been subject to public consultation and consultation with relevant statutory and non-statutory consultees. All responses received in response to this consultation are set out within the body of this Committee Report.  |
| <b>Equality and Diversity Implications</b> | <p>Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:</p> <ul style="list-style-type: none"> <li>a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act;</li> <li>b) Advance equality of opportunity between people who share a protected characteristic and those who do not;</li> <li>c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting 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: 21/01962/OUT.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> <li>§ National Planning Policy Framework (NPPF)</li> <li>§ Braintree District Local Plan Review (2005)</li> <li>§ Braintree District Core Strategy (2011)</li> <li>§ Braintree District Shared Strategic Section 1 Local Plan (2021)</li> <li>§ Braintree District Publication Draft Section 2 Local Plan (2017)</li> <li>§ Neighbourhood Plan (if applicable)</li> <li>§ Supplementary Planning Documents (SPD's) (if applicable)</li> </ul> <p>The National Planning Policy Framework can be viewed on the GOV.UK website: <a href="http://www.gov.uk/">www.gov.uk/</a>.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: <a href="http://www.braintree.gov.uk">www.braintree.gov.uk</a>.</p> |

1. EXECUTIVE SUMMARY

- 1.1 The site is located outside of the defined development boundary for the Adopted Local Plan and emerging Section 2 Plan. The site currently forms part of the residential garden for 72 Little Yeldham Road.
- 1.2 The application seeks outline permission with all matters reserved for the erection of two detached dwellings. There is an outbuilding in the south western corner of the site overlooking the parking area for 72 Little Yeldham Road. This outbuilding was previously used as a shop (granted permission under Application Reference 05/01531/COU) however, this use has since ceased. This planning permission was granted with a personal permission condition restricting its use to the occupant at that time. However, the ownership of 72 Little Yeldham Road has since changed.
- 1.3 Little Yeldham Road has a national speed limit. It is unlit and there is no pavement from the site into the villages of Little Yeldham and Great Yeldham. It would be undesirable and unsafe to walk or cycle along the road on a regular basis to access services and facilities. There will be a strong reliance on the private vehicle to access services, facilities, employment opportunities and education.
- 1.4 To the frontage of the site there is an established hedgerow/tree boundary which screens the site from Little Yeldham Road. It is proposed to remove part of this to create a new access and to achieve visibility splays. The removal would alter the character and appearance of the street scene and contribute to the urbanisation and sense of sprawl into the countryside.
- 1.5 Although the site currently forms part of a residential garden its undeveloped appearance provides a softening edge to the existing dwelling, which is sporadic in the setting, blending into the surrounding countryside. The proposed development for two residential dwellings would compromise this and create an unexpected sense of urban sprawl, consolidation of linear development with the creation of three dwellings in a row diluting the character of the countryside.
- 1.6 Insufficient information has been provided with the application to demonstrate that highway access can be safely achieved.
- 1.7 The indicative plans propose adequate amenity space and car parking. The proposed appearance of the dwellings appears to be compatible with the surrounding area.
- 1.8 When considering the flat planning balance and having regard to the adverse impacts, benefits and having regard to the requirements of the NPPF as a whole, Officers have concluded that the benefits of the proposal are outweighed by the harms, including the harm arising from the conflict with the development plan, such that planning permission should be refused in line with the Development Plan.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

- 2.1 This application is being reported to Planning Committee in accordance with Part A of the Council's Scheme of Delegation, as the application is deemed to be 'significant' by the Planning Development Manager.

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

- 5.1 The application site is located outside of the defined development boundary to the north of Little Yeldham Road between the villages of Little Yeldham and Great Yeldham. The site measures 0.20ha and currently forms part of the side garden for 72 Little Yeldham Road. There are no neighbouring properties immediately abutting the site. The site is surrounded by open countryside. The frontage of the site onto Little Yeldham Road is currently screened with hedgerow. There is an established row of trees along the eastern boundary of the site. There is an outbuilding in the south western corner of the site overlooking the parking area for 72 Little Yeldham Road. This outbuilding was previously used as a shop (granted permission under Application Reference 05/01531/COU) however, this use has ceased.

6. PROPOSAL

- 6.1 The application is seeking outline planning permission for the demolition of the outbuilding/former shop and the erection of 2 detached dwellings with a single access proposed off Little Yeldham Road to serve both properties. All matters are reserved for future consideration.

7. SUMMARY OF CONSULTATION RESPONSES

7.1 Essex Fire and Rescue

- 7.1.1 No objection.

7.2 BDC Ecology

- 7.2.1 No objection subject to conditions.

7.3 BDC Environmental Health

- 7.3.1 No objection.

7.4 ECC Highway Authority

7.4.1 Objection. The developer has not demonstrated that the proposal would be acceptable in terms of highway safety, efficiency and accessibility.

8. PARISH/TOWN COUNCIL

8.1 Little Yeldham, Tilbury Juxta Clare and Ovington Parish Council

8.1.1 Objection. In summary the following comments have been made:

- § The site should not be classed as commercial/brownfield as the change of use permitted under 05/01531/COU was in favour of the property owner at the time. Therefore, the change of use lapsed when the ownership of site changed;
- § The Council can demonstrate a 5 year housing land supply;
- § The site is located outside of defined development boundaries and therefore conflicts with policy;
- § The site is located within the former Land Settlement housing estate for Little Yeldham and proposed infill dwellings in spaces between houses on this estate have been refused and dismissed on appeal;
- § The site is not a sustainable location and is remote from services;
- § The proposal would disturb the natural environment and wildlife habitat;
- § A new access is proposed therefore intensifying vehicular movements onto Little Yeldham Road.

8.1.2 The Parish Council were re-consulted on revised plans submitted and responded reiterating their above objection.

9. REPRESENTATIONS

9.1 A site notice was displayed at the entrance to the application site for a 21 day period and immediate neighbours were notified in writing. 11 representations have been received comprising 2 objections (1 objection is sent on behalf of 13 residents) and 9 letters of support. In summary, the following comments have been made:

- § New dwellings would be beneficial in the area providing family homes;
- § Consideration has been taken to ensure design is in keeping with local area;
- § Proposal would not be harmful to local area;
- § Proposal would provide jobs and work to local people;
- § Local school is undersubscribed;
- § Proposal would reuse a derelict /underused site;
- § Previous shop was granted for sole use of previous owner;
- § Unsustainable location remote from services/facilities;
- § No regular bus service or pavement;
- § The site forms part of former Land Settlement Association housing estate and should be protected to retain their character;
- § Braintree Council can demonstrate 5 year housing land supply;

- § New development will disturb the natural environment and wildlife habitat;
  - § New access will intensify the use of Little Yeldham Road.
- 9.2 Revised plans were submitted during the course of the application and neighbours were re-consulted for a further 21 day period. A further 2 representations (including a letter with 14 signatures) were received reiterating previous objections raised particularly the intensification of development in countryside and the poor services and amenities available.
- 9.3 Councillor Iona Parker
- 9.3.1 Cllr Parker has submitted a representation objecting to the application. In summary the following comments have been made:
- § The site is situated in the countryside and not within a cluster of dwellings therefore the hamlets policy is not applicable;
  - § The Council can demonstrate a 5 year housing land supply;
  - § The site is in an unsustainable location and not within safe walking distance of facilities within Great Yeldham;
  - § The site is part of a former land settlement dwelling and development of site is harmful to character of the estate;
  - § The site is surrounded by agricultural land;
  - § Development of this relatively isolated plot is harmful to open countryside.
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 publishes a 5 year housing land trajectory as of 31st March each year. The most recent position therefore is that of 31st March 2021. Within the published trajectory, the forecast supply amounted to a 5.34 year supply of housing based on a 5% buffer.
  - 10.2.2 At its Full Council meeting on 22nd February 2021, Braintree District Council approved the adoption of the Shared Strategic Section 1 Local Plan. On its adoption, the Council must meet the housing requirement set out in that Plan. This is a minimum of 14,320 homes between 2013-2033 or an annual average of 716 new homes per year. This replaces the previous consideration of housing need based on the Standard Methodology.
  - 10.2.3 The latest Housing Delivery Test (HDT) results were published in January 2022. The new results (which include an allowance for the impact of the current pandemic) confirm that Braintree District achieved 125% supply against target and the usual 5% buffer is maintained. This applies from the day of publication of the results.
  - 10.2.4 The Council's Housing Land Supply position has recently been contested as part of an appeal at Land off Brain Valley Avenue, Black Notley (Appeal Reference: APP/Z1510/W/21/3281232). Within the appeal decision dated 20th January 2022, the Inspector concluded at Paragraph 54 that the housing supply 2021-2026 would be in excess of the 5,352 requirement; and that therefore the Council can demonstrate an up-to-date housing land

supply and the titled balance pursuant to Paragraph 11d) of the NPPF is not engaged.

- 10.2.5 Accordingly, given all the evidence before it, including the housing requirement from the Shared Strategic Section 1 Local Plan and the use of 93 a 5% buffer, and having regard to the above appeal decision, the Council considers that the current 5 Year Housing Land Supply for the District is 5.1 years.
- 10.2.6 In addition, the current supply position does not include sites which are proposed to be allocated within the Section 2 Local Plan but do not yet have planning permission or a resolution to grant planning permission.
- 10.2.7 These allocations without permission are being tested at the Section 2 Plan Examination. Once the Section 2 Plan is adopted, these sites will become adopted allocations and greater weight can be given to them. It will also improve the prospects of these being included within the deliverable supply, where there is clear evidence that there is a realistic prospect that housing will be delivered on the site within five years.
- 10.3 The Development Plan
  - 10.3.1 Currently the Council's statutory Development Plan consists of the Braintree District Local Plan Review (2005), the Braintree District Core Strategy (2011), and the Braintree District Shared Strategic Section 1 Local Plan (2021). The Section 2 Plan is afforded significant weight given the advance stage of preparation.
  - 10.3.2 Policy RLP2 of the Adopted Local Plan states that new development will be confined to areas within Town Development Boundaries and Village Envelopes. Outside these areas countryside policies will apply. Policy CS5 of the Core Strategy specifies that development outside Town Development Boundaries and Village Envelopes will be strictly controlled to uses appropriate within the countryside in order to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside.
  - 10.3.3 The site is situated in the countryside within part of the existing garden for 72 Little Yeldham Road. The site has no specific allocation on the proposals map of the Adopted Local Plan or the Section 2 Plan.
  - 10.3.4 The submitted Planning Statement suggests that the location of the site is within an, 'established hamlet'. Officers disagree with this. The site (72 Little Yeldham Road) has no immediate neighbouring properties and is surrounded by agricultural fields. It is currently a sporadic dwelling in the countryside and does not form part of a wider nucleus of development. Policy RLP16 of the Adopted Local Plan refers to infill development within hamlets and small groups of dwellings where there is a defined nucleus of at least ten dwellings and where the infill plot would accommodate no more

than one dwelling. Policy RLP16 is therefore not applicable or relevant in this case.

- 10.3.5 The submitted proposal would result in a row of 3 dwellings leading to consolidation of ribbon development along this part of Little Yeldham Road. This would have a detrimental impact on the character and appearance of the countryside and street scene.
- 10.3.6 Permission was granted in 2005 (Application Reference 05/01531/COU) for a change of use of the timber outbuilding into a shop for the sale of craft supplies. The decision notice included a condition recognising the extenuating personal circumstances of the applicant stating that, *'the use shall be carried on only by Mr Ronald Magney and the retail sales shall be limited to craft supplies'*. It is understood the property has since changed ownership and the retail use has ceased.
- 10.3.7 The applicant has submitted statutory declarations (although not witnessed by legal representatives) from former customers of the retail use confirming they visited the shop on a regular basis. The submitted Planning Statement suggests that the *'site is a commercial site within the countryside'*. Officers disagree with this. The description of the 2005 permission clearly stated, *'Change of use of timber outbuilding for use as a shop for sale of craft supplies'*. Therefore, the commercial use did not extend to the whole site currently being considered for residential development. It was also a personal permission. It should be noted that whilst the outbuilding is proposed to be demolished as part of the proposal, most part of the development is situated on the garden land associated with 72 Little Yeldham Road and not on the land where the outbuilding is currently situated. Whilst the NPPF supports the reuse of brownfield land where vacant buildings are being reused or redeveloped it does include reference to 'suitable sites'. The NPPF (Paragraph 124) also refers to ensuring that decisions support development that makes efficient use of land, taking into account, d) the desirability of maintaining an area's prevailing character and settings (including residential gardens). It further seeks to resist inappropriate development of residential gardens, for example where development would cause harm to the local area (Paragraph 71). The impact of the development within an existing residential garden on the countryside setting is discussed below.

## 11. SITE ASSESSMENT

### 11.1 Location and Access to Services and Facilities

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



- 11.1.2 Little Yeldham is a small rural village and is situated approximately 0.3 miles to the east of the site. It is identified as a third tier village in the settlement hierarchy and therefore lacks most of the facilities required to meet day to day needs. There is a village hall and church. The Core Strategy states, *'when considering the tests of sustainable development, these will not normally be met by development within a third tier village'*.
- 11.1.3 The public transport links in the village of Little Yeldham are poor. There is a DaRT service (Demand Responsive Transport) 3 times a week. This is a service where passengers need to book journeys on a mini bus with the operator in advance (at least 2 hours ahead) and is reliant on a certain number of people booking the service. As stated by a Planning Inspector (APP/Z1510/W/20/3259003) when referring to the DaRT service *'it does not strike me as being sufficient to rely upon'*.
- 11.1.4 The village of Great Yeldham is situated approximately 1.1 miles to the south west of the site. It is a second tier village in the settlement hierarchy which provides the ability for some day to day needs to be met, although they lack the full range of facilities of a key service village. The nearest key service village is Sible Hedingham which is approximately 3.9 miles to the south.
- 11.1.5 Little Yeldham Road has national speed limit. It is unlit and there is no pavement from the site into the villages of Little Yeldham and Great Yeldham. It would be undesirable and unsafe to walk or cycle along the road on a regular basis to access services and facilities, employment opportunities and education. Therefore, there is likely to be a strong reliance on the private motorised vehicle to access services and facilities. These daily journeys to work and school would soon add up to a high number of miles travelled with the associated carbon emissions.
- 11.1.6 The proposal would conflict with the requirements of Policy CS7 of the Core Strategy which seeks to direct future development to accessible locations. Policy CS7 of the Core Strategy is consistent with the objectives of Paragraph 105 of the NPPF which states,
- 'The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions and improve air quality and public health'*.
- 11.2 Design, Appearance and Impact upon the Character and Appearance of the Area
- 11.2.1 Paragraph 126 of the NPPF states that good design is a key aspect of sustainable development. Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Section 2 Plan require designs to recognise and reflect local distinctiveness in terms of scale, density, height and massing of

buildings. There is also a requirement that development is sensitive to the need to conserve local features of architectural and historic importance, and also to ensure development affecting the public realm shall be of a high standard of design and materials, and use appropriate landscaping.

- 11.2.2 Policy CS8 of the Core Strategy states that development must have regard to the character of the landscape and its sensitivity to change, and where development is permitted it will need to enhance the locally distinctive character of the landscape in accordance with the Landscape Character Assessment.
- 11.2.3 Policy SP7 of the Section 1 Plan states that new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs.
- 11.2.4 This is an outline application and the matters of access, layout, scale, appearance and landscaping are reserved matters not for consideration at this stage.
- 11.2.5 An indicative block plan and elevations have been submitted for consideration. During the course of the application revised plans have been submitted by the applicant which proposed changes to the appearance of the proposed dwellings.
- 11.2.6 The indicative plans propose 2 detached two storey (4 bedroom) dwellings of identical appearance (albeit the handing differs) set back within the plot and back from the building line of 72 Little Yeldham Road. Parking spaces are proposed to the front of the dwellings. A single access to serve both dwellings is proposed from Little Yeldham Road. The submitted indicative elevations propose a protruding front gable with 2 dormers on the front and rear elevations with a further dormer on the side elevations for each dwelling. There is not a defined character for the dwellings along Little Yeldham Road as many of the dwellings (including the Land Settlement dwellings) have been extended or altered over time. However, the scheme does draw upon characteristics evident in the local area including dormers and hipped roofs. The materials proposed are not specified therefore Officers are unable to consider if they are compatible with the countryside setting.
- 11.2.7 The proposed dwellings are indicatively shown to have an overall width of approximately 12.7 metres and a depth of 10 metres. On the boundary with 72 Little Yeldham Road there is a distance from the boundary of at least 2 metres. There is adequate circulation space around the proposed dwellings.
- 11.2.8 The Essex Design Guide 2005 requires a minimum of 100sqm of amenity space for 3+ bedroom dwellings. The indicative layout proposes sufficient amenity space for each proposed dwelling and existing dwelling to accord with the standard.

### 11.3 Impact on the Countryside

- 11.3.1 The NPPF states in Paragraph 170 that planning policies and decisions should contribute to and enhance the natural and local environment recognising the intrinsic character and a beauty of the countryside.
- 11.3.2 Policy CS5 of the Core Strategy states that development will be strictly controlled to uses appropriate to the countryside, in order to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside.
- 11.3.3 Policy CS8 of the Core Strategy states that ‘development must have regard to the character of the landscape and its sensitivity to change and where development is permitted it will need to enhance the locally distinctive character of the landscape in accordance with the Landscape Character Assessment’.
- 11.3.4 Policy RLP80 of the Adopted Local Plan states that new development should not be detrimental to the distinctive landscape features and development that would not successfully integrate in to the local landscape will not be permitted. This sentiment is reiterated in Policy LPP71 of the Section 2 Local Plan.
- 11.3.5 The submitted Planning Statement suggests that the site is situated within the (B16) Felsted Farmland Plateau as defined by the Landscape Character Assessment. This is incorrect as the site is situated within the Yeldham Farmland Plateau (B5) of the Braintree District Landscape Character Assessment where characteristics include generally gappy and fragmented field boundaries, overall strong sense of place and relative tranquillity. The Landscape Character Assessment refers to the *‘several small often linear settlements scattered across the plateau often screened from surrounding fields by tree and hedges’* and has a moderate sensitivity to change. The site reflects these characteristics with an established hedgerow along the frontage and enclosure of the site boundaries with established mature trees. Although representative of the character of the area, it is considered that the application site is not a particularly rare landscape type. There is currently no public access and it has no specific designations. There are no apparent factors which would raise it to the status of a ‘valued landscape’ in the context of the NPPF. However, Officer’s must also consider any specific function that the site serves in landscape terms and also the impact that development will have upon landscape character and the character of any neighbouring settlement.
- 11.3.6 Although the site may not have an intrinsic value of its own in landscape terms, it forms a piece of the jigsaw of the wider landscape and countryside preventing further urban sprawl. It is generally accepted that one of the founding principles of the planning system has been to prevent urban sprawl and avoid unplanned coalescence between settlements and this is one of the principles that underpins Policy CS5 of the Core Strategy.

- 11.3.7 The site currently forms part of a side garden for 72 Little Yeldham Road. Its undeveloped appearance provides a softening edge to the existing sporadic dwelling which blends into the surrounding countryside setting. The proposed development would compromise this and create an unexpected sense of urban sprawl diluting the character of the countryside and consolidation of linear development, contrary to the above mentioned policies.
- 11.3.8 The indicative block plan submitted proposes a new access from Little Yeldham Road which would require removal of part of an established tree/hedgerow along the frontage of the site to achieve access and visibility plays. This would inevitably alter the character and appearance of the street scene and contribute to the urbanisation and sense of sprawl into the countryside and consolidation of linear development.
- 11.3.9 It is noted that objections received to the application suggest that this site once formed part of the historic Land Settlement Scheme of the 1930s for Little Yeldham. The Land Settlements Scheme introduced a typical style and format for development in the local area, consisting of dwellings set within large generous garden plots. The existing dwelling at 72 Little Yeldham Road has undergone significant alteration and extension to such an extent that its original appearance has been diluted. Notwithstanding this, the impact of the proposal on the character and appearance of the countryside setting is a consideration and as concluded above, Officers are concerned that the proposal for 2 dwellings would result in ribbon development diluting the character of the countryside.

#### 11.4 Ecology

- 11.4.1 Policy RLP84 of the Adopted Local Plan states that planning permission will not be granted for development which would have an adverse impact on badgers, or species protected under various UK and European legislation. Where development is proposed that may have an impact on these species the District Council will require the Applicant to carry out a full ecological assessment. Where appropriate, the Planning Authority will impose conditions and/or planning obligations to: a) Facilitate the survival of individual members of the species b) Reduce disturbance to a minimum; and 102 c) Provide supplementary habitats. These sentiments are reiterated in Policies LPP68 and LPP70 of the Section 2 Plan.
- 11.4.2 The BDC Ecology Officer has reviewed the planning application and the completed Biodiversity validation checklist and is satisfied that sufficient ecological information is available for determination. This provides certainty for the Local Planning Authority of the likely impacts on Protected and Priority species/habitats so the development can be made acceptable. The Ecology Officers raises no objection to the proposal subject to conditions to secure ecological mitigation and biodiversity enhancement measures.

## 11.5 Impact upon Neighbouring Residential Amenity

- 11.5.1 Policy RLP90 of the Adopted Local Plan requires that planning permission shall only be granted where there is no undue or unacceptable impact upon the amenity of any nearby residential properties. This is reiterated in Policy LPP55 of the Section 2 Plan. Paragraph 130 of the NPPF seeks to secure good standards of amenity for existing and future users.
- 11.5.2 The applicant is not seeking approval for design and layout of development at this stage and therefore the impact upon neighbouring amenity cannot be fully assessed. However, based on the indicative layout plan that has been submitted in support of the application the site could accommodate 2 dwellings without comprising amenity (in terms of overlooking, loss of light, loss of privacy) for 72 Little Yeldham Road.
- 11.5.3 The proposal would therefore not conflict with Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Section 2 Plan.

## 11.6 Highway Considerations

- 11.6.1 Paragraph 111 of the NPPF states that “Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”
- 11.6.2 Policy RLP56 of the Adopted Local Plan, Policy CS7 of the Core Strategy and Policy LPP55 of the Section 2 Plan seek to ensure sufficient vehicle/cycle parking is provided within new developments.
- 11.6.3 The Council refers to the adopted version of Essex Vehicle Parking Standards Design and Good Practise (2009) Supplementary Planning Guidance, which requires new residential dwellings of two or more bedrooms to benefit from a minimum of two car parking spaces. The standards specify that parking spaces shall measure at least 5.5 metres x 2.9 metres.
- 11.6.4 The outline application is for all matters reserved including access. The provision and layout of parking would be dealt with at reserved matters stage as part of layout and design if the application were approved and progressed. It would be expected to include off road and visitor, cycle parking in accordance with the Council’s adopted Parking Standards. There is sufficient space to provide parking for two vehicles to accord with the Essex Vehicle Parking Standards.
- 11.6.5 The indicative site plan proposes a single access to be created off Little Yeldham Road to serve the proposed dwellings.
- 11.6.6 The Highway Authority have reviewed the application against their own Development Management policies to ensure the proposed site can be accessed safely. They have raised an objection as the developer has not

demonstrated that the proposal would be acceptable in terms of highway safety, efficiency and accessibility.

11.7 Habitat Regulations Assessment (HRA / RAMS)

- 11.7.1 The application site is located outside of a Zone of Influence and therefore no HRA mitigation is required in this case.

12. PLANNING BALANCE AND CONCLUSION

- 12.1.1 As set out within Paragraph 47 of the NPPF, planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In this case the application site is located outside of a designated village envelope/town development boundary and is therefore located within the countryside, where new development is strictly controlled to uses appropriate within the countryside in order to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside. There is therefore a presumption that the application should be refused unless there are material reasons to grant planning permission.
- 12.1.2 Paragraph 60 of the NPPF sets out the Government's objective of significantly boosting the supply of homes. The main mechanism within the NPPF for achieving this is the requirement that local planning authorities demonstrate a five-year supply of deliverable housing land, assessed against housing need. In this regard, the Council is currently able to demonstrate a Housing Land Supply of 5.1 years against its housing need. As such the Council is presently meeting this objective.
- 12.1.3 Until the adoption of the Section 2 Plan, the sites which are proposed to be allocated but do not yet have planning permission or a resolution to grant planning permission, have not been included within the 5 Year Housing Land Supply calculation.
- 12.1.4 As such, although the Council can currently demonstrate a 5 Year Housing Land Supply, this is finely balanced, and currently only marginally exceeds the 5 year threshold.
- 12.1.5 As the Council can demonstrate the required 5 Year Housing Land Supply, the 'tilted balance' pursuant to Paragraph 11d) of the NPPF is not engaged due to a lack of housing land supply. It is therefore necessary to identify the most important policies for determining the application and to establish whether these are out-of-date. Paragraph 219 of the NPPF states that existing policies should not be considered out-of-date simply because they were adopted prior to the publication of the Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater weight that may be given).

- 12.1.6 In this case the basket of policies which are considered to be the most important for determining the application are Policies SP1 and SP3 of the Section 1 Plan, Policies RLP2 of the Adopted Local Plan and Policies CS5 and CS7 of the Core Strategy.
- 12.1.7 Policy SP1 of the Section 1 Plan states that when considering development proposals the Local Planning Authority will take a positive approach that reflects the presumption in favour of sustainable development contained within the NPPF, and will seek to approve proposals wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. Policy SP3 of the Section 1 Plan sets out the spatial strategy for North Essex, namely to accommodate development within or adjoining settlements according to their scale, sustainability and existing role both within each individual Districts, and where relevant, across the wider strategic area. Further growth will be planned to ensure existing settlements maintain their distinctive character and role, to avoid coalescence between them and to conserve their setting. As the Section 1 Plan has been found to be sound and recently adopted by the Council, it is considered that both policies are consistent with the NPPF and can be afforded full weight. Neither are out-of-date.
- 12.1.8 Whilst the primary purpose of Policy RLP2 of the Adopted Local Plan is to restrict development to development boundaries, and thus resist it in the countryside, it is considered that the policy remains broadly consistent with the Framework's approach of protecting the countryside from harmful development, and is not hindering the Council in delivering housing growth within the District. The policy is not out-of-date, and can be given moderate weight. The aims of Policy CS5 of the Core Strategy are much wider as the policy seeks to amongst other things, protect and enhance the landscape character and amenity of the countryside. As it is effectively seeking to preserve the intrinsic character and beauty of the countryside – an objective contained within the NPPF – it is considered that this policy is not out-of-date and can be given significant weight. The aims of Policy CS7 of the Core Strategy is to provide development in accessible locations to reduce the need to travel – an objective contained within the NPPF – it is considered that this policy is not out of date and can be given significant weight.
- 12.1.9 When considering the basket of the most important policies for the determination of this application as a whole, it is considered that the policies are not out-of-date and are broadly consistent with the Framework.
- 12.1.10 Given that the Council can demonstrate a 5 Year Housing land Supply, and the basket of policies are not otherwise out-of-date, the 'flat' (or untitled) planning balance must still be undertaken which weighs the adverse impacts of the proposed development, including the conflict with the Development Plan, against the public benefits of the proposal.
- 12.1.11 In undertaking this flat planning balance, such an assessment must take account of the economic, social and environmental impact of the proposed

development. As set out in Paragraph 8 of the NPPF, achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and needed to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- an economic objective (to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure);
- a social objective (to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being); and
- an environmental objective (to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy).

## 12.2 Summary of Adverse Impacts

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

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

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

12.2.3 The proposed development would conflict with Policy RLP2 of the Adopted Local Plan and Policies CS5 and CS7 of the Core Strategy with regard to the Council's spatial strategy as it proposes development outside of defined development boundaries and within the countryside. Significant weight is afforded to this conflict.

### **Conflict with the Section 2 Plan**

12.2.4 The proposal conflicts with LPP1 of the Section 2 Plan which states that development outside of development boundaries will be strictly controlled to uses appropriate to the countryside to protect the intrinsic character and beauty of the countryside.



12.2.5 The proposal also conflicts with Policy LPP71 given its harm to the countryside.

12.2.6 These conflicts are afforded significant weight.

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

12.2.7 Future residents of the development would have limited access to local services and facilities and there would be a strong reliance on travel by car. There is also limited sustainable travel choices to access services and facilities. The proposal conflicts with Policy CS7 of the Core Strategy. This weighs against the proposal and is afforded significant weight.

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

12.2.8 The site currently forms part of a garden for 72 Little Yeldham Road. Its undeveloped appearance provides a softening edge to the existing sporadic dwelling which blends into the surrounding countryside setting. The proposed development would compromise this and create an unexpected sense of urban sprawl diluting the character of the countryside and consolidation of linear development with the creation of 3 dwellings in a row. This conflict is afforded significant weight.

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

12.2.9 The proposal would result in the removal of trees and hedgerow along the frontage of the site to facilitate a new access and to achieve visibility splays. Although the trees/hedgerow are not protected they contribute to the character and appearance of the street scene therefore its removal is harmful. This weighs against the proposal and is afforded moderate weight.

### **Highways Considerations**

12.2.10 The Highway Authority have objected to the application as insufficient information has been provided to demonstrate that a safe access can be achieved. This is afforded significant weight.

### **12.3 Summary of Public Benefits**

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

### **Delivery of Market Housing**

12.3.2 The development would allow the provision of a net gain of two residential dwellings. This is a public benefit however, the benefit is afforded limited weight due to scale of development.

### Economic and Social Benefits

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

### 12.4 Planning Balance

- 12.4.1 When considering the flat planning balance and having regard to the adverse impacts and benefits outlined above, and having regard to the requirements of the NPPF as a whole, Officers have concluded that the benefits of the proposal are outweighed by the harms, including the harm arising from the conflict with the Development Plan, such that planning permission should be refused in line with the Development Plan.
- 12.4.2 Notwithstanding the above, even if the 'tilted balance' was engaged, it is considered that the adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Against this context, it would be recommended that planning permission be refused for the proposed development.

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> |
|-------------------------------------|-----------------|---------------------|
| Existing Elevations and Floor Plans | N/A             | N/A                 |
| Location Plan                       | N/A             | N/A                 |
| Site Plan                           | AC-A-001        | N/A                 |
| Floor Plan                          | AC-A-001        | N/A                 |
| Elevations                          | AC-A-002        | N/A                 |

#### Reason(s) for Refusal

1.

The site is located in the countryside and falls outside of the defined village envelope as identified in the Adopted Local Plan and Section 2 Plan. The proposal would introduce two dwellings in the countryside where facilities and amenities are beyond reasonable and safe walking distance of the site and alternative modes of transport are problematic to access. As a consequence development in this location would undoubtedly place reliance upon travel by private motor car increasing carbon emissions, conflicting with the aims of the NPPF to locate development where the need for travel can be minimised and the use of sustainable transport modes can be maximised.

Furthermore the proposal would result in the intrusion of development into the countryside which will alter the character and appearance of the site and wider surroundings, introducing sporadic development and an unexpected sense of urban sprawl of detriment to the amenity afforded to the countryside setting.

The adverse impacts of the development are considered to outweigh the benefits and the proposal fails to secure sustainable development, contrary to the NPPF, Policies CS5, CS7 and CS8 of the Adopted Core Strategy, Policy RLP2 of the Adopted Local Plan, Policy SP3 of the Section 1 Plan, and Policy LPP1 of the Section 2 Plan.

#### 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 Development Framework Core Strategy 2011

CS5            The Countryside  
CS7            Promoting Accessibility for All  
CS8            Natural Environment and Biodiversity

#### Braintree District Local Plan Review 2005

RLP2           Town Development Boundaries and Village Envelopes  
RLP10          Residential Density  
RLP56          Vehicle Parking  
RLP69          Sustainable Drainage  
RLP71          Water Supply, Sewerage and Land Drainage  
RLP72          Water Quality  
RLP73          Waste Minimisation  
RLP74          Provision of Space for Recycling  
RLP76          Renewable Energy  
RLP77          Energy Efficiency  
RLP80          Landscape Features and Habitats  
RLP81          Trees, Woodlands, Grasslands and Hedgerows  
RLP84          Protected Species  
RLP90          Layout and Design of Development  
RLP100        Alterations and Extensions and Changes of Use to Listed Buildings,  
                    and their settings

#### Braintree District Shared Strategic Section 1 Local Plan (2021)

SP1            Presumption in Favour of Sustainable Development  
SP3            Spatial Strategy for North Essex  
SP4            Meeting Housing Needs  
SP7            Place Shaping Principles

#### Braintree District Draft Section 2 Local Plan (2017)

LPP1           Development Boundaries  
LPP17          Housing Provision and Delivery  
LPP37          Housing Type and Density  
LPP44          Sustainable Transport  
LPP45          Parking Provision  
LPP49          Broadband

|       |  |
|-------|--|
| LPP50 | Built and Historic Environment   |
| LPP55 | Layout and Design of Development   |
| LPP67 | Natural Environment and Green Infrastructure   |
| LPP68 | Protected Species, Priority Spaces and Priority Habitat  |
| LPP70 | Protection, Enhancement, Management and Monitoring of Biodiversity                             |
| LPP71 | Landscape Character and Features   |
| LPP73 | Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards |
| LPP74 | Climate Change   |
| LPP79 | Surface Water Management Plan  |
| LPP80 | Sustainable Urban Drainage Systems   |

### Other Material Considerations

Essex Design Guide

### Statement on Draft Local Plan

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

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

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

The local authority is now moving forward with the examination of Section 2 of the Draft Local Plan and a consultation on the main modifications closed on 24th January 2022. In accordance with Paragraph 48 of the NPPF, from the day of publication the Council can give weight to the policies of this emerging Draft Section 2 Local Plan ("the Section 2 Plan") and the weight that can be given is related to:

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

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

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

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

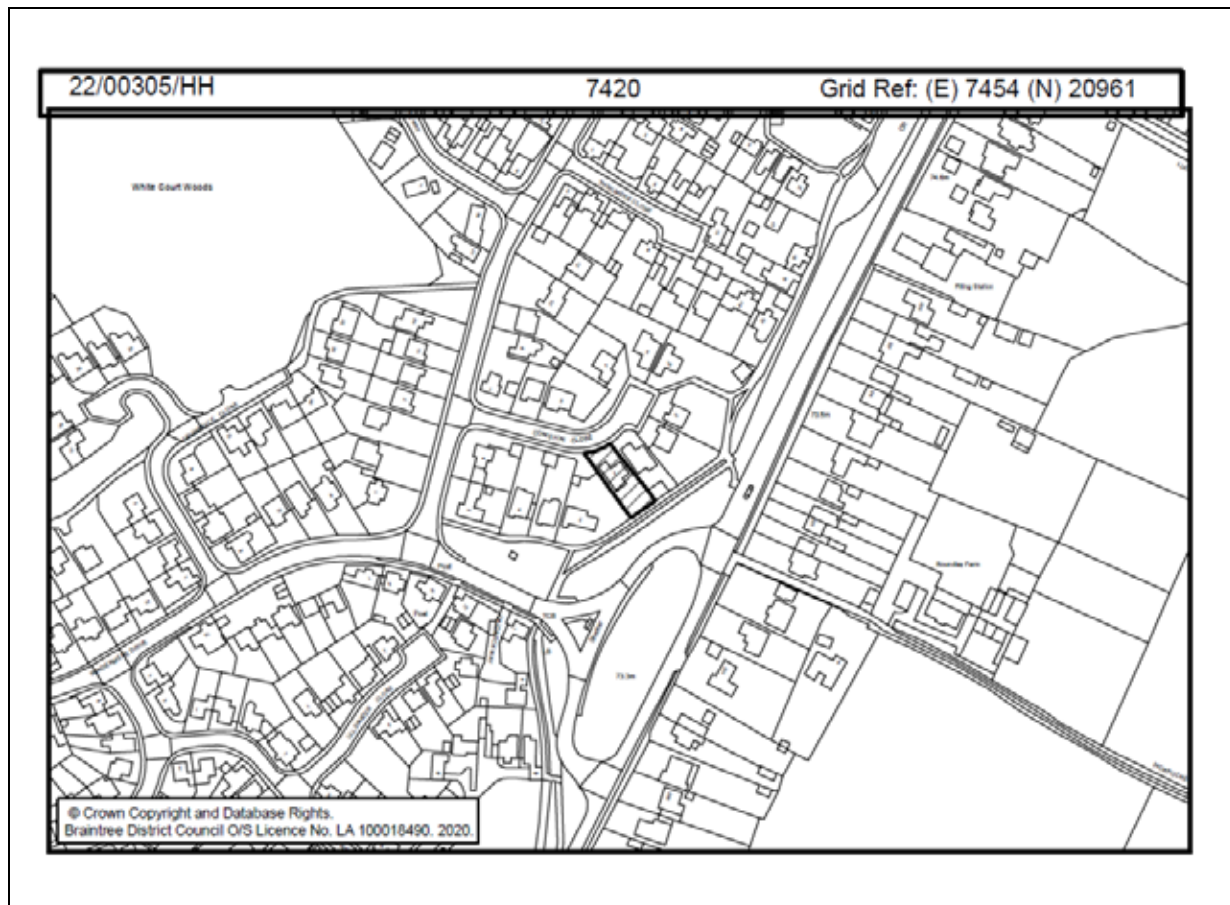
### APPENDIX 3:

#### SITE HISTORY

| <b>Application No:</b> | <b>Description:</b>  | <b>Decision:</b>      | <b>Date:</b> |
|------------------------|--|-----------------------|--------------|
| 20/00041/REF           | Retrospective application for the installation of new driveway access and fencing. | Pending Consideration |              |
| 82/00065/P             | Proposed two storey addition and alterations.                                      | Granted               | 26.02.82     |
| 99/00407/FUL           | Erection of single storey extension.   | Granted               | 21.04.99     |
| 05/01531/COU           | Change of use of timber outbuilding for use as shop for sale of craft supplies.    | Granted               | 23.09.05     |
| 18/02103/FUL           | Retrospective application for the installation of new driveway access and fencing. | Refused               | 25.01.19     |
| 19/01657/HH            | Retrospective application for the installation of new driveway access and fencing. | Refused               | 17.12.19     |
| 20/00115/HH            | Retrospective application for the installation of new driveway access.             | Granted               | 19.03.20     |

|  |   |   |
|--|---|---|
| <b>Report to:</b> Planning Committee         |   |   |
| <b>Planning Committee Date:</b> 3rd May 2022 |   |   |
| <b>For:</b> Decision                         |   |   |
| <b>Key Decision:</b> No                      |   | <b>Decision Planner Ref No:</b> N/A   |
| <b>Application No:</b>                       | 22/00305/HH   |   |
| <b>Description:</b>                          | Proposed extension of front dormer, erection of front porch and single storey rear extension  |   |
| <b>Location:</b>                             | 2 Coniston Close, Great Notley, Essex, CM77 7UJ   |   |
| <b>Applicant:</b>                            | Mr Chris Shipham, 2 Coniston Close, Great Notley, Essex, CM77 7UJ   |   |
| <b>Agent:</b>                                | Mr Mark Sampson, Half Past Ten Productions Ltd  |   |
| <b>Date Valid:</b>                           | 11th February 2022  |   |
| <b>Recommendation:</b>                       | It is RECOMMENDED that the following decision be made:<br><br>§ 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:<br><br>a) <b>Agree</b> the Recommendation<br>b) <b>Vary</b> the Recommendation<br>c) <b>Overturn</b> the Recommendation<br>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)<br>Condition(s) & Reason(s) and Informative(s) |
|  | <b>Appendix 2:</b>  | Policy Considerations   |
|  | <b>Appendix 3:</b>  | Site History  |
| <b>Case Officer:</b>                         | Fay Fisher<br>For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2507, or by e-mail: <a href="mailto:fay.fisher@braintree.gov.uk">fay.fisher@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: 22/00305/HH.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> <li>§ National Planning Policy Framework (NPPF)</li> <li>§ Braintree District Local Plan Review (2005)</li> <li>§ Braintree District Core Strategy (2011)</li> <li>§ Braintree District Shared Strategic Section 1 Local Plan (2021)</li> <li>§ Braintree District Publication Draft Section 2 Local Plan (2017)</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 along Coniston Close in Great Notley and comprises a detached dwelling. The site is located within the development boundary for Great Notley. There is off street parking to the frontage and a garden area to the front and rear of the property.
- 1.2 The proposal comprises the erection of a single storey rear extension which would measure 2.8 metres in depth by 4.7 metres in width, and would be 3.4 metres in height. A first floor front dormer would be increased in size to measure 3.2 metres in depth by 4.2 metres in width, and would be 3.2 metres in height. In addition to the above, a small porch extension is proposed, which would measure 3.1 metres in depth by 0.9 metres in width, and would be 2.6 metres in height. The materials proposed to be used in the construction of the extensions would match the existing dwelling.
- 1.3 The proposed extensions are of appropriate size, scale, design and layout and would be in keeping with the character and appearance of the locality. No detrimental impact would occur to neighbours amenity or in regards to highway matters. Officers conclude that the proposed extensions would be acceptable and therefore it is recommended that planning permission is granted.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

- 2.1 This application is being reported to Planning Committee in accordance with Part A of the Council's Scheme of Delegation as the Applicant is an employee of Braintree District Council.

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

- 5.1 2 Coniston Close is a large detached dwelling located on a modern housing estate, comprising similar style houses. The dwelling has an integral garage and small rear single storey projection. Other dwellings in Coniston Close have been extended similar to that proposed within this application.

6. PROPOSAL

- 6.1 The proposal comprises the extension of an existing front dormer located over an existing integral garage, the erection of front porch canopy, and also a single storey rear extension.
- 6.2 The single storey rear extension which would measure 2.8 metres in depth by 4.7 metres in width and would be 3.4 metres in height. The dormer would be increased to measure 3.2 metres in depth by 4.2 metres in width and would be 3.2 metres in height. Lastly the porch extension would measure 3.1 metres in depth by 0.9 metres in width and would be 2.6 metres in height. The materials used in the construction of the extensions would match the existing dwelling.

7. SUMMARY OF CONSULTATION RESPONSES

- 7.1 No additional consultations have been necessary for this application.

8. PARISH / TOWN COUNCIL

8.1 Great Notley Parish Council

- 8.1.1 No comments.

9. REPRESENTATIONS

- 9.1 No representations have been received in relation to this proposal.

## 10. PRINCIPLE OF DEVELOPMENT

- 10.1 The proposal is for an extension to an existing dwelling located within the development boundary for Great Notley as defined in the Adopted Local Plan. The application is therefore supported in principle in accordance with Policy RLP17 of the Adopted Local Plan and Policies LPP1 and LPP38 of the Section 2 Plan, subject to compliance with criteria on design, amenity and other material considerations.

## 11. SITE ASSESSMENT

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

- 11.1.1 Paragraph 126 of the NPPF states inter alia that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve.
- 11.1.2 In addition to this, Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Section 2 Plan require designs to recognise and reflect local distinctiveness in terms of scale, density, height and massing of buildings, and be sensitive to the need to conserve local features of architectural and historic importance, and also to ensure development affecting the public realm shall be of a high standard of design and materials, and use appropriate landscaping.
- 11.1.3 In this case, the application site comprises a detached dwelling located on an established housing estate within the Great Notley Village. The surrounding dwellings are largely similar in style and design.
- 11.1.4 In terms of size and scale, Officers consider that the proposed extensions would be seen as subservient additions to the dwelling and would be comfortably accommodated within the site. There would also be sufficient garden amenity remaining. In terms of design and appearance, the ground floor extensions match with the existing dwelling and the raise no objections in terms of their impact on the existing street scene. The extension to the dormer, whilst introducing a large extension to the front roof slope, its size and scale is considered acceptable when seen in context with similar extensions nearby and therefore would not have a detrimental impact on the existing street scene. The proposal is therefore considered acceptable in this regard.

### 11.2 Landscaping

- 11.2.1 There are no landscaping impacts in relation to the proposal.

### 11.3 Ecology

- 11.3.1 There are no ecological impacts in relation to the proposal.

#### 11.4 Highway Considerations

- 11.4.1 The proposal would not make any alterations to the current parking provision on the site and it is therefore considered that the proposal would be acceptable in this regard.

#### 11.5 Impact upon Neighbouring Residential Amenity

- 11.5.1 Policy RLP17 of the Adopted Local Plan and Policy LPP38 of the Section 2 Plan allows for the extension of an existing dwelling provided that there is no over-development of the plot, the siting, bulk, form and materials of the extension are compatible with the original dwelling.
- 11.5.2 Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Section 2 Plan state that development shall not cause undue or unacceptable impacts on the amenities of nearby residential properties. Unacceptable impacts are considered as any factors that can carry the potential to degrade the enjoyment of neighbouring properties in terms of overlooking, overshadowing, loss of light or loss of privacy.
- 11.5.3 Officers consider that the proposal would not have an impact on the neighbouring dwellings in terms of loss of light or overshadowing owing to the distance of the extensions from the boundaries of the site. There would also be no additional overlooking nor loss of privacy from the extensions owing to their positions on the existing dwelling.
- 11.5.4 In addition to the above, it is noted that no objections have been received from the neighbouring properties.
- 11.5.6 Officers therefore consider the proposal is compliant with the abovementioned policies in terms of impact on neighbouring residential amenities.

#### 11.6 Flooding and Drainage Strategy

- 11.6.1 There are no flooding or drainage issues associated with this proposal.

#### 12. CONCLUSION

- 12.1 The proposed extensions are of appropriate size, scale, design, and layout and would be in keeping with the character and appearance of the existing property and locality. No detrimental impact would occur to neighbouring residential amenity or in regards to highway matters. Officers conclude that the proposed extensions would be acceptable and it is recommended that planning permission be granted.

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           | H2087_PL_001       | N/A                 |
| Proposed Elevations     | H2087_PL_101 PL01  | N/A                 |
| Proposed Floor Plan     | H2087_PL_102V PL01 | N/A                 |
| Proposed Roof Plan      | H2087_PL_102V PL01 | N/A                 |

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

1.

The development hereby permitted shall be begun on or before the expiration of three years beginning with the date of this permission.

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

2.

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

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

3. The external materials and finishes shall be as indicated on the approved plans and/or schedule.

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

#### Positive and Proactive Statement

*The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and has granted 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 Review 2005

|       |   |
|-------|---|
| RLP2  | Town Development Boundaries and Village Envelopes             |
| RLP17 | Extensions and Alterations to Dwellings in Towns and Villages |
| RLP56 | Vehicle Parking   |
| RLP90 | Layout and Design of Development                              |

#### Braintree District Shared Strategic Section 1 Local Plan (2021)

|     |  |
|-----|--|
| SP1 | Presumption in Favour of Sustainable Development |
| SP7 | Place Shaping Principles                         |

#### Braintree District Draft Section 2 Local Plan (2017)

|       |  |
|-------|--|
| LPP1  | Development Boundaries                               |
| LPP38 | Residential Alterations, Extensions and Outbuildings |
| LPP45 | Parking Provision                                    |
| LPP50 | Built and Historic Environment                       |
| LPP55 | Layout and Design of Development                     |

#### Other Material Considerations

Essex Design Guide

#### Statement on Draft Local Plan

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

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

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

The local authority is now moving forward with the examination of Section 2 of the Draft Local Plan and a consultation on the main modifications closed on 24th January

2022. In accordance with Paragraph 48 of the NPPF, from the day of publication the Council can give weight to the policies of this emerging Draft Section 2 Local Plan ("the Section 2 Plan") and the weight that can be given is related to:

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

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

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

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

APPENDIX 3:

SITE HISTORY

None