

# **PLANNING COMMITTEE**

## **AGENDA**

**Tuesday 9th June 2020 at 7.15pm**

In accordance with the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020, this meeting will be held via MS Teams and by the Council's YouTube channel – Braintree District Council Committees.

Members of the public will be able to view and listen to this meeting via YouTube.

To access the meeting please use the link below:

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

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

Membership:-

Councillor J Abbott  
Councillor K Bowers  
Councillor T Cunningham  
Councillor P Horner  
Councillor H Johnson  
Councillor D Mann  
Councillor A Munday

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

Members unable to attend the meeting are requested to forward their apologies 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.

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**

In response to Coronavirus the Council has implemented new procedures for public question time.

Members of the public wishing to participate 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 working day before the day of the Committee meeting. For example, if the Committee Meeting is due to be held on a Tuesday, the registration deadline is midday on Monday, (where there is a bank holiday Monday you will need to register by midday on the previous Friday).

The Council reserves the right to decline any requests to register if they are received after this time.

Registered participants must submit their written questions/statements no later than 9am on the day of the meeting by emailing them to [governance@braintree.gov.uk](mailto:governance@braintree.gov.uk)

Participation will be via the submission of a written question or statement which will be read out by the Chairman or an Officer during the meeting. All written questions or statements should be concise and should be able to be read within the 3 minutes allotted for each question/statement. The question/statement will be published on the Council's website. The Council reserves the right to remove any defamatory comment in the submitted question/statement.

The order in which questions and statements will be read is members of the public, Parish Councils/County Councillors/District Councillors, Applicant/Agent.

The Chairman of the Planning Committee has discretion to extend the time allocated for public question time and to amend the order in which questions/statements are presented to the Committee.

Members of the public can view the meeting via the Council's YouTube Channel - Braintree District Council Committees.

**Documents:** All documents for this meeting are available on the Council's website. Agendas, Reports and Minutes can be accessed via [www.braintree.gov.uk](http://www.braintree.gov.uk) or [www.braintree.gov.uk/info/200141/committee\\_timetable\\_committees\\_and\\_meetings](http://www.braintree.gov.uk/info/200141/committee_timetable_committees_and_meetings)

**YouTube Broadcast:** Please note that this meeting will be recorded and available on the Council's YouTube Channel - Braintree District Council Committees and will be available via: <http://braintree.public-i.tv/core/portal/home>

**Data Processing:** During the meeting the Council will be collecting performance data of participants' connectivity to the meeting. This will be used for reviewing the functionality of Ms Teams 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)

We welcome comments to make our services as efficient and effective as possible. If you have any suggestions regarding the meeting you have attended, you can send these to [governance@braintree.gov.uk](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 26th May 2020.

### **4 Public Question Time**

(See paragraph above)

### **5 Planning Applications**

To consider the following planning applications and to agree whether the more minor applications listed under Part B should be determined “en bloc” without debate.

Where it has been agreed that the applications listed under Part B will be taken “en bloc” without debate, these applications may be dealt with before those applications listed under Part A.

#### **PART A**

#### **Planning Applications**

- |          |   |                |
|----------|---|----------------|
| <b>a</b> | <b>Application No. 18 02251 FUL – Land South of Hatfield Road, WITHAM</b>                 | <b>6-44</b>    |
| <b>b</b> | <b>Application No. 19 00874 OUT – Land at High Garrett, BRAINTREE</b>                     | <b>45-72</b>   |
| <b>c</b> | <b>Application No. 19 01472 FUL – Rainbows End, Sheepcotes Lane, BRADWELL</b>             | <b>73-97</b>   |
| <b>d</b> | <b>Application No. 19 02325 FUL – 31 Skitts Hill, BRAINTREE</b>                           | <b>98-110</b>  |
| <b>e</b> | <b>Application No. 20 00103 FUL – Colne Commercials, 136 Colchester Road, WHITE COLNE</b> | <b>111-123</b> |

#### **PART B**

#### **Minor Planning Applications**

- |          |   |                |
|----------|---|----------------|
| <b>f</b> | <b>Application No. 19 01387 FUL – Rayne Hall Farm, Shalford Road, RAYNE</b> | <b>124-136</b> |
|----------|---|----------------|

- |   |  |         |
|---|--|---------|
| g | Application No. 19 02308 LBC – Existing car park sites between Manor Street and Victoria Street, rear of the Town Hall Centre, BRAINTREE | 137-148 |
|---|--|---------|

**PRIVATE SESSION**

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**6 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.

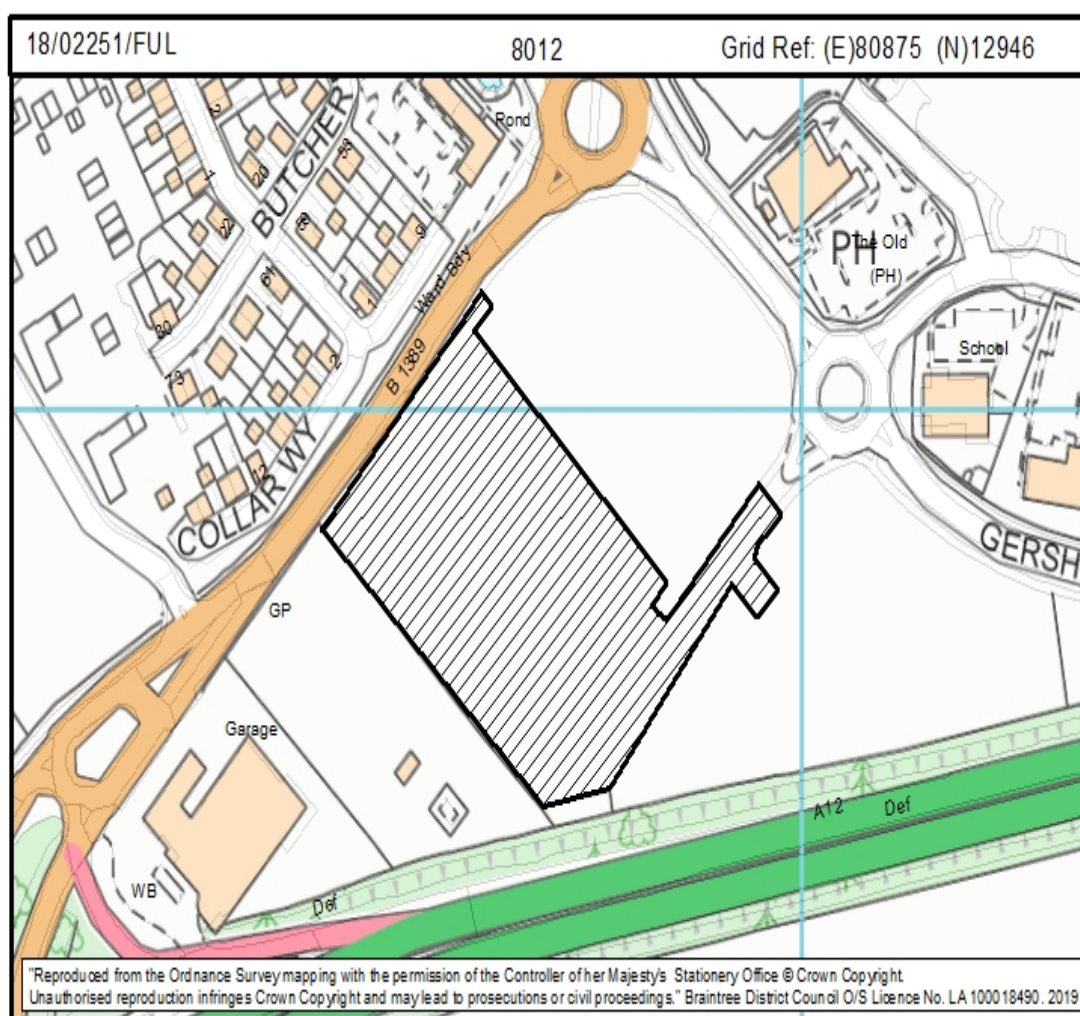
There are no items for Private Session for this meeting

## PART A

## AGENDA ITEM NUMBER 5a

APPLICATION NO: 18/02251/FUL DATE: 17.12.18  
VALID:  
APPLICANT: Leon and James Beards and Scholter  
Imperial House, 14-15 High Street, High Wycombe, HP11 2BE  
AGENT: Maynard Grout Associates Ltd  
Mr Maynard Grout, 4 Habgood Close, Acle, Norwich, NR13 3RE  
DESCRIPTION: Proposed commercial vehicle dealership with estate access road and associated infra-structure.  
LOCATION: Land South Of, Hatfield Road, Witham, Essex

For more information about this Application please contact:  
Mr Chris Tivey on:- 01376 551414 Ext. 2539  
or by e-mail to: [chris.tivey@braintree.gov.uk](mailto:chris.tivey@braintree.gov.uk)



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PJVZ6SBFLU100>

## SITE HISTORY

06/01143/OUT	Erection of approx. 268 Dwellings, B1 business park, primary school, neighbourhood centre, community facilities, open space, landscaping and ancillary infrastructure	Granted with S106 Agreement	28.11.08
12/01071/OUT	Revised masterplan for a mixed use development comprising a commercial area for employment, neighbourhood centres, community facilities including food retail, non-food retail, a pub/restaurant, Class B1 office, retail warehousing, other uses within Classes A1 to A5, children's day nursery, health centre, sports facilities, residential dwellings, open space, landscaping and ancillary infrastructure at land to the south of Hatfield Road forming part of the Maltings Lane development	Granted with S106 Agreement	26.07.13
18/02302/ADV	6 No. Individual sets of illuminated letters, 2 No. illuminated pylon signs, 2 No. illuminated free standing signs, 2 No. free standing non-illuminated signs, 5 No. flagpoles, 2 No. illuminated fascia signs and 3 No. non illuminated signs.	Pending Consideration	

## POLICY CONSIDERATIONS

Currently the Council's development plan consists of the Braintree District Local Plan Review (2005) and the Core Strategy (2011).

The Council is currently working on a Draft Local Plan, which was approved by the Council unanimously for consultation on the 20th June 2016 and was the subject of public consultation between the 27th June and 19th August 2016. The Draft Local Plan, now referred to as the Publication Draft Local Plan, was approved by the Council on 5th June 2017 for consultation and for submission to the Secretary of State. The public consultation ran from 16th June to 28th July 2017. The Publication Draft Local Plan was submitted to the Secretary of State on the 9th October 2017.

The Publication Draft Local Plan is currently the subject of an examination by an Inspector appointed by the Secretary of State for Housing, Communities and Local Government.

The examination into the Section 1 Local Plan continued in January 2020. Hearing sessions have now been completed, and the North Essex Authorities have now received an initial letter from the Inspector outlining his findings on Section 1 Local Plan.

The Inspector has found the Section 1 Local Plan sound, subject to modifications. Two of those main modifications are the removal of two of the proposed garden communities at West of Braintree and Colchester Braintree Borders. Nevertheless he has indicated that other parts of the Plan can be found including the housing target which for Braintree equals a minimum of 716 dwellings per annum. A full list of proposed modifications will be published in due course.

In accordance with paragraph 48 of the NPPF, from the day of publication the Council can give weight to the emerging Draft Local 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 can continue to afford some weight to the emerging Publication Draft Local Plan 2017.

It should also be noted that the Council was previously working on a Site Allocation and Development Management Plan (the ADMP). This plan was subject to extensive public consultation in 2013 and 2014. The ADMP was not however submitted to the Planning Inspectorate, due to the decision to begin work on a new Local Plan, to take into account the most up to date Government guidance. However parts of the ADMP have been rolled forward



into the Draft Local Plan. It is therefore considered that it would be consistent with the provisions in paragraph 48 of the NPPF, to afford more weight in decision making to the parts of the Draft Local Plan which have been rolled forward from the ADMP, due to the more advanced stage reached by those elements.

#### National Planning Guidance

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

#### Braintree District Local Plan Review 2005

RLP27	Location of Employment Land
RLP29	Business Parks
RLP31	Design and Layout of Business Parks
RLP34	Buffer Areas between Industry and Housing
RLP36	Industrial and Environmental Standards
RLP49	Pedestrian Networks
RLP50	Cycleways
RLP54	Transport Assessments
RLP55	Travel Plans
RLP56	Vehicle Parking
RLP62	Development Likely to Give Rise to Pollution or the Risk of Pollution
RLP63	Air Quality
RLP65	External Lighting
RLP69	Sustainable Urban Drainage
RLP71	Water Supply, Sewerage & 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, Woodland Grasslands and Hedgerows
RLP84	Protected Species
RLP90	Layout and Design of Development
RLP92	Accessibility
RLP104	Ancient Monuments and Sites of Archaeological Importance
RLP105	Archaeological Evaluation
RLP106	Archaeological Excavation and Monitoring

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

CS4	Provision of Employment
CS7	Promoting Accessibility for All
CS9	Built and Historic Environment

## Braintree District Publication Draft Local Plan 2017

SP1	Presumption in Favour of Sustainable Development
SP2	Spatial Strategy for North Essex
SP4	Providing for Employment and Retail
SP5	Infrastructure & Connectivity
SP6	Place Shaping Principles
LPP1	Development Boundaries
LPP15	Retail Warehouse Development
LPP44	Sustainable Transport
LPP45	Parking Provision
LPP50	Built and Historic Environment
LPP51	An Inclusive Environment
LPP55	Layout and Design of Development
LPP63	Archaeological Evaluation, Excavation and Recording
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
LPP75	Energy Efficiency
LPP78	Flooding Risk and Surface Water Drainage
LPP79	Surface Water Management Plan
LPP80	Sustainable Urban Drainage Systems
LPP81	External Lighting
LPP82	Infrastructure Delivery and Impact Mitigation

## Neighbourhood Plan

None

## Supplementary Planning Guidance

Essex Design Guide for Mixed Use and Residential Areas (2005)  
Essex Design Guide Urban Place Supplement (2005)  
External Lighting Supplementary Document  
Parking Standards – Design and Good Practice (September 2009)

## INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is being reported to Planning Committee in accordance with the Council's scheme of delegation as the application is considered to be of significant public interest and represents a departure from the adopted Development Plan.

## NOTATION

The application site is located within the development boundary for Witham and is allocated for B1 Business use within the Adopted Local Plan. The Maltings Lane Masterplan (pursuant to application reference 12/01071/OUT) however allocates the area, the subject of the planning application, as being for non-food retail, which is also the designated land use identified within the Proposals Map for the Draft Local Plan.

## SITE DESCRIPTION

The application site comprises 1.53 Hectares of former agricultural land, now poorly vegetated scrubland, located to the south western end of Witham, approximately 2km from the town centre. The site, identified in marketing literature as Plot 14, forms part of an area identified for development as a Business Village on the wider Gershwin Park/Maltings Lane development.

Gershwin Park is a mixed use development, and in addition to residential, the approved masterplan identifies land for food retail; non-food retail; a pub/restaurant; Class B1 office; other uses within Classes A1 to A5; children's day nursery; health centre; sports facilities; and public open space. Many of these uses have already been built out.

The site is located to the south east of the B1389 Hatfield Road, with an open storage area which recycles and sells wooden pallets, Lynfields Business Centre and the Co-op petrol filling station and store all located to the south west, with a mature field hedge runs along the intervening boundary with the former. The A12 dual carriageway is located within a shallow cutting to the south, with undeveloped plots of land (Gershwin Park plots 1 & 18) located to the south east and north east respectively.

Access to the site would be provided via an existing spur from the roundabout by the Gershwin Park Day Nursery School, and a new section of road constructed therefrom. The access road would also provide access into the aforementioned Plots 1 & 18, thereby enabling them to be primed for future development.

Opposite the site is the Lodge Farm development, with newly built detached and semi-detached houses fronting Collar Way, which runs parallel to and behind the Hatfield Road roadside verge and hedgerow on its north western side.

## PROPOSAL

Planning permission is sought for a commercial vehicle dealership with estate access road and associated infrastructure. The scheme has been revised since its original submission, following concerns raised by Officers with regard to the scale, design and layout (internal and external) of the scheme, including

the potential for noise impacts upon local residents - specifically the occupants of the newly completed Collars Way.

The building as now proposed would comprise a steel portal framed structure, broadly rectangular in shape measuring up to 71m wide (including a vehicle wash bay) and 33m deep. With a total floor area reduced from 3157sq.m to 2,455sq.m, its maximum height would be 9.86m from the ground to the top of the perimeter parapet walls, and the ridge concealed behind them. The design is proposed to be contemporary in its appearance, utilising insulated panel cladding systems in colours that adhere to Mercedes Benz's corporate branding.

The ground floor would comprise a workshop, offices and parts department (1,916sq. m) and a wash-bay plant/store (16sq. m); and the first floor would be dedicated to the storage of parts (523sq. m). Externally, areas are shown to provide specific zones for the separate parking of cycles, cars, vans and HGVs.

The applicants have worked with BDC Landscape Services to ensure that a high quality landscape scheme is provided for the long-term. This includes a planted structural landscape bund to the Hatfield Road frontage (in accordance with the requirements of the approved masterplan and the Draft Local Plan proposals map, and a native species hedge along the north eastern boundary, with the former also providing acoustic screening to the residents opposite.

In support of the proposal, the applicants state that the dealership is to be used for the servicing and maintenance of commercial vehicles, MOT Testing, tachograph calibration, display and sales of prestige van and trucks, and parts.

The development would complement the applicant's (S&B Commercials - Motus Holdings (UK) Ltd) existing network, which encompasses 112 vehicle franchise outlets at 68 locations. Motus Holdings (UK) Ltd. encompasses the UK's largest independent commercial vehicle dealer group, and with its passenger vehicle interests included, ranks inside the Top 15 of all UK automotive dealer groups. The company has annual revenues of over £1 billion and employs almost 3000 people across its operations.

The proposed development is dynamic and would offer a range of employment opportunities across the technical, administrative and management sectors.

In terms of anticipated employment numbers, following a reduction in scale of the proposed operation, by type, the applicant advises that there would be 26no workshop technicians; 14no after-sales administrative staff and 15no parts staff. In each group there would be 1no line manager and 1no supervisor, in addition to an overall depot manager.

The following drawings and documents have been submitted as forming part of the planning application:

- Location Plan;
- Block Plan;
- Site Layout Plan;
- Landscape Proposal Plan;
- Floor Plans, Elevations and Section drawings;
- Proposed Concept (3D) Model Visualisations;
- Highway and Services arrangement & construction plans and sections;
- Design and Access Statement, and supplemental letter;
- Site Investigation;
- Transport statement.
- Churchmanor marketing statement and update;
- Acoustic report (revised);
- Ecological Appraisal;
- Flood Risk Assessment and drainage strategy;
- S & B Commercials History;
- Information about the applicant (Motus UK) including business overview, company diversity statement & Health and Safety policy, waste recycling policy, environmental policy and energy policy.

## CONSULTATIONS

Anglian Water – No objection, subject to conditions.

The foul drainage from this development is in the catchment of Witham Water Recycling Centre that will have available capacity for these flows. However, the development would lead to an unacceptable risk of flooding downstream and Anglian Water would need to plan effectively for the proposed development, if permission is granted; and work with the applicant to ensure any infrastructure improvements are delivered in line with the development. The developer proposes to pump to Anglian Water's network, however, no rate has been provided at this time to conduct an accurate impact assessment of the network. They therefore request a condition requiring a phasing plan and/or on-site drainage strategy.

In addition, they state that the surface water strategy/flood risk assessment submitted with the planning application relevant to Anglian Water is unacceptable. Whilst they note sufficient surface hierarchy evidence has been provided, including infiltration logs, the developer is proposing a rate Anglian Water would consider too high and they require that this is reviewed. They therefore recommend that the applicant needs to consult with both them and the Lead Local Flood Authority (LLFA) and request a condition requiring a drainage strategy covering the issues to be agreed.

BDC Environmental Services – No objection, subject to conditions.

Officers do have some reservations about the proposal given that the operation would involve a 24 hour 7 day operation with some external activity

(vehicle movements and parts deliveries with fork lift truck movement) in the later evening and night time period, with some potential for noise impact at the nearest residential receptor properties at 35m distant.

The acoustic report concludes that the noise impact on the nearest residents is likely to be at an acceptable level. It concludes that there will be no observed adverse effect on future residents and concludes that from their assessment that the noise at night will be just perceptible. To reach this conclusion significant restriction to the operation particularly at night are required.

To limit noise to acceptable levels then 3.1.1 of report states that the noise emissions from fixed plant must not exceed 20dB(A) at the noise sensitive premises – this is a cumulative level for all plant from the site and therefore any additional plant introduced going forward shall be required to ensure that this limit is not exceeded – if permission is granted then the cumulative noise emissions shall be restricted to this level at noise sensitive premises. Details of the plant or exact location is unknown at the current time but it is recommended that the plant is located inside the building, with necessary attenuation to readily achieve the required noise level with tolerance to account for increased noise levels due to wear over time.

To limit noise from inside the premises then Environmental Health assumes that there shall be no external openings for the purpose of direct natural ventilation whilst the premises is operating and Environmental Health concludes that at higher ambient temperatures then it would be necessary to have air conditioning at the premises as mechanical extraction alone will not provide the necessary cooling at high ambient temperatures. Air conditioning units are not sustainable and also create another noise source which must satisfy the noise requirements for plant given in the previous paragraph. Any noise not of the character of the existing traffic noise needs to be sufficiently attenuated so as to be masked by the existing environmental noise. Such noise from the site which is less readily modelled includes the peaks of noise due to impact from deliveries, doors opening/closing and persons talking outside.

In section 3.1.2 to contain internal noise then the noise assessment makes assumptions over the construction materials of the building envelope to predict the sound insulation of the building. Therefore the finished construction must be at least equivalent to that level of sound insulation assumed within the noise report else the noise reduction levels will be insufficient. It is noted that the three metre bund does not break line of sight from second floor residential premises occupied on the opposite side of Hatfield Road and nor does this bund extend around the sides of the site to improve noise attenuation and to prevent diffraction and reflection of sound which would present an improved design.

Within the report in section 3 other recommendations are made to restrict movements of vehicles and the use of certain equipment (e.g. HGV wash) at

night as the residential property is only 50m away from the proposed north western façade of the main building.

Environmental Health accepts that the windows of the residential property if remaining closed will provide sound insulation within the dwelling. The original Lodge Farm (residential site opposite) report indicated levels at night of 48dB(A) as an 8 hour average at façade level. It is clear that there may have been changes to traffic flows since but the hourly averages quoted in the noise assessment for the current development are significantly higher and therefore present a greater masking effect within the noise report. It would be preferable to quote 15 minute averages for background noise levels (rather than 1 hour averages) to assess whether shorter term values measured at the receptor site alter the conclusions of the BS4142 calculation. It is noted that average hourly levels during the day were quoted as 57 and 48dB(A) respectively for the day and night time periods in the original Lodge Farm report. These figures would indicate that reasonable levels might still be achieved at night with windows partially opened and occupiers could tolerate that level of traffic noise so there cannot be the assumption that the occupiers will be keeping windows closed to further attenuate against noise from the proposed development as the report comments.

Positively the report provides suggestions to mitigate and minimize noise intrusion from external activities. The report recommends the use of broadband reverse beepers which should be disabled at night. Environmental Heath would not recommend disabling of an alarm as a condition as it is might be contrary to health and safety requirements.

In section 3.1.7 the report recommends a good neighbour policy – this is not really enforceable as the suggested compliance is not specific with terms such as *'particular care, avoid noisy activities, when practical and unless necessary'* used.

There are positive improvements in the proposed design that the shutter doors are all to the south east of the building and the HGV wash is now inside the main building but on the receptor side of the building from the plan. As far as practicable the building should be used as an acoustic screen and distances of noisy plant from the receptors maximized.

Other concessions are for the HGV wash to operate between 0700 and 2030 hours (wording in the report) and not operating between 2300 and 0700 hours and no vehicles in the north part of the site during the night time period.

Parts deliveries will be deliveries to the site during the night-time (currently one per night is envisaged). HGV's will park at the south-east of the site and be unloaded by electric or LPG fork lift trucks which will transport the parts on pallets into the northeast of the building – this does raise concern about the potential for noise at night particularly if unloading one HGV where unloading times can be in the order of one hour or more potentially – with the impact noise of material being lifted off the vehicles and lowered at its final destination to the north east of the site, accompanying noise of the forklift

movement, roller shutter doors being raised allowing noise from within premises to escape and the noise from lowering the roller shutter doors along with the movement of the forklift vehicles. Whilst it is stated that there will be no reverse vehicle alarms used at night then many vehicles including forklifts or third party vehicles might not allow the alarms to be disabled for health and safety reasons and therefore the policy to not use any reverse alarms at night may not be reasonably practicable.

As Noise Policy Statement for England (NPSE) states, the aim should be to mitigate and reduce to minimize and avoid significant health effects. Such effects occur when there is change in behaviour of the occupiers of affected properties due to noise intrusion. It is accepted that the general environmental noise that already exists due to traffic noise is likely to be intrusive and therefore there is already reliance on the building envelope of residential property and window insulation to achieve acceptable noise levels in the bedrooms. However the windows have not been sealed at the Lodge Farm development and therefore they may be opened so reliance on window insulation at the receptor property to mitigate the noise from the proposed development should not be assumed particularly where windows might be open for thermal comfort in warmer weather conditions. It is during this scenario that peaks of noise particularly at night become more noticeable and even with windows closed then lower frequency components of machinery (e.g. motors, compressors) are not readily attenuated by double glazed windows and may become more noticeable.

From the calculations it is the case that unloading noise will have some influence on the noise level at position B (window of flats opposite) if this activity occurs at night particularly in the early hours and associated impact noise particularly if repetitive and maximum noise levels are sufficiently high.

Noise levels in the table providing daytime and night-time scenario indicate that the impact of noise is greatest when there is delivery or forklift pallet loading which will occur to the south east and north east of the building. The BS4142 assessment determines that the noise will be just perceptible given that there is likely to be an intermittent and impulsive nature to the noise then the addition of 2dB as a weighting factor is in Environmental Health's view the minimum that should be added. Given that the noise will be 35-50m distance and occurring in the middle of the night when the noise from the Hatfield Road and A12 will be reduced given the traffic flow reduction in the early hours this will make peaks of noise more noticeable against the background noise level.

The assessment in table 8 of the report indicates that during the day that the residual noise level primarily of traffic noise on the A12 and Hatfield Road serves to mask the specific noise of concern. This is not necessarily the case at night when the 15 minute background at the receptor property is depressed and possibly lower than the level used in the calculation given the further distance from the A12. BS4142 also notes in section 11 that where the residual sound levels are very high that the margin by which the rating level exceeds the background might simply be an indication of the extent to which the specific noise level is likely to make those sound impacts worse. The



character of the noise is also relevant given that the noise of vehicle deliveries and offloading at night and HGV vehicle manoeuvring outside the premises will not be of the same character as the anonymous noise of moving traffic on the nearby highways and therefore more noticeable.

In conclusion Environmental Health does have reservations about the use of the site as a 24 hour 7 days per week operation particularly in respect of external activity outside daytime periods and containment of machinery noise. Whilst it is accepted that the general environmental noise levels are high in the location given the close proximity to major transport routes for Witham there will be drops in noise levels at night and the peaks of noise and external deliveries and activity will not be so readily masked as the external noise drops off.

If there is a decision to grant permission then it would be appropriate to consider imposition of conditions to restrict the external activities and ensure that air handling plant and noisy machinery can meet acceptable noise levels to ensure that the amenity of nearby residential occupiers is protected at all times.

BDC Operations – No objection.

As this is for commercial premises, if they were to collect the trade waste here, there would be ample space for them to make waste collections.

ECC Highways – No objection, subject to conditions.

A site visit has been undertaken and the documents accompanying the planning application have been duly considered. Given the scale of the proposed development and the area to be available for parking within the site, which complies with Braintree District Council's adopted parking standards, the proposal is acceptable to the Highway Authority, subject to the submission of a Construction Management Plan and Workplace Travel Plan by planning conditions/obligations.

With regard to the advertisements they have no comments to make, given the luminance levels do not exceed the recommended level of 600 cd/m for a medium district area (small town centre), as contained within the Technical Report No.9 ' *Brightness of Illuminated Advertisements Third Edition*'.

ECC - Lead Local Flood Authority – No objection, subject to conditions.

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, they do not object to the granting of planning permission subject to the imposition of conditions concerning a detailed surface water drainage scheme for the site, during and post construction; and Maintenance Plan with yearly logs.

ECC Place Services - Ecological Consultant – No objection, subject to conditions.

They have reviewed the Ecology Appraisal provided by the applicant, relating to the likely impacts of development on Protected & Priority species and are satisfied that there is sufficient ecological information available for determination. This provides certainty for the LPA of the likely impacts on Protected and Priority species/habitats and, with appropriate mitigation measures secured, the development can be made acceptable. They support the reasonable biodiversity enhancements, which should also be secured by condition. This would enable the LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.

ECC Place Services - Historic Environment Consultant – No objection.

The site is within an area that has had a programme of archaeological field walking completed and has been partially investigated, very little was found in that area and nearby so the potential was considered to be low. There were no archaeological recommendations for the site.

Highways England – No objection.

Whilst they do not wish to object to this application, the accesses to the adjacent petrol filling station are not to current standards and they would be uneasy about any intensification of its use, therefore there should be no vehicle access to the A12 through the adjacent site.

## PARISH /TOWN COUNCIL

### Witham Town Council

No objection.

## REPRESENTATIONS

The application was the subject of two rounds of public consultation and has been advertised within the local press. In regard to the first round, the Witham & Countryside Society stated that they supported the use of this vacant site for employment purposes. They did however say that they were concerned about the proximity of the site entrance to the Day Nursery and as the proposal is for a vehicle servicing centre, the prevalence of diesel particulates.

With regard to the second round of consultation which took place following receipt of revised plans in March 2020, 3 letters of representation from new local residents in the recently built Collar Way have been received, raising objections to the proposal on the following grounds:

- The traffic noise from B1389 Hatfield Road is already intolerable and is 24/7;

- The speed of the traffic coming off the A12 is horrendous, it is only quiet between 2-4am every day;
- Additional noise will not be welcomed by any of the residents in Collar Way, unless traffic calming measures and a noise barrier is put up around the edge of the Redrow site, then maybe extra noise will be tolerated;
- Noise from 24hr engineering would cause a disturbance and affect sleep;
- The design of the building is an eyesore and would not be in keeping with the designs of other properties in the area, and as seen on the Lodge Farm development.
- Concerns regarding the amount of Heavy Goods Vehicles that would be accessing the site via Hatfield Rd and the effect this would have on the local area in terms of safety and noise levels;
- If the development is given the go ahead, strict restrictions on opening hours should be imposed so to minimise the effect of noise pollution;
- Would like to see what plans are in place to minimise the impact of diesel particulates into the environment to ensure there would be no detriment to air quality on the Lodge Park farm development.

## REPORT

### PRINCIPLE OF DEVELOPMENT

#### National Planning Policy Framework (NPPF) 2019

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).

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.

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.

## The Development Plan

Currently the Council's statutory Development Plan consists of the Braintree District Local Plan Review (2005) and the Braintree District Core Strategy (2011).

The land in question is located within the Town Development Boundary for Witham, wherein Policy RLP27 of the Adopted Local Plan states that development for employment uses shall be concentrated on suitable sites in towns and villages where housing, employment and other facilities can be provided close together. Development for business, commercial and industrial use shall be located to minimise the length and number of trips by motor vehicles; and that development for employment uses will not be permitted where it would be likely to add unacceptably to traffic congestion.

Policy RLP31 of the Adopted Local Plan states that new employment development, including business parks and employment policy areas will be required to conform to suitable design and layout standards with adequate car parking, and provision for public transport, cycling and walking, landscaping and servicing including either connection to mains sewers or the construction of sewers to standards adoptable by the statutory water company.

The application site is allocated within the Adopted Local Plans proposals map for B1 Business use (Offices, Research & Development and Light Industry). The proposed development does not fall within any of the defined uses as set out within the Use Classes Order (as amended) and is therefore considered to be Sui Generis. Therefore, the proposal is contrary to the Development Plan, amounting to a departure therefrom.

However, the approved Maltings Lane Masterplan (pursuant to application reference 12/01071/OUT) highlights that the area, the subject of the planning application, as being for non-food retail, which is also the designated land use identified within the proposals map for the Draft Local Plan. Bearing in mind the fact that the Adopted Local Plan was adopted in 2005, and that the subsequent Masterplan approved in 2012 has since guided the proposed land allocations within the Draft Local Plan, it is considered that only limited weight should be attributed to Policy RLP29 in the Adopted Local Plan in this instance. Policy RLP29 states that within Business Parks identified solely for Class B1 Business Use on the Proposals Map, no other uses shall be permitted unless they are both essential and ancillary to the main use of any unit and do not occupy more than 5% of the floor-space of the main unit.

The Masterplan approved under application reference 12/01071/OUT identified 3no non-food retails units (numbers 14a-14c) proposed within the area of the application site. The 2012 application estimated that 43no staff could be employed within these units.

Given the above, but also the length of time which this site has been vacant, Officers advised the applicants to provide further details of the site's marketing

to date, in order to demonstrate a lack of demand for the planned uses. In response to this, Churchmanor Estates have confirmed that they have actively marketed all sites at Gershwin Park since their involvement began in 2009. They have continually marketed the application site during that period to prospective occupiers via a selection of methods, including:

- Appointment of joint marketing agents (Savills and Taylor & Co (now Fenn Wright));
- A dedicated website (<https://www.gershwinpark.com/>);
- Print material (including bespoke presentations to intending occupiers);
- Marketing Boards on site;
- Direct approaches to conforming potential occupiers with known or potential requirements for Witham; and
- Advertising.

Churchmanor consider that the proposed development would be of sufficient quality to complement the schemes already delivered in the area, and those under consideration, and would not deter development proposals from emerging in other use classes. It would also facilitate the completion of further infrastructure by way of the proposed estate road leading directly from Gershwin Boulevard, and the provision of associated services and landscaping. This would in turn provide an access into Plots 1 and 18, thereby 'unlocking' and accelerating their delivery for interested parties and further promote the remaining commercial elements of the entire Gershwin Park development.

The joint applicants stress that it is well established that there have been, and continue to be, considerable structural changes in the 'retail landscape' since 2012, resulting in a very marked reduction in the construction of new out of town retail space, particularly in the last 3-4 years. This is mainly driven by three key commercial reasons:

- A marked reduction (or complete halt) in the acquisition programmes of mainly 'traditional' out of town retail occupiers, as retailers continue to battle with the challenges of competition from the internet and the wider economic picture. The exception to this is the discount sector of the market (both food and non-food);
- A significant volume of second-hand space coming onto the market following the well-publicised administrations of a number of retailers active in the out of town retail sector over recent years, providing a source of cheaper (and often immediately available) space on more flexible lease terms for those occupiers still seeking premises; and
- The above factors (reduced demand and competing space) have combined to create a downward pressure on rental levels, and upward pressure on investment yields. The net effect is to make the construction of new out of town retail space in many locations commercially unviable, even with substantial reductions in land value.

Over the last 3-4 years, Churchmanor have sought out and spoken to non-food retailers who had a stated 'in principle' requirement for out of town trading space in Witham. They state that whilst they have shown flexibility in their approach to negotiations, and have considered both freehold and leasehold transactions, these have ultimately failed due to one or more of the following reasons:

- The retailer's trading requirements have changed (so that a presence in Witham was no longer a business requirement);
- The retailer's operating model does not allow them to pay a rent sufficient to make the construction of a new building viable;
- The retailer was not able to commit to a lease term sufficient to make funding of the construction of the building commercially viable (in general a lease term of least ten years is required to make the construction of a new out of town retail building viable).

Paragraph 120 of the NPPF states that planning decisions need to reflect changes in the demand for land and should be informed by regular reviews of both the land allocated for development in plans, and of land availability. Where the local planning authority considers there to be no reasonable prospect of an application coming forward for the use allocated in a plan:

- a) they should, as part of plan updates, reallocate the land for a more deliverable use that can help to address identified needs (or, if appropriate, de-allocate a site which is undeveloped); and
- b) in the interim, prior to updating the plan, applications for alternative uses on the land should be supported, where the proposed use would contribute to meeting an unmet need for development in the area.

The Council's Planning Policy team have stated that they have sufficient evidence to suggest that the Masterplan, which was adopted in the Draft Local Plan, is also now out of date; with the principle issue being in relation to retail capacity in Witham, which was recognised by the 2015 Retail Study as having a limited capacity for comparison and convenience shopping. This was prior to the Lidl development at the former Bramston Sports Centre site and therefore they consider that this has further limited the requirement for additional retail floorspace in and around the town.

Having regard to the marketing campaign, it is considered that Churchmanor have used reasonable endeavours to market the availability of the site, to try and find viable operators who would conform with the use approved in the Masterplan (and on the Draft Local Plan proposals map) for this site. With reference to NPPF Paragraph 120, where it is considered that there is no reasonable prospect of an application coming forward for the use allocated in a plan, applications for alternative uses on the land should be supported, where the proposed use would contribute to meeting an unmet need for development in the area.

By virtue of the applicant's commitment to the application site, there is clearly an unmet need for the proposed development, with a central Essex position close to the A12 being key factors that led to the applicant desire to develop the site. The application would enable the delivery of what Officers consider is an appropriate alternative use for the site that would result in economic investment into the District, and bring forward the beneficial use of a development site in the near future.

Employment forecast modelling has been used to forecast total job growth based on past trends to use in the context of reconciling job and housing demand. Policy SP4 of the Draft Local Plan states that the annual forecast for Braintree District is 490 jobs. Policy CS4 of the Adopted Core Strategy states that the Council and its partners will support the economy of the District and will aim to provide a minimum of 14,000 net additional jobs in the District between 2001 and 2026. Employment sites in current or recent use in sustainable locations will be retained for employment purposes, mainly located on existing employment sites within the development boundaries of, *inter alia*, Witham.

The current proposal clearly does not fall within either Use Classes B1 (Business), or A1 (Shops) for that matter, but it would nonetheless provide a range of skilled jobs with the applicant estimating that the business will operate with 56 employees filling a range of positions including management, administration, technicians, sales and customer services. It would therefore contribute to much needed employment within the District and is a strong material consideration in the determination of this application.

Furthermore, pursuant to Paragraph 11 of the NPPF, where the policies which are most important for determining the application are out of date (specifically Policy RLP29 of the Adopted Local Plan in this case), as a matter of principle, planning permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

This will need to be considered as part of the overall planning balance, along with any benefits and harms identified within the detailed site assessment considered below.

## SITE ASSESSMENT

### Location and Access

Where concerning the promotion of sustainable transport, the NPPF in Paragraph 103 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.

Policy CS7 of the Adopted Core Strategy, amongst other things, states that future developments will be provided in accessible locations to reduce the need to travel; and that sustainable travel will be encouraged through the requirement for travel plans from major developments.

Witham is identified as a main town in the settlement hierarchy in the Adopted Core Strategy which states in paragraph 4.9 that it is a thriving town with good transport links and a higher amount and proportion of local employment than Braintree. The surrounding landscape has the potential to accommodate some sustainable growth.

The Adopted Core Strategy Spatial Strategy (paragraph 4.10) proposed that the Growth Locations should be at the Main Towns of Braintree and Witham only, which would both benefit from injections of new development, including employment, town centre regeneration, and services that can serve the whole District to make it more sustainable.

As highlighted previously, the site falls within the Witham Town development boundary and is also opposite the Growth Location identified in the Adopted Core Strategy as '*Land to the south-west of Witham - off Hatfield Road*' (the site known locally as Lodge Farm), the construction of which is now well under way.

It is also located within an allocated mixed-use commercial area, with close links to the A12. Whilst it cannot be guaranteed, there are opportunities for future employees to walk and cycle or use public transport to get to and from the site without relying on the private car. The No.71 bus service passes along Hatfield Road near the site which provides a regular service to Colchester and Chelmsford. By walking 0.5 miles towards the town a further service (No.38) provides services to Braintree and Halstead. With a supermarket nearby and another food store at the filling station; pub/restaurant; and day nursery there are other services and facilities nearby that could serve their needs before, during and after work shifts again without having to travel by motor car.

The applicants have also agreed to enter into a Section 106 Planning Obligation (see below) to pay £5000 to the Council to facilitate the monitoring of the Travel Plan that is recommended to be secured by planning condition. The definition of 'Travel Plan' being *"a working plan to include all measures to ensure sustainable means of travel are available to employees of the Development in accordance with the policies of Essex County Council and the requirements of the National Planning Policy Framework"*.

Therefore, in respect of access to and from the site, and future employee's access to services and facilities, the site is considered to be in a sustainable location on the edge of the town.



## Character and Appearance

Paragraph 124 of the NPPF states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Policy CS9 of the Adopted Core Strategy states that the Council will promote and secure the highest possible standards of design and layout in all new development, in order to, amongst other things, create environments which are safe and accessible to everyone, and which will contribute towards the quality of life in all towns.

In addition, Policy RLP90 of the Adopted Local Plan seeks a high standard of layout and design in all developments, and planning permission will only be granted where, amongst other things, the layout, height, mass and overall elevational design of buildings and developments is in harmony with the character and appearance of the surrounding area; including their form, scale and impact on the skyline in the locality.

The scheme has been through various iterations, including at the pre-application stage whereby Officers informally supported the principle of the development, subject to its detailed design and layout.

As referred to earlier in this report, the proposal that is now before Members is a reduction in scale from that originally submitted as part of this planning application. The most notable changes, being the exclusion of the van sales showroom, and the amended layout which means HGV and van access to the workshop building is only possible from the south eastern side, away from the new dwellings fronting Hatfield Road opposite. Most of the parking provision would also be on this far side, partly screened by the building.

The building would now principally be rectangular in shape, as opposed to being 'L' shaped, and would provide a reasonable level of articulation and variation in the elevations (through design and materials employed) for such a span. The plans identify the specific palette of colours to be used for the cladding, befitting of the 'high end' nature of the goods vehicles to be sold, maintained and repaired at the site.

Whilst not of the local vernacular, in itself it is considered that the proposed building would amount to good design in relation to its function, and would not appear out of place within the commercial area of Gershwin Park, including some visual similarities to the Aldi supermarket building due north east. It would also closely relate to the existing commercial uses to the south west; and would break up the views of the high stacks of pallets adjacent when travelling out of town.

In addition, a landscaped bund is proposed along the Hatfield Road frontage, the planting of which follows advice received from Landscape Services following the original submission. The planting scheme has been simplified, as

follows. The bund has been moved back into the site to provide a level verge next to the footway on Hatfield Road that the trees (small-leaved lime) would be planted along. The previously proposed 0.8m high knee rail along the roadside has been omitted, because its need was questioned due to the footway past the site being lightly used at present and which is unlikely to change in the foreseeable future. The bund profile has been revised to one that could realistically be achieved, and detail on the profile of the north eastern end of the bund has also been provided: this extends beyond the original red line of the application site, so has been amended accordingly.

It was considered by Landscape Services that native species hedging on the bund would not seem to add much to the scheme and would be difficult to maintain given the shrub planting around them, it was therefore advised that this could be omitted: The ground cover shrubs specified would grow to 0.5 – 0.7m in height when established. The tree planting on the southern side of the bund was also evaluated; and that it should be moved to the northern side of the swale, away from the hardstanding to protect against inadvertent damage. To reduce the need for future thinning it was also recommended to the applicants that the tree line was thinned by approximately 50% and the mix of planting simplified, it is proposed to use Field Maple and Acer Campestre and Common Holly alternately. Once matured these evergreens would provide some further visual relief along this boundary.

Officers also requested that native hedging be planted along the north eastern boundary, outside the proposed fence, so as to help screen it and the site over time, and again to avoid inadvertent damage from vehicles.

On balance, Officers consider that the design and layout of the scheme would be appropriate to the character and appearance of the area, in accordance with the policies cited above.

#### Impact on Neighbour Amenity

Paragraph 127 f) of the NPPF states that planning decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. This is supported by Policy RLP90 of the Adopted Local Plan which states that there shall be no undue or unacceptable impact on the amenity of any nearby residential properties.

In addition, Paragraph 180 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should, amongst other things, mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life.

Furthermore, Policy RLP34 of the Adopted Local Plan states that in considering proposals for new employment uses, the District Council will seek, where appropriate, the retention of buffer zones between employment uses and adjacent housing areas. Policies RLP36 and RLP62 of the Adopted Local Plan are concerned with industrial and environmental standards; and development likely to give rise to pollution, or the risk of pollution.

They both stipulate that planning permission will not be granted for new development which could have an unacceptable impact on the surrounding area, as a result of, *inter alia*, polluting emissions to land, air and water, or harm to nearby residents, including noise, smell, fumes, vibration or other similar consequences, unless: adequate preventative measures have been taken to ensure that any discharges or emissions will not cause harm to land use, including the effects on health and the natural environment; and that there is not an unacceptable risk of uncontrolled discharges or emissions occurring either.

The Draft Local Plan Policies have similar objectives as those set out in the Adopted Local Plan.

The objectors concerns are noted, however many of the points raised highlight objections to the existing noise of traffic along the B1389 Hatfield Road and the A12 and are therefore not directly relevant to the case in hand. The residents of Collar Way opposite the site state that additional noise would not be welcomed, unless traffic calming measures and a noise barrier is put up around the edge of the Redrow site. Quite clearly it is not for the applicants to mitigate existing sources of noise to third parties emanating from the highway network, which incidentally was in place at the time the development at Lodge Farm was commenced. However, it is right and proper for the applicants to satisfy the Council that their proposal would not give rise to harmful and uncontrolled polluting emissions - in this case particularly noise and vehicle exhaust fumes.

In response to the objectors comments about noise, the applicants stated that their proposed development would not exacerbate any current issues that residents may have, as confirmed by their revised acoustic report. They also opine that the proposed construction of their building and the bund would, under certain conditions, likely reduce noise transfer from the A12 to the housing site opposite as it would be located between the two.

Notwithstanding this, Officers have liaised extensively with the applicants prior to and during the lifetime of the application with regard to noise and air pollution, and this is one of the main reasons the scheme was revised further, along with matters of character and appearance. An unfettered use of the site for the manner proposed could give rise to unreasonable living conditions to nearby residents, and therefore it is imperative that measures be put in place so as to ensure that such a situation does not as a result of the operation of the development.

So as to be sure that the proposal would not give rise to an erosion of the residential amenities of the area, Officers stressed to the applicants that they

should ensure that the noise levels at the facades of the dwellings opposite the site, at above ground level i.e. for bedrooms, should comply with relevant legislation and British Standards, once the workshop was in operation, at all hours of the day and night.

The Environmental Noise Assessment (ENA) submitted by the applicant states in its recommendations that:

- Noise emissions from any fixed plant installed must not exceed LAeq 20 dB(A) at the nearest assessment location in order to comply with the council's criteria on noise emissions from air handling plant;
- Assumptions over the construction of the building envelope are shown within its Table 6; if different materials were to be used, they must be of equivalent or better sound insulation specification;
- The bund along the north of the site should be constructed as shown in the architect's drawings and be at least 3 metres high for all its length without gaps;
- No vehicles should transit in the area to the north of the building between 23:00 and 07:00;
- All vehicles should be fitted with broadband reverse alarms as proposed by the applicant; these should be disabled at night-time;
- The HGV Wash should not operate between 23:00 and 07:00;
- The management of new site should implement a "Good Neighbour" policy with respect to constraining noise emissions from the site. This should include:
  - o Exercising particular care when working in the yard;
  - o Avoiding noisy activities early in the morning;
  - o Closing roller shutters when practical; and
  - o Not idling engines unless necessary for work.

The applicants have also reiterated to Officers that they would be content to accept a condition restricting the use (operation) of the workshop doors between the hours of 23.00 to 6.00 hours.

Having reviewed the revised ENA, Environmental Services have provided a detailed response to the revised submissions. This has been detailed in the Consultee section of the report above. They have expressed concerns with regard to the night time operations, especially those related to deliveries of parts, with the need for pallets to be off-loaded by forklift trucks and associated noise, notwithstanding that the forklift trucks would be powered by electric or gas.

In the event that planning permission be granted, conditions have been recommended to be imposed to cover the operational aspects of the proposal, namely: The hours within which the HGV wash bay can be operated; The rating level of the noise emitted from the site at the noise sensitive premises on the Lodge Farm development, to not exceed the existing background noise level (LA90, 15 min) at any time; Vehicle movements not to take place in the northern part of the yard during night-time; Restriction of deliveries during the

night time period; and Prior to the installation of any machinery or equipment, details of the associated noise levels and confirmation of compliance.

The submitted Transport Statement highlights that vehicle movements associated with the proposed development would be less than for the approved non-food retail uses as laid out within the Site Masterplan, notwithstanding the fact that there would be a higher proportion of commercial vehicles.

The applicants have also provided further information from their Transport Consultants, who state that in air quality terms, it should be noted that all vehicles being serviced, i.e. vans or HGVs, would not be loaded when they visit the site for maintenance or repairs. Furthermore only the cab unit of an articulated lorry would travel to the site, the significance of this is that the particulate emissions for diesel vehicles is much less for vehicles if they are not connected to a trailer or carrying goods as they are lighter. In addition, all modern vans and cab units would have the latest controls, typically under 10years old, most would have stop/start technology and be fitted with systems to control emissions, including Ad Blue.

The applicants go on to state that Mercedes as a leading premium quality brand are investing heavily in R & D to ensure compliance with all emerging legislation, and that there is considerable research into other fuel sources other than those deriving from fossil fuels. The site would have the necessary infrastructure laid in readiness to embrace these developments as directed by Mercedes; being future-proofed to the changing need of vehicles by also including space for electric charging points.

Whilst the majority of tasks undertaken in the workshops would not involve running engines, any vehicle in the workshop would be connected to an exhaust extraction system if the engine was to be kept running, to be designed and installed by a specialist company who would ensure compliance with all relevant regulations (HSE SR14 Vehicle exhaust fumes (in warehouses, garages etc) control approach 2; HSE HSG 187 Control of diesel engine exhaust emissions in the workplace; and HSE HSG 261 Health and safety in motor vehicle repair and associated industries). The installed system would be subject to annual inspection checks and passing the criteria as laid out in the aforementioned documents.

Therefore, subject to suitable controls, which can be controlled by way of planning condition, it is considered that the proposal would not give rise to demonstrable harm to the local environment or the residents within it, in terms of noise and/or air pollution from vehicles, when either entering or leaving the site, or from activities thereon. Consequently, the proposal would mitigate and reduce to a minimum, potential adverse impacts resulting from noise and emissions on the health and quality of life of the occupants of the Lodge Farm development opposite.

## Highways

Leading on from above, Part 9 of the NPPF indicates that all development that could generate significant amounts of vehicle movements should be supported by a Transport Assessment to ensure, amongst other things, that suitable access to the site can be achieved and that opportunities for sustainable transport modes are explored to reduce the need for major transport infrastructure. Development should however only be prevented where the residual cumulative impacts are likely to be severe. Saved Policies RLP54 and RLP55 of the Adopted Local Plan require that a Transport Assessment (TA) is submitted with all proposals for major new development.

In addition, Policy RLP36 of the Adopted Local Plan states that planning permission will not be granted for new development which would have an unacceptable impact on the surrounding area, as a result of traffic generation. It also states that the Council will refuse proposals where access roads would not be adequate to cope with consequential traffic.

As with any new development, it is inevitable that additional road traffic would be generated, however the key generally is to provide other options, such that future users are given the opportunity to travel by more sustainable means. These other options, such as walking, cycling and public transport have been covered within the first section of this site assessment.

Furthermore, the Transport Statement submitted with the application highlights that due to the nature of the proposal, traffic flows to and from the site during the AM and PM peak periods would be less than for the permitted non-food retail units; and overall vehicle movements would be less. This has not been disputed by the Highway Authority, who raise no objection to the scheme on highway safety grounds, given the scale of the proposed development and the area to be available for parking within the site, which complies with the Council's adopted parking standards. This recommendation is subject to the submission of a Construction Management Plan and Workplace Travel Plan by planning conditions, the monitoring fee of £5000 for the latter would be secured by a planning obligation (see below).

## Flood Risk and Drainage

Part 14 of the NPPF sets out the Government's stance on climate change, flooding and coastal change, recognising that planning plays a key role in, amongst other things, providing resilience to the impacts of climate change. Inappropriate development in areas at risk of flooding should be avoided. Furthermore, Policy CS8 of the Adopted Core Strategy states that the Council will minimise exposure of people and property to the risks of flooding by following the national guidance. In particular the sequential test will be applied to avoid new development being located in the areas of flood risk.

Paragraph 163 of the NPPF strongly encourages a sustainable drainage system (SuDs) approach to achieve these objectives. SuDS offer significant

advantages over conventional piped drainage systems in reducing flood risk by reducing the quantity of surface water run-off from a site and the speed at which it reaches water courses, promoting groundwater recharge, and improving water quality and amenity.

The proposal site lies in Flood Zone 1 with a low risk of groundwater flooding, surface water and sewer flood risk across the site overall. The soil types would not support the effective use of infiltration devices, hence it is proposed that surface water is channelled to Anglian Water's sewer network.

In response to the application, Anglian Water states that the foul drainage from this development is in the catchment of Witham Water Recycling Centre that would have available capacity for these flows. However, the development would lead to an unacceptable risk of flooding downstream and Anglian Water would need to plan effectively for the proposed development, if permission was granted; and work with the applicant to ensure any infrastructure improvements were delivered in line with the development.

In addition, they state that the surface water strategy/flood risk assessment submitted with the planning application relevant to Anglian Water is unacceptable. Whilst they note sufficient surface hierarchy evidence has been provided, including infiltration logs, the developer is proposing a rate Anglian Water would consider too high as per FRA 5.7.1 and they require that this is reviewed. They therefore recommend that the applicant needs to consult with both them and the Lead Local Flood Authority (LLFA) and request a condition requiring a drainage strategy covering the issues to be agreed.

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, the LLFA do not object to the granting of planning permission subject to the imposition of conditions concerning a detailed surface water drainage scheme for the site, during and post construction; and Maintenance Plan with yearly logs.

Therefore, from this basis, and subject to the imposition of relevant conditions, it is considered that the scheme would be acceptable in respect of surface water drainage and sewerage capacity.

### Ecology

Part 15 of the NPPF indicates that development should contribute to and enhance the natural environment and that impacts on biodiversity should be minimised and net gains provided. 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, or on the objectives and proposals in National or County Biodiversity Action Plans as amended. 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. This is echoed by Policy LPP68 of the Draft Local Plan. Furthermore, Policy RLP90 of the Adopted Local Plan states that landscape

design shall promote and enhance local biodiversity.

The application has been supported by the submission of an Ecological Appraisal. It highlights that the site comprises arable farmland, grassland and hedgerow with a small amount of scrub.

The findings of the extended phase 1 habitat survey confirm that the habitats on-site have the potential to support reptiles, nesting birds, hedgehogs and foraging and commuting bats. Provided the hedge on site is retained and is not subject to direct lighting in the development scheme, further survey work for bats is not considered necessary given the isolated nature and poor quality of the foraging habitat on site. Given the potential for reptiles to be present on site, a precautionary approach, including a method statement and supervision by a suitably qualified ecologist, should be taken to clearance of scrub or grassland.

If potential bird nesting habitat is to be cleared within the bird breeding season (March – August inclusive), this should only be done after confirmation from a suitably qualified ecologist that it is not in active use by breeding birds.

Records of hedgehog are present in the local area, and it is therefore recommended that a hedgehog nest box is installed within the retained hedge on the south-west boundary. Providing the hedge on the south-west boundary is retained and the above mitigation measures are implemented, the proposed development is considered unlikely to result in significant effects to any of the important ecological features identified. Incorporation of ecological enhancements into the development scheme is recommended. Integrated bird boxes for species such as starling and sparrow are appropriate for inclusion in the design of the proposed buildings on site, and the areas of structural landscaping should include locally-sourced native and/or wildlife friendly planting.

The Council's Ecological Consultant state that they have reviewed the appraisal and are satisfied that there is sufficient ecological information available for determination. This provides certainty for the LPA of the likely impacts on Protected and Priority species/habitats and, with appropriate mitigation measures secured, the development can be made acceptable. They support the reasonable biodiversity enhancements, which should also be secured by condition. This would enable the LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.

### Archaeology

In its glossary, the NPPF highlights that *“There will be archaeological interest in a heritage asset if it holds, or potentially holds, evidence of past human activity worthy of expert investigation at some point.”* Policy RLP106 of the Adopted Local Plan and Policy LPP63 of the Draft Local Plan also apply, these state that where permission is given for development which will affect remains, conditions are required to ensure that the site is properly excavated and recorded before the commencement of development.



As highlighted by the Historic Environment Consultant, the site is within an area that has had a programme of archaeological field walking completed and has been partially investigated, very little was found in that area and nearby so the potential was considered to be low. The Council's Historic Environment Consultant has consequently made no archaeological recommendations for the site.

### Site Assessment Conclusion

There are no substantive objections to the application from any statutory consultees. Having assessed the specific merits of the site in terms of its potential to accommodate the scheme in a sustainable manner, Officers are of the opinion that the development could be accommodated without significant adverse impacts, subject to the imposition of reasonable planning conditions and securing a planning obligation in respect of a Travel Plan Monitoring fee; and the 'Planning Balance' exercise carried out thereafter.

### Planning Obligation

Paragraph 54 of the NPPF states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. NPPF Paragraph 56 then sets out the tests which must be met in order to seek planning obligations:

- (a) Necessary to make the development acceptable in planning terms;
- (b) Directly related to the development; and
- (c) Fairly and reasonably related in scale and kind to the development.

Policy CS11 of the Adopted Core Strategy states that the Council will work with partners, service delivery organisations and the development industry to ensure that the infrastructure services and facilities required to provide for the future needs of the community are delivered in a timely, efficient and effective manner. The following identifies the planning obligation that the District Council would seek to secure through a S106 agreement.

As set out within the requirements of the local Highway Authority's consultation response, in the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with Policies DM9 and DM10 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011, a workplace Travel Plan can be secured by planning condition.

However planning conditions cannot secure financial contributions and therefore the required monitoring fee of £5,000 (plus the relevant sustainable travel indexation), to be paid before occupation to cover a 5 year period, must be secured by way of a planning obligation. A unilateral undertaking has been

drafted and completed by the applicants which secures the payment of the monitoring fee in the event that permission is granted and development proceeds.

## PLANNING BALANCE AND CONCLUSION

As set out within Paragraph 47 of the NPPF, planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

In this case the application site is located within the town development boundary of Witham, on land allocated in the Adopted Local Plan for B1 Business use, pursuant to Policy RLP29. The proposed development does not fall within any of the defined uses as set out within the Use Classes Order (as amended) and is therefore considered to be *Sui Generis*. As a result the proposal is contrary to the Development Plan and must be considered as a departure from the adopted Development Plan.

However, the approved Maltings Lane Masterplan (pursuant to application reference 12/01071/OUT) highlights that the area, the subject of the planning application, as being for non-food retail, which is also the designated land use identified within the proposals map for the Draft Local Plan. Bearing in mind the fact that the Adopted Local Plan was adopted in 2005, and that the subsequent masterplan approved in 2012 has since guided the proposed land allocations within the Draft Local Plan, it is considered that only very limited weight should be attributed to Policy RLP29 of the Adopted Local Plan.

Therefore, in accordance with Paragraph 11 of the NPPF, where the policies which are most important for determining the application are out of date, as a matter of principle, planning permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

As set out in Para.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).

The extant masterplan identified 3 no non-food retail units (numbers 14a-14c) proposed within the area of the application site. In 2012 it was estimated that those uses would create 43 no staff could be employed within the premises. Although this proposal will not provide development falling within Use Classes B1 or A1, it would provide employment for 56 staff in a range of job, thereby contributing to the employment land requirements of the District.

The joint applicants, Churchmanor, have provided details of the marketing that they have undertaken at the site, in an attempt to find viable operators who would conform with the use approved in the Masterplan (and on the Draft Local Plan proposals map) for this site. No such business has been identified and in such circumstances NPPF paragraph 120 states that where there is no reasonable prospect of an application coming forward for the use allocated in a plan, applications for alternative uses on the land should be supported, where the proposed use would contribute to meeting an unmet need for development in the area.

The applicant has identified the site as meeting their desire to operate within central Essex, close to the A12. The application would enable the delivery of an appropriate alternative use of a site that has been identified as being suitable for development for more than ten years. The proposed development would result in economic investment, including employment, into the District in the near future. An additional benefit of the development would be that the construction of the access road could help 'unlock' the adjacent sites of Plots 1 and 18. This is in addition to the employment opportunities in the short to medium term, both during construction and subsequent operational phases on occupation.

The social and environmental issues are largely intertwined, and much work has gone into the application to ensure that the living conditions of nearby residents are protected from undue noise and disturbance, in addition to air pollution. It has been demonstrated that vehicle flows to and from the site would be less during peak times and overall, when compared to the permitted non-food retail scheme. It is acknowledged that there would be a larger proportion of commercial vehicles than would be generated by a non-food retail scheme, but apart from a single parts delivery lorry, the vehicles would not come to site laden with cargo and vehicle movements can be restricted to prevent anti-social disturbance of residents living nearby.

The applicants have also demonstrated that measures will be employed to minimise noise from the workshops in particular to help protect the residential amenities of the area. These measures, along with those recommended by Environmental Health should be controlled by condition. In addition, through the implementation of the proposed landscape scheme, along with the recommendations as set out within the submitted Ecological Appraisal, the scheme would have a net benefit to biodiversity.

All of these factors weigh heavily in favour of the proposal in the planning balance, and any adverse impacts would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

## RECOMMENDATION

It is RECOMMENDED that the following decision be made:

Application GRANTED subject to the following conditions and reasons and in accordance with approved plans:-

## APPROVED PLANS

Highway Plan	Plan Ref: 100	Version: P10 Sht1
Highway Plan	Plan Ref: 101	Version: P03 Sht2
Section	Plan Ref: 125	Version: P03
Section	Plan Ref: 135	Version: P04 Sht 1
Substation Details	Plan Ref: EDS07-3102.01	Version: B
Substation Details	Plan Ref: EDS07-3102.GE	Version: A
Substation Details	Plan Ref: EDS07-3102.GP	Version: B
Location Plan	Plan Ref: P01	Version: A
Landscaping	Plan Ref: P04	Version: F
Block Plan	Plan Ref: P20	Version: B
Planning Layout	Plan Ref: P21	
Floor Plan	Plan Ref: P23	Version: B
Section	Plan Ref: P24	Version: A
Elevations	Plan Ref: P25	Version: B
3D Visual Plan	Plan Ref: SK1	
3D Visual Plan	Plan Ref: SK2	
3D Visual Plan	Plan Ref: SK3	
3D Visual Plan	Plan Ref: SK4	
3D Visual Plan	Plan Ref: SK5	
3D Visual Plan	Plan Ref: SK6	
3D Visual Plan	Plan Ref: SK7	
3D Visual Plan	Plan Ref: SK8	
3D Visual Plan	Plan Ref: SK9	
Section	Plan Ref: P24	Version: B

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

### Reason

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

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

Reason

To ensure that the development is in character with the surrounding area and does not prejudice the appearance of the locality.

- 3 No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period and shall provide for:

- i. the parking of vehicles of site operatives and visitors;
- ii. loading and unloading of plant and materials;
- iii. storage of plant and materials used in constructing the development; and
- iv. wheel and underbody washing facilities.
- v. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- vi. A scheme to control noise and vibration during the construction phase, including details of any piling operations;
- vii. Measures to control the emission of dust, dirt and mud during construction;
- viii. Details of how the approved Plan will be implemented and adhered to, including contact details for individuals responsible for ensuring compliance.

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

Reason

To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011 and to protect the amenities of local residents.

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

Monday to Friday 0800 hours - 1800 hours;  
Saturday 0800 hours - 1300 hours; and  
Public Holidays & Sundays - no work.

Reason

To protect the amenities of the occupiers of nearby residential properties.

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

Reason

In order to minimise nuisance caused by air pollution in the interests of residential amenity.

- 6 The principal access to serve the development shall be constructed in accordance with the principles shown on the approved Proposed Highway General Arrangement Sheet's 1 & 2 prior to the first beneficial use of the building hereby permitted.

Reason

To ensure that vehicles can enter and leave the highway in a safe and controlled manner.

- 7 The development shall not be occupied until the parking and circulation areas indicated on the approved plans, including any parking spaces for the mobility impaired have been hard surfaced, sealed and marked out in parking bays. The parking areas shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles that are related to the use of the development.

Reason

To ensure adequate parking space is provided in accordance with the Council's adopted Parking Standards.

- 8 Prior to the first occupation of the development, details of the number, location and design of a covered parking facility for powered two wheelers and bicycles shall be submitted to and approved in writing by the local planning authority. The approved facility shall be provided prior to first beneficial use of the development and retained at all times.

Reason

To ensure appropriate powered two wheeler and bicycle parking is provided in accordance with the Council's adopted Parking Standards.

- 9 Prior to the first beneficial use of the development hereby permitted, a workplace travel plan shall be submitted to and approved in writing by the Local Planning Authority. The workplace travel plan shall include a package of measures designed to encourage employees and customers to travel to site by means other than private car. The approved travel plan shall be actively implemented for a minimum period of 5 years.

Reason

In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

- 10 The bund along the Hatfield Road frontage shall be constructed prior to the first beneficial use of the building hereby permitted, with the

associated scheme of soft landscaping, and the native species hedge to be planted on the north western boundary, as identified upon the approved plan P04F, carried out during the first available planting season thereafter. The trees and plants shall be watered in accordance with the outline specification on that plan and any trees or plants which die, are removed or become seriously damaged, or diseased within a period of five years from the completion of the development shall be replaced in the next planting season with others of a similar size and species.

Reason

To enhance the appearance of the development and in the interests of amenity.

- 11 Prior to the first beneficial use of the development hereby permitted, details of the location and design of refuse bins, recycling materials storage areas and collection points shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details prior to first occupation and shall thereafter be so retained.

Reason

To ensure that the development provides suitable facilities, to prevent the unsightly storage of refuse containers and in the interests of amenity.

- 12 Details of proposed external lighting to the site shall be submitted to, and approved in writing by the local planning authority prior to installation. 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). All lighting shall be installed, maintained and operated in accordance with the approved details. There shall be no other sources of external illumination.

Reason

The plans have changed since the original lighting scheme was submitted, to minimise light pollution of the environment and to safeguard the amenities of the locality and the appearance of the development.

- 13 The external materials and finishes shall be as indicated on the approved elevations on drawing P25B.

Reason

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

- 14 No development shall take place until the following information shall has been submitted to and approved in writing by the local planning authority:
  - A full site survey showing: the datum used to calibrate the site levels; levels along all site boundaries; levels across the site at regular intervals and floor levels of adjoining buildings on Collar Way and Ingles Drive;

- Full details of the proposed finished floor levels of all buildings and hard landscaped surfaces.

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

Reason

To ensure that the development does not prejudice the appearance of the locality and has an acceptable relationship with surrounding development.

- 15 All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecology Appraisal (MLM Consulting Engineers Limited, November 2018) as submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This will include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW,) to provide on-site ecological expertise throughout the development process, including site clearance. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details. All enhancement measures shall be installed prior to the first beneficial use of the development hereby approved.

Reason

In the interests of protecting and enhancing biodiversity

- 16 Prior to development above damp proof course level details of a scheme for the provision of nest/roost sites for bats and birds has been submitted to and approved in writing by the local planning authority. Development shall be implemented in accordance with the approved details prior to the first beneficial use of the development and thereafter so retained.

Reason

In the interests of protecting and enhancing biodiversity.

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

Reason

To prevent environmental and amenity problems arising from flooding.

- 18 No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority.



The scheme shall:

- Ensure the discharge rate for wider drainage strategy is limited to the 1 in 1 greenfield rate for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change;
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event;
- Demonstrate all storage devices are able to half drain within 24 hours;
- Provide final modelling and calculations for all areas of the drainage system;
- Demonstrate the appropriate level of treatment for all runoff leaving the site, in line with the simple index approach in chapter 26 of the CIRIA SuDS Manual C753;
- Include detailed engineering drawings of each component of the drainage scheme;
- Include a final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features; and
- Include a written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

#### Reason

To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and to ensure the effective operation of SuDS features over the lifetime of the development, whilst providing mitigation of any environmental harm which may be caused to the local water environment. These details must be submitted and approved before the commencement of development to ensure that suitable arrangements are made to install required surface water drainage attenuation before buildings and hardstandings are constructed.

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

#### Reason

Construction may lead to excess water being discharged from the site and the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. These details must be submitted and approved before the commencement of development to ensure that suitable arrangements are put in place to prevent offsite flooding.

- 20 The building shall not be occupied until a Maintenance Plan detailing the maintenance arrangements, including who is responsible for different

elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed in writing by the Local Planning Authority.

Reason

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

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

Reason

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

- 22 The cumulative noise level of fixed plant operated at the site shall not exceed 10dB(A) below background noise level (LA90,15 min) at any noise sensitive premises. Furthermore, prior to the installation of any such machinery or equipment, details of their installation with associated noise levels and confirmation of compliance with the above noise limits shall be submitted to and approved in writing by the local planning authority.

Reason

In order to minimise nuisance caused by noise pollution in the interests of residential amenity.

- 23 The HGV wash hereby approved inside the building shall only operate between 0800 and 1900 hours and at no time on Sundays.

Reason

In order to minimise nuisance caused by noise in the interests of residential amenity.

- 24 The rating level of the noise emitted from the site at the noise sensitive premises on the residential development on the opposite side of Hatfield Road, including those within Collar Way and Ingles Drive, shall not exceed the existing background noise level (LA90, 15 min) at any time. The rating level shall be determined in accordance with BS4142 (2014).

Reason

In order to minimise nuisance caused by noise pollution in the interests of residential amenity, especially during the night time and other quieter

periods.

- 25 No vehicle movements whatsoever shall take place within the yard area between the north-west elevation of the building hereby permitted and Hatfield Road between the hours of 2300 to 0700.

Reason

In order to minimise nuisance caused by noise in the interests of residential amenity.

- 26 Deliveries shall not be taken at or dispatched from the site outside the hours of 0700 to 2300.

Reason

In order to minimise nuisance caused by noise in the interests of residential amenity.

- 27 Before the development is first brought into use a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved in writing by the local planning authority. The landscape management plan shall be carried out as approved.

Reason

To ensure that suitable management arrangements are put in place to maintain the landscaping, to ensure the appearance of the development is maintained and in the interests of amenity.

### INFORMATION TO APPLICANT

1 Please note that in accordance with Government Legislation a formal application must be made to the Local Planning Authority when submitting details in connection with the approval of details reserved by a condition. Furthermore a fee of £34 for householder applications and £116 for all other types of application, will be required for each written request. Application forms can be downloaded from the Council's web site [www.braintree.gov.uk](http://www.braintree.gov.uk)

2 Your attention is drawn to the need to discharge conditions before development starts where it is a requirement of the condition/s. Development will be treated as having been commenced when any material change of use or material operation has taken place, pursuant to Section 56 of the Town and Country Planning Act 1990. A material operation means any work of construction in the course of the erection of a building, including: the digging of a trench which is to contain the foundations, or part of the foundations of a building; the laying of any underground main or pipe to a trench, the foundations, or part of the foundations of a building; any operation in the course of laying out or constructing a road or any part of a road; and any work of demolition of a building. If development begins before the discharge of such conditions then those conditions cannot be discharged and a breach of

planning control will have occurred, which may result in enforcement action being taken.

3 You are advised that the granting of planning permission does not absolve you from complying with the relevant law regarding protected species, including obtaining and complying with the terms and conditions of any licenses required by Part IV B of the Circular 06/2005 (Biodiversity and Geological Conservation - Statutory Obligations)

4 The applicant's attention is drawn to the contents of the letter produced by Anglian Water, dated 25 January 2019, in respect of drainage from the site. Furthermore, notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087

5 All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works. The applicant is advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to: Essex Highways, Springfield Highways Depot, Colchester Road, Chelmsford, Essex, CM2 5PU.

6 Prior to any works taking place in the public highway or areas to become public highway the developer shall enter into an appropriate legal agreement to regulate the construction of the highway works. This will include the submission of detailed engineering drawings for approval and safety audit. The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

7 Arrangement shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.

8 Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to [suds@essex.gov.uk](mailto:suds@essex.gov.uk).

9 You are advised to notify the local planning authority of the presence of any significant unsuspected contamination which becomes evident during the development of the site.

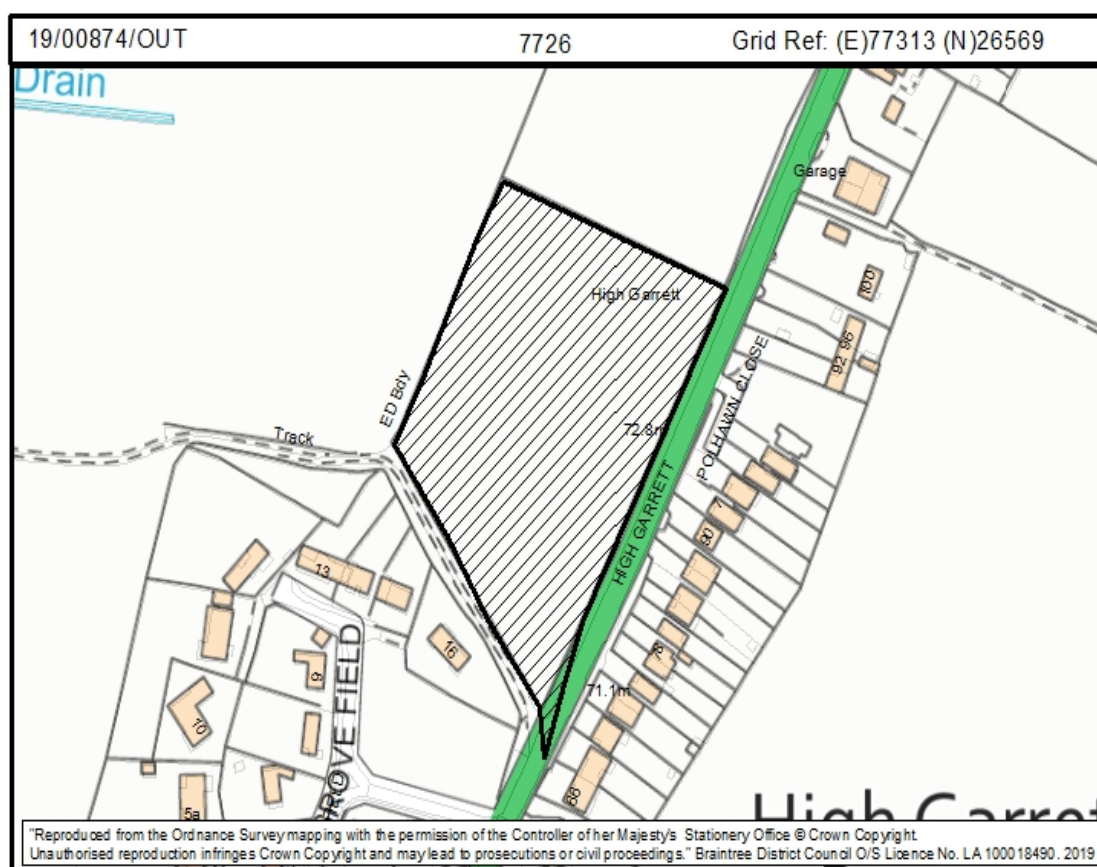
CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

## PART A

## AGENDA ITEM NUMBER 5b

APPLICATION NO: 19/00874/OUT  
DATE VALID: 15.05.19  
APPLICANT: Mr Arran Gordon  
19 Juliette Way, Purfleet Industrial Park, South Ockendon,  
RM15 4YD  
AGENT: Mr Stewart Rowe  
45 Hart Road, Thundersley, Benfleet, SS7 3PB  
DESCRIPTION: Erection of 33 No. Two-Storey Detached and Semi-Detached Houses and Flats and Construct Garages, Lay Out Parking Spaces and Gardens, Form Estate Roads and Footpaths, Lay Out Public Open Space with Trim Trail Equipment, and Estate Landscaping, and Alter Carriageway Alignment to A131 and Construct Pedestrian Refuge within the Highway (Amended Proposal)  
LOCATION: Land At, High Garrett, Braintree, Essex

For more information about this Application please contact:  
Melanie Corbishley on:- 01376 551414 Ext. 2527  
or by e-mail to: [melanie.corbishley@braintree.gov.uk](mailto:melanie.corbishley@braintree.gov.uk)



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PRJLDKBFGJO00>

## SITE HISTORY

17/01812/OUT	Application for Outline Planning Permission with some matters reserved - Erection of 40no. two storey detached, semi detached and terraced dwellings and garages, lay out of parking spaces and gardens, formation of estate roads, lay out of public open space, children's play area and estate landscaping	Refused	15.02.18
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## POLICY CONSIDERATIONS

Currently the Council's development plan consists of the Braintree District Local Plan Review (2005) and the Core Strategy (2011).

The Council is currently working on a Draft Local Plan, which was approved by the Council unanimously for consultation on the 20th June 2016 and was the subject of public consultation between the 27th June and 19th August 2016. The Draft Local Plan, now referred to as the Publication Draft Local Plan, was approved by the Council on 5th June 2017 for consultation and for submission to the Secretary of State. The public consultation ran from 16th June to 28th July 2017. The Publication Draft Local Plan was submitted to the Secretary of State on the 9th October 2017.

The Publication Draft Local Plan is currently the subject of an examination by an Inspector appointed by the Secretary of State for Housing, Communities and Local Government.

The examination into the Section 1 Local Plan continued in January 2020. Hearing sessions have now been completed, and the North Essex Authorities have now received an initial letter from the Inspector outlining his findings on Section 1 Local Plan.

The Inspector has found the Section 1 Local Plan sound, subject to modifications. Two of those main modifications are the removal of two of the proposed garden communities at West of Braintree and Colchester Braintree Borders. Nevertheless he has indicated that other parts of the Plan can be found including the housing target which for Braintree equals a minimum of 716 dwellings per annum. A full list of proposed modifications will be published in due course.

In accordance with paragraph 48 of the NPPF, from the day of publication the Council can give weight to the emerging Draft Local 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 can continue to afford some weight to the emerging Publication Draft Local Plan 2017.

It should also be noted that the Council was previously working on a Site Allocation and Development Management Plan (the ADMP). This plan was subject to extensive public consultation in 2013 and 2014. The ADMP was not however submitted to the Planning Inspectorate, due to the decision to begin work on a new Local Plan, to take into account the most up to date Government guidance. However parts of the ADMP have been rolled forward into the Draft Local Plan. It is therefore considered that it would be consistent with the provisions in paragraph 48 of the NPPF, to afford more weight in decision making to the parts of the Draft Local Plan which have been rolled forward from the ADMP, due to the more advanced stage reached by those elements.

### 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
RLP9	Design and Layout of Housing and Mixed Use Areas
RLP10	Residential Density
RLP49	Pedestrian Networks
RLP51	Cycle Parking
RLP53	Generators of Travel Demand
RLP54	Transport Assessments
RLP56	Vehicle Parking
RLP65	External Lighting
RLP69	Sustainable Urban Drainage
RLP74	Provision of Space for Recycling
RLP80	Landscape Features and Habitats

RLP81	Trees, Woodland Grasslands and Hedgerows
RLP84	Protected Species
RLP90	Layout and Design of Development
RLP93	Public Realm
RLP100	Alterations and Extensions and Changes of Use to Listed Buildings and their settings
RLP138	Provision of Open Space in New Housing Developments
RLP104	Ancient Monuments and Sites of Archaeological Importance
RLP105	Archaeological Evaluation
RLP106	Archaeological Excavation and Monitoring

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

CS2	Affordable Housing
CS5	The Countryside
CS7	Promoting Accessibility for All
CS8	Natural Environment and Biodiversity
CS9	Built and Historic Environment
CS10	Provision for Open Space, Sport and Recreation
CS11	Infrastructure Services and Facilities

#### Braintree District Publication Draft Local Plan 2017

SP1	Presumption in Favour of Sustainable Development
SP6	Place Shaping Principles
LPP1	Development Boundaries
LPP33	Affordable Housing
LPP34	Affordable Housing in the Countryside
LPP37	Housing Type and Density
LPP45	Parking Provision
LPP50	Built and Historic Environment
LPP53	Provision of Open Space, Sport and Recreation
LPP55	Layout and Design of Development
LPP60	Heritage Assets and their Settings
LPP63	Archaeological Evaluation, Excavation and Recording
LPP68	Protected Species, Priority Spaces and Priority Habitat
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
LPP81	External Lighting

#### Neighbourhood Plan

N/A



## Other Material Considerations

Site Allocations and Development Management Plan  
Essex Design Guide  
Essex Parking Standards  
Affordable Housing SPD  
Open Spaces SPD

## INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is being reported to Planning Committee in accordance with the Council's scheme of delegation as the application is considered to be of significant public interest and represents a departure from the Development Plan.

This application is also being reported to Planning Committee at the request of the Chair and Vice Chair of the Planning Committee.

## SITE DESCRIPTION

The application site is located to the western side of the A131 High Garrett, just north of the existing development in Grove Field. The site comprises some 1.65ha of agricultural land. The site has been left as grassland as it is not actively farmed at the current time. The applicant states it is presently 'set aside'. The site falls gently but evenly from east to west.

To the east the site is bounded by the A131 and a ribbon of existing residential properties, to the south by existing residential development in Grove Field. To the north and west the site is bounded by fields.

Some distance to the north of the site and separated from it by a further field, is 105 High Garrett a Grade II listed building. Beyond No.105 to the north are several other Grade II listed properties. Opposite the site to the east are 4no. locally listed buildings of 'Arts and Crafts' character.

## PROPOSAL

The application seeks outline planning permission for 33no. residential units. Access and layout are to be considered at the outline stage and appearance, scale and landscaping are to remain reserved matters.

Access is proposed to be taken from the A131 at a fairly central point along its frontage and a 2m wide footway provided along the frontage of the site to the southern side of the access.

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 detailed proposal is put forward.

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

- Flood Risk Assessment
- Acoustic Survey
- Tree Survey
- Preliminary Ecological Appraisal
- Transport Statement
- Planning Statement
- Landscape and Visual Appraisal
- Design and Access Statement
- Masterplan

### CONSULTATIONS

#### ECC Education

No contributions sought.

#### SUDS Approval Body

No objection, conditions suggested regarding the submission of a detailed surface water drainage scheme, a scheme to minimise off-site flooding, a maintenance plan and for yearly logs of maintenance.

#### ECC Archaeology

No objection, conditions regarding trial trenching and excavation are suggested.

#### Anglian Water

Some assets owned by Anglian Water are located on or close to the site and an informative is requested should planning permission be granted, The Bocking Water Recycling Centre has capacity for waste water treatment from the development. The sewerage system at present has available capacity for these flows via a gravity discharge regime. Request that a SuDS scheme is implemented with connection to sewer seen as the last option.

#### BDC Ecology

No objection subject to securing biodiversity mitigation and enhancement measures.

#### BDC Environmental Health

No objection, conditions suggested in relation to contaminated land and hours of work.

### Historic Buildings Consultant

No objection.

### ECC Highways

With the National Planning Policy Framework in mind, particularly Paragraph 32, the Highway Authority has reviewed the planning application and supporting transport statement 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. The Highway Authority has visited the proposal site.

The Highway Authority has also considered the application against its route hierarchy policies (Development Management Policies DM2 to DM5) and given the A131 at the proposal site is a Strategic Route, could raise an objection. However, given the Highway Authority is satisfied with all other aspects of the proposal, subject to the below requirements, and given how much weight its route hierarchy policies have been afforded at Appeal to date, it does not feel an objection on this basis would be defensible, were planning permission to be refused and an Appeal lodged.

The Highway Authority treats each proposal on its own merits. Therefore, from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to conditions regarding the submission of a construction management plan, residential travel packs, provision of a shared 6m wider surface between 19 through to 17, all parking spaces to be brought forward, new junction works, provision of a footway link and the upgrade of two bus stops.

### BDC Housing Research and Development

The affordable housing mix indicated is considered appropriate to match evidence of housing need.

### BDC Landscape Services

No objection, comments made in relation to strong boundary treatment will be required along with a lighting strategy. Circular walk should not be included as part of the access road. Recommended a landscaping condition.

### Natural England

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)

It is advised that a Habitats Regulations Assessment (HRA) is undertaken to secure any necessary mitigation and this decision is recorded within the planning documentation, consulting with Natural England where necessary. Permission should not be granted until such time as the HRA has been undertaken and the conclusions confirmed

#### NHS

No comments received.

#### Essex Police

No objection, suggestion made regarding boundary treatments and lighting.

#### BDC Waste Services

No objection, comments made in relation to the distance between refusal points and where the refuse vehicle can travel within the site.

#### REPRESENTATIONS

137 representations were received objecting to the application, making the following comments:

- Concerns about safety of new access
- Concerns about extra traffic created by the development
- Insufficient capacity at the local doctors, schools and dentists
- Concerns about harm to local wildlife
- High Garrett is not safe to be crossed by pedestrians
- Similar proposals have already been refused by the Council
- Some information contained with the application is not correct
- The site is in a green buffer between Bocking and High Garrett
- The proposed development is too large and poorly designed
- There are no amenities within walking distance of the site, and the development is not sustainable
- Concern about loss of trees
- The density of the site is far too high and doesn't reflect the character of the area
- Noise and pollution from the traffic would be excessive
- Loss of arable land
- Two and a half storey properties would not be in keeping with the area
- The site is not on the Braintree Local Plan, is outside the Village Envelope and would harm the rural setting of High Garrett
- Site has not featured in the 'Call for Sites'
- Green Belt land will be destroyed
- Overdevelopment
- Increased pressure on existing utilities
- Increases to council tax bills

- Disruption during building of the development
- Conflict with CS4, CS7 and CS8 and RLP80
- Dangerous location with live shooting nearby

## REPORT

### PRINCIPLE OF DEVELOPMENT

#### National Planning Policy Framework (NPPF)

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).

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.

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.

The NPPF underlines the Government's objective of significantly boosting the supply of homes. In this regard, Paragraph 59 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 73 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.

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.

## The Development Plan

Currently the Council's statutory Development Plan consists of the Braintree District Local Plan Review (2005) and the Braintree District Core Strategy (2011).

The application site is located outside of a designated town boundary and as such is located on land identified as countryside in the Local Plan Review (2005) and the Core Strategy (2011).

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.

The application site is not proposed for allocation for development in the Draft Local Plan. The proposed development is therefore contrary to it, in particular Policy LPP1 which also states that outside development boundaries development will be strictly controlled to uses appropriate to the countryside.

## 5 Year Housing Land Supply

A material consideration in this case, is the Council's current housing land supply position. In July 2018 the Government published the new National Planning Policy Framework 2018 (NPPF2) which was subsequently revised in February 2019 (NPPF3). These revisions to national policy changed the basis of how the 5 year housing land supply is calculated. The Council is bound to take into account this revised version of national policy by s.70(2)(C) Town and Country Planning Act 1990.

For decision making purposes, as Braintree District Council does not have an up to date Local Plan, the Council is currently required to calculate the housing target using the Government's Standard Methodology, until such time as the new Local Plan is adopted.

Following the publication by Government of the 2019 Housing Delivery Test results on 13th February 2020, Braintree District is now required to apply a 20% buffer to its five year supply target.

The Council's latest Five year supply position 2020-2025 shows a supply of 4.52 years.

The Council considers that the supply indicated above represents a robust assessment of the Council's Housing Land Supply position.

The Council is continuing to gather evidence on the updated deliverable supply in the District, taking into account progress on identified sites, the addition of deliverable new sites, and updated information from developers.

However, the lack of a 5 year housing land supply is therefore a material consideration which weighs in favour of the proposed application.

### Site History

Outline planning permission was refused in February 2018 for 40no. dwellings, (Application Reference 17/01812/OUT refers). The details of the current application with regards site area and access point remain the same as the earlier submission, however the number of units proposed has reduced to up to 33.

The refusal of the previous application is a material consideration in the determination of the current scheme.

### Accessibility to facilities and services

The strategy set out in the Draft Local 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".

CS7 of the Adopted Core Strategy states that future development will be provided in accessible locations to reduce the need to travel.

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.

Policy LPP44 from the Draft Local Plan states that sustainable modes of transport should be facilitated through new developments to promote accessibility and integration into the wider community and existing networks.

The site is located within the countryside, although it abuts the settlement boundary of High Garrett/Braintree. Notwithstanding this it is necessary to consider the amenities/facilities that are available within close proximity to the site. High Garrett has a public house, a car servicing business and a retail

shop selling home furnishings. There is no local convenience store, primary school, GP surgery or such like within High Garrett, nor within reasonable walking distance. Therefore future residents would be reliant on travelling to larger centres for daily needs.

There is a footway along the eastern side of the A131, however this is narrow in places such it would not be possible for two pedestrians to pass one another. The site is within a 40mph zone. Officers have visited the site on several occasions at different times of the day and the constant volume of traffic along the A131 makes for an uncomfortable pedestrian environment. In order to reach the public house or bus services heading towards Braintree from the application site, it would be necessary to cross the A131. In Officers' opinion, having experienced the pedestrian environment, this is unlikely to be attempted by residents or if it is, not without some difficulty. In addition there are no dedicated cycle lanes within the vicinity of the site and in Officer's opinion the busy nature of the A131 is unlikely to be considered as a favourable cycling environment.

The closest bus stops to the site are located on the A131. The application proposes the introduction of a 2m footway along the frontage of the site between the proposed access and the south eastern corner of the site, which would allow pedestrian access to the bus stop on the western side of the A131. The A131 at this point is served by the No.38 and No.38A which provides a twice hourly service Monday to Saturday between Braintree and Great Yeldham. The No.89 provides an hourly service between Braintree and Great Yeldham. The No.352 provides a twice daily service Monday to Saturday between Chelmsford and Halstead. A Sunday service of (6 buses) is also available. There is therefore scope for residents to access fairly regular bus services in to Braintree and other locations. Notwithstanding this, although future residents of the development would be able to access bus services travelling north along the A131, in order to access bus services travelling towards the larger centres of Braintree, Witham and Chelmsford, it would be necessary to cross the road. Given the heavy traffic along the A131 and no safe crossing point, it is considered that this would deter residents from utilising the bus services available.

As a consequence of the limited accessibility to other forms of transport to the private motor car and the limited services available within High Garrett, future residents are unlikely to be encouraged to utilise sustainable modes of transport and will largely rely on travel by private motor car. In Officer's opinion, as per the previous application that development in this location would undoubtedly place reliance on travel by car which conflicts with Policy CS7 of the Adopted Core Strategy, Policy RLP53 of the Adopted Local Plan, Policy LPP44 of the Draft Local Plan and the aspirations of the NPPF to locate development where the need for travel can be minimised and the use of sustainable transport modes can be maximised. This weighs against the proposal in the overall planning balance. The planning balance is concluded below.



## Design, Appearance and Layout

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

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

Policy RLP9 of the Adopted Local Plan requires residential development to create a visually satisfactory environment and be in character with the site and relate to its surroundings. Policy RLP10 of the Adopted Local Plan considers density of development and acknowledges that densities of between 30-50 dwellings per hectare will be encouraged.

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 Draft Local Plan seeks to secure the highest possible standards of design and layout in all new development and the protection and enhancement of the historic environment.

Policy CS9 of the Adopted Core Strategy states that the Council will promote and secure the highest possible standards of design and layout in all new development.

The application, although in outline form requests that layout is considered at this stage. A layout containing 33no. units supports the application.

The proposed layout revolves around the single vehicular access onto High Garrett and the creation of a 'main avenue' into the site. It is shown that the avenue would be defined by large, statement trees and terminates with a pair of houses (Plots 10 and 11). The road way continues to the right and left in front of this pair and curves around to the front of the site, wrapping around in broadly two circles, creating two residential blocks.

It is considered that the site is capable of accommodating 33no. units, however Officers are concerned with a number of aspects of the proposed layout.

Landscape strips are proposed along the frontage of the site located between the internal road and the main road. Within these strips new tree planting is shown. Behind the landscaping strip is a footpath and then a further much

narrower strip of landscaping and then finally behind this is a private driveway. This type of segregation along the road frontage is not characteristic of the existing streetscene and Officers consider that this layout is contrived and would not result in a visually attractive site frontage and not appropriate for this area of rural transition.

This area would also include large areas of hard standing and tall brick walls that would be visible from the road and are considered to be out of character with the existing semi-rural streetscene along High Garrett.

The length of the private driveways for three of the proposed Plots are not sufficient to allow for cars to reverse and this would result in contrived and awkward car movements for future occupiers.

Officers are concerned about the proximity and siting garden wall of Plots 17 and 32 would result in a very narrow and contrived access for Plots 16 and 33, which would be unacceptable.

A further concern is that the design and layout of the dwellings are not considered to be tenure blind as none of the affordable units have a garage. The proposed parking for one of the market dwellings (Plot 6) does not have a garage and is served by parking spaces that back onto open space and a 'green lane' which is considered insecure and is not located close enough to the dwelling to be useful.

A key issue of the proposed layout is the level of insecurity that would be created for future as a number of private gardens back onto the proposed 'green lanes'. To ensure privacy to these gardens, brick walls would have to be introduced and would not be visually appropriate in this countryside location.

Based on the number and size of the dwellings shown on the block plan and the guidance contained within the Council's adopted Open Spaces SPD requires 406sq.m of informal open space to be provided within the site. The submitted landscape strategy indicates that the two 'green lanes' provided along the western and southern boundaries would provide well in excess of this amount. However Officers view is that whilst in physical terms the site provides sufficient informal open space, the open space takes the form of walkways and therefore results in an ill-conceived area of open space with limited amenity value for residents. Furthermore the walkways do not lead beyond the site to connect to any Public Rights of Way and thus users would be confined to the site.

The Council has adopted the Essex Design Guide as a Supplementary Planning Document. This indicates that dwellings with two bedrooms should be provided with a private rear garden of 50sq.m or more, and three bedroom dwellings should be provided with 100sq.m or more.

All of the proposed dwellings are provided with a sufficient amount of private garden space, and therefore accord with the minimum garden sizes from the Essex Design Guide.

Policy RLP56 of the Adopted Local Plan and Policy LPP45 of the Draft Local Plan requires that sufficient vehicle parking should be provided for all new development in accordance with the Essex County Council Vehicle Parking Standards 2009.

Each property is provided with the necessary amount of car parking spaces either within garages or surface spaces and the required number of additional visitor spaces are also provided, in accordance with the Essex County Council Vehicle Parking Standards 2009, however, and as described above, there are concerns over some of the specific provision within the proposed layout.

Eight visitor parking spaces are provided, however Officers consider that they are poorly laid out within the site, in visually inappropriate locations which contributes to poor layout overall

Overall the scheme is considered suburban in its appearance and fails to reflect the rural nature of the site and its surroundings on the western side of the A131. Although the number of units could be accommodated on site, the layout as proposed does not present a good standard of design which would meet with the requirements of the above mentioned policies. This weighs against the proposal in the overall planning balance.

#### Landscape and Visual Impact

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.

Policy CS8 of the Adopted 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’

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 Draft Local Plan.

The site is located within the area of the High Garrett/Marks Hall Wooded farmland as defined and described in the 2006 Braintree Landscape Character Assessment. The key characteristics of this area are a flat to gently undulating landform, strong pattern of large and small woods, regular medium to large arable fields bounded by low well-trimmed thick hedgerows and some mature hedgerow trees, open to enclosed character depending on density of woodland, many small farmsteads and occasional village.

The site and surroundings are typical of this character description with the exception of the well-trimmed hedges, as many of the hedges in the vicinity and the hedges on the site have been allowed to grow on to mature trees and shrub boundaries.

The Council's Evaluation of Landscape Capacity Study for the settlement fringes of Braintree was commissioned in 2015. This analysis, commissioned to provide an evidence base and assist in the landscape evaluation of applications, made a fine-grained study of settlement fringes and categorised parcels of land in terms of their capacity to absorb new development. This document forms part of the evidence base for the emerging Local Plan and the analysis within it has been used as part of the assessment of sites being considered for allocation within the Local Plan. A number of sites along the western side of the A131 from the Broad Road roundabout northwards, including the land immediately to the north of the application site were put forward to be considered for residential development as part of the new Local Plan. All of these sites were discounted for residential development, the main reason being the impact development would have upon the countryside given the undeveloped nature of the western side of the highway.

The site forms Part of parcel 13a of the Landscape Capacity Study, which is identified in the study as having medium capacity for accommodating development. Parcels with medium, medium high or high capacity are defined in the study as those 'most likely to be suitable as a location for development'.

The 2015 landscape capacity report identified the following guidelines for development and mitigation measures for parcel 13a:

- Reinforce vegetation on the western boundary to provide screening to development in cross valley views and to maintain separation between High Garrett and the adjoining open countryside
- The setting of Mill Lodge would need to be considered
- Development should reflect the settlement patterns, scale and vernacular features of the neighbouring development in High Garrett.

The applicants have submitted a Masterplan which shows that the proposed residential development is confined within parcel 13a.

The applicants have submitted a Landscape and Visual Impact Assessment to support the application. The LVIA has been carried out using methodology from the Guidelines for Landscape and Visual Impact Assessment which are used by Landscape Architects to evaluate the impact of a proposed development on both character and visual amenity.

In terms of visual impact, the LVIA concludes that:

'In terms of visual impacts, people traveling along the A131 would notice the greatest amount of change, particularly when immediately adjacent to the site. From here the development itself would be visible, as would the new access.

However, despite this, it is considered that the proposals fit with the existing pattern of development along A131 and would not be seen as an intrusive new element, but as a logical extension to the High Garrett settlement. Proposed tree and hedgerow planting would help to soften and screen the proposals and would be particularly helpful in softening the proposals when viewed from the section of public footpath 68\_17 to the north of the site.'

'In the wider outlying countryside to the west, the development would have quite limited visual presence and where visible it would be a minor component of the view and would be seen alongside and as part of the High Garrett settlement area'.

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 and has been assessed in the landscape capacity study as associating more closely with the settlement than the wider countryside. There are no apparent factors which would raise it to the status of a 'valued landscape' in the context of the NPPF.

However, notwithstanding any judgement reached on the value of the landscape, 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. 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. The site may not be a 'valued landscape' within the meaning of the NPPF, however it performs a specific role, providing an undeveloped break in what is otherwise a long, largely unbroken ribbon of development along the eastern side of the A131 as you leave Braintree town and travel north.

It is clear that the western side of the A131 within High Garrett has a very different character to the eastern side. The western side remaining largely undeveloped other than from the development at Grove Field and few detached houses immediately adjacent, whereas the eastern side presents a more to less continuous line of development from the Broad Road/A131 roundabout to the south and the traffic light junction of the A131 with the A1017 to the north. The Council has applied this argument in justifying the consolidation of the ribbon development on the eastern side of the road, by allowing a scheme of 8no.dwellings. Whilst that scheme was not considered to result in harm that warranted refusal, the development within this application would result in a very different impact given the character of the western side of the A131.

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 which plays a critical function in ensuring the settlements of Bocking and High Garrett remain separate and do not coalesce and preventing further urban sprawl. Although lesser weight can be given to Policy CS5 in light of the housing land supply position, settlement boundaries should not be ignored in their entirety

and weight can still be given to the requirement of Policy CS5 to protect the countryside from, for example, urban sprawl and ribbon development. 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 Adopted Core Strategy.

The site and the other undeveloped areas along the western side of the A131 provide a particular setting to the area, presenting a softer edge to the busy highway and allowing views through in to the countryside beyond the site and behind Grove Field. The open and undeveloped western side of the A131 plays an important function in understanding the distinction between the settlement boundary and countryside beyond and how the approach in to the town is experienced. Currently the undeveloped western side provides a softer edge to the town and a gradual transition from the countryside to the town. The proposed development would compromise this distinction, creating an unwelcome and unexpected sense of enclosure at this point along the A131 to the detriment of the role the countryside performs in this context. In addition the creation of the 2m footway would result in the loss of soft landscaping along the site's frontage, further eroding the existing soft edge. The ribbon development opposite the site does not provide justification for the development of this site which would result in harm to the amenity and character of the countryside and would open up the opportunity for further development along the western side of the A131.

In Officer opinion, the proposal fails to appreciate the intrinsic value of the countryside and the function it plays in this particular location and would result in a detrimental impact upon the character and amenity of the countryside contrary to the NPPF, Policies CS5 and CS8 of the Adopted Core Strategy, Policy RLP80 of the Adopted Local Plan and Policy LPP71 of the Draft Local Plan.

Furthermore, Officers consider that the current proposals do not overcome the previous reasons for refusal in terms of the detrimental impact the proposal would have on the character and amenity of the countryside.

#### Impact on Neighbour Amenity

Paragraph 127 of the NPPF states that planning policies and decisions should ensure that developments create places with a high standard of amenity for existing and future users. Policy RLP90 of the Adopted Local Plan also states that development should not have an unacceptable impact upon neighbouring amenity. This sentiment is reiterated in Draft Local Plan Policy LPP55.

Existing properties along High Garrett and within Grove Field are those which would be closest to the development. Whilst their outlook would change as a result of the development, private views are not protected.

The proposed masterplan shows that a layout could come forward without unacceptable loss of amenity to neighbouring residential properties. The

proposed dwellings would be some distance from those existing in Grove Field and no unacceptable impact would result to the neighbouring properties directly opposite.

There is the potential for the development to affect the amenity of residents of nearby properties during the construction period. If the Council were minded to grant permission for the development, conditions could be attached to any grant of consent to control construction activity in order to minimise the impact on those properties.

### Highway Issues

Paragraph 109 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 residential residual cumulative impacts on the road network would be severe.

The application proposes that access is considered at the outline stage. It is proposed the development be served by a single point of access off the A131. The application is supported by a Transport Statement which considers the existing local highway network, the proposed access and the impact of the development on the highway network. The Highway Authority has considered the Transport Statement and considers it acceptable for the scale of development proposed.

The Transport Statement, dated November 2018 includes the results of traffic surveys undertaken in July 2017. It is noted that this survey data is now some 3 years out of date. This concluded that on average traffic was travelling at 39.1mph southbound and 40.9mph northbound. Peak hours were found to be between 07:00 and 08:00 and 17:00 and 18:00. The majority of the traffic flows were in a northbound direction, although only marginally. The Transport Statement provides projected trip rates for the proposed development and anticipates 28 additional vehicle movements in the AM peak hour and 29 additional vehicle movements in the PM peak period, resulting in an increase of 1.5% on average.

The proposed access can achieve the visibility required by the Highway Authority at 2.4m x 120m in each direction. A footway is proposed from the access south along the site frontage to connect to the existing footway.

The Highway Authority has considered the application and raise no objection, agreeing with the conclusions drawn within the Transport Statement. The Highway Authority consider that the proposal would not be detrimental to highway safety or capacity. The Highway Authority note that they have considered the application against its route hierarchy policies and given that the A131 at this point is a Strategic Route, it could raise an objection in principle. Notwithstanding this the Highway Authority explain that they are satisfied with the proposal in all other respects and given how much weight has been afforded to route hierarchy policies at recent appeals, they do not

consider that an objection in this case would be sustainable should planning permission be refused on highway grounds.

Having visited the site and experienced the volume of vehicular traffic, Officers appreciate local resident's concerns with regards to the proposed access off the A131 and can understand why it is felt that conflict would arise with the existing junctions. Officers have considered the submitted Transport Statement and the comments made by the Highway Authority and would advise Members that withholding planning permission on highway grounds, without any evidence of a 'severe' highway impact in the terms of the NPPF and, notably, without support for this position from the Highway Authority, would prove difficult to justify and challenging to defend.

The Highway Authority suggests a number of conditions which could be applied to any grant of consent.

### Impact on Heritage Assets

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that when considering applications for planning Permission there is a duty to have special regard to the desirability of preserving statutorily listed buildings or their settings or any features of special architectural or historic interest which they possess.

Paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 195 states that where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

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

Paragraph 196 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this



harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Paragraph 197 states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Policy RLP95 of the Adopted Local Plan Policy states 'that built or other development within or adjacent to a Conservation Area and affecting its setting will only be permitted provided that: the proposal does not detract from the character, appearance and essential features of the Conservation Area and is situated in harmony with the existing street scene and building line, and is sympathetic in size, scale and proportions with its surroundings'.

Policy LPP56 of the Draft Local Plan states that the Council will encourage the preservation and enhancement of the character and appearance of designated Conservation Areas. Policy CS9 of the Adopted Core Strategy requires developers to respect and respond to the local context particularly where proposals affects a Conservation Area.

Once part of an open agricultural landscape south of the settlement of High Garrett, the site of the proposed now presents a gap site between phases of linear suburban sprawl and allows views out over agricultural fields.

The realisation of this application would contribute towards the coalescence of Bocking Church Street and High Garrett which historically have been independent settlements separated by farmland. Whilst this does not arise to direct harm to individual heritage assets, it would harm the wider historic landscape by altering how the pattern of historic settlements, and the heritage assets within them, are experienced and interpreted. This impact on the historic landscape formed part of the reason for refusal of the previous application.

With regards to the NPPF, the development of this site will not have a direct impact upon any individual designated or non-designated heritage asset or its setting. Landscapes are an important part of the historic environment, allowing us to understand how humans have shaped their environment over the centuries – it is not, however, a heritage asset in its own right and as such Paragraphs 195, 196 or 197 of the NPPF would not apply in this case.

The Historic Building Consultant has reconsidered their position since the previous application and no longer raise an objection, as they now only identify harm to a historic landscape. Without an objection from the heritage consultant, it would be Officers advice that the application is not refused on identified harm to a heritage asset and the associated policies. However there is still a value to the landscape, as discussed above, and there would be an

impact upon the character of the countryside and the historic settlement patterns as a consequence of the development of this site.

### Archaeology

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.

### Ecology

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.

These sentiments are reiterated in Draft Local Plan Policies LPP68 and LPP70.

A Preliminary Ecological Assessment (PEA) and a Reptile and Bat Survey has been submitted with the application which contain sufficient details in order to determine the application.

The Council's Ecologist is satisfied with the information submitted and recommends a number of conditions securing a wildlife sensitive lighting scheme, landscape and ecological management plan and compliance with the ecological appraisals recommendation which could be applied to any grant of consent.

### Drainage and Flood Risk

Paragraph 163 of the NPPF states that when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere. It states that priority should be given to the use of sustainable drainage systems.

Paragraph 170 of the NPPF states that the planning policies and decisions should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being

put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability.

A Flood Risk Assessment (FRA) has been submitted with the application and identifies the site to be within Flood Zone 1 (low risk).

The FRA has considered the potential impact of the development on surface water runoff rates, given the increase in impermeable areas. The FRA states that it can be demonstrated that surface water can be managed, such that flood risk to and from the site following development will not increase as a result of the development.

Essex County Council as Lead Local Flood Authority has considered that FRA and raise no objection, subject to a series of conditions being attached to any grant of permission. These conditions would require a detailed surface water drainage scheme to be provided, details of measures to be put in place to minimise the risk to offsite flooding and appropriate arrangements to be put in place for the maintenance of the drainage system.

#### Noise Impact

The application is supported by an acoustic report which considers the impact of environmental noise on the proposed development. The report concludes that road noise is dominant; however this can be adequately mitigated against with appropriate glazing and consideration of how rooms can be ventilated should windows be required to remain closed. This could adequately be controlled by a planning condition.

The Council's Environmental Health Officer has considered the acoustic report and raises no objections.

#### Loss of Agricultural Land

The NPPF requires planning to protect and enhance valued soils. The Agricultural Land Classification maps show the site to be grade 2 (very good). It is grades 1-3a that are considered to be best and most versatile agricultural land.

The NPPF requires Local Planning Authorities to take in to account the economic and other benefits of the best and most versatile agricultural land. The site is a small area of agricultural land within the District and wider South Eastern region and its loss would not have a significant impact on farming operations. It is inevitable that some development of such land will be necessary to meet the housing requirements.

#### Habitats Regulation Assessment

Natural England published revised interim guidance on 16th August 2018 in connection with the emerging strategic approach relating to the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) to

ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitat Regulations.

In accordance with the revised interim guidance an appropriate assessment has been completed for this application, as it falls within the threshold of a scheme of 99 residential units or less and is located within the updated Zones of Influence of the relevant European designated sites. Whilst the appropriate assessment of the Local Plan has identified a likely significant effect for all residential development in-combination with other plans and projects, the amount of development at 99 units or less that is likely to be approved prior to the adoption of the RAMS, which will require financial contributions for all residential proposals, is comparatively minimal.

It is therefore concluded that the amount of development approved under schemes of 99 unit or less prior to the adoption of the RAMS will be de minimis considering that the RAMS will be dealing with the in-combination effects of housing growth across Essex over a 15 year period and it is not therefore considered that the current proposal would result in a likely significant effect on European designated sites.

Notwithstanding the above, at the present time, there are no specific costed HRA mitigation projects identified and no clear evidence base to give the Local Planning Authority any ability to impose such a requirement for a proportionate, evidence based contribution for off-site mitigation at relevant European designated sites for schemes of this size.

## PLANNING OBLIGATIONS

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 to grant it permission.

### Affordable Housing

Policy CS2 of the Core Strategy states that on development of this size affordable housing will be directly provided on site with a target of 30%. The Council's Housing Enabling Officer has advised on a mix of type and tenure of housing which would be sought.

### Open Space

Policy CS10 of the Core Strategy states that the Council will ensure that there is 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. 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 for on-site amenity green space.

A financial contribution would be sought for outdoor sport, allotments, informal open space and equipped play. The provision/contribution is based upon a formula set out in the SPD. This can be calculated, as although the application is in outline, an accommodation schedule is provided on the plans given layout is for consideration. Based on the 2019 Open Space figures the contribution would be £72,297.98. At the time of writing this report the 2020 Open Space Contribution figures are yet to be released. Officers will provide an update at Planning Committee if necessary.

There is also a requirement to secure the on-going maintenance of any public open space provided on site.

### Education

ECC Education have confirmed that they will not be seeking financial contributions for additional early years, primary or secondary school places or transport. This differs from the earlier application in 2018, which was for a larger number of dwellings as the County Council's forecast have reduced since that time. Furthermore until the appeals at the Church Street, Bocking (17/01304/OUT & 17/02188/OUT) have been determined the County Council were concerned about the cumulative impact of nearby development.

Subject to the above matters being incorporated in to a legal agreement to ensure their provision, the development would be made acceptable in these respects. However whilst the applicant has indicated that they would be prepared to enter in to an agreement to provide the appropriate infrastructure mitigation, no such agreement is in place at the present time. The development therefore fails to satisfactorily mitigate the impacts of the development on local infrastructure and is contrary to Adopted Core Strategy Policies CS2, CS10 and CS11, Policy RLP138 of the Adopted Local Plan and Policy LPP82 of the Draft Local Plan.

### PLANNING BALANCE AND CONCLUSION

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

development proposed; or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Such an assessment must take account of the economic, social and environmental impact of the proposed development and these matters must be considered in the overall planning balance.

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).

It is acknowledged that the provision of housing, including affordable housing would bring social and economic benefits, and would contribute towards the District's 5 year housing supply and deliver affordable housing and this should be given significant weight. In addition, the development will bring about other economic benefits including the creation of construction jobs and increased demand for local services.

Nonetheless it is considered that as a consequence of the limited accessibility to sustainable modes of transport and the limited services available within High Garrett future residents are unlikely to be encouraged to utilise sustainable modes of transport and will largely rely on travel by private motor car. In Officer's opinion development in this location would undoubtedly place reliance on travel by car which conflicts with policy CS7 of the Adopted Core Strategy, Policy RLP53 of the Adopted Local Plan and the aspirations of the NPPF to locate development where the need for travel can be minimised and the use of sustainable transport modes can be maximised.

The development would result in the intrusion of development into the countryside and fails to appreciate the intrinsic value of the site in terms of the function it plays in this particular location, by way of the setting it creates, controlling ribbon development and urban sprawl and providing a soft undeveloped approach in to the town. The proposed development would

result in a detrimental impact upon the character and amenity of the countryside contrary to the NPPF, Policies CS5, CS8 and CS9 of the Adopted Core Strategy and Policy RLP80 of the Adopted Local Plan.

Furthermore the proposed layout fails to reflect the rural nature of the site and its surroundings on the western side of the A131. As discussed above the proposed layout does not present a good standard of design which would meet with the requirements of the NPPF, Policy RLP90 of the Adopted Local Plan and Policy CS9 of the Adopted Core Strategy.

In addition a Section 106 Agreement has not been secured to ensure the provision of on-site affordable housing or financial contributions towards public open space, in order to mitigate the impacts of the development in these respects.

When considering the planning balance and having regard to harms, and having regard to the requirements of the NPPF as a whole, Officers have concluded that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Consequently it is recommended that planning permission is refused for the proposed development.

### RECOMMENDATION

It is RECOMMENDED that the following decision be made:  
Application REFUSED for the following reasons:-

- 1 The site is located in the countryside and falls outside of the defined village envelope as identified in the Adopted Local Plan and Adopted Core Strategy. The proposal introduces 33no. 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, 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.

The proposal would result in the intrusion of development into the countryside and fails to appreciate the intrinsic value of the site in terms of the function it plays in this particular location, by way of the setting it creates, controlling ribbon development and urban sprawl and providing a soft undeveloped approach in to the town. The proposed development would result in a detrimental impact upon the character and amenity of the countryside.

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 and Policies RLP2, RLP53 and RLP80 of the Adopted Local Plan.

- 2 The proposal by way of the design and layout results in a development which is suburban in character, unrelated to its context and generally failing to secure a high standard of design or good level of amenity for future occupiers. The loss of frontage hedgerow associated with the need to provide clear visibility splays for the access would only exacerbate the detriment to the rural character of the site and its wider setting.

Cumulatively the adverse impacts of the development are considered to outweigh the benefits and the proposal fails to secure sustainable development, contrary to the NPPF, Policy CS9 of the Adopted Core Strategy and Policies RLP9, RLP10, and RLP90 of the Adopted Local Plan.

- 3 Adopted policies and Supplementary Planning Documents applicable to the proposed development would trigger the requirement for:

- A financial contribution towards public open space
- Ongoing maintenance for public open space
- On site affordable housing

This requirement would be secured through a S106 Agreement. At the time of issuing this decision a S106 Agreement has not been prepared or completed. In the absence of such a planning obligation the proposal is contrary to Policies CS2, CS10 and CS11 of the Adopted Core Strategy (2011), Policy RLP138 of the Adopted Local Plan and the Open Space Supplementary Planning Document (2009).

### SUBMITTED PLANS

Site Layout	Plan Ref: 14531/SJP/1	
Block Plan	Plan Ref: 17.343-P-201 A	
Affordable Housing Plan	Plan Ref: 17.343-P-202	
Management plan	Plan Ref: 17.343-P-202 REV A	
Landscape Masterplan	Plan Ref: 17.343-P-203	
Refuse Information	Plan Ref: 1755/14	
Location Plan	Plan Ref: PDB/17/766/01	
Site Masterplan	Plan Ref: 17.343-P-200	Version: h

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

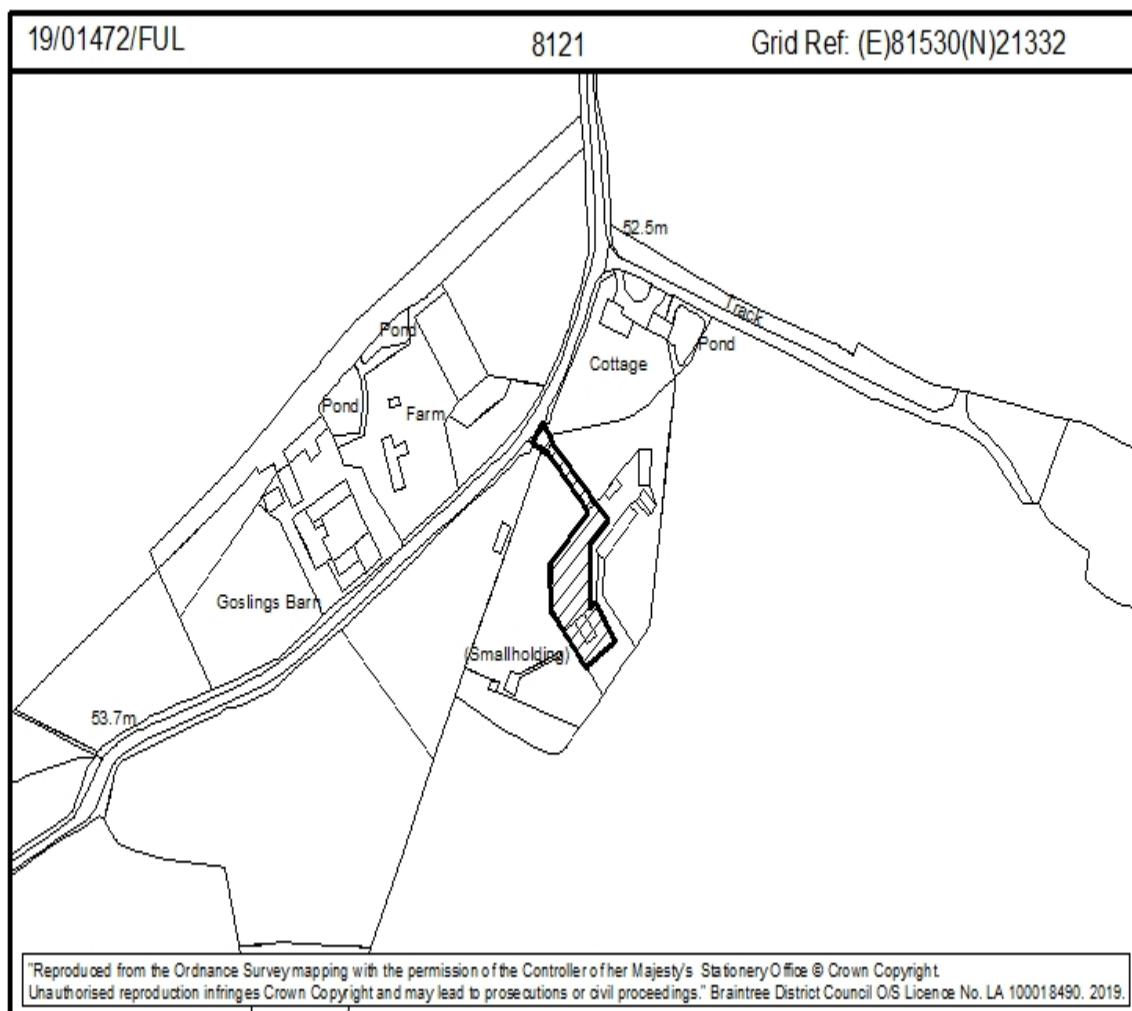


PART A

AGENDA ITEM NUMBER 5c

APPLICATION NO: 19/01472/FUL      DATE: 27.08.19  
VALID:  
APPLICANT: Mr & Mrs Michael Turner  
Rainbows End , Sheepcotes Lane, Bradwell, CM77 8ER  
DESCRIPTION: Conversion of former stable block to 1 No. dwelling  
including provision of curtilage.  
LOCATION: Rainbows End, Sheepcotes Lane, Bradwell, CM77 8ER

For more information about this Application please contact:  
Kathryn Oelman on:- 01376 551414 Ext. 2524  
or by e-mail to: [kathryn.oelman@braintree.gov.uk](mailto:kathryn.oelman@braintree.gov.uk)



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PW43JCBFHXY00>

### SITE HISTORY

18/00010/REF	Change of use from Stable Block to single dwelling house, self-build conversion, including necessary building works.	Appeal Dismissed	04.09.18
17/00240/COUPA	Prior approval for a proposed change of use of agricultural building to dwelling - conversion of hay barn and stable block into 1 no. two bedroom dwelling	Planning Permission Required	05.04.17
17/01453/FUL	Change of use from Stable Block to single dwelling house, self-build conversion, including necessary building works.	Refused	05.10.17
19/00105/FUL	Change of use from residential C3 to small holding. Alterations to stables and hay barn (Retrospective)	Granted	24.04.19

### POLICY CONSIDERATIONS

Currently the Council's development plan consists of the Braintree District Local Plan Review (2005) and the Core Strategy (2011).

The Council is currently working on a Draft Local Plan, which was approved by the Council unanimously for consultation on the 20th June 2016 and was the subject of public consultation between the 27th June and 19th August 2016. The Draft Local Plan, now referred to as the Publication Draft Local Plan, was approved by the Council on 5th June 2017 for consultation and for submission to the Secretary of State. The public consultation ran from 16th June to 28th July 2017. The Publication Draft Local Plan was submitted to the Secretary of State on the 9th October 2017.

The Publication Draft Local Plan is currently the subject of an examination by an Inspector appointed by the Secretary of State for Housing, Communities and Local Government.

The examination into the Section 1 Local Plan continued in January 2020. Hearing sessions have now been completed, and the North Essex Authorities

have now received an initial letter from the Inspector outlining his findings on Section 1 Local Plan.

The Inspector has found the Section 1 Local Plan sound, subject to modifications. Two of those main modifications are the removal of two of the proposed garden communities at West of Braintree and Colchester Braintree Borders. Nevertheless he has indicated that other parts of the Plan can be found including the housing target which for Braintree equals a minimum of 716 dwellings per annum. A full list of proposed modifications will be published in due course.

In accordance with paragraph 48 of the NPPF, from the day of publication the Council can give weight to the emerging Draft Local 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 can continue to afford some weight to the emerging Publication Draft Local Plan 2017.

It should also be noted that the Council was previously working on a Site Allocation and Development Management Plan (the ADMP). This plan was subject to extensive public consultation in 2013 and 2014. The ADMP was not however submitted to the Planning Inspectorate, due to the decision to begin work on a new Local Plan, to take into account the most up to date Government guidance. However parts of the ADMP have been rolled forward into the Draft Local Plan. It is therefore considered that it would be consistent with the provisions in paragraph 48 of the NPPF, to afford more weight in decision making to the parts of the Draft Local Plan which have been rolled forward from the ADMP, due to the more advanced stage reached by those elements.

### 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  
RLP12          Permanent Agricultural Dwellings

RLP38	Conversion of Rural Buildings
RLP56	Vehicle Parking
RLP71	Water Supply, Sewerage & Drainage
RLP74	Provision of Space for Recycling
RLP80	Landscape Features and Habitats
RLP81	Trees, Woodland Grasslands and Hedgerows
RLP84	Protected Species
RLP90	Layout and Design of Development

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

CS1	Housing Provision and Delivery
CS5	The Countryside
CS8	Natural Environment and Biodiversity
CS10	Provision for Open Space, Sport and Recreation
CS11	Infrastructure Services and Facilities

#### Braintree District Publication Draft Local Plan 2017

SP1	Presumption in Favour of Sustainable Development
SP3	Meeting Housing Needs
SP6	Place Shaping Principles
LPP1	Development Boundaries
LPP8	Rural Enterprise
LPP17	Housing Provision and Delivery
LPP40	Rural Workers Dwellings in the Countryside
LPP41	Infill Developments in Hamlets
LPP42	Residential Conversion of Buildings in the Countryside
LPP44	Sustainable Transport
LPP45	Parking Provision
LPP50	Built and Historic Environment
LPP55	Layout and Design of Development
LPP69	Tree Protection
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
LPP78	Flooding Risk and Surface Water Drainage

#### Neighbourhood Plan

Bradwell and Pattiswick Neighbourhood Plan (2019)

#### Other Material Considerations

Essex Design Guide  
Essex Parking Standards

## INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is being reported to Planning Committee in accordance with the Council's scheme of delegation as Bradwell Parish Council has objected to the proposal contrary to Officer recommendation.

## SITE DESCRIPTION

The site comprises a smallholding totalling approximately 2.02 hectares in area located in an area of countryside between Bradwell and Silver End. There are several outbuildings of various sizes on the smallholding, including a stable block. These buildings were previously used to support a livery and cattery business which operated from the site in connection with Goslings Cottage to the north. The ownership of these buildings, having now been separated from their neighbour at Gosling's Cottage, have since acquired an agricultural storage use and are used in association with the smallholding.

The stable block building forms a u-shape with a higher section in the south and a courtyard in the centre. The building is constructed of concrete block walls painted externally and corrugated cement roof.

To the north-west lies Sheepcotes Lane with two Grade II listed properties beyond: Gosling's Farm and Gosling's Barn. The smallholding contains several hedgerows and is surrounded by open countryside to all other sides. Some distance to the east lies Bradwell Aggregates quarry.

## PROPOSAL

The proposal is to convert the existing stable block into a two bedroom detached dwelling. The stable block is currently approximately 15m wide by 14m long and 4.8m high and these dimensions would not be altered by the works. The building would be designed and built by the applicants who own the smallholding and two fields to the south-west.

The building would be accessed from the existing driveway and parking area to the north. In order to convert the building, several black uPVC windows would be added to the south, east and west elevations and timber cladding added at a high-level to the north. The building would be externally insulated and rendered, but the existing roof tiles would remain. The scheme drawings are identical to those which were dismissed at appeal (application reference 17/01453 – see Appendix 1).

The proposal is accompanied by the following documents;

- Planning, Design & Access Statement
- Phase 1 Contaminated Land Report
- Viability & Sustainability Statement
- Enterprise Plan

## CONSULTATIONS

### Highways England

Confirm they have no objection.

### Environment Agency

No comments received, deadline expired 18.09.2019.

### ECC Highways

Confirm they have no comments to make and request conditions, including the provision of a residential travel pack. Officers consider that this particular requirement is not necessary given the occupant is the developer and taking into account the limited sustainable transport alternatives from this site.

### BDC Environmental Health

No comments received (deadline expired 18.09.19).

### BDC Ecology

No objections, but recommend informatives to protect nesting birds and bats.

## PARISH / TOWN COUNCIL

### Bradwell Parish Council

The Parish Council supports this application; it meets the policies outlined in the

Bradwell with Pattiswick Neighbourhood Plan (July 2019) and uses a redundant stable building to provide accommodation for the owners to tend their farm animals and does not impact local highway safety.

## REPRESENTATIONS

One letter of support has been received in response to this application which makes the following points:

- The site supports the local economy
- The Enterprise Plan demonstrates how the site will improve the local environment and contribute to the wider community
- It is necessary to live on the site for reasons of security and animal welfare
- The production of locally grown, organic food is a benefit
- Initiatives such as this should be encouraged

- The neighbourhood plan supports new small-scale businesses, particularly related to self-employed, skilled trades and home-working businesses.

A number of general letters of support accompanied the applicants Viability and Sustainability Statement. In accordance with the Council's procedures, these letters cannot technically form letters of support in relation to the application as they do not contain the necessary personal details in order to allow them to be registered, and they were not submitted in specific response to this application.

## REPORT

### Planning History

The use of the stable block was previously tied to Gosling's Cottage (application reference 573/90) before application reference 19/00105/FUL permitted it to be used in connection with the smallholding. At the same time, alterations to the building including the removal of stable doors, insertion of an internal corridor and the provision of windows to the internal elevations were also approved.

Since acquiring the smallholding, the applicant has made two applications to convert the stable building to residential use; one under Class Q permitted development rights (application reference 17/00240/COUPA) and one as a full planning permission (application reference 17/01453/FUL). Both these applications were refused, and in 2018 application was made to appeal the decision for full planning permission. This appeal was dismissed and a full copy of the Appeal decision can be found at Appendix 1 to this report.

### **2018 Appeal**

The Appeal decision dismissed in 2018 is a material consideration which affects the principle of development in this case. The appeal established several key facts which should, in the interests of consistency, follow through in the judgement of this application. These points are summarised below:

- 1) The site is not "*isolated*" within the meaning of the NPPF (Paragraph 79) as it lies in proximity to other built development;
- 2) The site is remote from services in both Bradwell and Silver End;
- 3) The poor quality of the road network linking the site to Bradwell would restrict access by non-motorised transport and introduce a risk to road users should they seek to use non-motorised transport;
- 4) Use of the building as a dwelling, with related domestic paraphernalia, would result in harm to the rural character of the area;
- 5) The proposal would not satisfy the exceptions provided by NPPF Paragraph 79 towards an essential need for an agricultural workers dwelling, or Policy RLP 38 (Conversion of Rural Buildings) of the Adopted Local Plan which requires proposals to make a reasonable effort to secure a business or community use.

By reason of points 2 & 3 above, the Inspector concluded that the benefits of a dwelling in this location were reduced and the harm was increased. Despite applying the tilted balance to his decision, the Inspector found that the in combination effects of the proposal, including the moderate harm caused to the rural character of the area, positioned the balance in favour of refusal. At this time the benefits arising from provision of a single dwelling in this location were described as *“limited”*.

## PRINCIPLE OF DEVELOPMENT

### National Planning Policy Framework (NPPF)

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).

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.

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.

The NPPF underlines the Government’s objective of significantly boosting the supply of homes. In this regard, Paragraph 59 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 73 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.

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.

### The Development Plan

Currently the Council's statutory Development Plan consists of the Braintree District Local Plan Review (2005) and the Braintree District Core Strategy (2011).

The application site is located outside of a designated town boundary and as such is located on land identified as countryside in the Local Plan Review (2005) and the Core Strategy (2011).

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.

The application site is not proposed for allocation for development in the Draft Local Plan. The proposed development is therefore contrary to it, in particular Policy LPP1 which also states that outside development boundaries development will be strictly controlled to uses appropriate to the countryside.

### 5 Year Land Supply

A material consideration in this case, is the Council's current housing land supply position. In July 2018 the Government published the new National Planning Policy Framework 2018 (NPPF2) which was subsequently revised in February 2019 (NPPF3). These revisions to national policy changed the basis of how the 5 year housing land supply is calculated. The Council is bound to take into account this revised version of national policy by s.70(2)(C) Town and Country Planning Act 1990.

For decision making purposes, as Braintree District Council does not have an up to date Local Plan, the Council is currently required to calculate the housing target using the Government's Standard Methodology, until such time as the new Local Plan is adopted.

Following the publication by Government of the 2019 Housing Delivery Test results on 13th February 2020, Braintree District is now required to apply a 20% buffer to its five year supply target.

The Council's latest Five year supply position 2020-2025 shows a supply of 4.52 years.

The Council considers that the supply indicated above represents a robust assessment of the Council's Housing Land Supply position.

The Council is continuing to gather evidence on the updated deliverable supply in the District, taking into account progress on identified sites, the addition of deliverable new sites, and updated information from developers.

However, the lack of a 5 year housing land supply is therefore a material consideration which weighs in favour of the proposed application.

## SITE ASSESSMENT

### **National Policy**

Paragraph 11 of the Framework introduces the presumption in favour of sustainable development for all applications. Given that local policies are now out-of-date in so far as they relate to the supply of housing, and Officers regard these policies to be among the most important for determining the application in this case, the presumption in favour of development is invoked and the tilted balance applies under paragraph 11 (d). There exist no clear reasons to refuse the development under paragraph 11 (d) (i) as the site does not lie in any of the identified areas where the Framework policies indicate development should be restricted (footnote 6). As a consequence, it follows that permission should be granted unless the impacts significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.

At the time of the Appeal, the Inspector performed a similar balancing exercise on the basis that the Council could not demonstrate a five year housing supply. In concluding that the five year supply shortfall was '*minor*', he reasoned that the harm identified did outweigh the benefits to a significant and demonstrable extent and that the proposal was therefore not in accordance with the Framework policies when taken as a whole. However, the current circumstances are different and the tilted balance must be applied afresh: it cannot simply assumed the same conclusion should be reached.

In assessing general compliance with the Framework, Paragraphs 103 & 104 are of particular note: they require the planning system to "*actively manage patterns of growth*" and require planning policies to promote a mix of uses across an area in order "*to minimise the number and length of journeys needed for employment, shopping, leisure education and other activities*".

In addition, in relation to Rural Housing, Paragraph 77 requires planning policies in rural areas to be "*responsive to local circumstances*" and encourages decision makers to "*support housing developments which reflect local needs*". Paragraph 78 requires housing to be located "*where it will enhance or maintain the vitality of rural communities*" and thus requires planning policies to "*identify opportunities for villages to grow and thrive, especially where this will support local services*". In line with these principles,

it is possible that a Neighbourhood Plan policies could provide a means to identify opportunities for a village to grow and thrive.

Paragraph 78 of the NPPF introduces the consideration that development proposals need not be sited within settlements which contain services, but may still be capable of supporting services in a village nearby. It is noted however that the Appeal decision confirmed that the site was not well connected to the settlements of Bradfield and Silver End and thus would not be significantly capable of accessing these services without causing a degree of harm.

### **Local Plan Policy**

The site lies approximately 1.9km (1.2miles) and 1.6km (1 mile) respectively from the services in the defined settlements of Bradwell and Silver End. Bradwell is defined as an Other Village within the core strategy and Silver End as a Key Service Village. The Key Service Village of Coggeshall and Main Town of Braintree lie approximately 8km (5 miles) from the site.

The over-arching growth strategy for the District, as set out in Policy CS1 of the Adopted Core Strategy, is to scale growth relative to the size and sustainability of settlements, with only very limited growth occurring in the countryside. It is noted that, despite containing buildings, the site not 'previously developed land' according to the definition in the NPPF Glossary as it is in agricultural use.

The Appeal decision found the proposal was contrary to Policy CS5 of the Adopted Core Strategy and Policy RLP2 of the Adopted Local Plan, together with Policy LPP1 of the Draft Local Plan. In doing so, the Inspector reasoned that "*moderate to significant weight*" be attributed to the adopted policies and "*limited weight*" to the emerging policies. Rather than concentrating upon the fact the site lies outside the development boundaries of Bradwell per se, the Inspector considered the siting of a dwelling in this location contravened the general District growth strategy, having found this generally consistent with established principles of the NPPF.

### **Neighbourhood Plan**

The Bradwell and Pattiswick Neighbourhood Plan was adopted in July 2019 and now forms part of the Development Plan for the area. The Neighbourhood Plan forms a new Development Plan document which was not 'made' at the time of the Appeal.

When examined, the Neighbourhood Plan was deemed to be in general conformity with the strategic policies contained within the Local Plan: this includes the general strategic growth approach and the general principles as set out in the NPPF. Paragraph 4.40 of the neighbourhood plan confirms that, in regard to housing, the Neighbourhood Plan should not be read in isolation; it forms a part of the wider suite of policies contained in the development plan:

*“All residential development, extensions and conversions considered under Policy 7 shall also need to be compatible with development plan policies, including those relating to the quality of design and protection of the countryside.”*

Policy 7 reads as follows:

- a) *Proposals for residential development will be supported where the proposed development:*
- i. Is located within defined settlement boundaries;*
  - ii. Includes housing types and tenures which meet the current and future housing needs of the Parish taking into account the existing housing stock. Proposals should ensure an appropriate housing mix.*
  - iii. Contributes positively to the existing rural character and appearance of the area;*
  - iv. Reflects and responds positively to the scale, design, density and layout of existing development in the surrounding area, and will not result in significant harm to neighbouring residential amenity;*
  - v. Will not result in significant harm to heritage assets (both designated and non-designated) in the surrounding area;*
  - vi. Will not result in any detrimental impact on local highway safety, and where possible improves highway safety within the Parish; and*
  - vii. Protects and enhances important features of the natural environment and biodiversity of the site and its surrounds;*
- b) *Development proposals for small scale residential development and extensions and conversions for residential use outside the Bradwell village settlement boundary shall be supported as an exception to planning policies where they;*
- Can demonstrate a significant contribution towards maintaining the future viability and sustainability of the adjacent settlement*
  - Are adjacent to an existing settlement or hamlet<sup>20</sup> and*
  - Do not provide a linear extension to Bradwell village along Coggeshall Road, Church Road, Rectory Meadow or Hollies Road.”*

The neighbourhood plan defines the term ‘hamlet’ as follows (Officer emphasis added):

*“Existing settlements and hamlets in the Parish are Perry Green, Clapdog Green, Glazenwood, the hamlets around Pattiswick Church and The Compasses, **the collection of buildings at Goslings Farm**, the developments in Bridge Hall Road, Hollies Road and Riverside. Please refer to the Village Design Statement.”*

The Neighbourhood Plan therefore introduced the concept that housing development can be found acceptable in the identified settlements and hamlets, including Gosling’s Farm; the most remote of all the settlements and hamlets from Bradwell. As the site lies adjacent the hamlet of Goslings Farm, if the Policy 7(b) test is satisfied, then an exception to the general rule could be made and the application approved.

To satisfy Policy 7(b) test, it must be demonstrated that a *“significant contribution”* arises from provision of a dwelling on this site. This contribution is judged relative to the baseline effects of the holding and its associated activities. In other words, to be found compliant with Policy 7(b), it must be successfully argued that the dwelling will *add to* or *facilitate* extra effects over and above those which would be delivered without a dwelling on the holding. Furthermore, these effects must be of a magnitude which is *“significant”* in the contribution they make to *“maintaining the viability and sustainability”* of Bradwell village.

The Policy 7(b) term *“significant contribution”* is not defined. It may therefore be a high bar or a low bar. However, any proposals granted on the basis of compliance with this test do have the potential to break ground concerning the interpretation of this term. The determination of this application therefore has the potential to set a precedent which can be applied to all other similar applications which may come forwards in the Neighbourhood Plan area in the future, including those which might propose development of a much larger scale in the hamlets than is proposed in this case.

### **Policy 7(b) Test**

Having regard to the Inspectors conclusion; - that the benefits of a single dwelling were *‘limited’* and that a remoteness from services exists, it would seem perverse to conclude that a dwelling in this location could make a *“significant”* contribution to the services in Bradwell. It can only therefore be concluded that the Policy 7(b) test is not passed in this particular respect.

However, it could be argued that the Policy 7(b) test criteria does not necessarily confine itself to demonstrating for support for local services. It could be argued that the NP, in establishing the possibility of housing development at Goslings Farm, set out to espouse principles in paragraph 78 of the NPPF: to be responsive to local circumstances by reflecting local needs. It could also be argued that the NP sought to *“identify opportunities for villages to grow and thrive”* (para. 78), permitting exceptions to the rule and applying the test in a more holistic way.

It is therefore possible that the Policy 7(b) test, which requires that housing demonstrate a “*significant contribution*” to the viability and sustainability of Bradwell, could embrace the wider meaning of sustainability as set out in paragraph 8 of the NPPF. This would notably include an economic objective to support rural enterprise and a strong local economy, a social objective which speaks to supporting development proposals which promote a communities’ social and cultural well-being, and an environmental objective which seeks to protect and enhance the natural environment.

### **Policy 7(b) Compliance**

The current proposals differ from the 2018 proposals in that they seek to make the case for a dwelling under Policy 7(b) of the Neighbourhood Plan. In addition, the application contains further information which argues that the provision of a dwelling on the holding would bring additional sustainability benefits to the village over and above those which already exist.

To understand the arguments in favour of this proposal, the nature of the holding is explained. The current activities which occur on the holding are as follows:

1. Keeping of 21 hens and selling of eggs;
2. Keeping of 7 sheep and 6 lambs which are sold for meat;
3. Keeping of 6 ducks and sale of ducklings;
4. Keeping of 4 guinea fowl raised for meat;
5. Keeping of 3 Alpacas for fleece;
6. Growing of 400 trees from seedling and the previous growing of trees on a non-commercial basis;
7. Low level ancillary uses which include farm husbandry and petting tours, craft workshops and educational visits for groups in the local community.

The holding operates primarily to provide produce and income for the applicants. However, surplus produce is sold in the local community, such as eggs, livestock and meat. The applicant has provided a business plan which sets out how they would first seek to increase the production from the holding, becoming self-sufficient and then increasing the surplus offer to the local community.

The financial information provided has not been professionally appraised, but the stated ambitions to increase fruit and livestock production, and develop a bedding plant, mushroom and commercial tree production enterprise are noted and do seem possible in theory. The applicant has also suggested they may seek to diversify the business to provide a small visitor facility and/or gun dog breeding enterprise, however no weight can be attributed to these aspirations as they would require planning permission and may well not be acceptable in terms of their highway safety or residential amenity impacts.

In short the applicant argues that a dwelling on the site would lead to the *additional* benefits as follows:

1. A more stable financial position whereby outgoings and overheads, such as existing accommodation costs, would be reduced and the enterprise could thus grow;
2. A more efficient operation, by way of additional time spent on the holding and increased outputs as a result;
3. An increase in productivity, through fewer losses of livestock and plants and the formation of a generally more cohesive production unit.

If successful, the applicant states that this may lead to the future employment of a staff member to support the enterprise, however given the small size of the holding and its limited capacity, Officers regard this aspect to be questionable. It is noted that to date the holding has not been proven to be viable as it has been reliant upon the owners taking a reduced salary to survive.

The Parish are supportive of the proposal. They regard the additional contribution that this dwelling would make to the viability and sustainability of Bradwell to be “*significant*” and to meet the Policy 7(b) test. In accepting this proposal as consistent with Policy 7, the Parish by extension appear comfortable with the notion that smallholdings and farmsteads elsewhere in the identified settlements and hamlets could acquire dwellings should comparable arguments be made.

In Officer’s view, the additional benefits stated would remain extremely limited and are somewhat circumstantial. It may be possible to tie the dwelling to the holding and therefore ensure its connection with the enterprise, but a permission would deliver no guarantee that large scale benefits would accrue as a direct result of a dwelling on the site.

The smallholding is clearly a valued community enterprise, however the wider economic and social benefits arising i.e. the increased sale of local produce which the local community might consume, could only ever be ‘limited’ given the scale of any retail element must remain ancillary to the primary agricultural use of the site. The notion that the scale of benefit would therefore be “*significant*” does not square with established planning principles or the general manor in which proposals elsewhere have been consistently assessed in the planning balance. Officers therefore have no choice but to conclude the proposal would not be compliant with Policy 7 of the Neighbourhood Plan based on a conventional interpretation of the term “*significant contribution*”.

As the Neighbourhood Plan does not contain policies and allocations that meet its housing requirement (see Paragraph 14 of the NPPF), the identified conflict with Policy 7 is not sufficient alone to provide the significant and demonstrable impact required to render it contrary to the presumption in favour of sustainable development under Paragraph 11. However, for the reasons set out below, there are additional impacts which are contrary to the Framework which, when taken as a whole, mean the proposal does not in fact be sustainable development within the context of Paragraph 11.

### Visual Impact

The building to be converted contains no intrinsic architectural merit, but currently has a quiet character which does not over-ride the predominantly agricultural character of the site.

The introduction of windows to the external elevations of the existing building would confer it a domestic character that would be alien to the otherwise rural setting. In addition, the inevitable introduction of domestic paraphernalia was noted by the Inspector as a harmful component in their judgement: *“The use of the building as a dwelling, with related domestic paraphernalia, is likely to alter the immediate setting of the area and result in minor to moderate harm of its rural character”*.

Whilst the applicant offered to accept a condition not undertake / introduce such domestic paraphernalia, the Inspector was not persuaded by such an assurance. They stated that it would not be reasonable to prevent occupiers from using the land around the dwelling as their garden, and that if the dwelling fell into different ownership this would inevitably occur.

Notwithstanding any benefits identified through the Policy 7 test, there still remains enduring harm which (as identified by the Inspector) arises from providing a dwelling in this location, notably the provision of a domestic setting to the rural character of this area. This harm contravenes Paragraph 124, 127 and 170(b) of the NPPF, in that it would fail to recognise the intrinsic character and beauty of the countryside, it would not represent good design or be *“sympathetic to local character”*. This use would be inappropriate in the countryside, also contravening Policy CS5 of the Adopted Core Strategy and Policy RLP90 of the Adopted Local Plan and causing visual impact which would not be in harmony with the character and appearance of the surrounding area.

### Highway Safety & Transportation

In the previous appeal, the Inspector observed the local highway network surrounding the site is currently unlit with narrow roads and no pedestrian pavements. He concluded that this restricts the access for non-motorised forms of transport at certain times of day, and that this increased the risk of conflicts arising on the surrounding roads which would be detrimental to the safety of road users. It is noted that the Highway Authority raise no objections to the proposal, however the general impacts of a dwelling which would induce reliance on motorised forms of transport and lead to inevitable polluting effects remain a valid consideration.

This Inspector reasoned therefore that harm arises from the isolation of the site from the range of services within the serviced settlements and the restricted transport options between these settlements and the site. In Officer's view this harm would effectively amount to a contravention of the objectives of Paragraphs 103 of the NPPF: which requires the planning



system actively manages patterns of growth to support the objectives of Paragraph 102, which includes considering the location of development relative to sustainable transport opportunities.

The applicant argues that the necessity for car travel would in fact be reduced because they would no longer need to travel between the site and their existing home in Bradwell village. However, this was an argument which was presented at the time of the Appeal, and the Inspector having considered this argument, still concluded that harm would be caused by a conflict with sustainable transport objectives and a potential danger to road users who might seek to pursue more sustainable forms of transport; these harms exceeding the benefits when judged in the round.

### Other Issues

#### **Self-build and custom-build dwellings**

The local planning authority has a duty under Paragraph 61 of the NPPF to assess the need for Self and Custom-build housing and reflect this in the planning policy it sets. Self-build and custom housebuilding is defined in the Housing and Planning Act as: “...*the building or completion by— (a) individuals, (b) associations of individuals, or (c) persons working with or for individuals or associations of individuals of houses to be occupied as homes by those individuals. But it does not include the building of a house on a plot acquired from a person who builds the house wholly or mainly to plans or specifications decided or offered by that person.*”<sup>6</sup> It would appear that the conversion proposed would qualify under this definition.

Under the Self Build and Custom Housebuilding Act 2015, local authorities are required to keep a register of those seeking to acquire serviced plots in the area. Under sections 2 and 2A of the act the LPA are required to “*have regard for the register and give enough suitable development permissions to meet the identified demand*”. Identified demand does exist for self-build and custom plots in the District (see policy response) and this is therefore a material consideration. This need could be given some weight provided a S106 Agreement can be secured to ensure availability to those on the register. However, it would not appear that the applicants are on the register, so the dwelling would reduce the Council’s self-build targets, but it would not actually reduce the demand as defined by those on the register.

Notwithstanding the above, the term “*suitable permission*” suggests a judgement or criteria should be applied even when an identified need exists and would be met. In this instance the isolated location of the plot is contrary to the adopted growth strategy and would result in detrimental visual impact. No indications are evident within National or Local policy which would direct the provision of self-build and custom housing in otherwise unsustainable locations or in locations which run counter to the over-arching principles of sustainability as set out in Paragraph 8 of the NPPF. It is noted that the Inspector to the previous Appeal was not persuaded that the benefits of self-

build/custom plot were sufficient to overcome the other harms which have been identified.

## **Quiet Lanes**

The applicant argues that as Sheepcotes Lane is now a 'Quiet Lane' and therefore is safer to use by sustainable modes of transport than it was when the Inspector considered the Appeal.

Under the Quiet Lanes and Home Zones (England) Regulations 2006, local traffic authorities can designate roads as Quiet Lanes. This enables the County to introduce measures and signage which promote the use of the road for shared use by walkers, cyclists, horse riders or other vehicles. The aim of Quiet Lanes is to maintain the character of minor rural roads by seeking to contain rising traffic growth that is widespread in rural areas.

In the Explanatory Memorandum to The Quiet Lanes & Home Zones (England) Regulations 2006 (2006 No.2082), Annex A, section 4 it is noted that *"it may be appropriate to use development controls, where the local planning authority (after consulting with other stakeholders) considers it necessary, to control the generators or destinations of traffic to a level commensurate with the Quiet Lane concept"*. It does not therefore necessarily follow that acquiring Quiet Lane status means more development should occur, in fact, it may mean less development should occur in order to limit pressure for use by the motor car.

The Local Highway Authority confirmed the following in an email to Officers on 6<sup>th</sup> February 2020: *"Sheepcotes is currently not a quiet lane, a request was received from the Parish Council a few years back to request one. It meets all the current guidelines (single track, less than 1000 vehicles a day, 85% percentile speeds below 35mph).*

*Since this request was received we decided to trail the quiet lanes to determine if they had a positive effect this is still ongoing, we are hoping to have the conclusion before the end of March. When the panels may then be able to look at commissioning additional quiet lanes".*

Notwithstanding the above, assuming Sheepcotes Lane were a Quiet Lane, it is still unlikely that the Quiet Lane designation would extend all the way to Bradfield. As a consequence, the same issues identified by the Inspector for pedestrians and cyclists will be encountered elsewhere on the route, even if not experienced on Sheepcotes Lane. For the above reasons, whilst Quiet Lane status is a material consideration, but has not proved determinative in the planning balance regarding this application.

## **PLANNING BALANCE AND CONCLUSION**

The presumption in favour of sustainable development sits at the heart of the NPPF. The Framework is clear in its instruction at Paragraph 11d, that for decision-taking this means where there are no relevant development plan

policies, or the policies which are most important for determining the application are out-of-date (this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in Paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years), granting permission unless: (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Such an assessment must take account of the economic, social and environmental impact of the proposed development and these matters must be considered in the overall planning balance.

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).

The arguments in relation to this proposal are complex and have been set out in detail in this report, but essentially a decision condenses to the following stages of judgement:

*Question 1: Is this proposal in general compliance with the development plan?*

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.

Having regard for the previous appeal decision, it follows that the answer to the above question would be a 'no' unless Policy 7 of the Neighbourhood Plan

(a new consideration since the appeal) is deemed determinative to this judgement.

Policy 7 can only be satisfied if the identified economic and social benefits generated by the dwelling, (over and above the baseline benefits which the holding already provides), are sufficiently “*significant*” in their contribution towards the viability and sustainability of Bradfield as to provide exception to the general rules established elsewhere in the Development Plan.

The Officer view is that the Policy 7(b) test is not passed as the dwelling adds little benefit on top of the existing benefits which would already exist from the smallholding. As a result, the proposal is contrary to the development plan when read as a whole. It is however acknowledged the matter is new territory and therefore lies within the gift of Members to define, having specific regard for any transferable principles this might create for future applications in the rest of the Neighbourhood Plan area.

Should Members decide that Policy 7 is complied with, they may decide that the effect of this is to find compliance with the Development Plan as whole. In such an instance, unless material considerations exist which indicate otherwise (NPPF Para 11(d), Question 2 below) the application could be approved.

Should Members decide Policy 7, or the Development Plan as whole, are not complied with then, in the absence of any areas or assets of particular importance (under NPPF Paragraph 11(c)(i)), and given the presumption to approve the development, the second question below becomes particularly pertinent, because if it is not found such, permission should be granted:

*Question 2: “do other harmful impacts exist which would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies of the Framework or taken as whole?”*

As Officers find that the proposal is contrary to the Development Plan, on the basis of the tilted balance, Officers response to the above question is as follows:

- There would be a limited benefit arising from the provision of a single dwelling.
- If secured under a S106 Agreement, the proposal could reduce the Council's self-build target by a single dwelling. Limited weight would arise from this benefit as the proposal would not effectually meet the demand by being available to anyone identified on the register.
- There would be a negligible benefit to the local economy from the conversion of the dwelling.
- The benefits to the local economy from provision of a dwelling on the site would also be limited: the *current* economic and social contribution

of the commercial activities on the holding are substantial, but the *additional* benefits arising through provision of a dwelling would remain minor in their scope.

- There would be moderate harm caused by the provision of a dwelling in this isolated location, remote from the services and facilities in designated settlements.
- There would be a moderate harm from the works proposed and the change of use of the site to the rural character of the locality.

Given the scale of harm identified above, it is concluded that the adverse impacts would significantly and demonstrably outweigh the benefits when the tilted balance is applied and when this proposal is assessed against the policies in the Framework as a whole. The proposal is thus found not to comply with the Development Plan, and in the absence of material considerations which indicate otherwise, the proposal is recommended for refusal.

## RECOMMENDATION

It is RECOMMENDED that the following decision be made:  
Application REFUSED for the following reasons:-

- 1 The application proposal involves the conversion of a stable block to a dwelling for use by the applicant's in connection with an associated small holding. A limited benefit would accrue from provision of a self-build property for use by the applicants which would contribute towards the District housing supply. There would also be a temporary economic benefit arising from conversion of the dwelling. However, harm would be caused by the provision of a dwelling in this location, remote from the services and facilities in the serviced settlements.

The benefits of providing a dwelling are not considered to be of sufficient significance as to result in compliance with adopted policy, notably the Bradwell and Pattiswick Neighbourhood Plan (2019) Policy 7(b) (Housing). The proposal is also in established conflict with Policies RLP2 and RLP38 of the Adopted Local Plan and Policy CS5 of the Adopted Core Strategy. Furthermore, A dwelling in this location would thus be contrary to NPPF paragraphs Paragraph 103: which requires that the planning system actively manages patterns of growth to support the objectives of Paragraph 102, including locating development where it can best take advantage of sustainable transport opportunities.

In addition, harm would also arise from the provision a domestic setting to the rural character of this area. This harm contravenes

Paragraph 124, 127 and 170(b) of the NPPF, in that it would fail to recognise the intrinsic character and beauty of the countryside, it would not represent good design or be "sympathetic to local character". As such, the use would also be inappropriate in the countryside, contravening Policy CS5 of the Adopted Core Strategy and Policy RLP90 of the Adopted Local Plan and causing visual impact which would not be in harmony with the character and appearance of the surrounding area.

When assessed against the Framework as a whole, including the presumption in favour of sustainable development, the harm identified above would significantly and demonstrably outweigh the limited benefits of the proposed development.

### SUBMITTED PLANS

Roof Plan	Plan Ref: 004	
Location Plan		
Block Plan		
Existing Plans	Plan Ref: 002	
Proposed Plans	Plan Ref: 003	Version: A

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

# Appeal Decision

Site visit made on 26 June 2018

**by G Rollings BA(Hons) MA(UD) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 4<sup>th</sup> September 2018**

**Appeal Ref: APP/Z1510/W/18/3194146**

**Rainbows End, Sheepcotes Lane, Bradwell, CM77 8ER**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr & Mrs Michael Turner against the decision of Braintree District Council.
- The application Ref 17/01453/FUL, dated 3 August 2017, was refused by notice dated 5 October 2017.
- The development proposed is a change of use from stable block to single dwelling house, self-build conversion, including necessary building works.

## Decision

1. The appeal is dismissed.

## Procedural Matters

2. The Government published an updated version of the *National Planning Policy Framework* (the Framework) on 24 July 2018. This supersedes the previous 2012 version and applies to all planning decisions from this date. As it was published after site visit but before the issue of this decision, the main parties were provided with an opportunity to comment on the updated Framework and its impact on the appeal case.
3. The Council is currently reviewing its local plan, and has provided draft policies within its evidence. It is currently being examined and initial feedback has been provided to the Council and as such, its policies have moderate to significant weight in my decision. The appeal site is also within the area covered by the Bradwell with Pattiswick Parish Neighbourhood Plan. However, this is only at consultation stage, and has not yet been subject to an examination process to determine its soundness. As such, this has only limited weight in my decision.

## Main Issue

4. The main issue is the appropriateness of the new dwelling within a rural area.

## Reasons

5. The appeal incorporates the creation of a new dwelling on a site outside a defined settlement boundary. The nearest defined settlements are Bradwell and Silver End, where there are a range of services, both of which are around 1.2 kilometres from the site. The appeal site is a smallholding with several buildings of various sizes last used for agricultural related purposes. The

former stable block had undergone some building works at the time of my visit, and was partly used as storage, and partly vacant.

6. The revised *National Planning Policy Framework* (the Framework) (2018) states at paragraph 79 that the development of isolated homes within the countryside should be avoided, although can be supported in certain circumstances. One of these is that the development should reuse redundant or disused buildings and enhance its immediate setting. The appellant has stated that the appeal building is redundant and the development would improve the appearance of the building by providing a domestic setting, although I acknowledge the Council's concern that this could be at odds with the prevailing rural character and appearance of the site. The use of the building as a dwelling, with related domestic paraphernalia, is likely to alter the immediate setting of the area and result in minor to moderate harm of its rural character.
7. Additional policy is provided in the local context. The Council's *Core Strategy* (2011) Policy CS 5 notes that development outside settlement boundaries will be strictly controlled to uses appropriate in the countryside. Draft Local Plan Policy LPP 1 provides sets out a similar approach to apply in the future. *Braintree District Local Plan Review* (2005) Policy RLP 2 sets out that new development will be confined to the areas within settlement boundaries, with exceptions for affordable housing, and Policy RLP 38 restricts the conversion of rural buildings to residential use, except where every reasonable effort has been taken to secure a business or community use, or part thereof. I have no evidence to suggest that this has been undertaken. These policies are consistent with the intent of the Framework, and given the aforementioned absence of evidence and the site's location outside a settlement boundary, the proposal conflicts with the development plan for the area.
8. Nonetheless, I have reviewed the additional evidence provided by the appellant in support of the application. Statements have been provided regarding the convenience provided by co-locating the building around Goslings Farm. The buildings there, as well as the appeal site, provide some modern infrastructure of the type set out by the appellant, but this would be true of most dwellings both inside and outside larger settlements in the district. I acknowledge the recent Court of Appeal judgement on whether a site can be considered to be isolated,<sup>1</sup> and consider that although the site may not be physically isolated from other development, there is a clear hierarchy for the location of new development within the district, generally confined to defined areas. I am not convinced in this instance that the discrete distribution of a small number of dwellings around Goslings Farm constitutes a non-isolated settlement in its own right, or that the addition of the appeal dwelling would alter this.
9. Evidence was also submitted in regard to access between the site, and Bradwell and Silver End. The local road layout may be altered in the future, but it is unlikely to affect direct road access, which is unlit with no pedestrian pavements. The same is true for the rights-of-way linking the site. This restricts access to the site by non-motorised transport to certain times of the day, with risks to the safety of users outside these times, including through conflict with vehicles along the narrow roads. I acknowledge the appellant's comments on the low likelihood of new private car journeys to the new dwelling, but the same may not be true of future occupiers.

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<sup>1</sup> Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2017] EWHC 2743 (Admin); [2018] EWCA Civ 610.



10. I therefore conclude that the dwelling would not be appropriate within this rural area. Its isolation from the range of services provided within defined settlements, and restricted sustainable transport options, would be harmful to the living conditions of future occupiers, and the provision of a domestic setting would be harmful to the site's rural character. The proposal conflicts with Core Strategy Policy CS 5, and Local Plan Review Policies RLP 2 and RLP 38, for the reasons set out above.

#### *Other issues*

11. I acknowledge that the location of the proposed dwelling on a small holding would assist with the viability of the holding, and that there is local support for the proposal. However, no essential need has been demonstrated for a dwelling in this location, in line with the advice in the Framework (paragraph 79). I have also taken into account the fact that the development would provide other benefits, including that it would be self-build housing and that its construction would be in keeping with local vernacular.
12. The appellant also brought several other matters to my attention, with regard to the development's benefits in meeting the social and economic objectives of the Framework. I am in no doubt as to the positive value of some of these. However, the three overarching objectives of the Framework are interdependent, and should be considered as a whole, and the benefits do not negate the development's overall conflict with the Framework and development plan.
13. Although the issue was not explicitly raised by the appellant, the Council has acknowledged that it currently has no five-year housing land supply. As such, it is necessary for me to determine whether the adverse impacts of the development would significantly and demonstrably outweigh the benefits inherent in providing an additional dwelling to assist the Council in addressing its undersupply as set out in paragraph 11 of the Framework. The shortfall is minor, based on the Council's latest calculations as at December 2017, and as such there would only be limited benefits in the provision of one dwelling. Given the harm that I have identified, I consider that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole, including its presumption in favour of sustainable development.

#### **Conclusion**

14. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*G Rollings*

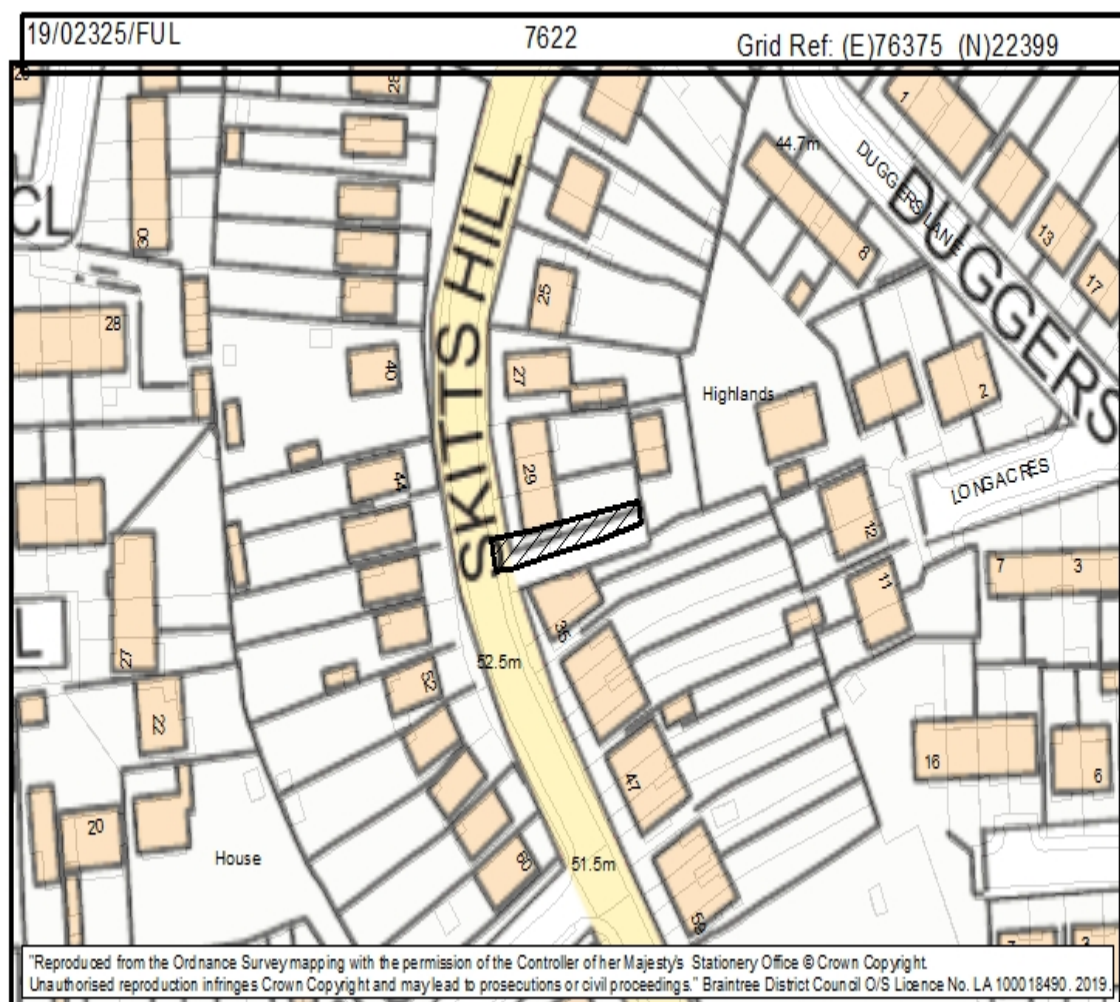
INSPECTOR

PART A

AGENDA ITEM NUMBER 5d

APPLICATION NO: 19/02325/FUL  
DATE VALID: 14.01.20  
APPLICANT: Mr D Bridge  
C/O Agent  
AGENT: Whymark & Moulton Ltd  
14 Cornard Road, Sudbury, Suffolk, CO10 2XA  
DESCRIPTION: Erection of a two storey, two bedroom end of terrace dwellinghouse and new vehicular access.  
LOCATION: 31 Skitts Hill, Braintree, Essex, CM7 1AU

For more information about this Application please contact:  
Mrs Natalie Banks on:- 01376 551414 Ext. 2545  
or by e-mail to: [natalie.banks@braintree.gov.uk](mailto:natalie.banks@braintree.gov.uk)



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=Q2YYRVBF0J900>

## SITE HISTORY

None

## POLICY CONSIDERATIONS

Currently the Council's development plan consists of the Braintree District Local Plan Review (2005) and the Core Strategy (2011).

The Council is currently working on a Draft Local Plan, which was approved by the Council unanimously for consultation on the 20th June 2016 and was the subject of public consultation between the 27th June and 19th August 2016. The Draft Local Plan, now referred to as the Publication Draft Local Plan, was approved by the Council on 5th June 2017 for consultation and for submission to the Secretary of State. The public consultation ran from 16th June to 28th July 2017. The Publication Draft Local Plan was submitted to the Secretary of State on the 9th October 2017.

The Publication Draft Local Plan is currently the subject of an examination by an Inspector appointed by the Secretary of State for Housing, Communities and Local Government.

The examination into the Section 1 Local Plan continued in January 2020. Hearing sessions have now been completed, and the North Essex Authorities have now received an initial letter from the Inspector outlining his findings on Section 1 Local Plan.

The Inspector has found the Section 1 Local Plan sound, subject to modifications. Two of those main modifications are the removal of two of the proposed garden communities at West of Braintree and Colchester Braintree Borders. Nevertheless he has indicated that other parts of the Plan can be found including the housing target which for Braintree equals a minimum of 716 dwellings per annum. A full list of proposed modifications will be published in due course.

In accordance with paragraph 48 of the NPPF, from the day of publication the Council can give weight to the emerging Draft Local 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 can continue to afford some weight to the emerging Publication Draft Local Plan 2017.

It should also be noted that the Council was previously working on a Site Allocation and Development Management Plan (the ADMP). This plan was subject to extensive public consultation in 2013 and 2014. The ADMP was not however submitted to the Planning Inspectorate, due to the decision to begin work on a new Local Plan, to take into account the most up to date Government guidance. However parts of the ADMP have been rolled forward into the Draft Local Plan. It is therefore considered that it would be consistent with the provisions in paragraph 48 of the NPPF, to afford more weight in decision making to the parts of the Draft Local Plan which have been rolled forward from the ADMP, due to the more advanced stage reached by those elements.

#### National Planning Guidance

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

#### Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP3	Development within Town Development Boundaries and Village Envelopes
RLP10	Residential Density
RLP56	Vehicle Parking
RLP70	Water Efficiency
RLP90	Layout and Design of Development

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

CS9	Built and Historic Environment
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#### Braintree District Publication Draft Local Plan 2017

SP1	Presumption in Favour of Sustainable Development
SP6	Place Shaping Principles
LPP1	Development Boundaries
LPP37	Housing Type and Density
LPP45	Parking Provision
LPP50	Built and Historic Environment
LPP50	Built and Historic Environment
LPP55	Layout and Design of Development

## INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is being reported to Planning Committee in accordance with the Council's scheme of delegation as the application has been 'Called In' by Councillor Bowers.

## SITE DESCRIPTION

No.31 Skitts Hill is a semi-detached dwelling on the east side of the road where the hill starts to level off. The character of the area is mixed and is from different periods of the Twentieth Century. The dwelling is of a conventional design, featuring a hipped roof, and a bay window at ground floor on the front elevation. The neighbouring property, No.29 Skitts Hill, is a mirror image but has been altered and has a large 2-storey extension to the side. The development to the north is of an earlier period and there are bungalows on the opposite side of the road. There is an access track to the side of No.31 which is for the use of 'Highlands', a large property to the rear of the site. The site is located within the Town Development Boundary.

## PROPOSAL

This application seeks permission for the erection of a new 2-bed house which would be attached to the existing dwelling. Its design is a simplified version of the existing, omitting the bay window and featuring a gable end. It would be 'articulated' to differentiate it from the host dwelling. The materials proposed are brick and render to match the existing. It would measure approximately 7.8m in height, 4.2m in width and 7.5m in depth. The single storey element would measure approximately 3.3m in height, 3.5m in width and 3.9m in depth.

Revised plans have been submitted at the request of Officers to clarify the amount of parking that could realistically be provided for both the new and existing dwelling. Two parking spaces measuring 2.9m x 5m are proposed for the existing dwelling with one for the proposed which are in accordance with the Vehicle Parking Standards in terms of their size.

Amenity space in the region of 70.73sq.m would be provided for the new dwelling, with 83.34sq.m for the existing.

## CONSULTATIONS

### ECC Highways

The Highway Authority has considered the provision of an additional access to provide parking for one vehicle outside No.31. The reduction in use of the existing access (which will provide parking for the proposed dwelling) from two, to one parking space, is noted. Given the site location and the number of accesses from neighbouring properties and therefore the likely low speed of

vehicles, the Highway Authority is content that the proposal is not detrimental to highway safety or efficiency.

## REPRESENTATIONS

One letter of representation has been received from the occupier of No.29 Skitts Hill, summarised as follows:

- The scale and scope of the parking bays fail to meet Essex County Council's standards.
- The new vehicular access does not even remotely have the necessary visibility splays for a road which carries a significant amount of traffic, with a 30mph speed limit or indeed for pedestrians.
- The construction of new dwellings in gardens is recognised in national guidelines as potentially being harmful to local neighbourhoods and should be "resisted" by local authorities, with a possible exception being made where there is a demand for such "windfall" sites to meet housing supply targets. There is no such need in the Braintree area.
- The construction of a new dwelling attached to an existing semi-detached property will have a detrimental effect on the streetscape of Skitts Hill. It would have the visual impact of an additional dwelling merely "bolted" or "tagged on" to an existing pair of semi-detached houses.
- Lack of future proofing and sustainability - The proposed new property has two bedrooms which means it is designated as a smaller dwelling. The plans clearly indicate that any extension would be impossible or highly difficult given the single storey at the back of the new dwelling (which follows existing plan of No.31).

Following the submission of revised plans:

- The amended plan seeks to address only a small number of points that were identified, in particular the size of the parking places in front of the existing and the proposed property.
- The access plan is unrealistic and misleading as it does not take account of the telegraph pole or existing fences. The proposal remains dangerous in terms of highway safety.

## REPORT

### PRINCIPLE OF DEVELOPMENT

## National Planning Policy Framework (NPPF)

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).

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.

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.

The NPPF underlines the Government's objective of significantly boosting the supply of homes. In this regard, Paragraph 59 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 73 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.

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.

## The Development Plan

Currently the Council's statutory Development Plan consists of the Braintree District Local Plan Review (2005) and the Braintree District Core Strategy (2011).

The application site is located within the town development boundary in Braintree where, and in accordance with the Adopted Local Plan, Adopted Core Strategy, and Draft Local Plan, new residential development is considered to be acceptable in principle.

### 5 Year Housing Land Supply

A material consideration in this case, is the Council's current housing land supply position. In July 2018 the Government published the new National Planning Policy Framework 2018 (NPPF2) which was subsequently revised in February 2019 (NPPF3). These revisions to national policy changed the basis of how the 5 year housing land supply is calculated. The Council is bound to take into account this revised version of national policy by s.70(2)(C) Town and Country Planning Act 1990.

For decision making purposes, as Braintree District Council does not have an up to date Local Plan, the Council is currently required to calculate the housing target using the Government's Standard Methodology, until such time as the new Local Plan is adopted.

Following the publication by Government of the 2019 Housing Delivery Test results on 13th February 2020, Braintree District is now required to apply a 20% buffer to its five year supply target.

The Council's latest Five year supply position 2020-2025 shows a supply of 4.52 years.

The Council considers that the supply indicated above represents a robust assessment of the Council's Housing Land Supply position.

The Council is continuing to gather evidence on the updated deliverable supply in the District, taking into account progress on identified sites, the addition of deliverable new sites, and updated information from developers.

However, the lack of a 5 year housing land supply is therefore a material consideration which weighs in favour of the proposed application.

### SITE ASSESSMENT

#### Location and Access to Services and Facilities

The strategy set out in the Draft Local 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".



CS7 of the Adopted Core Strategy states that future development will be provided in accessible locations to reduce the need to travel.

In this case, the application site is located within the Town Development Boundary of Braintree, and is therefore located in a highly sustainable location with good access to services and facilities as well as a range of public transport.

#### Design, Appearance and Impact on Residential Amenity

Paragraph 124 of the NPPF indicates 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 development, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 127 seeks to ensure that development functions well adding to the overall quality of the area, not just for the short term but over the lifetime of the development. The design of new development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future occupiers.

Policy RLP3 of the Adopted Local Plan supports new development in sustainable locations, subject to it respecting and responding to the character of the existing street scene in order to ensure that it does not materially detract from the character of the settlement. With infill plots such as this the design and intensity of any new building must be in harmony with existing surrounding development and respect neighbouring amenities.

Policy RLP10 of the Adopted Local Plan states that the density and massing of new residential development will relate to, amongst other things, the characteristics of the site and the layout and density of surrounding development.

Policy CS9 of the Adopted Core Strategy and Policy RLP90 of the Adopted Local Plan require a high standard of design in all new development. The scale, density, height and massing of buildings should reflect or enhance local distinctiveness; there shall be no undue or unacceptable impact on the amenity of any nearby residential properties; the layout, height, mass and overall elevational design of buildings and developments should be in harmony with the character and appearance of the surrounding area.

As well as being required to have regard to the policies set out in the Development Plan and the NPPF, consideration must also be given to relevant standards in terms of amenity space and for vehicle parking, referred to in more detail below. The Council has adopted the Essex Design Guide (EDG) which recommends that a minimum of 50sq.m of outdoor space is provided for up to a 2-bed property, with 100sq.m for 3-beds and above.

Skitts Hill is not of a uniform character, featuring a mix of detached, semi-detached, and terraced houses from the 1920s to the 1960s. Many of the

houses have been altered from their original state with cladding, render and Upvc windows and doors, resulting in there being no overall design characteristic, apart from the uniform building line. Gardens sizes also vary, as does parking provision, with front gardens now serving as parking areas.

The new dwelling is respectful of its host by being smaller in height and width, and by featuring similar design detailing. Whilst the parking provision is short of the Essex Vehicle Parking Standards in terms of the amount, the spaces for each dwelling are well designed and would not over-dominate the frontage. In terms of amenity space, the new dwelling exceeds the standard set out in the Essex Design Guide and although slightly short for the existing dwelling, this is considered acceptable in this urban location.

The impact of the proposal on neighbouring residential amenity has also been assessed and it is concluded that the positioning of the dwelling relative to the existing dwellings either side or to the rear will not give rise to material harm in terms of overlooking, overshadowing or being overbearing to an unacceptable extent that consent should be refused

Whilst it is acknowledged that the proposal will change a pair of semi-detached houses to a small terrace, as the design is acceptable in the context of the street scene and given that the site is close to a row of terraces of 4 dwellings, it is considered that a reason for refusal on these grounds would be difficult to substantiate.

The comment regarding the inappropriate development of residential gardens set out in Paragraph 70 of the NPPF is noted, however, this relates to local planning authorities being required to give consideration to developing policies to resist such development where it would cause harm to the local area. In this case, the Council has no adopted or draft policies which seek to prevent the development of gardens. Such applications fall to be considered on their merits in relation to adopted design policies and standards. The design of this proposal has taken its cue from the existing dwelling. It would also follow the building line of development in the locality with a similar sized frontage, ensuring that it blends well with the character of the street scene. As such, it is concluded that the design of the proposal is acceptable and is compliant with adopted policy and the NPPF.

### Highway Considerations

In promoting Sustainable Development Paragraph 103 of the NPPF indicates that the planning system should actively manage patterns of growth in support of the Government's objective of improving transport networks and reducing reliance on the private car. Paragraph 105 states that if setting local parking standards for residential and non-residential development, policies should take into account:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users; and

- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

Paragraph 109 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.

Policy RLP56 of the Adopted Local Plan requires that all new development is provided with sufficient parking in accordance with the adopted Essex County Council Vehicle Parking Standards. In this case, 2 vehicle parking spaces are required for 2-bed properties and above. However, the Standards also state that a reduction may be considered in urban areas that have good links to sustainable transport. This site is on a bus route and within a reasonable walking distance of the railway station. The Highway Authority have also raised no objections to the proposals on highway safety grounds.

It is evident that most front gardens in the area have been adapted under the terms of the General Permitted Development Order to allow off-street parking which has had an effect on the availability of on-street parking. The amount of vehicles that can be accommodated off-street also varies from house to house. It is not unreasonable therefore that 1 parking space would be provided for the new and existing dwelling, given the local context. It is acknowledged that only one car parking space is proposed, contrary to the abovementioned standards which weighs against the proposal in the overall planning balance.

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

The site is situated within the Zone of Influence (ZOI) for the Blackwater Estuary SPA/Ramsar site.

In this regard, Natural England have published revised interim guidance on 16th August 2018 in connection with the emerging strategic approach relating to the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) to ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations.

In accordance with the revised interim guidance an appropriate assessment has been completed for this application, as it falls within the threshold of a scheme of 99 residential units or less and is located within the updated Zones of Influence. Where an appropriate assessment concludes that a likely significant effect would occur, the Local Planning Authority is required to secure a financial contribution towards off site mitigation at the identified natura 2000 sites to mitigate the impact of the development upon these sites.

However, whilst the appropriate assessment of the Local Plan has identified a likely significant effect for all residential development in-combination with other

plans and projects, the amount of minor and major development proposals for 1-99 houses that is likely to be granted planning permission prior to the adoption of the RAMS, which will require financial contributions for all residential proposals, is considered to be de minimis considering that the RAMS will be dealing with the in-combination effects of housing growth across Essex over a 15 year period. As such, it is concluded that this proposal would not have a likely significant effect and therefore no financial contribution is requested in this case. Notwithstanding the above, at the present time, there are no specific costed projects identified and no clear evidence base to give the Local Planning Authority any ability to impose such a requirement for a proportionate, evidence based contribution

## PLANNING BALANCE AND CONCLUSION

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

Such an assessment must take account of the economic, social and environmental impact of the proposed development and these matters must be considered in the overall planning balance.

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).

As set out within Paragraph 47 of the NPPF, planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In this case the application site is located within the Braintree Town Development Boundary where the principle of development is acceptable.

The development would provide some socio-economic benefits in by providing an addition to the housing stock of a much-needed 2-bed house, employment during the construction phase and via the introduction of a new household into the local economy, albeit this is limited to the scale of development proposed in this case. The development is also well designed and is located in a sustainable location, reducing the need for travel. Whilst it is acknowledged that there is a shortage of on-street parking in the area, and whilst this weighs against the proposal, this is typical of many urban locations and is would not outweigh the positive benefits the development would deliver.

This proposal is well designed, would provide a good standard of amenity and could take place without material detriment to the overall quality, character and appearance of the area.

When considering the planning balance and having regard to the requirements of the NPPF as a whole, Officers have concluded that the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Consequently it is recommended that planning permission is granted for the proposed development.

### RECOMMENDATION

It is RECOMMENDED that the following decision be made:  
Application GRANTED subject to the following conditions and reasons and in accordance with approved plans:-

### APPROVED PLANS

General Plans & Elevations Plan Ref: 19/220-01

Version: E

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

### Reason

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

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

Reason

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

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

Reason

To ensure the use of appropriate materials having regard to the importance of this scheme in a rural area and to ensure that the choice of materials will harmonise with the character of the surrounding development.

- 4 No unbound material shall be used in the surface finish of the driveway within 6 metres of the highway boundary of the site.

Reason

To avoid displacement of loose material onto the highway in the interests of highway safety.

INFORMATION TO APPLICANT

1 All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to: SMO1 - Essex Highways, Colchester Highways Depot, 653, The Crescent, Colchester Business Park, Colchester CO4 9YQ

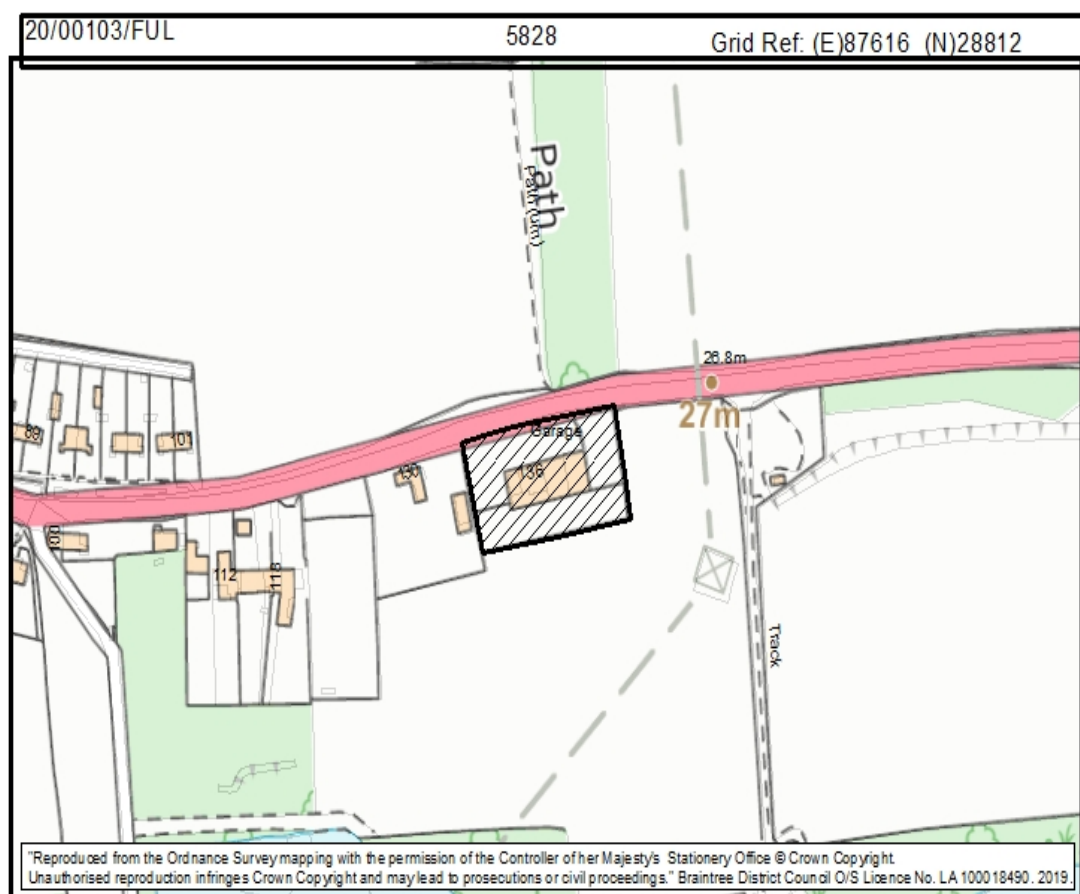
CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

## PART A

## AGENDA ITEM NUMBER 5e

APPLICATION NO: 20/00103/FUL DATE: 16.01.20  
VALID:  
APPLICANT: Colne Commercials Ltd  
Colne Commercials, 136 Colchester Road, White Colne,  
CO6 2PP  
AGENT: Barry Whymark  
14 Cornard Road, Sudbury, CO10 2XA  
DESCRIPTION: Retention of 1.9m high coloured steel mesh security fencing  
and gate to site frontage.  
LOCATION: Colne Commercials, 136 Colchester Road, White Colne,  
Essex, CO6 2PP

For more information about this Application please contact:  
Mr Peter Lang on:- 01376 551414 Ext.  
or by e-mail to: [peter.lang@braintree.gov.uk](mailto:peter.lang@braintree.gov.uk)



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=Q47DMKBFKE400>

## SITE HISTORY

01/00043/REF	Erection of five detached dwellings and garages	Appeal Dismissed	10.04.02
04/00091/REF	Demolition of existing commercial buildings and erection of new B1 industrial units	Appeal Dismissed	30.06.05
01/01460/OUT	Erection of five detached dwellings and garages	Refused then dismissed on appeal	10.10.01
02/02015/FUL	Erection of four dwellings and garages	Refused	23.12.02
03/01117/COU	Change of use of building to office and storage in connection with floor sanding business and installation of car wash facility	Granted	30.09.03
03/02285/COU	Change of use of land to display for sheds and summerhouses	Granted	22.04.04
04/01607/FUL	Demolition of existing commercial buildings and erection of new B1 industrial units	Refused then dismissed on appeal	24.09.04
04/02201/COU	Change of use of land for car sales	Granted	30.12.04
76/01294/P	Alterations and extension	Granted	13.12.76
79/00569/P	Proposed alterations and extension to existing garage to provide vehicle workshop	Granted	21.05.79
80/00018/A	Erection and display of illuminated pole mounted sign	Granted	08.07.80
80/00952/P	Erection of above ground diesel oil storage tank	Granted	06.08.80
80/01628/P	Conversion and change of use of existing bungalow to office, and erection of additional screening and additional use of part of site for storage of plant equipment	Refused	27.01.81



81/00293/P	Conversion of existing bungalow to office and erection of additional screening and additional use of site for storage of plant and equipment	Granted	03.06.81
85/00789/P	Installation of new 8,000 gallon underground petrol tank within boundaries of existing garage	Granted	12.09.85
76/01294/ 79/00569/	Alterations and extension Proposed alterations and extension to existing garage to provide vehicle workshop	Granted Granted	13.12.76 21.05.79
80/00018/A	Erection and display of illuminated pole mounted sign	Granted	08.07.80
80/00952/	Erection of above ground diesel oil storage tank	Granted	06.08.80
80/01628/	Conversion and change of use of existing bungalow to office, and erection of additional screening and additional use of part of site for storage of plant equipment	Refused	27.01.81
81/00293/	Conversion of existing bungalow to office and erection of additional screening and additional use of site for storage of plant and equipment	Granted	03.06.81
85/00789/	Installation of new 8,000 gallon underground petrol tank within boundaries of existing garage	Granted	12.09.85
93/01531/FUL	Demolition of existing shop and office and erection of replacement office/car showroom	Granted	14.02.94
94/00789/FUL	Demolition of existing workshops and erection of new replacement workshop	Granted	23.08.94
94/01100/FUL	Proposed new access and extra parking area	Refused	03.11.94
94/01513/FUL	Proposed new access, parking area and landscaping	Refused	07.04.95
95/00553/FUL	Demolition of existing workshop, toilet etc and	Granted	09.08.95

	replacement of workshop, offices, toilets and mess room, incorporating new front access, rear parking and landscaping		
12/01613/FUL	Erection of front and rear extensions and new pitched roof	Granted	11.02.13

## POLICY CONSIDERATIONS

Currently the Council's development plan consists of the Braintree District Local Plan Review (2005) and the Core Strategy (2011).

The Council is currently working on a Draft Local Plan, which was approved by the Council unanimously for consultation on the 20th June 2016 and was the subject of public consultation between the 27th June and 19th August 2016. The Draft Local Plan, now referred to as the Publication Draft Local Plan, was approved by the Council on 5th June 2017 for consultation and for submission to the Secretary of State. The public consultation ran from 16th June to 28th July 2017. The Publication Draft Local Plan was submitted to the Secretary of State on the 9th October 2017.

The Publication Draft Local Plan is currently the subject of an examination by an Inspector appointed by the Secretary of State for Housing, Communities and Local Government.

The examination into the Section 1 Local Plan continued in January 2020. Hearing sessions have now been completed, and the North Essex Authorities have now received an initial letter from the Inspector outlining his findings on Section 1 Local Plan.

The Inspector has found the Section 1 Local Plan sound, subject to modifications. Two of those main modifications are the removal of two of the proposed garden communities at West of Braintree and Colchester Braintree Borders. Nevertheless he has indicated that other parts of the Plan can be found including the housing target which for Braintree equals a minimum of 716 dwellings per annum. A full list of proposed modifications will be published in due course.

In accordance with paragraph 48 of the NPPF, from the day of publication the Council can give weight to the emerging Draft Local 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 can continue to afford some weight to the emerging Publication Draft Local Plan 2017.

It should also be noted that the Council was previously working on a Site Allocation and Development Management Plan (the ADMP). This plan was subject to extensive public consultation in 2013 and 2014. The ADMP was not however submitted to the Planning Inspectorate, due to the decision to begin work on a new Local Plan, to take into account the most up to date Government guidance. However parts of the ADMP have been rolled forward into the Draft Local Plan. It is therefore considered that it would be consistent with the provisions in paragraph 48 of the NPPF, to afford more weight in decision making to the parts of the Draft Local Plan which have been rolled forward from the ADMP, due to the more advanced stage reached by those elements.

#### 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
RLP80	Landscape Features and Habitats
RLP90	Layout and Design of Development
RLP100	Alterations and Extensions and Changes of Use to Listed Buildings and their settings

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

CS5	The Countryside
CS8	Natural Environment and Biodiversity
CS9	Built and Historic Environment

#### Braintree District Publication Draft Local Plan 2017

LPP1	Development Boundaries
LPP50	Built and Historic Environment
LPP55	Layout and Design of Development
LPP60	Heritage Assets and their Settings

#### Neighbourhood Plan

None

## Other Material Considerations

### Essex Design Guide

- Highways Technical Manual

Essex Parking Standards Design and Good Practice 2009

ECC Development Management Policies 2011

- Policy DM1 General Policy

## INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is being reported to Planning Committee in accordance with the Council's scheme of delegation as the application has been 'Called In' by Councillor Mrs Spray.

## SITE DESCRIPTION

The application site contains a commercial building known as Colne Commercials. The application site is located on the south of Colchester Road and setback from the adjacent highway with the area to the front of the building used as car parking spaces for the commercial business within the site. The application site is located adjacent to a Grade II listed building, a late seventeenth century thatched cottage on the west of the site. The adjacent building is set behind a hedgerow, within a generous plot with open agricultural fields to the south as well as open agricultural fields to set behind a similar hedgerow to the north.

The application site is located in the countryside adjacent to the village envelope.

## PROPOSAL

Retrospective full planning permission is sought for the retention of the existing security fence erected to the site frontage boundary abutting the highway. The existing fence is made up of a coloured steel mesh fence on coloured steel posts, all 1.9m high. Set back 1m from the road edge.

A planning statement submitted in support of this application gives the reason for the fence is to protect the commercial premises from theft.

## CONSULTATIONS

### ECC Highways

Objection received which is summarised as follows:

- Based on the available evidence, the position of the 1.9m high security fence would obstruct the visibility splays for vehicles using the site access onto Colchester Road.

- This lack of visibility to is considered to result in an unacceptable degree of hazard to all road users to the detriment of highway safety.

#### Historic Buildings Consultant

Objection received which is summarised as follows:

- The neighbouring Grade II listed building is separated by a hedgerow to the application site and is characterised by an open agrarian setting. The existing application site is considered to be in contrast to this character.
- The fence is considered to have a detrimental impact on the setting of the Grade II listed building, cumulative to that caused by the existing situation prior to works commencing.
- Considers that subsection to other consultations including highways that a native hedge could be acceptable.

#### BDC Environmental Health

Comment received that there are no Environmental Health objections to the proposal.

#### PARISH / TOWN COUNCIL

##### White Colne Parish Council

White Colne Parish Council have objected to the application on the following grounds:

- The proposal goes against the historic planning conditions of applications 95/00553/FUL and 12/01613/FUL which relate to the site layout and potential obstruction of sight lines.
- The nature of the fencing has had a negative impact on the visual amenity of the area.
- The nearby section of Colchester Road is considered to have a high proportion of speeding vehicles exacerbating the potential loss of sight lines.
- Concerns about the associated increases in security light, an illuminated fascia sign and the removal of vegetation screening the site.

#### REPRESENTATIONS

10 representations have been received making the following comments:

- Residential amenity concerns.
- Concerns primarily stemming from the fence's height, design, colour and proximity to Colchester Road, which is a busy road.

- Loss of visibility when exiting by vehicle the application site and the neighbouring dwelling resulting in an increased risk of road accidents. There is also a bus stop close to the site.
- Loss of screening and landscaping as a result of the fence's construction and associated razor wire on the southern boundary.
- Poor visual integration of the fencing resulting in development that lacks reference to its surroundings.
- The security lighting on the site is considered to result in light pollution in a rural location to the detriment of neighbouring dwellings and highway safety.
- Concerns that the fence is closer the road than the submitted information indicates.
- The proposal conflicts with historic planning conditions.
- Confusion about the retrospective nature of the proposal and the timescales involved.
- Recent developments have resulted in excessive security on the site including someone living on site.

## REPORT

### PRINCIPLE OF DEVELOPMENT

#### National Planning Policy Framework (NPPF)

As set out in Paragraph 80 of the NPPF, planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. It stresses further in Paragraph 84 that it is important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable.

Paragraph 12 of the NPPF states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Paragraph 127 of the NPPF encourages that planning policies and decisions should ensure that developments: will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities); create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

When considering the impact of development on a historical asset the National Planning Policy Framework (NPPF) specifically states in paragraph 196 that; "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use".

### The Development Plan

Currently the Council's statutory Development Plan consists of the Braintree District Local Plan Review (2005) and the Braintree District Core Strategy (2011).

The application site is located outside of a designated town boundary and as such is located on land identified as countryside in the Local Plan Review (2005) and the Core Strategy (2011).

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.

Colne Commercials lies in the countryside beyond the village envelope of White Colne. There are no specific planning policies dealing with fencing to commercial sites in rural areas. The area around the site was previously designated as special landscape area, but Policy RLP79 of the Adopted Local Plan is not a saved policy and is now covered by a more general environment Policy in the Adopted Core Strategy, Policy CS8.

Officers considered the principle of erecting a fence along the frontage of this commercial premises is acceptable. This is however, subject to the application proposal meeting criteria on design, amenity and other material considerations as discussed below.

### SITE ASSESSMENT

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

The NPPF states that the planning system should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Draft Local 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.

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.

Policy CS8 of the Adopted 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'. 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 Draft Local Plan.

The retrospective proposal relates to security fencing which has already been installed on the site frontage boundary abutting the highway. This fence consists of steel mesh and posts some 1.9m high finished in black.

The local area is rural in character situated outside of the defined development boundary in the countryside, it is predominantly characterised by open fields with a few residential dwellings to the west of the site. The security fencing introduces an urban character to the setting and is considered to be out of keeping with the surrounding rural nature of the area. This stems from the prominent position, design and materials of the fencing used.

### Heritage Impact

Paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 196 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Policy RLP100 of the Adopted Local Plan supported by Policy CS9 of the Adopted Core Strategy and Policy LPP60 of the Draft Local Plan states inter alia that works will be permitted where they do not harm the setting, character, structural stability and fabric of the building (or structure); and will not result in the loss of, or significant damage to the building or structure's historic and architectural elements of special importance, and include the use of appropriate materials and finishes.



Furthermore, Policy LPP50 of the Draft Local Plan states that new development should; respect and respond to the local context, especially in the District's historic areas, where development may affect the setting of listed buildings and other buildings of historic or architectural significance, Conservation Areas, registered parks and gardens and areas of high archaeological and landscape sensitivity including designated heritage assets.

The application site is a commercial premises, located prominently adjacent to a highway and next to a Grade II Listed Building. The Historic Buildings Consultant has raised an objection to the security fence based on its impact of the setting of the neighbouring Grade II listed thatched cottage. The resulting impact is considered to be of greater harm than the existing relationship (that being prior to the fence being installed). This harm is considered to be 'less than substantial' harm to the significance of the identified designated heritage asset. This harm therefore should be weighed against the public benefits of the proposal in accordance with paragraph 196 of the NPPF.

It is acknowledged that the fencing has been installed for security reasons, which brings a benefit to the commercial user of the site. However there is insufficient evidence to suggest that increased security could not be achieved by way of an alternative solution to boundary treatment which was more appropriate to the sensitive location of the application site. Therefore whilst there would be a private benefit to the applicant it is not considered that the development results in any public benefit which outweighs the identified heritage harm.

#### Impact on residential amenity

Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Draft Local Plan states that development shall not cause undue or unacceptable impacts on the amenities of nearby residential properties. The NPPF further requires a good standard of amenity for all existing and future occupiers of land or buildings.

The installation of the fencing due to its street frontage position and the nature of the proposal, is not considered to result in harm to neighbouring residential amenity in any regards.

#### Impact on Highway network and other road users

Paragraph 109 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.

Policy DM1 (v) of the Adopted ECC Supplementary Guidance Highway Authority's Development Management (February 2011) states that proposals should not create a significant potential risk or be detrimental to the safety of the highway network.

It is noted that in the site's planning history, there are historic planning conditions that have been imposed relating to boundary treatments on the site. This includes condition No.6 of application reference 12/01613/FUL which was a pre-occupation condition and which has never been discharged. Another example of a historic condition is condition No.6 of 95/00553/FUL which limits boundary treatments for the given reason of highways safety.

As part of the application process, ECC highways were consulted for the retrospective proposed fencing of the commercial site. The response received states that this security fencing would obstruct the visibility splays for vehicles using the site access onto Colchester Road. This lack of visibility is considered to result in an unacceptable degree of hazard to all road users to the detriment of highway safety. Similar potential issues were also described in the neighbour consultation responses received and in the aforementioned planning history.

Taking these comments into account, this harm identified, is considered to be unacceptable and contrary to the aforementioned policies resulting in harm to highway safety and the free movement of traffic.

## CONCLUSION

The proposal seeks permission to retain an existing security fence which has been erected along the site frontage of Colchester Road. The development results in unacceptable harm to highway safety as a result of a lack of visibility and the obstruction of visibility splays for vehicles using the site.

The development also results in harm to the character and appearance of the surrounding area and 'less than substantial harm' to the setting of the adjacent Grade II Listed Building. In accordance with Paragraph 196 of the NPPF this harm should be balanced against any resulting public benefits of the development.

It is acknowledged that the fencing has been installed for security reasons, which brings a benefit to the commercial user of the site. However there is insufficient evidence to suggest that increased security could not be achieved by way of an alternative solution to boundary treatment which was more appropriate to the sensitive location of the application site. Therefore whilst there would be a private benefit to the applicant it is not considered that the development results in any public benefit which outweighs the identified heritage harm. The application is therefore recommended for refusal.

## RECOMMENDATION

It is **RECOMMENDED** that the following decision be made:  
Application **REFUSED** for the following reasons:-

- 1 The security fencing, by reason of its location and design, would obstruct the visibility splays for vehicles using the site access onto Colchester Road. The lack of such visibility results in an unacceptable degree of hazard to all road users to the detriment of highway safety. The development is therefore contrary to the aims and objectives of Policy DM1 of the ECC Development Management Policies 2011, and Policy RLP90 of the Adopted Local Plan.
- 2 The proposal results in 'less than substantial harm' to the setting of the adjacent Grade II Listed Building. The level of harm identified would not be outweighed by the public benefits of the proposal and is therefore contrary to the NPPF, Policy RLP100 of the Adopted Local Plan, Policy CS9 of the Adopted Core Strategy and Policies LPP50 and LPP60 of the Draft Local Plan.
- 3 The security fencing, by reason of its prominent position, design and materials, is out of keeping with the open agrarian landscape and has a detrimental impact upon the character and appearance of the area contrary to the National Planning Policy Framework, Policies RLP80 and RLP90 of the Adopted Local Plan, Policies CS8 and CS9 of the Adopted Core Strategy, and Policies LPP55 and LPP71 of the Draft Local Plan.

#### SUBMITTED PLANS

Location / Block Plan      Plan Ref: 20/002-01

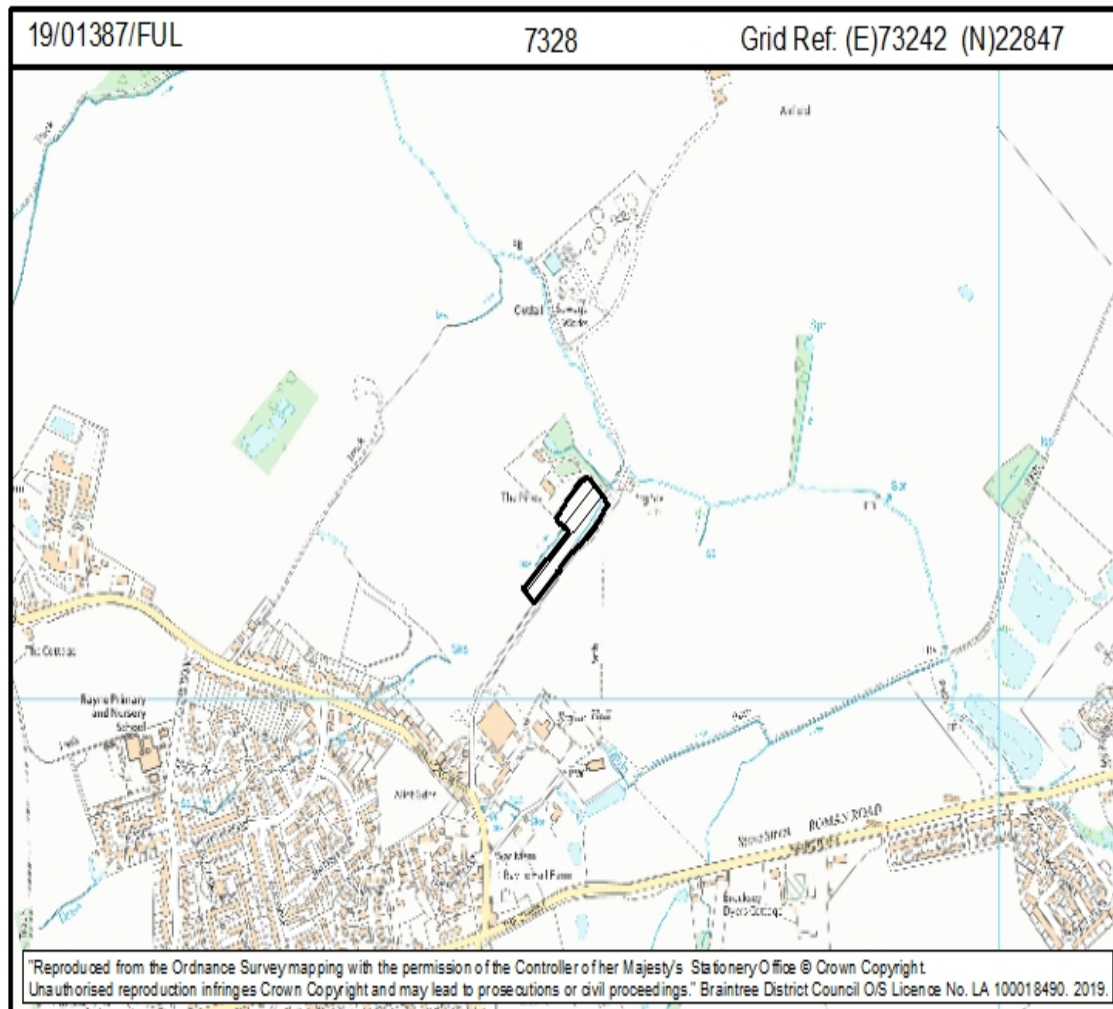
CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

PART B

AGENDA ITEM NUMBER 5f

APPLICATION NO: 19/01387/FUL  
DATE VALID: 24.09.19  
APPLICANT: Mrs McGregor  
C/O Agent  
AGENT: Brooks Leney  
Miss Lindsey Wright, Hill Farm, Hyntle Barn, Silver Hill,  
Hintlesham, IP8 3NJ  
DESCRIPTION: Retention of existing stable block and continued use of land  
for private equine use.  
LOCATION: Rayne Hall Farm, Shalford Road, Rayne, Essex, CM77 6BT

For more information about this Application please contact:  
Mrs F Fisher on:- 01376 551414 Ext. 2503  
or by e-mail to: [fayfi@braintree.gov.uk](mailto:fayfi@braintree.gov.uk)



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PVI6OFBFH R200>

## SITE HISTORY

10/00027/COND	Change of use to light industrial factory unit (manufacture of UPVC windows and doors) (Retrospective application)	Appeal Allowed	05.11.10
00/00955/COU	Change of use of redundant agricultural building to light industrial (furniture manufacturing) Unit 3 - Renewal of Application No. 98/00897/COU	Granted	15.08.00
03/01160/COU	Change of use of Unit 3 to storage of building materials	Granted	09.09.03
87/0699/P	Change of use of agricultural shed and land to aircraft parking and flying.	Granted	18.06.87
85/01472/	Change of use of 4 farm buildings to light industrial/warehousing	Withdrawn	27.05.86
87/00093/	Change of use of redundant farm building to furniture makers workshop	Granted	18.03.87
87/01241/	Change of use of redundant milking parlour to workshop for recovering fabric on vintage aircraft	Granted	27.08.87
88/01455/P	Change Of Use Of Cattle Shed To Light Industrial/Craft Workshops	Granted	22.08.88
89/01021/P	Proposed Change Of Barn, Construction Of Link Entrance Hall, Car Parking And Access Re-Arrangements	Refused	01.11.94
89/01022/P	Proposed Change Of Barn, Construction Of Link Entrance Hall, Car Parking And Access Re-Arrangements	Refused	01.11.94
89/01635/	Change of use of part of redundant farm building to extend joinery workshop	Granted	13.10.89
89/01635/P	Change Of Use Of Part Of	Granted	10.10.89

	Redundant Farm Building To Extend Joinery Workshop		
90/01778/PFBN	Renewal Of Temporary Consent -Bte/1241/87 Use Of Redundant Milking Parlour To Workshop For Recovering Fabric On	Granted	22.01.91
90/01779/PFBN	Renewal Of Temporary Consent Bte/1455/88 - Change Of Use Of Cattle Shed To Light Industrial/Craft Workshops	Granted	22.01.91
91/00112/PFBN	Variation Of Planning Permission To Increase Number Of Aircraft Using Airfield And Number Of Movements To 20 Per Proposed 9 Hole Golf Course	Refused	02.04.91
91/00217/E			
91/00871/PFBN	Variation Of Existing Planning Permission To Increase Number Of Aircraft To 8 & Number Of Flights To 8 At Weekends & 4	Granted	17.09.91
91/01406/PFBN	Proposed 9 Hole Pay And Play Golf Course	Withdrawn	11.02.92
92/00334/PFBN	Change Of Use From Agricultural To Nine Hole Pay And Play Golf Course Incorporating Pavilions & Car	Withdrawn	05.07.94
94/01011/COU	Change of use of old stable block for polishing and staining of reproduction antique furniture	Granted	11.11.94
94/01012/COU	Change of use of agricultural building to workshop for polishing staining and preparing antique furniture	Granted	11.11.94
94/01013/COU	Change of use of agricultural building to restoring classic cars	Granted	11.11.94
94/01057/COU	Change of use of agricultural building to light industrial	Granted	11.11.94
94/01168/COU	Change of use of part redundant farm buildings from agricultural to light	Refused	08.12.94

96/00438/COU	industrial and construction of car park Change of use of redundant agricultural building to light industrial (furniture manufacturing) unit 3	Granted	26.07.96
98/00897/COU	Change of use of redundant agricultural building to light industrial (furniture manufacturing) Unit 3 - Renewal of Application No. 96/438/COU	Granted	25.09.98
98/01388/AGR	Erection of machinery, fertilizer and seed store	Permission not Required	20.10.98
06/01686/TPOCON	Notice of intent to carry out works to trees in a Conservation Area - carry out work to 2 trees	Pending Consideration	
06/02056/FUL	Erection of agricultural building for tractor storage and workshop	Refused	18.12.06
10/00278/FUL	Change of use to light industrial factory unit (manufacture of UPVC windows and doors) (Retrospective application)	Granted	27.04.10
10/00175/DAC	Application for approval of details reserved by condition no. 2 of approval 10/00278/FUL	Granted	17.08.10
12/00134/TPOCON	Notification to carry out works to trees within a Conservation Area. T1 Maple - Fell as close to ground level as possible and treat the stump.	Granted	28.06.12
13/00145/TPOCON	Notice of intent to carry out works to trees in a Conservation Area - Trim back 1 tree to the edge of the building and Remove 1 tree	Granted	13.08.13
19/00150/FUL	Erection of a replacement agricultural workshop building	Application Returned	
19/01079/FUL	Installation of a concrete pad for stables.	Application Returned	
04/01576/TPO	Notice of intent to carry out works to trees protected by	Granted	01.10.04

08/01807/TPO	Tree Preservation Order No. 26/00	Granted	27.10.08
	Notice of intent to carry out works to trees protected by Tree Preservation Order No. 26/00 - Carry out works to trees		
12/00065/FUL	Erection of two bay cart lodge with loft storage	Granted	28.02.12
12/00057/DAC	Application to discharge condition no. 3 of approved application 12/00065/FUL - Erection of two bay cart lodge with loft storage	Granted	04.05.12

### POLICY CONSIDERATIONS

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The Publication Draft Local Plan is currently the subject of an examination by an Inspector appointed by the Secretary of State for Housing, Communities and Local Government.

The examination into the Section 1 Local Plan continued in January 2020. Hearing sessions have now been completed, and the North Essex Authorities have now received an initial letter from the Inspector outlining his findings on Section 1 Local Plan.

The Inspector has found the Section 1 Local Plan sound, subject to modifications. Two of those main modifications are the removal of two of the proposed garden communities at West of Braintree and Colchester Braintree Borders. Nevertheless he has indicated that other parts of the Plan can be found including the housing target which for Braintree equals a minimum of 716 dwellings per annum. A full list of proposed modifications will be published in due course.

In accordance with paragraph 48 of the NPPF, from the day of publication the Council can give weight to the emerging Draft Local 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 can continue to afford some weight to the emerging Publication Draft Local Plan 2017.

It should also be noted that the Council was previously working on a Site Allocation and Development Management Plan (the ADMP). This plan was subject to extensive public consultation in 2013 and 2014. The ADMP was not however submitted to the Planning Inspectorate, due to the decision to begin work on a new Local Plan, to take into account the most up to date Government guidance. However parts of the ADMP have been rolled forward into the Draft Local Plan. It is therefore considered that it would be consistent with the provisions in paragraph 48 of the NPPF, to afford more weight in decision making to the parts of the Draft Local Plan which have been rolled forward from the ADMP, due to the more advanced stage reached by those elements.

#### 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
RLP56	Vehicle Parking
RLP65	External Lighting
RLP85	Equestrian Facilities
RLP90	Layout and Design of Development

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

CS5	The Countryside
CS8	Natural Environment and Biodiversity
CS9	Built and Historic Environment

#### Braintree District Publication Draft Local Plan 2017

SP1	Presumption in Favour of Sustainable Development
SP6	Place Shaping Principles
LPP1	Development Boundaries

LPP45	Parking Provision
LPP54	Equestrian Facilities
LPP55	Layout and Design of Development
LPP81	External Lighting

## INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is being reported to Planning Committee in accordance with the Council's scheme of delegation as Rayne Parish Council has objected to the proposal contrary to Officer recommendation.

## SITE DESCRIPTION

The site is approximately 325 metres along Old Rectory Lane, to the east of Rayne village. The area of land comprises an L-shaped piece of fallow land on a separate plot which is encompassed by farmed agricultural land. Old Rectory Lane is accessed via the Shalford Road which forms the north eastern edge of the Rayne Village Development Boundary.

There is a hedge along the south boundary of the site which borders Old Rectory Lane, otherwise it is largely open to the north abutting agricultural fields and a boundary ditch. The site forms an L-shape with grazing area bordering the residential property of The Pines to the north-east. The Pines is surrounded by a group of protected trees, some of which are on the boundary to this site. A small part of the north eastern edge of the site falls within Flood Zone 2.

## PROPOSAL

The application is for retrospective planning permission for the change of use of agricultural land to equestrian use with the erection of a stable building. It includes alterations to the existing access and provision of grazing land.

The stable building is located in a setback position measuring 3.6 metres in depth by 10.5 metres in width and is 2.77 metres high. It is constructed of timber with a felt roof and is placed on a concrete hardstanding. A post and rail fencing and gates have been erected around the stable to create an inner compound with the area to the front of the stables laid to gravel. The area of grazing is demarked with the use of electric fencing and post and rail fencing.

A concrete hardstanding is located within the bottom corner of the site. This is to be removed and as such no longer forms part of this application.

## CONSULTATIONS

### Environment Agency

No objections to the plans as proposed. Maps show the development will be in close proximity to the Statutory Main River Tributary of Pods Brook, however the development will not impact flow of the watercourse.

### Essex County Council Highways

From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to conditions relating to visibility splays and no unbound material within 6 metres of the highway boundary.

### BDC Environmental Health

No objection to the application on Environmental Health grounds. However, in view of the proximity of a nearby residential property 'The Pines' it is recommended that storage of manure be located away from said property, preferably to the west, or south of the Stable block. This is to minimise odour disturbance to nearby residents.

### BDC Landscape Services

Confirm that the use of Leylandii is inappropriate. A native hedge should be used in its place.

### PARISH / TOWN COUNCIL

#### Rayne Parish Council

Rayne Parish Council objected to the above application on the following grounds:

Impact on protected trees, detrimental impact on neighbour amenity and privacy, impact on water course due to foul waste, detrimental impact on the landscape character and on a listed building (Rayne Hall), unjustified intrusion in the countryside and concern on impact upon protected species and question why is such a large plot of land is required for a small number of horses.

### REPRESENTATIONS

4 letters of objection and 1 letter of support have been received which can be summarised as follows:

- Serious negative impact on property and standards of living to occupants of 'The Pines'.
- Highway safety issues with lack of visibility.
- Impact on biodiversity.
- The environmental impact of stables being so close to open water course.

- Loss of vegetation is causing additional pooling and flooding
- Inappropriate use within floodplain
- Possible further change of use
- Loss of privacy from CCTV and safety concerns from electric fence and horse bites.
- Visual intrusion into the landscape also being with visual distance of the listed building Rayne Hall.
- Impact on trees which are subject to tree preservation orders.

## REPORT

### Principle of Development

The site lies beyond any defined settlement boundaries in an area where countryside policies apply. Policy CS5 of the Adopted Core Strategy states that development outside town development boundaries and village envelopes will be strictly controlled to uses appropriate to the countryside in order to protect and enhance the landscape character and amenity of the countryside.

Policy RLP85 of the Adopted Local Plan and Policy LPP45 of the Draft Local Plan allow for new equestrian facilities in the countryside, subject to certain criteria.

Policy RLP90 of the Adopted Local Plan seeks a high standard of layout and design in all developments. 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.

In consideration of the above noted policies, the change of use of the land from agricultural to equestrian and erection of stables is acceptable in principle subject to compliance with the abovementioned criteria.

### Design and Appearance and impact on rural area

In terms of impact on the rural character of the area, Policy RLP85 of the Adopted Local Plan states that stable buildings or other equestrian facilities, will be permitted where:

- (a) There is no significant effect on a Special Landscape Area, other important landscape or nature conservation interests or any adjacent residential area;
- (b) No alterations to vehicular highways in the area are required;
- (c) Bridleways and byways in the vicinity are located and designed to accommodate horse riders from the site; and
- (d) No additional residential accommodation is consequently required to supervise the facilities.

In this case, the site comprises an area of land which has historically been used for agriculture, but has been largely left fallow in recent years. Notwithstanding this, the land is shown as Grade 3 'good to moderate' agricultural land on the Natural England Agricultural Land Classification Map. However part of the site does fall within the Flood Zone and possibly does not lend itself to the production of crops if it is liable to flooding. In terms of landscape character, the area of cultivated land to the north is largely surrounded by fallow land similar to this site and the land slopes towards Pods Brook from Shalford Road.

Under Criterion (a) of the above policy and the impact on the rural character of the area, the site is not located within a special landscape area nor is it adjacent to a residential area. There are also no important landscape areas identified nor nature conservation interests within the vicinity of the site. In terms of the size and height of the proposed stable building it is considered reasonably modest, functional and simplistic in its design. The works undertaken in association with the provision of the stable including the laying of a permeable gravel surface within the inner compound. This has introduced built form within the rural area and is visible when viewed from Old Rectory Lane when approaching the site, and from the rear of the houses along Shalford Road. However, across wider longer views the site is largely hidden.

The works also included the removal of a section of hedgerow to allow for better visibility from the existing access and the laying of hoggin where the access meets with the highway. Officers consider that these works have contributed to the change in the character of this part of the lane.

Whilst these works have resulted in greater visibility of the site, the removal of the hedgerow is not restricted in terms of current planning legislation and the stable building and grazing areas are not alien features within a rural landscape. Therefore, Officers consider that whilst the immediate character of the rural setting has changed character, it is not out of character with a rural setting and is not considered to be detrimental to a degree which would warrant the refusal of the application.

In terms of Criterion (b), the applicant has removed a portion of hedgerow and laid a hoggin surface over the existing access, but has not made any changes to the vehicular highway itself.

In terms of criterion (c) the closest bridleway/byways is located 55 metres corner of the site and approximately 150m from the access, thus being sufficiently close to facilitate use.

With regard to criterion (d), as indicated in the preceding section, the applicant lives within 600 metres of the site. Whilst this is not considered to be immediately accessible, it is within a distance which would prevent the need for additional residential accommodation on the site.

Officers are therefore satisfied that the works comply with the relevant policy criteria contained within Policy RLP85 of the Adopted Local Plan.

### Impact on Neighbouring Residential Amenities

It is acknowledged that the site is visible from residential dwellings along Shalford Road, however, this is over long distance views. The number of stables provided and the information within the application indicates that the use of the site would have a low impact.

The control of matters such as the storage and disposal of waste, external lighting etc could be adequately controlled by condition.

Therefore, whilst the stable and associated works may be visible from some dwellings, the works are not considered to have a detrimental impact upon neighbouring residential amenity.

### Highway Considerations

In terms of highway considerations, the access to and from the site would be via a single track lane known as Old Rectory Lane. Old Rectory Lane terminates at Rayne Hall Farm Airfield which is used by a light aircraft flying club. This lane is accessed via Shalford Road which is within a 30mph limit. Officers consider that given the use of the lane is only used by members of the flying club and residents of 'The Pines' it is not considered that the proposed use would give rise to an intensification of the use of the lane to a degree which would be considered detrimental to the highway.

Essex County Council Highways Department are satisfied that an adequate visibility splay can be achieved and that this can be conditioned. In addition to this the hoggins surfacing should be exchanged for a hard surface for the first 6 metres of the access to prevent loose material from entering the highway. This can also be dealt with by way of condition.

On this basis it is considered that the application demonstrates that safe access/egress is achievable and as such is not considered a reason to refuse the application.

### Other Issues

A small part of the eastern edge of the site falls within Flood Zone 2. Equestrian uses are considered a less 'vulnerable use' and are therefore acceptable within flood zone areas.

There are some trees along the north western boundary of the site which are protected by Tree Preservation Orders. It is not proposed to remove any trees from the site and the nature of the proposal would not prejudice their retention.

Concerns have been raised that this application may lead to further applications for development or housing. It is unreasonable to withhold planning permission on this basis. Any future application would need to be assessed on its merits and in accordance with national and local planning policies relevant to the type of development proposed.

Concerns raised about wildlife and protected species are noted. However, the site has previously been in an agricultural use and ploughed by machinery, although currently left fallow it could be utilised for agricultural purposes without the need for further consent. A hedgerow surrounds a majority of the site and as such, there is no reason why the land could not continue to be used by wildlife. There is a post and rail fence around the perimeter of the inner compound would not adversely impact the use of the site by wildlife.

### Conclusion

Officers conclude that the change of use of this piece of land from agricultural to equestrian with associated works (which could be reversed at a later date) is not objectionable given the size and classification of the land. The use is appropriate in the rural setting in which it is located and no harm is anticipated to arise residential amenity or highway safety.

### RECOMMENDATION

It is RECOMMENDED that the following decision be made:  
Application GRANTED subject to the following conditions and reasons and in accordance with approved plans:-

### APPROVED PLANS

General Plans & Elevations  
Block Plan  
Location Plan

- 1 Within 3 months of the date of this decision, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4metres by 43metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be retained free of any obstruction at all times.

#### Reason

To provide adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety in accordance with Policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- 2 Within 3 months of the date of this decision, the vehicular access shall be

removed and a hard surface be laid for the entire width of the access within 6 metres of the highway boundary.

Reason

To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with Policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- 3 Within 3 months of the date of this planning permission, details of how manure is to be stored on site shall be submitted to and approved in writing by the local planning authority. The development shall only be implemented in accordance with the approved details and shall be permanently retained as such.

Reason

In the interests of the amenity of residents in the locality.

- 4 Within 3 months of the date of this planning permission, details of the removal of the Leylandii hedge and its replacement with a native species shall be submitted to and approved in writing by the local planning authority. The replacement planting approved shall be carried out in accordance with the approved details and in the first available planting season.

Reason

To enhance the appearance of the development and in the interests of amenity.

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

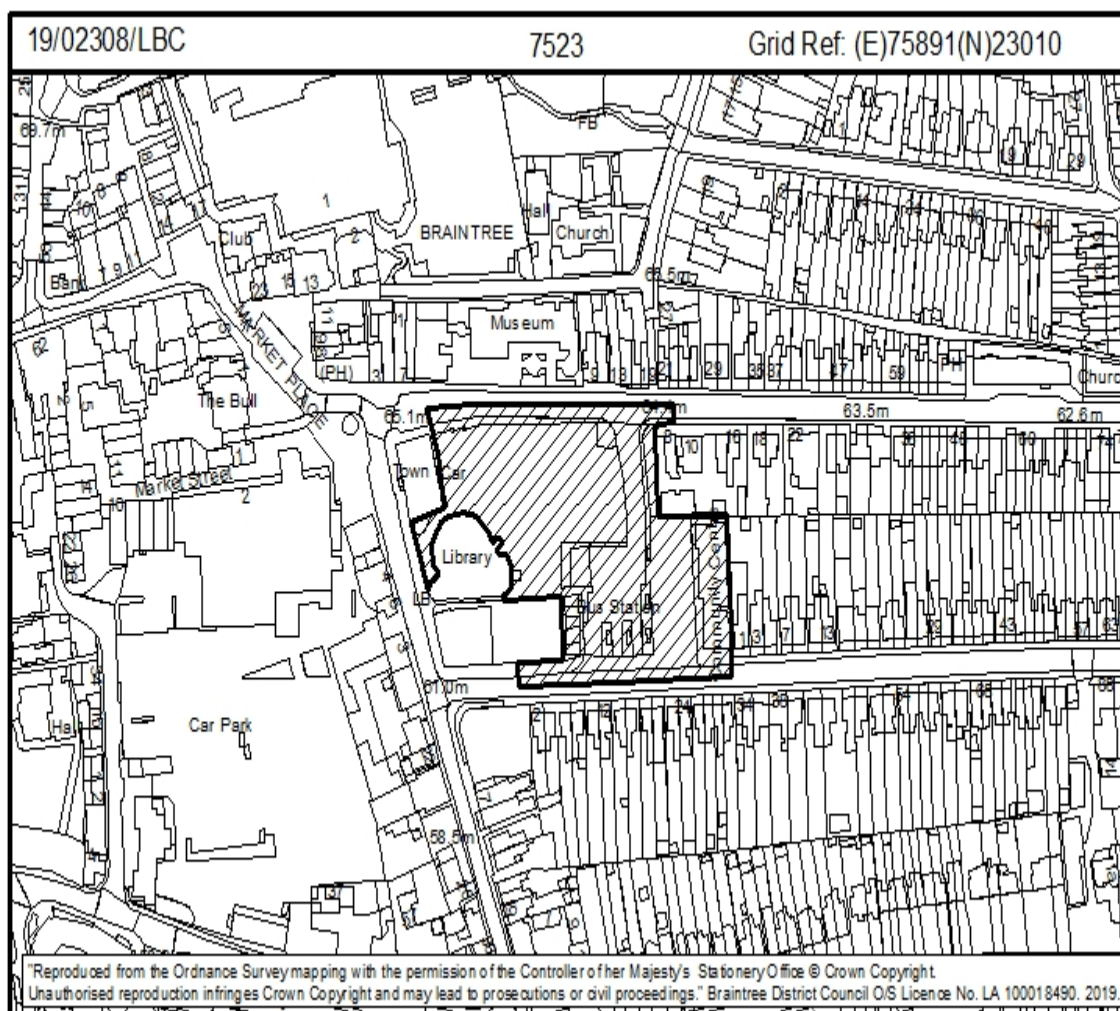


PART B

AGENDA ITEM NUMBER 5g

APPLICATION NO: 19/02308/LBC  
 DATE: 20.12.19  
 VALID:  
 APPLICANT: Kier Construction Ltd  
 C/O Resolution Planning  
 AGENT: Mr Inderjit Shokar  
 Beckett House, 14 Billing Road, Northampton, NN1 5AW  
 DESCRIPTION: Removal of part of an external wall to rear of the Town Hall and re-instatement  
 LOCATION: Existing Carpark Sites Between Manor Street & Victoria Street/Rear Of The Town Hall, Braintree, Essex

For more information about this Application please contact:  
 Lisa Page on:- 01376 551414 Ext.  
 or by e-mail to: [lisa.page@braintree.gov.uk](mailto:lisa.page@braintree.gov.uk)



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=Q2SWZMBFJZM00>

## SITE HISTORY

96/01361/BDC	Demolition of existing redundant school, formation of car park and ancillary works including landscaping and alterations to boundary walls	Granted	14.05.97
96/01362/CON	Demolition of existing redundant primary school to form car park	Granted	14.05.97
08/01367/FUL	Formation of new entrance at Manor Street, near to Town Hall car park and closure of current entrance. The road that leads to the bus park from Manor Street will solely become "Buses Only"	Granted	29.08.08
18/01337/FUL	Demolition of existing toilet block and adjacent vacant building to provide for the development of 31no. residential units (C3 Use), comprising 2 blocks (located to the east and west) up to 4 storeys in height containing a mix of one, two and three bedroom apartments; and the conversion and extension of the existing drill hall building (4no. units), containing a mix of one and two bedroom apartments (C3 Use). Provision of a Live Well Hub (D1 Use) at first floor level, Hotel (C1 Use) within the southern block to a height of 5 storeys and 3no. ground floor level units including retail (A1 / A2 / A3 Uses) and commercial uses (B1 and D1 Uses).	Granted	04.04.19

	Replacement bus station facility, car parking, amenity space, public open space, landscaping and associated works.		
19/02031/DAC	Application for approval of details reserved by condition 12 of approval 18/01337/FUL	Part Grant, Part Refused	17.12.19
19/02032/DAC	Application for approval of details reserved by condition 13 of approved application 18/01337/FUL	Granted	17.12.19
19/02236/DAC	Application for approval of details reserved by condition 23 of approved application 18/01337/FUL	Pending Consideration	
20/00213/DAC	Application for approval of details reserved by conditions 6 & 7 of approved application 18/01337/FUL	Part Grant, Part Refused	06.03.20
20/00254/NMA	Non-Material Amendment to permission 18/01337/FUL granted on 04.04.2019 for: Demolition of existing toilet block and adjacent vacant building to provide for the development of 31no. residential units (C3 Use), comprising 2 blocks (located to the east and west) up to 4 storeys in height containing a mix of one, two and three bedroom apartments; and the conversion and extension of the existing drill hall building (4no. units), containing a mix of one and two bedroom apartments (C3 Use). Provision of a Live Well Hub (D1 Use) at first floor level, Hotel (C1 Use) within the southern block to a height of 5 storeys and 3no. ground floor level units including retail (A1 / A2 / A3 Uses) and commercial uses (B1 and D1 Uses).	Granted	29.04.20

	Replacement bus station facility, car parking, amenity space, public open space, landscaping and associated works. Amendment would allow		
	- The standing seam roof to be changed to ribbed ply		
	- Shadow gap size to be modified		
	- Building basement modified		
	- Alteration to Louvres above first floor		
	- East block to be moved from the north boundary and widened		
20/00380/DAC	Application for approval of details reserved by condition 20 of approved application 18/01337/FUL	Granted	10.03.20
20/00531/DAC	Application for approval of details reserved by conditions 3 & 4 of approved application 18/01337/FUL	Pending Consideration	
20/00645/DAC	Application for approval of details reserved by condition 6 of approved application 18/01337/FUL	Granted	05.05.20
20/00729/DAC	Application for approval of details reserved by condition 12 of approved application 18/01337/FUL	Pending Consideration	
20/00787/VAR	Variation of Condition 2 'Approved Plans' of permission 18/01337/FUL granted 04/04/2019 for: Demolition of existing toilet block and adjacent vacant building to provide for the development of 31no. residential units (C3 Use), comprising 2 blocks (located to the east and west) up to 4 storeys in height containing a mix of one, two and three bedroom apartments; and the conversion and extension of	Pending Consideration	

	the existing drill hall building (4no. units), containing a mix of one and two bedroom apartments (C3 Use). Provision of a Live Well Hub (D1 Use) at first floor level, Hotel (C1 Use) within the southern block to a height of 5 storeys and 3no. ground floor level units including retail (A1 / A2 / A3 Uses) and commercial uses (B1 and D1 Uses). Replacement bus station facility, car parking, amenity space, public open space, landscaping and associated works. Variation would allow alterations to the approved plans.	
20/00819/DAC	Application for approval of details reserved by conditions 5,14,15,21 & 27 of approved application 18/01337/FUL	Pending Consideration

## POLICY CONSIDERATIONS

Currently the Council's development plan consists of the Braintree District Local Plan Review (2005) and the Core Strategy (2011).

The Council is currently working on a Draft Local Plan, which was approved by the Council unanimously for consultation on the 20th June 2016 and was the subject of public consultation between the 27th June and 19th August 2016. The Draft Local Plan, now referred to as the Publication Draft Local Plan, was approved by the Council on 5th June 2017 for consultation and for submission to the Secretary of State. The public consultation ran from 16th June to 28th July 2017. The Publication Draft Local Plan was submitted to the Secretary of State on the 9th October 2017.

The Publication Draft Local Plan is currently the subject of an examination by an Inspector appointed by the Secretary of State for Housing, Communities and Local Government.

The examination into the Section 1 Local Plan continued in January 2020. Hearing sessions have now been completed, and the North Essex Authorities have now received an initial letter from the Inspector outlining his findings on Section 1 Local Plan.

The Inspector has found the Section 1 Local Plan sound, subject to modifications. Two of those main modifications are the removal of two of the proposed garden communities at West of Braintree and Colchester Braintree Borders. Nevertheless he has indicated that other parts of the Plan can be found including the housing target which for Braintree equals a minimum of 716 dwellings per annum. A full list of proposed modifications will be published in due course.

In accordance with paragraph 48 of the NPPF, from the day of publication the Council can give weight to the emerging Draft Local 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 can continue to afford some weight to the emerging Publication Draft Local Plan 2017.

It should also be noted that the Council was previously working on a Site Allocation and Development Management Plan (the ADMP). This plan was subject to extensive public consultation in 2013 and 2014. The ADMP was not however submitted to the Planning Inspectorate, due to the decision to begin work on a new Local Plan, to take into account the most up to date Government guidance. However parts of the ADMP have been rolled forward into the Draft Local Plan. It is therefore considered that it would be consistent with the provisions in paragraph 48 of the NPPF, to afford more weight in decision making to the parts of the Draft Local Plan which have been rolled forward from the ADMP, due to the more advanced stage reached by those elements.

### National Planning Guidance

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

### Braintree District Local Plan Review 2005

RLP99	Demolition of Listed Buildings
RLP100	Alterations and Extensions and Changes of Use to Listed Buildings and their settings

## Braintree District Local Development Framework Core Strategy 2011

CS9                Built and Historic Environment

## Braintree District Publication Draft Local Plan 2017

LPP60            Heritage Assets and their Settings  
LPP61            Demolition of Listed Buildings or Structures

## NEIGHBOURHOOD PLAN

N/A

## INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is being reported to Planning Committee in accordance with the Council's scheme of delegation as the Applicant is Braintree District Council.

## SITE DESCRIPTION

The site is located within the town centre of Braintree and within the Braintree Conservation Area. The wall, subject of this application is attached to The Town Hall, a Grade II\* Listed Building. The wall lies to the rear of the Town Hall and currently forms part of the enclosure of the Town Hall parking area and also forms the boundary with the public carpark beyond.

## PROPOSAL

The proposal comprises the demolition and re-building of the stretch of wall that serves as the existing boundary between the Town Hall car park and the public car park (running north to south). The stretch of wall to be demolished measures 23 metres in length and varies in height between 1.0 and 1.3 metres.

For clarity, and as can be clearly seen on the drawings, not all of the wall behind the Town Hall is proposed to be demolished. The existing enclosure fronting Manor Street, including the wall, the pillars, archways and gates are to be retained.

In terms of the reasoning for the demolition, Members will be aware that, and as outlined within the application site history section below, planning permission has been granted under application reference 18/01337/FUL, for a mixed use redevelopment on this site. The information submitted with this listed building consent application outlines that the need for the demolition of this stretch of wall, which relates to it forming a constraint in terms of the construction of the redevelopment of the wider site. It is understood that the contractor is unable to move the piling rig along the basement wall of the

approved scheme without clashing with the section of wall subject of this application. It is therefore necessary to remove the wall along this elevation to prevent damage occurring to the wall and to facilitate the construction of the development.

It is proposed that in terms of the demolition, the bricks will be removed using small hand tools, with any non-broken bricks put aside for cleaning and storage such that they can be re-used in the rebuild of the wall.

The removal of the wall would not be a permanent feature, and the application seeks the re-build of the wall as shown on the drawings.

## CONSULTATIONS

### Historic Buildings Consultant

No objection, commenting that the intent is to remove the wall only temporarily. The proposed method of storing the existing bricks is acceptable and the wall should be re-instated as per the drawings.

### Historic England

Do not wish to offer any comments and recommend that the views of the Authority's specialist conservation adviser sought be sought.

## PARISH / TOWN COUNCIL

N/A

## REPRESENTATIONS

The application has been advertised by way of newspaper advert, site notice and neighbour notification. No representations have been received.

## REPORT

### Design, Appearance and Impact on Heritage Asset

As the application seeks the demolition of the curtilage listed wall and its re-build, after the construction of the wider Manor Street development, the main issues for consideration relate to the heritage impacts associated with the proposal and acceptability of the design and appearance of the re-build.

Policy CS9 of the Adopted Core Strategy states that the Council will promote and secure the highest possible standards of design and layout in all new development and the protection and enhancement of the historic environment in order to respect and respond to the local context, where development affects the setting of historic or important buildings, Conservation Areas and areas of highest archaeological and landscape sensitivity.



Of further relevance is Policy RLP100 of the Adopted Local Plan and Policy LLP60 of the Draft Local Plan, which state that development involving alterations or demolition to a listed structure will only be permitted if the proposed works do not result in the loss of, or significant damage to the structure's historic and architectural elements of special importance.

The application has been submitted with a detailed Heritage Statement, which has been reviewed by Officers and the Historic Building Consultant. The section of wall affected by this application is part of a later phase of development and this section is not the screen wall to the south elevation explicitly mentioned within the list description for the Town Hall. Officers are content that there is limited heritage significance of the fabric of the wall, which appears to have been partially rebuilt and is, of a lower quality brick and workmanship comparative to other sections of boundary walls which surround the building. The significance of the wall is from its contribution to the wider setting of the Town Hall, demarking its curtilage within the wider streetscape. Indeed, this can be seen on the 1955 OS map, which is the first to demark the location of the Town Hall following its completion in 1928.

Paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 196 of the NPPF, details that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

In terms of the public benefit, the removal of the wall will allow for the redevelopment of the wider 'Manor Street' site. (As discussed above, the siting of the wall currently forms a constraint in terms of the construction of the redevelopment of the wider site and it is therefore necessary to remove the wall to facilitate the construction of the development). The 'Manor Street' approval will provide a mixed use development that includes an NHS 'livewell' hub, hotel, shops and residential use and is a significant positive provision for the Town Centre. The 'less than significant harm' identified will be outweighed by the public benefits associated with the redevelopment.

Officers have reviewed the Heritage Statement and can accept that although the application does result in the removal of the listed wall, wherein the harm would be classed as 'less than substantial', as the wall is not significant in terms of historic fabric, its removal, subject to an appropriate replacement wall being erected to maintain the historic sense of enclosure and demarking of the Town Hall and therefore its setting, can be supported.

The application is supported with detailed information in regards to the method of demolition and storage of removed bricks, such that they can be re-

used in the rebuild. Bricks would be removed from the wall using small hand tools. Those non broken bricks would be placed to one side for cleaning, (again using small hand tools to chip off mortar) with bricks stacked on a pallet, of no more than 500 at a time. The pallet would be shrink wrapped and stored in a safe place for re-use at a later date. This would ensure that historic bricks and those better quality bricks are re-used. Officers are content that this method of demolition and storage of existing bricks is appropriate. A condition would provide for this, together that any other bricks required for the re-build would be first subject to agreement by Officers.

Further in regards to the re-build, the submission details that the wall would be erected to the same siting as the one it replaces. The height, position of pillars and other detailed design elements, to include the coping and bonding type (Flemish bonding), will be as per the existing wall, to ensure that the replacement wall will tie in with the other sections of wall that are to remain. The bonding type and mortar mix colour and pointing profile will be secured via condition.

## CONCLUSION

The application would result in the taking down of the existing wall and rebuilding on the same siting and to the same design specification. The section of wall affected by this application is part of a later phase of development and Officers are content that there is limited heritage significance of the fabric of the wall itself. Rather the significance of the wall is from its contribution to the wider setting of the Town Hall, demarking its curtilage within the wider streetscape.

The removal of the wall would allow for the mixed use redevelopment of the wider 'Manor Street' site, such that the 'less than significant harm' by its removal will be outweighed by the public benefits associated with the redevelopment. Although the application does result in the removal of the listed wall, as the wall is not significant in terms of historic fabric, its removal is acceptable, subject to an appropriate replacement wall being erected to maintain the historic sense of enclosure and demarking of the Town Hall. Indeed the method of demolition and storage of removed bricks for re-use is appropriate. The replacement wall would be built on the same siting and detailed design as per the existing.

As a result the development would be compliant with the requirements of the NPPF and the abovementioned policies.

## RECOMMENDATION

It is RECOMMENDED that the following decision be made:  
Application GRANTED subject to the following conditions and reasons and in accordance with approved plans:-

## APPROVED PLANS

Planning Layout	Plan Ref: LO-102-PO4
Location Plan	Plan Ref: BRT-AHR-S0-ZZ-DR-A-20-001-S03
Planning Layout	Plan Ref: MSBT-WWA-00-ZZ-DR-L-0111-S1 P01

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

### Reason

This Condition is imposed pursuant to Section 18 of the Planning (Listed Building & Conservation Areas) Act 1990.

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

### Reason

To ensure that the work does not affect the character or setting of the listed building on/adjoining the site.

- 3 The method of demolition of the wall, cleaning of bricks and storage provision of all unbroken bricks, shall be undertaken in accordance with the details contained within the Demolition Method Statement dated 18th March 2020.

### Reason

In the interests of appropriate re-use of existing bricks and in the interests of the setting of nearby listed buildings.

- 4 The wall to be erected, shall be constructed using the restored and cleaned bricks from the demolished wall. Prior to the use of any other bricks required in the construction of the wall, a sample shall first be submitted to and approved in writing by the Local Planning Authority. The works shall only be carried out in accordance with the approved details.

### Reason

In the interests of the setting of nearby listed buildings.

- 5 Prior to the commencement of the re-building of the wall, details of the brick bond, copings, mortar mix, colour and pointing profile (render mix, finish and colour) shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details and shall be permanently retained as such.

### Reason

To ensure the use of appropriate detailing on this listed building.

- 6 The re-building of the wall shall be completed in accordance with the approved details, prior to the first occupation of any residential units on the wider Manor Street redevelopment site.

Reason

In the interests of the setting of the listed building.

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER