

Minutes

Planning Committee 18th October 2022



Present

| Councillors | Present | Councillors | Present |
|--------------|--------------------|------------------------------|-----------|
| J Abbott | Yes | F Ricci | Yes |
| Mrs J Beavis | Yes (from 7.19pm) | Mrs W Scattergood (Chairman) | Yes |
| K Bowers | Yes (until 9.00pm) | P Schwier | Yes |
| H Johnson | Apologies | Mrs G Spray | Yes |
| D Mann | Yes | Mrs S Wilson | Yes |
| A Munday | Yes | J Wrench | Apologies |
| Mrs I Parker | Yes | | |

Substitute

Councillor A Hensman attended the meeting as a substitute for Councillor H Johnson.

42 **DECLARATIONS OF INTEREST**

INFORMATION: The following interests were declared:-

On behalf of Members of the Committee, Councillor Mrs W Scattergood the Chairman of the Planning Committee, declared a joint non-pecuniary interest in Application No. 21/00411/FUL - Land at The Airfield, Earls Colne as Mr M Hobbs, who was speaking at the meeting during Question Time on behalf of the applicant, was known to some of them.

On behalf of Members of the Committee, Councillor Mrs W Scattergood, the Chairman of the Planning Committee, declared a joint non-pecuniary interest in Application No. 22/02076/HH - Barn at Crows Farm, North Road, Belchamp Walter as the applicant's agent was related to an Elected Member of Braintree District Council, who was known to them.

Councillor K Bowers declared a non-pecuniary interest in Application No. 22/01527/FUL - Land East of High Street, Halstead in his role as the Council's Cabinet Member for Housing, Assets and Skills, as land connected with the application was owned by Braintree District Council. Councillor Bowers left the meeting when the application was considered and determined and he did not return.

Councillor A Munday declared a non-pecuniary interest in Application No. 22/01527/FUL - Land East of High Street, Halstead as Mrs E Penn, who was speaking at the meeting during Question Time on behalf of Halstead 21st Century Group, was known to him.

Councillor Mrs I Parker declared a non-pecuniary interest in Application No. 21/00411/FUL - Land at The Airfield, Earls Colne as Mr B Hobbs and Mr M Hobbs, who were speaking at the meeting during Question Time on behalf of the applicant, were known to her.

Councillor Mrs W Scattergood declared a non-pecuniary interest in Application No. 21/00411/FUL - Land at The Airfield, Earls Colne as Mr M Hobbs, who was speaking at the meeting during Question Time on behalf of the applicant, was known to her and he had contacted her to query the timescale for presenting the application to the Planning Committee for determination. Councillor Mrs Scattergood stated that she had not discussed the application with Mr Hobbs.

Councillor P Schwier declared a non-pecuniary interest in Application No. 21/00411/FUL - Land at The Airfield, Earls Colne as Mr M Hobbs, who was speaking at the meeting during Question Time on behalf of the applicant had contacted him to query the timescale for presenting the application to the Planning Committee for determination.

Councillor Mrs G Spray declared a non-pecuniary interest in Application No. 21/00411/FUL - Land at The Airfield, Earls Colne as Mr M Hobbs, who was speaking at the meeting during Question Time on behalf of the applicant, had contacted her to query the timescale for presenting the application to the Planning Committee for determination.

In accordance with the Code of Conduct, Councillors remained in the meeting, unless stated otherwise, and took part in the discussion when the applications were considered.

43 **MINUTES**

DECISION: That the Minutes of the meetings of the Planning Committee held on 23rd August 2022 and 4th October 2022 be approved as a correct record and signed by the Chairman.

44 **QUESTION TIME**

INFORMATION: There were nine statements made about the following applications. The statements were made immediately prior to the Committee's consideration of each application.

Application No. 21/00059/VAR - Morrisons Supermarket, Braintree Road, Witham
Application No. 21/00411/FUL - Land at The Airfield, Earls Colne

Application No. 22/01147/FUL - Land adjacent to Butlers Wood and Waldegrave Wood, West of A131 (in the Parishes of Bulmer and Twinstead), Sudbury Road, Bulmer

Application No. 22/01411/FUL - Edinburgh Woollen Mill, 29 Bank Street, Braintree

Application No. 22/01527/FUL - Land East of High Street, Halstead

Principally, these Minutes record decisions taken only and, where appropriate, the reasons for the decisions.

45 **PLANNING APPLICATIONS APPROVED**

DECISION: That the undermentioned planning applications be approved under the Town and Country Planning Act 1990, including Listed Building Consent where appropriate, subject to the conditions and reasons contained in the Planning Development Manager's report, as amended below. Details of these planning applications are contained in the Register of Planning Applications.

| <u>Plan No.</u> | <u>Location</u> | <u>Applicant(s)</u> | <u>Proposed Development</u> |
|---|------------------------|-------------------------------|---|
| *21/00411/FUL (APPROVED) | Earls Colne | Trustees of Marks Hall Estate | Change of use of land to be used as a Haulage Yard (Sui Generis) with associated works, security fencing, access and landscaping with the erection of a two-storey building to be used as ancillary office space, land at The Airfield. |
| <p>The Committee approved this application, subject to the amendment of Condition No. 6 and to the addition of an Information to Applicant as follows:-</p> <p><u>Amended Condition</u></p> <p>6. Prior to the installation of any external lighting, details with regard to the hours of lighting and lighting shielding measures shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details and the submitted External Lighting Impact Assessment carried out by Loveday Lighting Report reference: LL1193 dated 11/02/2021 Revision C, Outdoor Lighting Report reference LL1193-001 dated 10/02/2021, Private Proposed Lighting Revision A, Access Road, Northern Parcel, Drawing LL1193-001 dated 09/10/2020.</p> <p><u>Information to Applicant</u></p> <p>1. In discharging Condition 6 the Council will require that the detailed lighting scheme shall be designed with reference to the External Lighting Impact</p> | | | |

| <u>Plan No.</u> | <u>Location</u> | <u>Applicant(s)</u> | <u>Proposed Development</u> |
|-----------------------------|------------------------|--|---|
| *22/01147/FUL (APPROVED) | Bulmer | National Grid Electricity Transmission (NGET) | A new 400/132 kilovolt (kV) Grid Supply Point (GSP) substation including two supergrid transformers, associated buildings, equipment and switchgear, a single circuit cable sealing end compound, a new permanent vehicular access to the public highway, associated landscaping (including boundary fencing, an area for Biodiversity Net Gain, and landscape mounding) and drainage, land adjacent to Butlers Wood and Waldegrave Wood, West of A131 (in the Parishes of Bulmer and Twinstead), Sudbury Road. |

The Committee approved this application, subject to the amendment of Condition No. 9 and to an additional Information to Applicant as follows:-

Amended Condition

9. Prior to the installation of any external lighting at the site, a lighting design scheme to protect biodiversity, local amenity, and intrinsically dark landscapes shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall identify those features on, or immediately adjoining the site, that are particularly sensitive for bats including those areas where lighting could cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas of the development that are to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the approved scheme and retained thereafter in accordance with the scheme.

Temporary lighting installed during construction shall be provided by mobile solar lighting towers or similar. The lux level shall be 20 lux peak in the horizontal plane within the area of construction. The construction compound shall not be lit at night outside of core working hours except for welfare and site security cabins that will include low level lighting.

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

Additional Information to Applicant

3. In discharging Condition 9 the applicant shall include details of the measures that will be incorporated in the lighting scheme to ensure that the lighting is only turned on when personnel are on-site.

| <u>Plan No.</u> | <u>Location</u> | <u>Applicant(s)</u> | <u>Proposed Development</u> |
|----------------------------|------------------------|----------------------------|--|
| *22/02076/HH (APPROVED) | Belchamp Walter | Mr Alastair Campbell | Construction of a three-port car garage, Barn at Crows Farm, North Road. |

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SECTION 106 AGREEMENTS

| <u>Plan No.</u> | <u>Location</u> | <u>Applicant(s)</u> | <u>Proposed Development</u> |
|-----------------------------|------------------------|----------------------------|--|
| *19/00014/FUL (APPROVED) | Witham | Mr S and Mrs K Patel | Redevelopment of Rickstones Neighbourhood Centre to provide commercial floorspace (Units 1-3 Use - Class E and Units 4&5 - Hot Food Takeaway) and 21 flats, together with private soft landscaped area and gardens, car parking and associated infrastructure, land at junction of Laburnum Way and Dorothy Sayers Drive. |

DECISION: That, subject to the applicant entering into a suitable legal agreement pursuant to Section 106 of the Town and County Planning Act 1990 (as amended) to cover the following Heads of Term:

- **Community Building:** Financial contribution of £6,994.68 (index-linked) paid prior to the occupation of the fifth residential dwelling;
- **Essex Recreational Avoidance and Mitigation Scheme:** £1,782.20 (index-linked from April 2022);
- **Primary Healthcare:** Financial contribution of £5,351.08 (index-linked) paid prior to first residential occupation of the development;
- **Public Open Space:** Financial contribution of £25,159.64 (index-linked) paid prior to the occupation of the fifth residential dwelling towards the provision of new / improved Public Open Space specified within the District Council's Open Space Action Plan within the Witham North Ward;
- **Formation of Management Company:** To secure suitable management arrangements for areas of public realm and amenity space on-site including the car park, but excluding the communal residents' gardens at the rear of the flats;
- **Tree Removal / Replacement Provision:** Financial contribution of £4,750.00 (index-linked) prior to the commencement of development;
- **Parking Scheme:** Financial contribution of £20,000.00 (index-linked) paid prior to the occupation of the development towards possible future implementation of a highway parking scheme, which may include making a Traffic Regulation Order;
- **Travel Plan Monitoring Fee:** Financial contribution of £1,533.00pa. for five years (index-linked) paid prior to occupation of the development;
- **Car Park Management Plan;**
- **Braintree District Council and Essex County Council Monitoring Fees.**

the Planning Development Manager, or an authorised Officer, be authorised to grant planning permission for the above development in accordance with the approved plans and documents and the conditions and reasons set out in the Agenda report, as amended below. Alternatively, in the event that a suitable planning obligation is not agreed within three calendar months of the Planning Committee's decision, the Planning Development Manager be authorised to refuse planning permission. Details of this planning application are contained in the Register of Planning Applications.

Members of the Planning Committee were advised that this application had been reported to the Planning Committee on 8th February 2022, when it had been agreed to grant planning permission, subject to the applicant entering into a legal agreement pursuant to Section 106 of the Town and County Planning Act 1990 (as amended).

However, as it had not been possible to complete the Section 106 Agreement prior to adoption of Section 2 of the District Council's Local Development Plan on 25th July 2022, the application had been reviewed in the context of the Plan. There had been no changes to the proposed development and it was considered that the application remained acceptable and consistent with the Council's policies.

The Committee approved this application, subject to an additional Condition as follows:-

Additional Condition

29. No development shall commence, including any site clearance or demolition, until a scheme to retain and relocate the concrete mural currently situated on the eastern elevation of the northern building, to a location within the new development has been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved scheme and the mural shall be displayed prior to the first beneficial use of the building in which it will be situated, or first occupation of the development, whichever is sooner.

| <u>Plan No.</u> | <u>Location</u> | <u>Applicant(s)</u> | <u>Proposed Development</u> |
|-----------------------------|------------------------|---------------------------------|---|
| *21/00059/VAR (APPROVED) | Witham | Wm Morrison Supermarkets Plc | Variation of Condition 11 'Trading Restrictions' of permission 20/00014/VAR granted 11/02/2014. Variation would allow: The opening created following the demolition of the section of wall shall be kept open for pedestrians and cyclists only and shall not prejudice the formation of future vehicular access through the opening, Morrisons Supermarket, Braintree Road. |

DECISION: That, subject to the applicant entering into a suitable Deed of Variation to the original legal agreement made pursuant to Section 106 of the Town and County Planning Act 1990 (as amended) in respect of access, the Planning Development Manager, or an authorised Officer, be authorised to grant planning permission for the above development in accordance with the approved plans and documents and the conditions and reasons set out in the Agenda report. Alternatively, in the event that a suitable planning obligation is not agreed within three calendar months of the Planning Committee's decision, the Planning

Development Manager be authorised to refuse planning permission. Details of this planning application are contained in the Register of Planning Applications.

Members of the Planning Committee were advised that this application had been reported to the Planning Committee on 31st May 2022, when it had been agreed to grant planning permission subject to the applicant entering into a Deed of Variation to the original legal agreement made pursuant to Section 106 of the Town and County Planning Act 1990 (as amended). The Deed of Variation related to access arrangements only. However, as it had not been possible to complete the Section 106 Agreement prior to adoption of Section 2 of the District Council's Local Development Plan on 25th July 2022, the application had been reviewed in the context of the Plan. There had been no changes to the proposed development and no significant changes to the assessment of the application.

47 **PLANNING APPLICATIONS REFUSED**

DECISION: That the undermentioned planning applications be refused for the reasons contained in the Planning Development Manager's report. Details of these planning applications are contained in the Register of Planning Applications.

| <u>Plan No.</u> | <u>Location</u> | <u>Applicant(s)</u> | <u>Proposed Development</u> |
|---|------------------------|----------------------------|--|
| *22/01411/FUL (REFUSED) | Braintree | Merkur Slots UK Limited | Change of use of ground floor from retail shop (Use Class E) to Adult Gaming Centre (Use Class Sui Generis), Edinburgh Woollen Mill, 29 Bank Street. |
| <p>Members of the Planning Committee were advised that an appeal had been lodged with The Planning Inspectorate against the non-determination of this application and that the Local Planning Authority could not determine it.</p> <p>The Planning Committee agreed that if it had been able to determine the application it would have been refused for the Reason contained in the Planning Development Manager's report. The Reason for Refusal is as follows:-</p> <p><u>Reason for Refusal</u></p> <p>1 The proposed change of use to an 'Adult Gaming Centre' would introduce an inappropriate use to the Primary Shopping Frontage of the Braintree Town Centre Primary Shopping Area. The proposed use would result in a break in the primary retail frontage, removing the activity associated with a retail shop and this is considered to be to the detriment of the vitality and viability of the town centre location. The proposal would therefore be contrary to the National Planning Policy Framework and Policy LPP10 of the Braintree District Local</p> | | | |

Plan 2013 - 2033.

Positive and Proactive Statement

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

| <u>Plan No.</u> | <u>Location</u> | <u>Applicant(s)</u> | <u>Proposed Development</u> |
|--|------------------------|----------------------------|---|
| *22/01527/FUL (REFUSED) | Halstead | Halstead New Homes Ltd | Proposed 31 No. residential units with associated car parking, amenity areas, external works with the retention of 10 No. WWII Air Raid Shelters and 1 No. Wardens Hut, land East of High Street. |
| <p>The application was refused for the Reasons contained in the Planning Development Manager's report as follows:-</p> <p><u>Reasons for Refusal</u></p> <ol style="list-style-type: none">1. Based on the information submitted, the proposals would result in both direct and indirect harm to the curtilage listed air raid shelters and non-listed air raid shelters. An assessment of the impact on the nearby listed building and the Halstead Conservation Area cannot be carried out without detailed information with regards to the long-term maintenance of the afore-mentioned assets. Whilst the level of harm in this case would be less than substantial harm, taking into account the cumulative impact upon the designated heritage assets, the benefits of the proposal do not outweigh the harm to the identified assets. The proposal is therefore contrary to Policies SP7, LPP23, LPP47, LPP52, LPP53 and LPP57 of the Braintree District Local Plan 2013-2033 and the National Planning Policy Framework.2. The proposal by way of its design and layout would result in internal floor areas which would not comply with the Nationally Described Spaces Standards, resulting in sub-standard and unsatisfactory internal environments which would fail to provide a satisfactory amenity for future occupiers. Furthermore, many of the relationships between the units are poor with windows within close proximity to and overlooking existing boundary treatments and between new units. | | | |

Insufficient information has been provided with regards to waste storage and collection and pedestrian links to adjoining streets. The details of the proposed elevations are considered unacceptable for this sensitive location. In addition, the proposals do not indicate how the application site would enable the wider re-development site to be fully re-developed in the future.

The proposals constitute poor design and layout and an overdevelopment of the site contrary to Policies SP7, LPP23 and LPP52 of the Braintree District Local Plan 2013-2033, the Essex Design Guide, and the National Planning Policy Framework.

3. The proposal fails to provide sufficient information regarding ecological features within the site, contrary to Policies LPP23 and LPP64 of the Braintree District Local Plan 2013-2033 and the National Planning Policy Framework.
4. Policy LPP31 of the Adopted Local Plan states that affordable housing will be directly provided by the developer within housing schemes. The proposal fails to provide sufficient information with regards to the provision of affordable housing in accordance with the local need and is therefore contrary to Policy LPP31 of the Braintree District Local Plan 2013-2033.
5. The proposed development would trigger the requirement for:
 - The delivery of 30% affordable housing on site;
 - A financial contribution towards primary health services;
 - The provision, maintenance and delivery of public open space, outdoor sports and allotments;
 - Habitat mitigation payment;
 - Retention, refurbishment and management of air raid shelters;
 - Provision of shoppers car park;
 - Provision of permanent pedestrian links;
 - Securing community uses on the site;
 - Environmental improvements in Halstead.

These requirements would need to be secured through a Section 106 Agreement. At the time of issuing this decision a Section 106 Agreement had not been prepared or completed. As such the proposal is contrary to the Open Space Supplementary Planning Document (SPD) and Policy LPP78 of the Braintree District Local Plan 2013-2033.

A Motion to Refuse this application with an additional Reason for Refusal regarding the loss of trees at the site was moved and seconded, but on being put to the vote the Motion was declared **LOST**.

PLEASE NOTE: The full list of standard conditions and reasons can be viewed at the office of the Planning Development Manager, Council Offices, Causeway House, Bocking End, Braintree, Essex CM7 9HB.

(Where applications are marked with an * this denotes that representations were received and considered by the Committee).

The meeting closed at 9.57pm.

Councillor Mrs W Scattergood
(Chairman)