

# PLANNING COMMITTEE AGENDA

**Tuesday 28th June 2022 at 7.15pm**

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

## **THIS MEETING IS OPEN TO THE PUBLIC**

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

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

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

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

### **Membership:-**

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

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

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

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

A WRIGHT  
Chief Executive

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

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

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

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

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

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

Members of the public may speak on any matter listed on the Agenda for this meeting. Registered speakers will be invited to speak immediately prior to the relevant application/item. All registered speakers will have three minutes each to make a statement.

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

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

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

**Public Attendance at Meeting:** The Council has reviewed its arrangements for this decision making meeting of the Planning Committee in light of the Covid pandemic. In order to protect the safety of people attending the meeting, Councillors and Officers will be in attendance at Causeway House, Bocking End, Braintree. Members of the public may also attend the meeting ‘in person’, but priority will be given to those people who have

registered to speak during Public Question Time. Members of the public will be able to view and listen to the meeting either as a live broadcast, or as a recording following the meeting, via the Council's YouTube channel at <http://www.braintree.gov.uk/youtube>

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

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

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

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

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

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

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

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

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

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

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

## **PUBLIC SESSION**

## **Page**

- 1 Apologies for Absence**
- 2 Declarations of Interest**  
To declare the existence and nature of any Disclosable Pecuniary Interest, Other Pecuniary Interest, or Non-Pecuniary Interest relating to Items on the Agenda having regard to the Code of Conduct for Members and having taken appropriate advice where necessary before the meeting.
- 3 Minutes of the Previous Meeting**  
To approve as a correct record the Minutes of the meetings of the Planning Committee held on 3rd May 2022 and 14th June 2022 (copies to follow).
- 4 Public Question Time**  
(See paragraph above)
- 5 Planning Applications**  
To consider the following planning applications
- 5a App. No. 21 01665 OUT – Stables Retreat, Beslyns Road, GREAT BARDFIELD** **6-36**
- 5b App. No. 21 03560 FUL – Former Rose and Crown Site, Masefield Road, BRAINTREE** **37-69**
- 5c App. No. 22 00384 VAR – Land North East of Inworth Road, FEERING** **70-101**
- 6 Urgent Business - Public Session**  
To consider any matter which, in the opinion of the Chairman, should be considered in public by reason of special circumstances (to be specified) as a matter of urgency.
- 7 Exclusion of the Public and Press**  
To agree the exclusion of the public and press for the consideration of any Items for the reasons set out in Part 1 of Schedule 12(A) of the Local Government Act 1972.  
*At the time of compiling this Agenda there were none.*

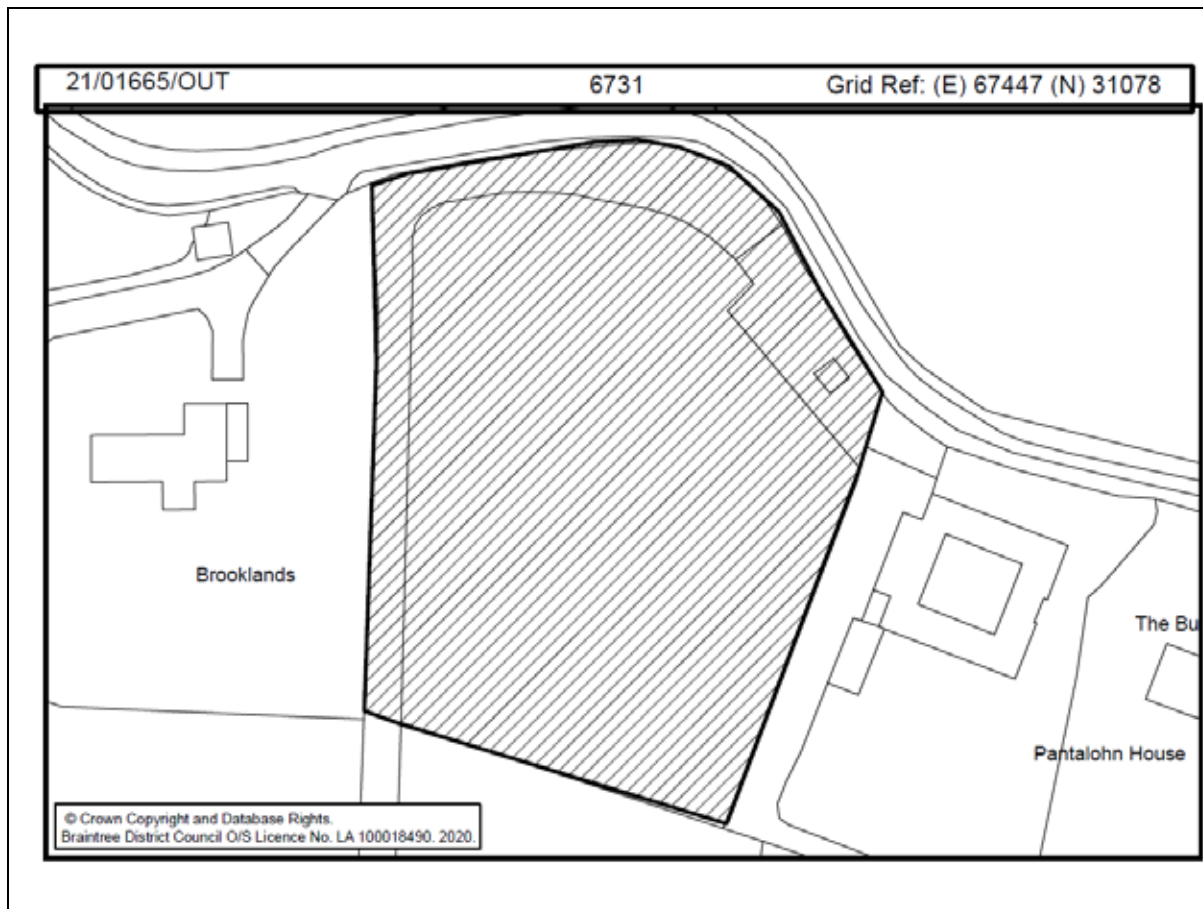
**8 Urgent Business - Private Session**

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

**Agenda Item: 5a**

<b>Report to:</b> Planning Committee		
<b>Planning Committee Date:</b> 28th June 2022		
<b>For:</b> Decision		
<b>Key Decision:</b> No		<b>Decision Planner Ref No:</b> N/A
<b>Application No:</b>	21/01665/OUT	
<b>Description:</b>	Outline planning application for the erection of up to 4 detached dwellings and associated works, with all matters reserved except for Scale and Access.	
<b>Location:</b>	Stables Retreat, Beslyns Road, Great Bardfield	
<b>Applicant:</b>	C Smith, C/o Sworders, The Gatehouse, Hadham Hall, Little Hadham, SG11 2EB, Herts	
<b>Agent:</b>	Mr James Salmon, Sworders, The Gatehouse, Hadham Hall, Little Hadham, Ware, SG11 2EB	
<b>Date Valid:</b>	11th June 2021	
<b>Recommendation:</b>	It is RECOMMENDED that the following decision be made: § Application REFUSED for the reasons set out in Appendix 1 of this Committee Report.	
<b>Options:</b>	The Planning Committee can: a) <b>Agree</b> the Recommendation b) <b>Vary</b> the Recommendation c) <b>Overturn</b> the Recommendation d) <b>Defer</b> consideration of the Application for a specified reason(s)	
<b>Appendices:</b>	<b>Appendix 1:</b>	Approved Plan(s) & Document(s) Condition(s) & Reason(s) and Informative(s)
	<b>Appendix 2:</b>	Policy Considerations
	<b>Appendix 3:</b>	Site History
<b>Case Officer:</b>	Natalie Banks For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2545, or by e-mail: <a href="mailto:natalie.banks@braintree.gov.uk">natalie.banks@braintree.gov.uk</a>	

**Application Site Location:**



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



	<p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
<b>Background Papers:</b>	<p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> <li>§ Application Form</li> <li>§ All Plans and Supporting Documentation</li> <li>§ All Consultation Responses and Representations</li> </ul> <p>The application submission can be viewed online via the Council's Public Access website:  <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a> by entering the Application Number: 21/01665/OUT.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> <li>§ National Planning Policy Framework (NPPF)</li> <li>§ Braintree District Local Plan Review (2005)</li> <li>§ Braintree District Core Strategy (2011)</li> <li>§ Braintree District Shared Strategic Section 1 Local Plan (2021)</li> <li>§ Braintree District Publication Draft Section 2 Local Plan (2017)</li> <li>§ Neighbourhood Plan (if applicable)</li> <li>§ Supplementary Planning Documents (SPD's) (if applicable)</li> </ul> <p>The National Planning Policy Framework can be viewed on the GOV.UK website: <a href="http://www.gov.uk/">www.gov.uk/</a>.</p> <p>The other abovementioned policy documents can be viewed on the Council's website:  <a href="http://www.braintree.gov.uk">www.braintree.gov.uk</a>.</p>

1. EXECUTIVE SUMMARY

- 1.1 The application site is approximately 0.39 hectare in size and is located to the north of Great Bardfield.
- 1.2 The site is situated on the bend of Beslyns Road, which is a designated Protected Lane in the Adopted Local Plan and the Section 2 Plan. It is positioned between 2 existing dwellings, approximately 85m outside of the Conservation Area Boundary.
- 1.3 The site faces towards and backs onto open countryside.
- 1.4 This application seeks outline planning permission for the erection of 4 detached dwellings and associated works with all matters reserved except for scale and access.
- 1.5 The application site is not allocated for development and lies beyond any designated town or village development boundary in either the Adopted Local Plan or the Section 2 Plan. This weighs against the development in the Planning Balance, along with the harm to the character and appearance of the local area and to ecology as a result of the proposed development as a result of the creation of a new access on the Protected Lane, requiring removal of part of a hedgerow, and the erection of 4 2-storey dwellings.
- 1.6 When considering the flat planning balance and having regard to the adverse impacts and benefits outlined above and having regard to the requirements of the NPPF as a whole, Officers have concluded that the benefits of the proposal are clearly and significantly outweighed by the harms, including the harm arising from the conflict with the Development Plan, such that planning permission should be refused in line with the Development Plan.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

2.1 This application is being reported to Planning Committee in accordance with Part B of the Council's Scheme of Delegation, at the request of the Chair and Vice Chair of the Planning Committee.

2.2 It should be noted that the Applicant has submitted an appeal against non-determination and the decision will therefore be made by an Inspector appointed by the Planning Inspectorate on behalf of the Secretary of State. The Local Planning Authority can, therefore, no longer determine the application. Notwithstanding this situation, Officers consider that it is appropriate for the Council to place the application before the Planning Committee in order to establish the Council's position on the merits of the proposal which can then be presented to the Planning Inspectorate as part of the appeal process.

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

5.1 The application site forms part of the property known as Stables Retreat on the south side of Beslyns Road within the Parish of Great Bardfield. It is situated on a bend in the road, in the gap between 'Stables Retreat' and 'Brooklands'.

5.2 It is located outside of the Village Envelope and is within approximately 85m of the Conservation Area boundary. It measures approximately 0.39ha in area, with the highway edge measuring approximately 70 metres.

5.3 Beslyns Road is a Protected Lane and is characterised by its narrow, winding, single-track carriageway, between open fields. In this particular location, the road is sunken with a steep bank on the southern side of the road topped by trees and hedges and open fields on the north side.

5.4 The site was formerly in equestrian use, which appears to have ceased. The stables have been converted into a two separate residential uses and the ménage is unused. An application to regularise the residential use of the stables was refused on the grounds that the evidence submitted by the applicant did not demonstrate on the balance of probabilities that the building known as Stables Retreat had been used as two separate dwellings for residential occupancy for more than four years (Application reference 19/00434/ELD).

- 5.5 It is laid to grass and enclosed by a low fence. Highway access for Stables Retreat is shared with the neighbouring property 'The Bungalow' to the north-west.
- 5.6 Great Bardfield is designated as an 'other village' in the Settlement Hierarchy in the Core Strategy and as a 'second tier' village in the Section 2 Plan.
6. PROPOSAL
- 6.1 This application seeks outline planning permission for the erection of up to 4 detached dwellings and associated works, with all matters reserved except for scale and access.
- 6.2 The submitted location plan indicates that a new shared access to serve the dwellings would be created approximately 21.7m from the eastern boundary for 'Brooklands'.
- 6.3 The submitted 'Site Plan', which is not indicated on the submitted drawing to be 'illustrative' despite, all matters being reserved except for scale and access, indicates that the proposed dwellings would be placed side-by-side, reflecting the existing building line, set back from the highway boundary by approximately between 11-16m. This land to the front would then form a landscaped buffer between the proposed houses and the road.
- 6.4 An unscaled plan indicating 'illustrated' house types has also been submitted which shows 2 house types set on roughly square plans, with attached garages, gable details and roof dormers. This drawing is not scaled, neither is the submitted site plan.
- 6.5 The application is accompanied by an Ecological Appraisal and Bat Survey, Highway Impact Assessment and Planning Statement.
- 6.6 The Planning Statement implies that the site should be considered as previously developed land. The site itself extends to 1.9 hectares in size and forms part of a larger field, the red line application site covers an area of 0.39 hectares. The site consists of vacant land which was formerly used as paddocks, with the stables now two residential dwellings'. It is suggested by the Applicant that the land to the rear of the site, which is located within the area of land partly outlined in blue, would remain as a paddock, potentially being leased out in the future for this purpose. This area is not shown in its entirety.in that it is clear that the land extends further south, however, this is not on the plan. The Applicant has also suggested that as part of the site is a paddock that was associated with a residential use, it constitutes previously developed land, which is appropriate for re-use with a residential development.' A High Court Decision is appended to the statement dated 16<sup>th</sup> January 2016 which seeks to demonstrate that this interpretation is supported in Case Law. Whilst this is noted, the cited case is not directly relatable to the situation here as it relates to.

- 6.7 The applicant contends that the development would be well contained and would constitute a small-scale addition to the built development in Great Bardfield, as it would nestle in between existing built form, and therefore subsequently have minimal harm upon the countryside. The proposed dwellings would be positioned so that they do not overlook one another but still provide adequate parking and amenity space.
- 6.8 The Statement also contends that the Council cannot demonstrate a 5-Year housing supply and cites four appeals within the District where it was found that the Council did not have a housing land supply. These are as follows:
- APP/Z1510/W/16/3148072 – Land off Braintree Road, Great Bardfield (25.10.16);
  - APP/Z1510/W/20/3247020 – Land off School Road, Rayne (31.7.20);
  - APP20/Z1510/W/3251952 – Land west of B1057 Bardfield Road, Finchingfield (25.11.20); and
  - APP/Z1510/3253661 – Land between Braintree Road and Long Green, Cressing (14.12.2020).
- 6.9 The Highway Impact Assessment contends that there are low traffic speeds on Beslyns Lane. A suitable access could be provided to serve the proposed development and that there are no pre-existing highway safety problems that could restrict development. It is considered that the proposed access complies with current planning and best practice design guidance, including Paragraph 108 of the National Planning Policy Framework, with regard to “safe and suitable” access. The Statement includes a drawing of the proposed access which appears to indicate that visibility splays of 2.4 x 24m (west) and 2.4 x 21m (east) could be achieved.
- 6.10 The Ecology and Bat Survey concludes that the proposal could proceed without adverse impacts upon legally protected/priority species and habitats provided the specific migratory guidance and enhancement recommendations identified within Section 5.2 of the report are fully adhered to. Where necessary, appropriately worded conditions should be placed upon any consent granted in order to ensure appropriate measures are followed.

## 7. SUMMARY OF CONSULTATION RESPONSES

### 7.1 BDC Ecology and Trees

- 7.1.1 BDC Ecology objects to the proposal on the grounds that they are not satisfied that sufficient ecological information has been made available for determination of the application. This is because there has been no assessment made of the northern boundary section of hedgerow proposed to be removed to facilitate the access. The hedgerow should be assessed to determine if it meets the Priority Habitat Criteria as it is located in a Protected Lane and is described in the Preliminary Ecological Appraisal Report Incorporating Bat Survey as an intact hawthorn hedge. If it is determined that this is Priority Habitat which is to be removed to facilitate

the development, the local planning authority needs to be satisfied that the removal can be proportionately compensated.

- 7.1.2 Further, as the hedgerow proposed for removal is located on a Protected Lane, further consideration should be given as to whether the hedgerow is protected under the Hedgerow Regulations 1997 due to it being present in the landscape for a significant period of time. If the hedgerow is deemed protected, significant compensation would be required to be submitted and implemented.
- 7.1.3 This information is required to ensure that the Council meets its biodiversity duty under S40 of the Natural Environment and Rural Communities Act 2006 and to demonstrate measurable biodiversity net gains, as outlined under Paragraph 174d of the NPPF.
- 7.1.4 Further to the comments of the Ecology Officer, the Council's Landscape Team Leader has stated that observations from google earth indicate that there is evidence of a species rich hedge with dogwood featuring prominently in the mix which suggests that this section could be part of an important hedgerow – particularly within the vicinity of the bend on the application/south side of Beslyns Lane. He also endorses the comments of the Ecology Officer and states that, subject to additional survey information on the species mix, it is evident that the vegetation within the red line of the application site does make a positive contribution to the character of the lane and should be considered on the basis of these clear merits. An informative point should also be made that the removal of the hedgerow outside a consent provided by a planning approval would require a separate hedgerow removal notice being served on the Council prior to any works proceeding.

## 7.2 ECC Highways

- 7.2.1 ECC Highways states that the documents accompanying the planning application have been duly considered. Given the information contained within the Highway Impact Statement, 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 conditions relating to site lines/visibility splays and for mitigation during the construction process. However, Officers have sought further clarification from ECC Highways as the site is on a bend in the road, and would require all the trees and vegetation to be removed to achieve the required site lines. Beslyns Road is also a protected lane which does not appear to have been factored into the response. At the time of writing the report, no response has been received, therefore, any further observations from Highways will be reported to Members at the meeting.

### 7.3 ECC Historic Buildings Consultant

- 7.3.1 The Historic Buildings Consultant raises no objection to the principle of the proposal as impact on the Conservation Area would be limited. However, if the proposed access will involve removal of the existing vegetation, the level of harm to the Conservation Area would increase, although it would remain less than substantial. While the application includes the issue of scale to be determined, there is no way of assessing how acceptable the scale would be in the absence of any information on height or any parameter plans. The site plan shows quite large dwellings in terms of their footprints. If these were single storey, the impact would be far less than the 2/3 storeys shown on the illustrative site plans.

### 8. PARISH / TOWN COUNCIL

#### 8.1 Great Bardfield Parish Council

- 8.1.1 Great Bardfield Parish Council objects to the proposal. The site is outside of the Village Envelope within the former hamlet of Bridge End, and is adjacent to the Conservation Area.
- 8.1.2 The location of the site is on a blind bend of a very narrow lane which is protected and bounded by banks and hedges which mean visibility is very limited.
- 8.1.3 The traffic survey was undertaken in January, during a lockdown. In the summer months when agricultural vehicles and grain lorries use this road regularly there would certainly be more traffic movements. Additional traffic caused by any development, both during the build, and afterwards, would also have a serious detrimental impact on the exit from Beslyn's Lane onto the Finchingfield Road at Bridge End, close to the narrow historic bridge over the River Pant. It would be inappropriate to permit this development which would result in additional traffic at this location, between the historic bridges at Bardfield and Finchingfield, which already experience high volumes of traffic, are under threat and require work regularly to repair and maintain them due to excessive traffic use.
- 8.1.4 The new access would require removal of ancient, protected hedgerows.
- 8.1.5 While the application is for outline planning permission and that the design of the properties shown is be 'illustrative' only it is considered that any development of this site would be inappropriate. The indicative design shows a complete disregard to the setting and situation of this location. The houses would be visually intrusive and dominate the setting.
- 8.1.6 The application provides several examples of planning applications that have succeeded 'on appeal'. The examples given have no relation or similarity to the current proposal. We do not consider these relevant to this proposal.

## 9. REPRESENTATIONS

9.1 Six letters of representation have been received objecting to the proposal on the following grounds:

- § Highway safety – the site is on a blind bend on a narrow, protected lane with limited visibility;
- § Vehicles cannot pass each other;
- § There would be an increase in surface water run-off due to the elevated position of the site;
- § The dwellings would have a negative impact on the Pant Valley;
- § Impact on local sewage network;
- § Impact on wildlife;
- § Impact during the construction period.

## 10. PRINCIPLE OF DEVELOPMENT

### 10.1 National Planning Policy Framework (NPPF)

10.1.1 As set out in Paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 of the NPPF explains that achieving sustainable development means that the planning system has three overarching objectives: economic; social; and environmental; which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives).

10.1.2 Paragraph 9 of the NPPF outlines that planning decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area. In addition, paragraph 38 of the NPPF prescribes that local planning authorities should approach decisions on proposed development in a positive and creative way and that decision makers at every level should seek to approve applications for sustainable development where possible.

10.1.3 Paragraph 12 of the NPPF which sets out that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making. In addition, paragraph 47 of the NPPF states that planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

10.1.4 The NPPF underlines the Government's objective of significantly boosting the supply of homes. In this regard, Paragraph 60 of the NPPF highlights the importance of ensuring that there is a sufficient amount and variety of land that can come forward where it is needed, that specific housing requirements are met, and that land with permission is developed without unnecessary delay. Paragraph 74 of the NPPF outlines that local planning authorities should identify and update annually a supply of specific



deliverable sites sufficient to provide a minimum of five years' worth of housing against (in the case of Braintree District) our 'local housing need' plus the relevant buffer.

- 10.1.5 In this regard, and in considering the overall planning balance as to whether the proposed development subject to this application constitutes sustainable development, an important material consideration in this case is whether the Council can robustly demonstrate a 5 Year Housing Land Supply. This will affect whether Paragraph 11 of the NPPF is engaged and consequently the weight that can be attributed to the Development Plan (see below).

10.2 5 Year Housing Land Supply

- 10.2.1 The Council publishes a 5 year housing land trajectory as of 31st March each year. The most recent position therefore is that of 31st March 2021. Within the published trajectory, the forecast supply amounted to a 5.34 year supply of housing based on a 5% buffer.
- 10.2.2 At its Full Council meeting on 22nd February 2021, Braintree District Council approved the adoption of the Shared Strategic Section 1 Local Plan. On its adoption, the Council must meet the housing requirement set out in that Plan. This is a minimum of 14,320 homes between 2013-2033 or an annual average of 716 new homes per year. This replaces the previous consideration of housing need based on the Standard Methodology.
- 10.2.3 The latest Housing Delivery Test (HDT) results were published in January 2022. The new results (which include an allowance for the impact of the current pandemic) confirm that Braintree District achieved 125% supply against target and the usual 5% buffer is maintained. This applies from the day of publication of the results.
- 10.2.4 The Council's Housing Land Supply position has recently been contested as part of an appeal at Land off Brain Valley Avenue, Black Notley (Appeal Reference: APP/Z1510/W/21/3281232). Within the appeal decision dated 20th January 2022, the Inspector concluded at Paragraph 54 that the housing supply 2021-2026 would be in excess of the 5,352 requirement; and that therefore the Council can demonstrate an up-to-date housing land supply and the titled balance pursuant to Paragraph 11d) of the NPPF is not engaged.
- 10.2.5 Accordingly, given all the evidence before it, including the housing requirement from the Shared Strategic Section 1 Local Plan and the use of a 5% buffer, and having regard to the above appeal decision, the Council considers that the current 5 Year Housing Land Supply for the District is 5.1 years.
- 10.2.6 In addition, the current supply position does not include sites which are proposed to be allocated within the Section 2 Local Plan but do not yet have planning permission or a resolution to grant planning permission.

- 10.2.7 These allocations without permission are being tested at the Section 2 Plan Examination. Once the Section 2 Plan is adopted, these sites will become adopted allocations and greater weight can be given to them. It will also improve the prospects of these being included within the deliverable supply, where there is clear evidence that there is a realistic prospect that housing will be delivered on the site within five years.

### 10.3 The Development Plan

- 10.3.1 Currently the Council's statutory Development Plan consists of the Braintree District Local Plan Review (2005), the Braintree District Core Strategy (2011), and the Braintree District Shared Strategic Section 1 Local Plan (2021).
- 10.3.2 The application site is located outside of a designated village envelope/town development boundary and as such is designated as countryside in the Adopted Local Plan (2005) and the Braintree District Shared Strategic Local Plan (2021).
- 10.3.3 Policy RLP2 of the Adopted Local Plan states that new development will be confined to areas with Town Development Boundaries and Village Envelopes. Outside these areas, countryside policies will apply. Policy CS5 of the Adopted Core Strategy specifies that development outside Town Development Boundaries and Village Envelopes will be strictly controlled to uses appropriate within the countryside in order to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside.
- 10.3.4 The application site is not proposed for allocation for development in the emerging Draft Section 2 Local Plan. The proposed development is therefore contrary to the Section 2 Local Plan, in particular Policy LPP1, which states that outside development boundaries development will be strictly controlled to uses appropriate to the countryside.
- 10.3.5 The proposed development is therefore considered to be contrary to the Adopted Local Plan and the emerging Section 2 Plan.

## 11. SITE ASSESSMENT

### 11.1 Location and Access to Services and Facilities

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

- 11.1.2 The strategy set out in the emerging Section 2 Plan is to concentrate growth in the most sustainable locations - that is, by adopting a spatial strategy that promotes development in the most sustainable locations, where there are opportunities for walking, cycling and public transport links to nearby shops, services and employment opportunities. This means for the new Local Plan inter alia: "That the broad spatial strategy for the District should concentrate development in Braintree, Witham and the A12 corridor, and Halstead".
- 11.1.3 Policy CS7 of the Core Strategy states that future development will be provided in accessible locations to reduce the need to travel. The site is located outside of the Great Bardfield Village Envelopment but is within a reasonable walking distance to the services and facilities provided within the village and local bus stop connections.
- 11.1.4 As referred to above Great Bardfield is designated is a 'Second-Tier' village in the Section 2 Plan. Second Tier villages are described as those which may not serve a wider hinterland but provide the ability for some day-to-day needs to be met, although they lack the full range of facilities of a Key Service Village. Development of a small scale may be considered suitable within a second tier village, subject to the specific constraints and opportunities of that village.
- 11.1.5 The Inspector appointed for appeal reference APP/Z1510/W/16/3148072 for Land off Braintree Road, Great Bardfield on the southern end of the village, concluded that the site was in a suitable location and that future residents would have reasonable access to services and facilities in the village. The Applicant has therefore implied that the same applies to this site. While this site is within a similar distance to the village centre when compared to the appeal site, the situation here is quite different. The appeal site referred to benefitted from an established walking route with pavements and street lighting. This site is on a bend on a single track road with no footpath or street lighting. It is therefore considered unlikely that future residents of this site would walk to the village centre as it would be impractical and unsafe, particularly for people with young families.
- 11.1.6 Due to the site's location in relation to the village facilities and given the above appeal decision, it is concluded that the site is not within a sustainable location contrary to the aims of Policy CS7 of the Core Strategy as the proposed development would place reliance on the private car.
- 11.2 Design, Appearance and Impact upon the Character and Appearance of the Area
- 11.2.1 Paragraph 126 the NPPF highlights that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable developments, creates better places in which to live and work and helps make development acceptable to communities.

- 11.2.2 Paragraph 130 states that planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting.
- 11.2.3 In addition to this, Policy RLP90 of the Adopted Local Plan requires a high standard of design in all developments, large or small. The layout, height, mass and overall elevational design of buildings and developments shall be in harmony with the character and appearance of the surrounding area; including their form, scale and impact on the skyline in the locality. Policy LPP55 of the Section 2 Plan also seeks to secure the highest possible standards of design and layout in all new development and the protection and enhancement of the historic environment.
- 11.2.4 This is an outline application where appearance, layout, scale and landscaping are reserved matters. A basic illustrative plan of house types and a layout plan has been submitted in support of the application. This unscaled site plan and scaled location plan, fall to be considered as part of the determination of this application. Officers therefore have to be satisfied that the site is capable of accommodating the number of dwellings proposed along with suitable space for policy compliant level of car parking, garden space, open space and SuDs.
- 11.2.5 Beslyns Road is characterised by the contrast between the built development of the village at Bridge End to countryside, effectively marking a transition. The dwellings on Bridge Street are closely grained featuring a variety of dwellings, including terraces that open straight onto or close to the road. In Beslyns Road however, the dwellings are sporadic and set back from the highway.
- 11.2.6 The site measures approximately 0.39ha in area. The location plan indicates the footprints of 4 x 2-storey dwellings on the site with attached garages and surface parking on plot. Whilst it is not possible to accurately measure the plots as the scale of the drawing appears to be incorrect, it would appear that up to 4 dwellings could be placed on the site and be compliant with relevant standards in terms of garden sizes and vehicle parking. However, it is relevant to note that the footprints and the 2-storey height of the dwellings together with the amount of amenity space do not compare to the character of other dwellings on this part of Beslyns Road, which are single storey, and are set within spacious plots.
- 11.2.7 This coupled with the creation of the new access to serve the site would clearly have an impact on the appearance of this Protected Lane, which in this location is marked by a steep bank elevating the site above the road and which is bounded by thick hedge and vegetation to a depth of approximately 12m.
- 11.2.8 Policy RLP80 of the Adopted Local Plan states that proposals for new development will be required to include an assessment of their impact on wildlife and should not be detrimental to the distinctive landscape features and habitats of the area such as trees, hedges, woodlands, grasslands,

ponds and rivers. Development that would not successfully integrate into the local landscape will not be permitted. Policy RLP81 states that landowners will be encouraged to retain, maintain and plant, in appropriate locations, locally native trees, woodlands, grasslands and hedgerows. These sentiments are carried forward to Policy LPP71 of the Section 2 Plan.

- 11.2.9 Policy RLP87 of the Adopted Local Plan states that the Council will seek to conserve the traditional landscape and nature conservation character of roads designated on the Proposals Map as Protected Lanes, including their associated verges, banks and ditches. Any proposals that would adversely affect the physical appearance of these protected lanes, or give rise to a material increase in the amount of traffic using them will not be permitted.
- 11.2.10 Policy LPP46 of the Section 2 Plan is similar in its intentions but adds that any proposals that would have a materially adverse impact on the physical appearance of Protected Lanes or generate traffic of a type or amount inappropriate for the traditional landscape and nature conservation character of a protected lane, will not be permitted.
- 11.2.11 While the applicant has indicated on the application form that tree removal will be required to facilitate the development no Tree Survey or other details have been submitted. It is therefore not possible to comment in detail on the likely impact of any particular trees. However, the Council's Landscape Officer has commented that the removal of any of the vegetation to facilitate the access would have a detrimental impact on the character of the Protected Lane as such areas should be protected due to their historic, landscape and ecological value.
- 11.2.12 However, while the application is in outline, with appearance, layout, scale and landscaping as reserved matters, as referred to on the application form, layout, scale and access are factors for determination at this stage. The submitted site plan and location plan also set out a proposed layout. However, while the location plan has a scale bar indicated, this appears to be incorrect and does not correlate to the site area indicated on the application form.
- 11.2.13 In terms of the scale of the development it is considered that this proposal would not relate well to the existing context, which is characterised by sporadic single-storey dwellings set out in spacious plots. The proposed development of 4 2-storey houses would represent an unacceptable intrusion in this low-key and verdant location. This would be as a result of with the creation of a new access to facilitate the development by punching through the bank of this Protected Lane, would have a detrimental visual impact resulting as a result of the erosion of its verdant and rural character together with the introduction of a form of development that would be alien to the local context. As such it would result in material harm to the physical appearance of the lane to the detriment of this part of Great Bardfield, contrary to Policies RLP80, RLP81, and RLP87 of the Adopted Local Plan and Policies LPP67 and LPP69 of the Section 2 Plan.

### 11.3 Heritage

- 11.3.1 The site is located outside of the Conservation Area for Great Bardfield. Policy RLP95 of the Adopted Local Plan and LPP56 of the Section 2 Plan state that the Council will preserve, and encourage the enhancement of, the character and appearance of designated Conservation Areas and their settings, including the buildings, open spaces and areas, landscape and historic features and views into and within the constituent parts of designated areas.
- 11.3.2 As referred to above, ECC Historic Buildings Consultant has reviewed the application and considers that while the proposal would have an impact on the Conservation Area as it may change the approach towards it, she does not have an 'in-principle' objection. However, if the access is as proposed and highways requires all existing hedgerow to be removed to facilitate this, the level of harm to the Conservation Area would increase. It would remain less than substantial, but at an increased level compared to keeping the hedgerow in place. While the application requests that scale is a matter for determination, there is no way of assessing how acceptable the scale would be in the absence of any information on height or any parameter plans. The site plan shows quite large dwellings in terms of their footprints. If these were single storey, the impact would be far less than the 2/3 storeys shown on the illustrative site plans.

#### **Heritage Balance**

- 11.3.3 The site is located within 85m of the Great Bardfield Conservation Area. Paragraph 194 of the NPPF states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance.
- 11.3.4 Paragraph 197 NPPF states that in determining applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation, the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality, and the desirability of new development making a positive contribution to local character and distinctiveness.
- 11.3.5 Paragraph 199 NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

- 11.3.6 Paragraph 202 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.
- 11.3.7 The applicant has referred to the Conservation Area in the submitted Planning Statement. While the Historic Buildings Consultant does not object to principle of the development, it would result in harm to the Conservation, however, this would be at the low end of less than substantial. This level of harm, in itself, is not considered sufficient to refuse the application on this ground alone, however the harm arising from the proposal weighs against the proposal in the overall planning balance.
- 11.4 Ecology and Trees
- 11.4.1 Paragraph 174 of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by, amongst other things, recognising the intrinsic character and beauty of the countryside and the wider benefits from natural capital and minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 11.4.2 Policy CS8 of the Core Strategy requires that all development shall, amongst other things, take account of its potential impact on the natural environment to ensure its protection and enhancement. Policy RLP84 of the Adopted Local Plan states that planning permission will not be granted for development which would have an adverse impact on badgers, or species protected under various UK and European legislation. Where development is proposed that may have an impact on these species the District Council will require the applicant to carry out a full ecological assessment. Where appropriate, the Planning Authority will impose conditions and/or planning obligations to: a) Facilitate the survival of individual members of the species b) Reduce disturbance to a minimum; and c) Provide supplementary habitats.
- 11.4.3 These sentiments are reiterated in Policies LPP67, LPP68 and LPP70 of the Section 2 Plan.
- 11.4.4 The Council's Ecologist has reviewed the submitted Ecological Appraisal relating to the likely impacts of development on designated sites, Protected and Priority species & habitats and objects to the proposal on the grounds that no ecological assessment has been provided of the northern boundary section of hedgerow. The hedgerow should be assessed to determine if this is a priority habitat and that its removal can be proportionately compensated. In addition, as the hedgerow proposed for removal is located on a Protected Lane, further consideration should be given as to whether the hedgerow is protected under the Hedgerow Regulations 1997 due to it being present in the landscape for a significant period of time. If the

hedgerow is deemed protected, significant compensation would be required to be submitted and implemented.

- 11.4.5 This information is required to ensure that the Council meets its biodiversity duty under S40 of the Natural Environment and Rural Communities Act 2006 and to demonstrate measurable biodiversity net gains, as outlined under Paragraph 174d of the NPPF.
- 11.4.6 The Council's Landscape Officer concurs with the Ecologist's views and points out that the removal of a hedgerow on a Protected Lane should be avoided due to their historic, landscape and ecological value. He agrees that further consideration should be given as to whether the hedgerow is protected under the Hedgerow Regulations 1997, as it is considered to be 'Important' as defined by the Hedgerow Regulations 1997, as this is typically the case if a hedgerow that is on a Protected Lane due to it being present in the landscape for a long period of time. If this is demonstrated then significant compensation for this feature would be required to be submitted and implemented.
- 11.4.7 As the applicant has not surveyed the hedge or provided a tree survey, it cannot be determined if the hedgerow is protected under the Hedgerow Regulations 1987 or that the likely harm resulting from the removal of the hedge can be mitigated. It can only be concluded that the proposal would result in demonstrable harm, contrary to the NPPF, Policy RLP84 of the Adopted Local Plan, and Policies LPP67, LPP68 and LPP70 of the Section 2 Plan.

#### 11.5 Impact upon Neighbouring Residential Amenity

- 11.5.1 The NPPF requires a good standard of amenity for all existing and future occupiers of land and buildings. Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Section 2 Plan states that development shall not cause undue or unacceptable impacts on the amenities of nearby residential properties.
- 11.5.2 The application is seeking outline permission, with some matters reserved for future consideration at a later date and therefore it is not possible to fully assess the impact it would have on the amenity of neighbouring occupiers. However, based on the layout plan submitted in support of the application it is considered that the proposal is unlikely to result in a detrimental impact upon neighbouring residential amenity in terms of overlooking, overshadowing or overbearing, given the spatial separation between the site and adjacent premises.

#### 11.6 Highway Considerations

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



- 11.6.2 ECC Highways has reviewed the planning application and supporting Highway Impact Assessment against its own Development Management Policies to ensure the proposal site can be accessed safely, any additional trips would not be detrimental to highway safety and capacity and to ensure as far as possible that the site is accessible by more sustainable modes of transport such as public transport, cycling and walking.
- 11.6.3 Subject to conditions, and notwithstanding the representations made by the Parish Council and local residents, based on the consultation response received from ECC Highways, the proposal is considered acceptable on highway grounds. However, as referred to above, further clarification has been sought from ECC Highways concerning the impact on the Protected Lane and this will be reported to Members at the meeting.
- 11.7 Habitat Regulations Assessment (HRA / RAMS)
- 11.7.1 In terms of the wider ecological context, the application site sits within the Zone of Influence of one or more of the following:
- § Blackwater Estuary Special Protection Area and Ramsar site;
  - § Dengie Special Protection Area and Ramsar site;
  - § Essex Estuaries Special Area of Conservation.
- 11.7.2 It is therefore necessary for the Council to complete an Appropriate Assessment under the Habitat Regulations to establish whether mitigation measures can be secured to prevent the development causing a likely significant adverse effect upon the integrity of these sites.
- 11.7.3 An Appropriate Assessment (Habitat Regulation Assessment Record) has been completed in accordance with Natural England's standard guidance. Subject to the proposed mitigation measures set out in the Council's Habitat Regulations Assessment being secured these mitigation measures would rule out the proposed development causing an adverse effect on the integrity of the above European Designated Sites.
- 11.7.4 The proposed mitigation measures would consist of the securing of a financial contribution of £137.71 per dwelling erected towards offsite visitor management measures at the above protected sites.

Surface Water Drainage (SuDs)

- 11.7.5 The site is located within Flood Zone 1 and is not more than 1ha in size. With regard to the representations concerning surface water drainage this application is below the threshold for when the SuDs Authority will comment.
12. Other Material Considerations
- 12.1.1 The applicant has suggested in the submitted Planning Statement that the site should be considered as 'previously developed land' and relies on the

High Court Judgment referred to above. It is implied that as the land is associated with a residential use, it cannot be considered 'greenfield' land.

- 12.1.2 It is relevant to note that the use of Stables Retreat, has not been formally established by the granting of a Certificate for an Existing Lawful Use. While the evidence submitted in relation to Application Reference 19/00434/ELD indicated that a dwelling had been on site during the relevant period, it was not demonstrated on the balance of probabilities that there had been two dwellings in the former stables building. The application was therefore refused. No further application has been made to establish the building as a single dwelling since the refusal of 19/00434/ELD. As such, while the residential use may be time-barred from enforcement, it has not been regularised.
- 12.1.3 The land is associated with Stables Retreat, the extent of which is not shown in total on the submitted plans, may have been in equestrian use for some time. The High Court judgment referred to by the applicant which referred in part to a challenge to an Appeal Inspector's view that the site in that case was previously developed land. Although this judgment is noted, the case is not directly relevant to the circumstances with this application as it refers to a Travellers site in the Greenbelt.
- 12.1.4 The annexe to the NPPF defines that previously developed land is land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape. In this case, while a shed and other ephemera were observed on the site boundary close to the existing stables, there is no evidence that there have been any permanent structures on the application site.
- 12.1.5 To suggest that this site constitutes previously development land is stretching the point made in the legal judgment. It is therefore concluded that the site is not on previously development 'brown-field' land.

### 13. PLANNING BALANCE AND CONCLUSION

- 13.1.1 As set out within Paragraph 47 of the NPPF, planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In this case the application site is located outside of a designated village envelope/town development boundary and is therefore located within the countryside, where new development is strictly controlled to uses appropriate within the countryside in order to protect and enhance the

landscape character and biodiversity, geodiversity and amenity of the countryside. There is therefore a presumption that the application should be refused unless there are material reasons to grant planning permission.

- 13.1.2 Paragraph 60 of the NPPF sets out the Government's objective of significantly boosting the supply of homes. The main mechanism within the NPPF for achieving this is the requirement that local planning authorities demonstrate a five-year supply of deliverable housing land, assessed against housing need. In this regard, the Council is currently able to demonstrate a Housing Land Supply of 5.1 years against its housing need. As such the Council is presently meeting this objective.
- 13.1.3 Until the adoption of the Section 2 Plan, the sites which are proposed to be allocated but do not yet have planning permission or a resolution to grant planning permission, have not been included within the 5 Year Housing Land Supply calculation.
- 13.1.4 As such, although the Council can currently demonstrate a 5 Year Housing Land Supply, this is finely balanced, and currently only marginally exceeds the 5 year threshold.
- 13.1.5 As the Council can demonstrate the required 5 Year Housing Land Supply, the 'tilted balance' pursuant to Paragraph 11d) of the NPPF is not engaged due to a lack of housing land supply. It is therefore necessary to identify the most important policies for determining the application and to establish whether these are out-of-date. Paragraph 219 of the NPPF states that existing policies should not be considered out-of-date simply because they were adopted prior to the publication of the Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater weight that may be given).
- 13.1.6 In this case the basket of policies which are considered to be the most important for determining the application are Policies SP1 and SP3 of the Section 1 Plan, Policies RLP2, RLP84, RLP87 and RLP90, of the Adopted Local Plan and Policy CS5 and CS8 of the Core Strategy.
- 13.1.7 Policy SP1 of the Section 1 Plan states that when considering development proposals the Local Planning Authority will take a positive approach that reflects the presumption in favour of sustainable development contained within the NPPF, and will seek to approve proposals wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. Policy SP3 of the Section 1 Plan sets out the spatial strategy for North Essex, namely to accommodate development within or adjoining settlements according to their scale, sustainability and existing role both within each individual Districts, and where relevant, across the wider strategic area. Further growth will be planned to ensure existing settlements maintain their distinctive character and role, to avoid coalescence between them and to conserve their setting. As the Section 1 Plan has been found to be sound and recently adopted by

the Council, it is considered that both policies are consistent with the NPPF and can be afforded full weight. Neither are out-of-date.

- 13.1.8 Whilst the primary purpose of Policy RLP2 of the Adopted Local Plan is to restrict development to development boundaries, and thus resist it in the countryside, it is considered that the policy remains broadly consistent with the Framework's approach of protecting the countryside from harmful development, and is not hindering the Council in delivering housing growth within the District. The policy is not out-of-date, and can be given moderate weight. The aims of Policy CS5 of the Core Strategy are much wider as the policy seeks to amongst other things, protect and enhance the landscape character and amenity of the countryside. As it is effectively seeking to preserve the intrinsic character and beauty of the countryside – an objective contained within the NPPF – it is considered that this policy is not out-of-date and can be given significant weight.
- 13.1.9 Policy RLP90 of the Adopted Local Plan states that the Council will seek a high standard of layout and design in all developments, large and small. The layout, height, mass and overall elevational design of buildings and developments shall be in harmony with the character and appearance of the surrounding area; including their form, scale and impact on the skyline in the locality. It is considered that the policy is consistent with the Framework as it seeks to secure sustainable development. The policy is not out-of-date, and can be given full weight. A similar sentiment is repeated in the relevant Section 2 Plan, LPP55.
- 13.1.10 Policy 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.
- 13.1.11 Policy RLP87 of the Adopted Local Plan states that the Council will seek to conserve the traditional landscape and nature conservation character of roads designated on the Proposals Map as Protected Lanes, including their associated verges, banks and ditches. Any proposals that would adversely affect the physical appearance of these protected lanes, or give rise to a material increase in the amount of traffic using them will not be permitted. This policy is not out-of-date and can be afforded full weight.
- 13.1.12 When considering the basket of the most important policies for the determination of this application as a whole, it is considered that the policies are not out-of-date and are broadly consistent with the Framework.
- 13.1.13 Given that the Council can demonstrate a 5 Year Housing land Supply, and the basket of policies are not otherwise out-of-date, the 'flat' (or untilted) planning balance must still be undertaken which weighs the adverse impacts of the proposed development, including the conflict with the Development Plan, against the public benefits of the proposal.

- 13.1.14 In undertaking this flat planning balance, such an assessment must take account of the economic, social and environmental impact of the proposed development. As set out in Paragraph 8 of the NPPF, achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and needed to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):
- an economic objective (to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure);
  - a social objective (to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being); and
  - an environmental objective (to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy).

## 13.2 Summary of Adverse Impacts

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

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

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

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

- 13.2.4 The proposed development would conflict with Policy LPP1 of the Section 2 Plan as it proposes development outside the defined development boundaries and within the countryside. Significant weight can be afforded to this conflict given the advanced stage of the Section 2 Plan.

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

- 13.2.5 The proposed development would conflict with Policies RLP87 and RLP90 of the Adopted Local Plan and Policies LPP46 and LPP55 of the Section 2 Local Plan as it would fail to conserve the character and appearance of Beslyns Road which is a Protected Lane. Significant weight can be attributed to Policies RLP87 and RLP90. Given the advanced stage of the Section 2 Plan, significant weight can be afforded to this conflict with Policies LPP46 and LPP55 given the advanced stage of the Section 2 Plan.

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

- 13.2.6 In the absence of a comprehensive Tree Survey or Arboricultural Report, it is not possible to be specific in terms of the likely harm to individual trees. However, the development would result in the loss of some trees and part of the hedgerow, contrary to Policies RLP80 and RLP81 of the Adopted Local Plan and Policy LPP71 of the Section 2 Plan. Significant weight can be given to the conflict with Policies RLP80 and RLP81 of the Adopted Local Plan, with significant weight afforded to Policy LPP71 of the Section 2 Plan, given the advanced stage of the Section 2 Plan.

### **Heritage**

- 13.2.7 The proposal would result in a very low level of harm to the setting of the Conservation Area as the designs are fairly convoluted and close to the plot boundaries, contrary to Policy RLP95 of the Adopted Local Plan and Policy LPP60 of the Section 2 Plan. Significant weight can be afforded to Policy RLP95 of the Adopted Local Plan with significant weight to Policy LPP60 of the Section 2 Local Plan, given the advanced stage of the Section 2 Plan. As referred to above, this harm must be factored into the overall planning balance and as such is considered that this harm is at a low level.

### **Ecology**

- 13.2.8 Due to insufficient information being supplied by the applicant it is not possible to fully assess the likely impact. Given that it has not been demonstrated that the proposal will not result in ecological harm, the proposal is contrary to Policy RLP84 of the Adopted Local Plan, Policy CS8 of the Adopted Core Strategy, and to Policies LPP67, LPP68, LPP69 and LPP70 of the Section 2 Plan. Significant weight can be given to the conflict with Policy RLP84 of the Adopted Local Plan and Policy CS8 of the Core Strategy, with significant weight afforded to the breach of Policies LPP67, LPP68, LPP69 and LPP70 of the Section 2 Plan, given the advanced stage of the Section 2 Plan.

### 13.3 Summary of Public Benefits

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

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

- 13.3.2 The development would provide 4 units of market housing. However, in view of the scale of the development proposed, this harm is afforded limited weight.

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

- 13.3.3 The site is not considered to be in an accessible location as due to the nature of the single track lane and the lack of a footpath and street lighting, it is unlikely that residents would walk to the village to access services and public transport links and as such would place reliance on the private car. This harm is afforded significant weight.

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

- 13.3.4 The proposal would deliver economic benefits during the construction period and economic and social benefits following occupation of the development, in supporting local facilities. In view of the scale of development proposed, this benefit is afforded limited weight.

### 13.4 Planning Balance

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

## 14. RECOMMENDATION

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

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

## APPENDIX 1:

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

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

<b>Plan Description</b>	<b>Plan Ref</b>	<b>Plan Version</b>
House Types	220474-PL-102 B	N/A
Site Plan	220474-SP-100 B	N/A
Location Plan	220474-SP-200	N/A

#### Reason(s) for Refusal

##### Reason 1

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In this case, the application site is located in the countryside, outside any defined village envelope and would introduce up-to 4 dwellings on an unallocated site within the designated countryside. The proposed development would therefore be contrary to Policy RLP2 of the Adopted Braintree District Local Plan Review (2005), Policy CS5 of the Adopted Braintree District Core Strategy (2011), and Policy LPP1 of the Publication Draft Braintree District Section 2 Local Plan.

Furthermore, the application site in this case is located on a bend on a single track road with no footpath or street lighting along a protected lane. It is therefore considered that the site is not in a sustainable location which would enable future occupiers to access local services, facilities, and employment without undoubtedly placing reliance on travel by car and would do little to enhance or maintain the vitality of the area. The creation of 4 new dwellings on the site would have a harmful impact upon the wider rural character and appearance of the locality. The proposed development would also give rise to less than substantial harm to the setting of the Great Bardfield Conservation Area.

Consequently, it is concluded that the harms arising from the development, including the harm arising from the conflict with the Development Plan, would outweigh the stated benefits, such that planning permission should be refused in line with the Development Plan. The proposed development would be contrary to the NPPF, Policies RLP2, RLP90 and RLP100 of the Adopted Braintree District Local Plan Review (2005), Policies CS5 and CS7 of the Adopted Braintree District Core Strategy (2011), Policies SP1 and SP3 of the Adopted Shared Strategic Section 1 Local Plan (2021), and Policies LPP1, LPP50, LPP55, and LPP60 of the Publication Draft Braintree District Section 2 Local Plan (2017).

##### Reason 2

The proposed development would have a detrimental visual impact on the rural character of the area through the loss of trees and hedges to enable the proposed vehicle access and the required visibility splays in either direction to be constructed. The creation of a new access to facilitate the development by punching through the



bank of this protected lane, together with the erection of 4 2-storey dwellings, would have a detrimental visual impact resulting in the erosion of its verdant and rural character together with the introduction of a form of development that would be alien to the local context. As such it would result in material harm to the physical appearance of the lane to the detriment of this part of Great Bardfield contrary to the principles and guidance set out in the NPPF, Policies RLP80, RLP87 and RLP90 of the Adopted Braintree District Local Plan Review (2005), Policy CS8 of the Adopted Braintree District Core Strategy (2011), and Policies LPP55 and LPP71 of the Braintree District Publication Draft Section 2 Local Plan (2017).

#### Reason 3

Insufficient information has been submitted in relation to protected species as the hedge to the northern boundary onto the Protected Lane has not been surveyed. As such it has not been possible for the Local Planning Authority to make an assessment of the likely impact on local ecology and protected species. The proposal is therefore considered to be contrary to the NPPF, Policy RLP84 of the Adopted Braintree District Local Plan Review (2005), and Policies LPP68 and LPP70 of the Publication Draft Braintree District Section 2 Local Plan (2017).

#### Reason 4

No detailed information or Tree Survey has been submitted in relation to the trees on the site, and in particular, the hedge on the northern boundary. The part of the hedgerow proposed for removal is located on a Protected Lane. Further information would be required as to whether the hedgerow is protected under the Hedgerow Regulations 1997, as this is typically the case if a hedgerow has been present in the landscape for a long period of time. In the absence of any information on trees/hedging within the site it has not been possible for the Local Planning Authority to make an assessment on the impact of development. The proposal is therefore considered to be contrary to the NPPF, Policy RLP80 of the Adopted Braintree District Local Plan Review (2005), Policy CS8 of the Adopted Braintree District Core Strategy (2011), and Policy LPP69 of the Publication Draft Braintree District Section 2 Local Plan (2017).

#### Informative(s)

##### Informative 1

You are advised that removal of the hedgerow outside the scope of an approved planning permission would require a separate Hedgerow Removal Notice being served on the Council prior to any works proceeding.

#### Positive and Proactive Statement

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

## APPENDIX 2:

### POLICY CONSIDERATIONS

#### National Planning Guidance

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

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

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

#### Braintree District Local Plan Review 2005

RLP2      Town Development Boundaries and Village Envelopes  
RLP10     Residential Density  
RLP49     Pedestrian Networks  
RLP51     Cycle Parking  
RLP53     Generators of Travel Demand  
RLP54     Transport Assessments<sup>2</sup>  
RLP56     Vehicle Parking  
RLP65     External Lighting  
RLP69     Sustainable Drainage  
RLP74     Provision of Space for Recycling  
RLP80     Landscape Features and Habitats  
RLP81     Trees, Woodlands, Grasslands and Hedgerows  
RLP84     Protected Species  
RLP87     Protected Lanes  
RLP90     Layout and Design of Development  
RLP95     Preservation and Enhancement of Conservation Areas

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

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

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

LPP1      Development Boundaries  
LPP33     Affordable Housing  
LPP34     Affordable Housing in the Countryside  
LPP37     Housing Type and Density  
LPP44     Sustainable Transport

LPP45	Parking Provision
LPP46	Protected Lanes
LPP50	Built and Historic Environment
LPP55	Layout and Design of Development
LPP60	Heritage Assets and their settings
LPP67	Natural Environment and Green Infrastructure
LPP68	Protected Species, Priority Spaces and Priority Habitat
LPP69	Tree Protection
LPP70	Protection, Enhancement, Management and Monitoring of Biodiversity
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

### Other Material Considerations

Site Allocations and Development Management Plan  
Essex Vehicle Parking Standard

### Statement on Draft Local Plan

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

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

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

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

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

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

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

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

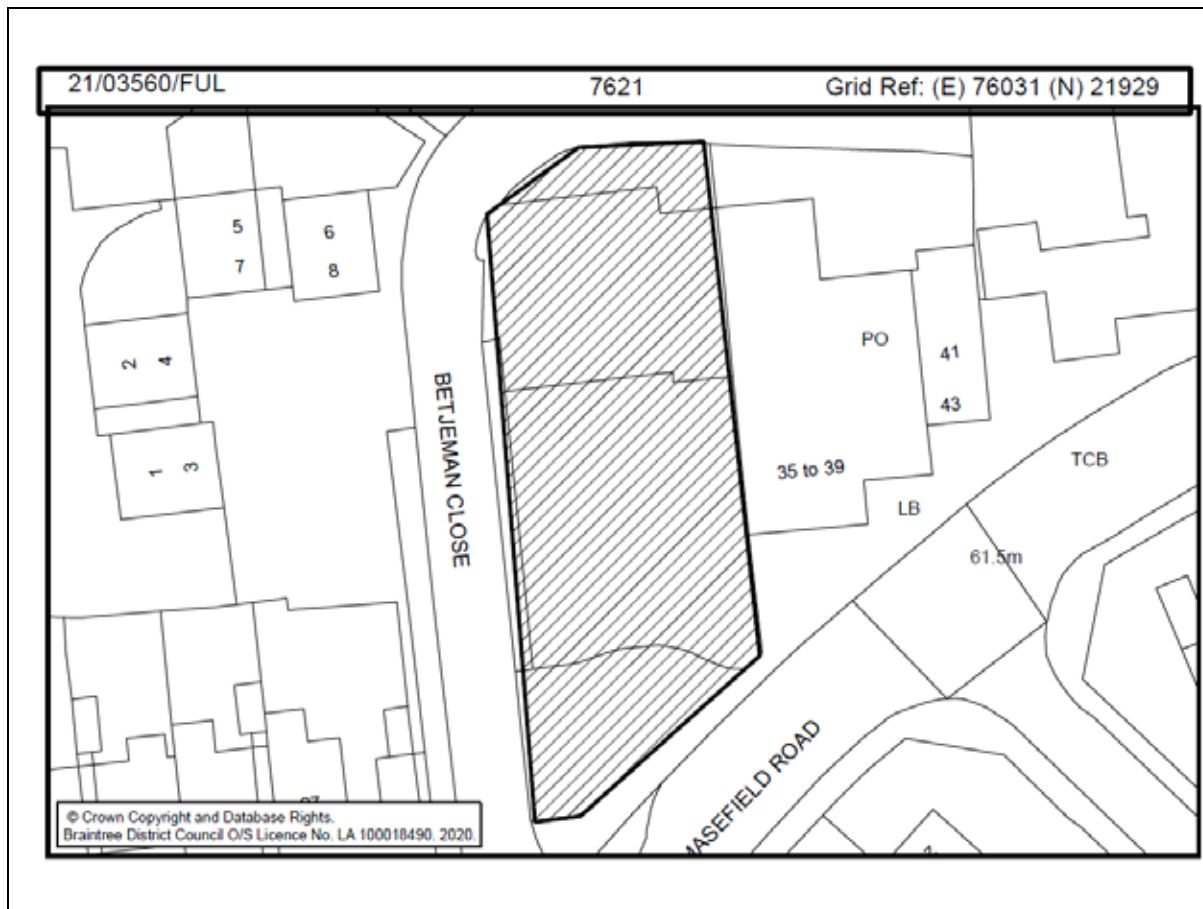
APPENDIX 3:

SITE HISTORY

<b>Application No:</b>	<b>Description:</b>	<b>Decision:</b>	<b>Date:</b>
22/00045/NONDET	Outline planning application for the erection of up to 4 detached dwellings and associated works, with all matters reserved except for Scale and Access.	Pending Consideration	
19/00434/ELD	Conversion of building to form two dwellinghouses occupied for more than 4 years.	Refused	26.06.19

<b>Report to:</b> Planning Committee		
<b>Planning Committee Date:</b> 28th June 2021		
<b>For:</b> Decision		
<b>Key Decision:</b> No		<b>Decision Planner Ref No:</b> N/A
<b>Application No:</b>	21/03560/FUL	
<b>Description:</b>	Erection of a three-storey building containing 11 x 1 bedroom self-contained flats, layout parking and amenity areas and formation of new vehicular access onto Betjeman Close.	
<b>Location:</b>	Former Rose And Crown Site, Masefield Road, Braintree	
<b>Applicant:</b>	Stratsmore Construction LTD, Harvey House, 79 London Road, Romford, RM7 9QD	
<b>Date Valid:</b>	23rd March 2022	
<b>Recommendation:</b>	It is RECOMMENDED that the following decision be made: § Application REFUSED for the reasons outlined within Appendix 1 of this Committee Report.	
<b>Options:</b>	The Planning Committee can: a) <b>Agree</b> the Recommendation b) <b>Vary</b> the Recommendation c) <b>Overturn</b> the Recommendation d) <b>Defer</b> consideration of the Application for a specified reason(s)	
<b>Appendices:</b>	<b>Appendix 1:</b>	Reason(s) for Refusal Submitted Plan(s) / Document(s)
	<b>Appendix 2:</b>	Policy Considerations
	<b>Appendix 3:</b>	Site History
<b>Case Officer:</b>	Natalie Banks For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2545, or by e-mail: <a href="mailto:natalie.banks@braintree.gov.uk">natalie.banks@braintree.gov.uk</a>	

**Application Site Location:**



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

	<p>including tackling prejudice and promoting understanding.</p> <p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
<b>Background Papers:</b>	<p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> <li>§ Application Form</li> <li>§ All Plans and Supporting Documentation</li> <li>§ All Consultation Responses and Representations</li> </ul> <p>The application submission can be viewed online via the Council's Public Access website:  <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a> by entering the Application Number: 21/03560/FUL.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> <li>§ National Planning Policy Framework (NPPF)</li> <li>§ Braintree District Local Plan Review (2005)</li> <li>§ Braintree District Core Strategy (2011)</li> <li>§ Braintree District Shared Strategic Section 1 Local Plan (2021)</li> <li>§ Braintree District Publication Draft Section 2 Local Plan (2017)</li> <li>§ Neighbourhood Plan (if applicable)</li> <li>§ Supplementary Planning Documents (SPD's) (if applicable)</li> </ul> <p>The National Planning Policy Framework can be viewed on the GOV.UK website: <a href="http://www.gov.uk/">www.gov.uk/</a>.</p> <p>The other abovementioned policy documents can be viewed on the Council's website:  <a href="http://www.braintree.gov.uk">www.braintree.gov.uk</a>.</p>



1. EXECUTIVE SUMMARY

- 1.1 The site is located on Masefield Road within the Town Development Boundary of Braintree. It was formerly occupied by the Rose and Crown Pub which was demolished some time ago. The site is immediately adjacent to a local neighbourhood shopping area, and occupies a prominent position on the corner of Masefield Road and Betjeman Close.
- 1.2 The character of the area is defined by two-storey 1960s style housing and the adjacent local centre which is made up of a row of flat-roofed commercial units of varying heights and sizes fronting onto Masefield Road, turning into Challis Lane.
- 1.3 The two commercial premises adjacent to the site have flats above. There are two-storey residential dwellings in close proximity to the site to the north, west and southern boundaries.
- 1.4 The site has an extensive planning history with planning permission having been granted for flatted schemes under Application References 12/00563/OUT and 14/01115/FUL. Both of these permissions have lapsed. Planning permission was also refused on 14th December 2020 for a similar quantum of development to that being now sought, under Application Reference 20/01274/FUL.
- 1.5 This application seeks planning permission for the erection of a three-storey building containing 11 x 1 bed self-contained flats, parking and amenity areas and the formation of a new vehicular access onto Betjeman Close.
- 1.6 Officers consider that the site is too small for the quantum of development proposed which is illustrated by the extremely poor and contrived design, and the unacceptable standard of residential accommodation which would be provided.
- 1.7 The proposal would lead to an over-development of the site, and a poor standard of design to the detriment of visual amenity and to the amenity of the existing and proposed residents.
- 1.8 The proposal is liable for a Section 106 contribution towards public open space. No agreement has been reached in this regard.
- 1.9 When considering the flat planning balance and having regard to the adverse impacts and benefits of the proposal and having regard to the NPPF as a whole, it is concluded that the benefits of the proposal are significantly outweighed by the harms, including the harm arising from the conflict with the Development Plan, such that planning permission should be refused.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE
- 2.1 This application is being reported to Planning Committee in accordance with Part A of the Council's Scheme of Delegation as the application is categorised as a Major planning application.
3. POLICY CONSIDERATIONS
  - § See Appendix 2
4. SITE HISTORY
  - § See Appendix 3
5. DESCRIPTION OF THE SITE AND SITE CONTEXT
  - 5.1 The site, which measures approximately 0.9ha in area, is located on Masefield Road within the Town Development Boundary of Braintree. It was formerly occupied by the Rose and Crown Public House which was demolished approximately 8 years ago. The site has remained vacant and is now boarded-up and untidy.
  - 5.2 The site is immediately adjacent to a local neighbourhood shopping area, and occupies a prominent position on the corner of Masefield Road and Betjeman Close, which wraps around the northern extent of the site, providing access to the rear service yards for the adjacent premises.
  - 5.3 Masefield Road has a discernible slope from east to west, with no buildings above 2-storey in height. The character of the area is defined by the 1960s style housing in the immediate vicinity and the local centre which is made up a row of flat-roofed shops and takeaways of varying heights and sizes fronting onto Masefield Road, turning into Challis Lane.
  - 5.4 The two commercial premises adjacent to the site have flats above. There are two-storey residential dwellings in close proximity to the site to the north, west and southern boundaries on the other side of Masefield Road and Betjeman Close.
  - 5.5 Planning permission was granted for flatted schemes under Application References 12/00563/OUT and 14/01115/FUL. With regard to the former outline permission, no reserved matters came forward and the full application was not implemented within the statutory timeframe of three years, therefore, both these permissions, whilst they are a material consideration, cannot be implemented and therefore there is no fall-back position.
  - 5.6 Application Reference 20/01274/FUL for a similar development was previously refused on 14th December 2020, for the reasons of poor design

and amenity, lack of SuDs information and failure to secure an a Section 106 Agreement for Public Open Space.

## 6. PROPOSAL

- 6.1 This application seeks planning permission for the erection of a three-storey building containing 11 x 1 bed self-contained flats, associated parking and amenity areas and the formation of a new vehicular access onto Betjeman Close.
- 6.2 The external design of the building is very similar to the most recent refused scheme (Application Reference 20/01274/FUL). Some minor changes to the internal arrangement have been made to some of the flats and the stair case has been repositioned. The building is designed in a layered, flat-roofed form over a square-shaped plan which would abut the existing shop building to the east. The accommodation is set out with 3 flats and 5 garages on the ground floor, 6 flats on the first floor and 2 flats on the second floor. It would measure approximately 5.6m in height to the first floor, with the top layer extending to 8.07m; 19.2m in width and 21.85m in depth.
- 6.3 The front building line would be set forward of the existing shops by approximately 9.2m. The plans indicate that 3 vehicle spaces and a small landscaped area would be provided to the front of the building.
- 6.4 An area of tarmac is proposed to the rear of the building opposite the garages to provide a new vehicular access, 4 surface vehicle parking spaces, with an area marked for bin storage.
- 6.5 The northern part of the site would be landscaped to provide approximately 180sq.m of shared amenity space behind a 1.8m fence with a paved area to the south, leading to the rear access to the flats.
- 6.6 The main entrance to the flats would be on the west side of the building off Betjeman Close. The building would be set back by approximately 0.76m from this highway edge with the front entrance recessed. Internally, to the left of the front entrance cycle storage lockers are proposed to provide 14 spaces, this narrows the ground floor corridor from 3.2m down to 1.3m. No lift is proposed.
- 6.7 The 3 flats on the ground floor are orientated to the south, with Flats 2 and 3 being single-aspect. The stairs to the first-floor are located on the east side of the building. The first floor accommodation is set out in 2 rows of 3. Flats 4-6 are south facing with Flats 5 and 6 being single aspect. Flats 7-9 are orientated north, with Flats 7 and 8 being single aspect. Juliet balconies are indicated for the south facing flats. At second floor, Flats 10 and 11 are orientated south with a dual aspect on the living/dining rooms. The flats are set out as follows with all measurements in approximate square metres:

<b>Flat &amp; Floor area</b>	<b>Living / Dining room</b>	<b>Bedroom</b>	<b>Kitchen</b>	<b>Bathroom</b>	<b>Other</b>
<b>1</b> South facing 60.54	14.70 1 side window, 1 front French window	13.62 1 front window	11.52 No window	4.52 1 side window	Hall area 12.09 triple full height window Internal cupboard 0.97
<b>2</b> South facing 58.67	18.57 Front French window	17.62 Front French window	10.07 No window	4.50 No window	Single aspect;  Hall 6.56
<b>3</b> South facing 57.13	17.04 1 window	17.62 Front French window	10.07 No window	4.50 No window	Single aspect  Hall 6.56
<b>4</b> South facing 60.57	14.70 Front French window 1 side window	13.62 1 window	11.52 No window	4.50 Side window	Dining Area 12.77 Triple full height window Internal cupboard 0.89
<b>5</b> South facing 54.73	18.13 French window	13.63 French window	10.07 No window	4.50 No window	Single aspect  Hall 6.40
<b>6</b> South facing 54.60	Combined with kitchen 23.62 French window	13.21 1 window	(Combined with living room)	4.28 No window	Single aspect Hall 6.62 Internal cupboard 1.55 Balcony 6.26 (1m deep)

<b>7</b> North facing 49.97	Combined with kitchen 23.63 1 window	12.33 French window	(Combined with living room)	4.28 No window	Single aspect Hall 7.35 Internal cupboard 1.55
<b>8</b> North facing 49.97	13.37 French window	13.61 French window	10.08 No window	4.50 No window	Single aspect Hall 4.57 Internal cupboard 1.62
<b>9</b> North facing 49.93	13.37 French window	13.61 1 window	10.08 Side window	4.50 No window	Hall 4.57 Internal cupboard 1.62
<b>10</b> South facing 49.97	14.55 Front window Side French window	12.54 1 window	10.08 1 window	4.50 No window	Hall 4.60 Balcony 16.11
<b>11</b> South facing 49.97	14.55 Front French window Side window	12.54 1 window	10.08 1 window	4.50 No window	Hall 4.60 Balcony 10.09

- 6.8 The overall profile of the building has a horizontal emphasis with the windows and French doors then set in a vertical arrangement. The materials proposed are facing brick, with rendered panels, concrete copings and powder coated metal windows.
- 6.9 The submitted site plan indicates that an existing conifer tree in the northern amenity area would be retained, however, it is confirmed that this is no longer is situ. The plan indicates some planting on this area and the smaller area to the south, however, no details have been submitted. A shed is proposed in the northern amenity area, but again no details have been provided.
- 6.10 The application is accompanied by a suite of documents including a Design and Access Statement, SuDs Strategy, Biodiversity Questionnaire, Phase 1 Environmental Screening Report and Photographs.

## 7. SUMMARY OF CONSULTATION RESPONSES

### 7.1 Anglian Water

- 7.1.1 Comment that a full assessment cannot be made due to lack of information as the applicant has not identified a point of connection into the public network, a discharge regime or rate of discharge. Conditions are therefore requested that a scheme for on-site foul water drainage works to be agreed prior above-ground construction.

### 7.2 Essex Fire and Rescue

- 7.2.1 Raise no objection, commenting that more details would be considered at the Building Regulation stage.

### 7.3 Essex Police

- 7.3.1 Reiterate their concerns as referenced within the Applicant's Design and Access Statement regarding application reference 12/00563/OUT. These relate to what measures would be in place to mitigate the risk of crime from the ground floor French doors opening onto accessible space adjacent to the highway. It would also appear from the ground floor plan that the access control system is within the building foyer creating a vulnerability to crime and anti-social behaviour. Robust access control and postal delivery arrangements are key to reducing this risk.

### 7.4 Natural England

- 7.4.1 Confirms that the site falls within the 'Zone of Influence' of one or more of the European Designated sites scoped into the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS).

### 7.5 BDC Ecology

- 7.5.1 BDC's Ecology Officer raises no objection subject to securing a contribution towards Rams and condition requiring biodiversity enhancement measures.

### 7.6 BDC Environmental Health

- 7.6.1 No response had been received at the time of preparing the report. Any comments will be reported to Members at the forthcoming Committee meeting.

### 7.7 BDC Housing

- 7.7.1 Not applicable as the development is below the threshold of 15 for urban areas.

7.8      BDC Landscape Services

- 7.8.1      Raise no objections to the proposal, subject to a condition requiring the submission of a suitable landscaping scheme.

7.9      BDC Waste Services

- 7.9.1      BDC Waste Services comment that there is no provision for the waste collection vehicle to turn on Betjeman Close. As such it would be dangerous for a 26 tonne waste collection vehicle to have to reverse off Masefield Road some 90m to the bin store, and around a 90 degree left-hand bend (left hand when reversing). A Size 3 Turning Head would therefore be required.

7.10      ECC Highways

- 7.10.1      Raise no objection to the proposal subject to a condition requiring the provision of Residential Travel Information packs for each unit, and two informatives relating to surface water drainage and works with the highway.

7.11      ECC SuDS

- 7.11.1      Consider that there is not a significant change to the area of hardstanding associated with the site or opportunities to deliver new SuDS features. Therefore they have no formal comment to make on this application.

8.      PARISH / TOWN COUNCIL

8.1      Town Council

- 8.1.1      N/A

9.      REPRESENTATIONS

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

10.      PRINCIPLE OF DEVELOPMENT

10.1      National Planning Policy Framework (NPPF)

- 10.1.1      As set out in Paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 of the NPPF explains that achieving sustainable development means that the planning system has three overarching objectives: economic; social; and environmental; which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives).

- 10.1.2      Paragraph 9 of the NPPF outlines that planning decisions should play an active role in guiding development towards sustainable solutions, but in

doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area. In addition, Paragraph 38 of the NPPF prescribes that local planning authorities should approach decisions on proposed development in a positive and creative way and that decision makers at every level should seek to approve applications for sustainable development where possible.

- 10.1.3 Paragraph 12 of the NPPF which sets out that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making. In addition, paragraph 47 of the NPPF states that planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise.
- 10.1.4 The NPPF underlines the Government's objective of significantly boosting the supply of homes. In this regard, Paragraph 60 of the NPPF highlights the importance of ensuring that there is a sufficient amount and variety of land that can come forward where it is needed, that specific housing requirements are met, and that land with permission is developed without unnecessary delay. Paragraph 74 of the NPPF outlines that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against (in the case of Braintree District) our 'local housing need' plus the relevant buffer.
- 10.1.5 In this regard, and in considering the overall planning balance as to whether the proposed development subject to this application constitutes sustainable development, an important material consideration in this case is whether the Council can robustly demonstrate a 5 Year Housing Land Supply. This will affect whether Paragraph 11 of the NPPF is engaged and consequently the weight that can be attributed to the Development Plan (see below).
- 10.2 5 Year Housing Land Supply
  - 10.2.1 The Council publishes a 5 year housing land trajectory as of 31st March each year. The most recent position therefore is that of 31st March 2021. Within the published trajectory, the forecast supply amounted to a 5.34 year supply of housing based on a 5% buffer.
  - 10.2.2 At its Full Council meeting on 22nd February 2021, Braintree District Council approved the adoption of the Shared Strategic Section 1 Local Plan. On its adoption, the Council must meet the housing requirement set out in that Plan. This is a minimum of 14,320 homes between 2013-2033 or an annual average of 716 new homes per year. This replaces the previous consideration of housing need based on the Standard Methodology.
  - 10.2.3 The latest Housing Delivery Test (HDT) results were published in January 2022. The new results (which include an allowance for the impact of the current pandemic) confirm that Braintree District achieved 125% supply



against target and the usual 5% buffer is maintained. This applies from the day of publication of the results.

- 10.2.4 The Council's Housing Land Supply position has recently been contested as part of an appeal at Land off Brain Valley Avenue, Black Notley (Appeal Reference: APP/Z1510/W/21/3281232). Within the appeal decision dated 20th January 2022, the Inspector concluded at Paragraph 54 that the housing supply 2021-2026 would be in excess of the 5,352 requirement; and that therefore the Council can demonstrate an up-to-date housing land supply and the titled balance pursuant to Paragraph 11d) of the NPPF is not engaged.
- 10.2.5 Accordingly, given all the evidence before it, including the housing requirement from the Shared Strategic Section 1 Local Plan and the use of a 5% buffer, and having regard to the above appeal decision, the Council considers that the current 5 Year Housing Land Supply for the District is 5.1 years.
- 10.2.6 In addition, the current supply position does not include sites which are proposed to be allocated within the Section 2 Local Plan but do not yet have planning permission or a resolution to grant planning permission.
- 10.2.7 These allocations without permission are being tested at the Section 2 Plan Examination. Once the Section 2 Plan is adopted, these sites will become adopted allocations and greater weight can be given to them. It will also improve the prospects of these being included within the deliverable supply, where there is clear evidence that there is a realistic prospect that housing will be delivered on the site within five years.
- 10.3 The Development Plan
- 10.3.1 Currently the Council's statutory Development Plan consists of the Braintree District Local Plan Review (2005), the Braintree District Core Strategy (2011), and the Braintree District Shared Strategic Section 1 Local Plan (2021).
- 10.3.2 The Development Plan seeks to direct new residential development to appropriate locations within the defined Town and Village Development boundaries. Policy RLP3 of the Adopted Local Plan and Policy LPP1 of the Section 2 Plan state that development within Town Boundaries will only be permitted where it satisfies amenity, design, environmental and highway criteria and where it can take place without material detriment to the existing character of the settlement. In order to be considered favourably, it must provide an acceptable level of amenity for future occupiers and existing adjacent neighbours. A high standard of design is expected, along with acceptable parking and access arrangements.
- 10.3.3 The site is located within the Town Development Boundary and consists of previously developed 'brownfield' land. Paragraph 120 c) of the NPPF indicates that decisions should give substantial weight to the value of using

suitable brownfield land within settlements for homes. The principle of developing this site is therefore considered acceptable.

## 11. SITE ASSESSMENT

### 11.1 Location and Access to Services and Facilities

11.1.1 The strategy set out in the Section 1 Plan within Policy SP3 is to concentrate growth in the most sustainable locations by adopting a spatial strategy that promotes development in the most sustainable locations, where there are opportunities for walking, cycling and public transport links to shops, services and employment. This means that for the Section 2 Plan 'the broad spatial strategy for the District should concentrate development in Braintree, Witham and the A12 corridor and Halstead.' Policy CS7 of the Core Strategy states that future development will be provided in accessible locations to reduce the need to travel.

11.1.2 In this case, the site is within one of the District's main towns, has good access to local services and facilities as well as good public transport links. As such it is a highly sustainable location which weights in favour of the development.

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

11.2.1 Paragraph 126 of the NPPF highlights the fundamental importance of creating high quality buildings and places and the contribution that this makes to a successful environment. Good design is a key aspect of sustainable development, creating better places in which people can live and work, making development more acceptable to communities.

11.2.2 Paragraph 130 is clear that planning decisions should ensure that developments are sympathetic to local character and ensure that it will function well and add to the overall quality of an area – not just for the short term, but over the lifetime of the development.

11.2.3 Criterion f) of Paragraph 130 is also pertinent requiring that good design should create places that are safe, inclusive and accessible and which promotes 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.

11.2.4 Development should be visually attractive as a result of good architecture, layout and appropriate landscaping, be sympathetic to local character and establish a strong sense of place.

11.2.5 Paragraph 134 is clear in that development that is not well designed should be refused.

- 11.2.6 Policies RLP3, RLP10 and RLP90 of the Adopted Plan seek to safeguard visual and residential amenity. Policy RLP10 states that the density and massing of residential development should relate to the characteristics of the site, the layout and density of surrounding development, and the extent to which parking and amenity standards can be achieved. Policy RLP90 states that the scale, density, height and elevational design should reflect or enhance local distinctiveness. Buildings, open areas, circulation spaces and other townscape and landscape areas should be of a high standard of design and materials. Design and layout should also promote a safe and secure environment, crime reduction and prevention and should encourage the related objective of enhancing personal safety, with the maximum amount of natural surveillance of all open areas.
- 11.2.7 Policy SP7 of the Section 1 Plan sets out 'place shaping principles' which also requires that development should respond positively to local context and character to preserve and enhance the existing environment. A high standard of design and architectural quality is expected.
- 11.2.8 Policy LPP55 of the Section 2 Plan reiterates the sentiments of Policy RLP90 and also seeks to secure the highest possible standards of design and layout in all new development and the protection and enhancement of the environment.
- 11.2.9 As well as the policies referred to above, the advice set out in The National Design Guide, referred to in Paragraph 128 of the NPPF, is relevant. This Guide states that well-designed homes should provide a good standard and quality of internal space. This includes room sizes, internal and external storage, sunlight, daylight and ventilation.
- 11.2.10 In terms of the building's architecture, while the design has little in the locality to respond to, it nevertheless would appear alien in the context. Its position is more or less at the top of Masefield Road, which slopes down as it heads east. It therefore in an extremely prominent position and although the design is 'layered' with the top storey set in, it would be the tallest and most prominent building in the locality. While the layering is an attempt to reduce the perception of height and overall size, this is not assisted by the detailed design of the building.
- 11.2.11 The design of the elevations are very similar to the previously refused scheme (Application Reference 20/01274/FUL) and are best described as monolithic and stark in contrast to the local context. Its elevational detailing seeks to replicate the adjacent commercial buildings, which were clearly a product of their time and would not be considered good design today. Their presence does not justify the duplication of their negative contribution to the character of the street scene.
- 11.2.12 The solid to void ratios are poor, which is exacerbated by the vertical positioning of the doors and windows, conflicting strongly with the horizontal emphasis of the building. The second floor element is disproportionately tall and does not read as a coherent part of the design.

The rendered panels on all facades are superficial and would lack depth and articulation over the large flat mass of the building. The vertical emphasis of the fenestration is alien to the horizontal emphasis of the building and of other buildings in the area. It is also marred by the Juliet balconies on the front elevation which are, shallow and dysfunctional.

- 11.2.13 The main entrance to the building on the west side is poorly designed, illegible and provides no sense of arrival at the building. Its detailing is poor and asymmetrical with a large extend of brick façade which is at odds with the more symmetrical treatment of the south elevation onto Masefield Road. The adjacent commercial buildings all have their entrances facing towards Masefield Road. The attempt to place the main entrance onto Betjeman Close undermines the attempt to blend the proposed building into the locality by having its main entrance at the side. The gap between the entrance and the highway at 0.76m is too narrow, providing no defensible space at the front door. Even 'though the entrance door is recessed by 1.5m, people exiting the building would come out almost directly onto the road. In addition, as mentioned above, the closeness of the building to the highway would also have a negative impact on the amenity of Flat 1.
- 11.2.14 An area for bin storage is indicated on the block plan, however, no details have been provided. As such it is considered that this could inhibit the usability of the garages and parking area and would not be convenient for either use by the residents or for collection purposes.
- 11.2.15 Due to the context of the site, the need for good architecture is especially important in the light of the Government's expectations since the publication of the NPPF, the National Design Guide and the Model Code. The development would be an over-development of the application site that fails to achieve a high standard of design contrary to the NPPF and the abovementioned policies in the Development Plan.

### **Quality of Accommodation**

- 11.2.16 The development would provide for 11 x 1 bedroomed flats set across three floors of accommodation. 6 of the units would be single-aspect flats, 2 of which are north-facing. This represents an unacceptable level of residential amenity and constitutes extremely poor design contrary to National Design Guide.
- 11.2.17 The ground floor flats all have a south-facing aspect with the corner unit (Flat 1) being dual aspect. However, the internally contrived layout of Flat 1 would mean that it would look directly onto car-parking from its primary window in the living room. There would also be no defensible space for the secondary window on the west side of the building due to its close proximity to the highway edge. The windows to the bathroom and dining area could also be accessed directly from the public highway, greatly reducing the internal quality of these rooms, in particular resulting in a reduced degree of privacy and safety.

- 11.2.18 Flats 2 and 3 are single aspect with deep habitable rooms. The kitchens of all the ground floor flats also have no natural daylight, nor do the bathrooms of Flats 2 and 3. These deep rooms and lack of natural light will inevitably lead to a dependency on artificial lighting, which is not acceptable in terms of health or sustainability.
- 11.2.19 Flat 4 is similar to Flat 1. Flat 5 is also deep with just 1 window each for the living room and bedroom. Flat 6 has a combined kitchen/living/ and dining room that extends to the whole depth of the flat, which will clearly have a detrimental impact on the amenity of the potential occupiers. Again, all the kitchens on this floor have no access to daylight nor do the bathrooms of Flats 5 and 6. The hall on the second floor would also be lit by one window, which will again result in reliance on artificial lighting.
- 11.2.20 Flats 7, 8 and 9 are all north facing and while flat 9 has a dual aspect, Flats 7 and 8 do not. Flat 7 is also has a combined kitchen/living/dining area and Flat 8 has no daylight to the kitchen. All these 3 flats have no daylight to the bathrooms or hallways. In addition, Flats 7 and 8 being north facing, will receive no direct sunlight at any time even where there are windows.
- 11.2.21 Flats 10 and 11 are both dual aspect with access to areas of private amenity space in form of terraces accessed from the living areas. However both bathrooms and internal hall areas have no access to daylight and would rely on mechanical ventilation. The dependency on artificial lighting for many of the flats and the likely very dark hallways must be questioned in terms of the amenity and health and safety of the potential occupiers and of sustainability as a result of the inevitable reliance on artificial light and ventilation.
- 11.2.22 The ground floor access to the flats would be used by all occupiers to get to their private internal front doors, and at ground floor this would be heavily compromised by the poor location of the bicycle lockers which greatly reduces the width of the corridor. In general the halls and stairs are not good quality spaces, at ground and first floor they would benefit from limited natural light, whilst at second floor Flat 11 has only 0.8m between its front door and the stair access.

### **Amenity Space**

- 11.2.23 To the north of the building an area of communal amenity space would be provided, made up of 130sq.m of a landscaped area and a 50sq.m paved area (180sq.m in total). This area would be a north facing and enclosed by way of a 1.8m high boundary treatment with extremely limited natural surveillance. Its access and position is undesirable, and is likely to result in an enclosed, overshadowed and unwelcoming space. The amount of space would also be impacted by the proposed shed, composting bins and refuse storage area.
- 11.2.24 In accordance with the Essex Design Guide 11 flats should have 275sq.m of amenity space. The communal area proposed falls significantly short of

this requirement and the landscaped garden to the front cannot be considered in this calculation. In terms of private amenity space, 4 of the units would be provided with access to a balcony or terrace, whilst this is welcomed, it does not overcome the otherwise unacceptable provision of private amenity space to meet the needs of future occupiers on this overdeveloped site.

### **Summary**

- 11.2.25 Overall, it is considered that the constraints of the site could not accommodate the quantum of development proposed without unacceptable compromises to the visual amenity of the locality. Moreover, the quality of both the internal and external amenity for the flats would fail to provide an acceptable standard of residential amenity to meet the needs of future residents.

### 11.3 Heritage

- 11.3.1 There are no heritage issues as the site is not within the close environs of a Conservation Area or listed building.

### 11.4 Ecology

- 11.4.1 Policy RLP84 of the Adopted Local Plan and LPP68 of the Section 2 Plan seek to safeguard wildlife and protected species from the impact of new development. In this case, the building has been demolished and the site cleared. The Council's Ecology Officer has raised no objections to the proposal subject to securing a financial contribution towards the Essex Coast Recreational Avoidance and Mitigation Strategy as well as a condition requiring biodiversity enhancement measures. This payment would be secured by a S106 Agreement or S111 of the Local Government Act 1972.

### 11.5 Impact upon Neighbouring Residential Amenity

- 11.5.1 Paragraph 130 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 states amongst other things that development should not have an unacceptable impact upon neighbouring amenity. This is reiterated in Policy LPP55 of the Section 2 Plan.
- 11.5.2 Putting aside the impact the building would have on visual amenity, due to its distance from existing residential dwellings, it is considered that it would not have a direct impact on residential amenity in terms of overshadowing or overlooking, except for the private amenity space of No. 27 Masefield Road. Flat 4 on the west elevation of the proposed building has 2 habitable windows which would directly overlook the rear garden of this property, representing a loss of privacy that is not acceptable. In addition, the flat above the adjacent commercial premises at No.35 Masefield Road, would

be affected by the flank wall of the new building. As referred to above, the building would be some 9.2m forward of the existing building line of the shops, with the height of the building measuring 5.6m, rising to 8.2m at second floor. As such, it would affect the outlook of the existing flat and is likely to result in overshadowing as the sun moves to the west during the day.

- 11.5.3 The proposal would therefore result in harm to neighbouring residential amenity in terms of overlooking to No.27 Masefield Road and overshadowing of the flat above 35 Masefield Road

11.6 Highway Considerations

- 11.6.1 In promoting Sustainable Development, Paragraph 105 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 107 states that if setting local parking standards for residential and non-residential development, policies should take account of, amongst other things, the accessibility of the development, its type, mix and use and the availability of public transport. Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 11.6.2 Policy RLP3 and RLP10 of the Adopted Local Plan and Policies LPP37 and LPP55 of the Section 2 Plan require that new development is provided with a safe and suitable access. Policy RLP56 of the Adopted Local Plan and LPP45 of the Section 2 Plan recommend that all new development is provided with sufficient parking in accordance with the adopted Essex County Council Vehicle Parking Standards. Policy RLP51 of the Adopted Plan and LPP45 of the Section 2 Plan also require that all new development is provided with sufficient cycle parking in accordance with the adopted Standards.
- 11.6.3 In this case, 1 vehicle parking spaces is required for each 1-bed property plus 2 visitor spaces. As only 11 spaces are proposed, the development does not comply with the Standards. In addition, three of the spaces to the rear also fall short of the standard bay size which requires an additional metre in width if they are adjacent to a brick wall. Whilst this shortfall is insufficient in terms of sustaining a reason to object to this proposal in their own right, it is nevertheless indicative of the overdevelopment of the site and is contrary to RLP10 of the Adopted Local Plan, which also refers to parking provision. It is also questionable how practical some of the spaces and garages would be, given the proposed location of the bin stores. The spaces to the front of the building immediately adjacent to Betjeman Close, parallel to Masefield Road also back directly onto the highway which would affect their usability.

- 11.6.4 In terms of cycle provision, the 7 lockers proposed in the ground floor corridors could accommodate up to 14 cycles. This, together with space within the 5 garages which measure 3m x 7m in accordance with the Standards and can therefore accommodate cycle storage, is acceptable in terms of the amount. However, as mentioned above, the provision of the lockers within the communal ground floor corridor would impede the width, would be impractical to use and are therefore poorly designed.
- 11.6.5 In conclusion therefore, in the absence of an objection from Highways, a refusal on the shortfall of vehicle parking or the poor provision of cycle storage is unlikely to be sustained on highway grounds, however, as referred to above, the non-compliance with the Standards is indicative that this proposal would result in overdevelopment.
- 11.7 Habitat Regulations Assessment (HRA / RAMS)
- 11.7.1 In terms of the wider ecological context, the application site sits within the Zone of Influence of one or more of the following:
- § Blackwater Estuary Special Protection Area and Ramsar site;
  - § Dengie Special Protection Area and Ramsar site;
  - § Essex Estuaries Special Area of Conservation.
- 11.7.2 It is therefore necessary for the Council to complete an Appropriate Assessment under the Habitat Regulations to establish whether mitigation measures can be secured to prevent the development causing a likely significant adverse effect upon the integrity of these sites.
- 11.7.3 An Appropriate Assessment (Habitat Regulation Assessment Record) has been completed in accordance with Natural England's standard guidance. Subject to the proposed mitigation measures set out in the Council's Habitat Regulations Assessment being secured these mitigation measures would rule out the proposed development causing an adverse effect on the integrity of the above European Designated Sites.
- 11.7.4 The proposed mitigation measures would consist of the securing of a financial contribution of £127.30 per dwelling erected towards offsite visitor management measures at the above protected sites.
- 11.7.5 This financial contribution could be secured by way of a Section 106 Legal Agreement or by way of a Unilateral Undertaking.
- 11.7.6 This financial contribution has been secured as the applicant has made the required payment under S111 of the Local Government Act 1972.
- 11.8 Waste Services
- 11.8.1 BDC Waste Services have suggested that a Size 3 Turning Head is required as there is insufficient provision for a waste collection vehicle to turn on Betjeman Close. It is considered this would be difficult to achieve,



given the lack of space for the servicing of the site and further illustrates that too much development is proposed for the site.

## 12. PLANNING OBLIGATIONS

- 12.1 The site is below the threshold of 15 dwellings, therefore no affordable housing provision is required. However, Policy CS10 of the Core Strategy, Policy RLP138 of the Adopted Local Plan and Policy LPP82 of the Section 2 Plan require that new development provides mitigation towards any potential impact on community facilities and infrastructure, as appropriate. The Council's adopted Open Space Supplementary Planning Document (SPD) sets out the process and mechanisms for the delivery and improvement of open space in the district. Any requirement would need to be secured through a S106 Agreement.
- 12.2 The development would require a contribution of £13,788.83 based on the figure of £1,253.53 as of 1st April 2022.
- 12.3 In the absence of a completed Section 106 Agreement, the proposed development fails to mitigate against its impacts with regard to open space. The proposal is therefore contrary to Policy CS10 of the Core Strategy, Policy RLP138 of the Adopted Local Plan, and Policy LPP82 of the Section 2 Plan.

## 13. PLANNING BALANCE AND CONCLUSION

- 13.1.1 As set out within Paragraph 47 of the NPPF, planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In this case the application site is located within a designated development boundary where the principle of development is generally considered to be acceptable in accordance with Policy RLP3 of the Adopted Local Plan, and Policy LPP1 of the Section 2 Plan.
- 13.1.2 Paragraph 60 of the NPPF sets out the Government's objective of significantly boosting the supply of homes. The main mechanism within the NPPF for achieving this is the requirement that local planning authorities demonstrate a five-year supply of deliverable housing land, assessed against housing need. In this regard, the Council is currently able to demonstrate a Housing Land Supply of 5.1 years against its housing need. As such the Council is presently meeting this objective.
- 13.1.3 Until the adoption of the Section 2 Plan, the sites which are proposed to be allocated but do not yet have planning permission or a resolution to grant planning permission, have not been included within the 5 Year Housing Land Supply calculation.
- 13.1.4 As such, although the Council can currently demonstrate a 5 Year Housing Land Supply, this is finely balanced, and currently only marginally exceeds the 5 year threshold.

- 13.1.5 As the Council can demonstrate the required 5 Year Housing Land Supply the 'tilted balance' pursuant to Paragraph 11d) of the NPPF is not engaged due to a lack of housing land supply. It is therefore necessary to identify the most important policies for determining the application and to establish whether these are out-of-date. Paragraph 219 of the NPPF states that existing policies should not be considered out-of-date simply because they were adopted prior to the publication of the Framework. Due weight should be given to them, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater weight that may be given).
- 13.1.6 In this case the basket of policies which are considered to be the most important for determining the application are Policies SP1, SP3 and SP7 of the Section 1 Plan and Policies RLP2, RLP3, RLP10, RLP56 and RLP90 of the Adopted Local Plan and Policies LPP1, LPP45, LPP50 and LPP55 of the Section 2 Plan.
- 13.1.7 Policy SP1 of the Section 1 Plan states that when considering development proposals the Local Planning Authority will take a positive approach that reflects the presumption in favour of sustainable development contained within the NPPF, and will seek to approve proposals wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. Policy SP3 of the Section 1 Plan sets out the spatial strategy for North Essex, namely to accommodate development within or adjoining settlements according to their scale, sustainability and existing role both within each individual District, and where relevant, across the wider strategic area. Further growth will be planned to ensure existing settlements maintain their distinctive character and role, to avoid coalescence between them and to conserve their setting. Policy SP7 relates to place shaping principles and states that all new development must meet high standards of architectural design. As the Section 1 Plan has been found to be sound and recently adopted by the Council, it is considered that both policies are consistent with the NPPF and can be afforded full weight. Neither are out-of-date.
- 13.1.8 Whilst the primary purpose of Policy RLP2 of the Adopted Local Plan is to restrict development to development boundaries, and thus resist it in the countryside, it is considered that the policy remains broadly consistent with the Framework's approach of protecting the countryside from harmful development, and is not hindering the Council in delivering housing growth within the District. The policy is not out-of-date, and can be given moderate weight. Policy RLP3 of the Adopted Local Plan seeks to permit residential development within village envelopes and town development boundaries, where it satisfies amenity, design, environmental and highway criteria and where it can take place without material detriment to the existing character of the settlement. As with Policy RLP2, it is considered that the policy remains broadly consistent with the Framework as it seeks to secure sustainable development. The policy is not out-of-date, and can be given more than significant weight.

- 13.1.9 Policy RLP56 of the Adopted Local seeks to ensure that new development is provided with sufficient parking. Policies RLP3, RLP10, and RLP90 of the Adopted Local Plan relate to design and indicate that the Council will seek a high standard of layout and design in all developments, large and small. The layout, height, mass and overall elevational design of buildings and developments shall be in harmony with the character and appearance of the surrounding area; including their form, scale and impact on the skyline in the locality. It is considered that these policies are consistent with the Framework as they seek to secure well-designed and sustainable development. They are not out-of-date, and can be given full weight.
- 13.1.10 When considering the basket of the most important policies for the determination of this application as a whole, it is considered that the policies are not out-of-date and are broadly consistent with the Framework.
- 13.1.11 Given that the Council can demonstrate a 5 Year Housing land Supply, and the basket of policies are not otherwise out-of-date, the 'flat' (or untitled) planning balance must still be undertaken which weighs the adverse impacts of the proposed development, including the conflict with the Development Plan, against the public benefits of the proposal.
- 13.1.12 In undertaking this flat planning balance, such an assessment must take account of the economic, social and environmental impact of the proposed development. As set out in Paragraph 8 of the NPPF, achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and needed to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):
- an economic objective (to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure);
  - a social objective (to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being); and
  - an environmental objective (to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy).

## 13.2 Summary of Adverse Impacts

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

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

- 13.2.2 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Paragraph 15 of the NPPF emphasises that the planning system should be “genuinely plan led”.
- 13.2.3 The application site is located within the Town Development Boundary of Braintree and therefore the principle of development in this location is acceptable. There is therefore no conflict with Policy RLP2 of the Adopted Local Plan or Policy CS5 of the Core Strategy.

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

- 13.2.4 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Paragraph 15 of the NPPF emphasises that the planning system should be “genuinely plan led”.
- 13.2.5 Similarly to the above, as the application site is located within the Town Development Boundary of Braintree, the principle of development in this location is acceptable. There is therefore no conflict with Policy LPP1 of the Section 2 Plan.

### **Design, Layout, Appearance, Quality of Internal Accommodation, Amenity Space and Parking Provision**

- 13.2.6 The proposed development would conflict with Policy SP7 of Section 1 Plan, Policy CS10 of the Core Strategy, and Policies RLP3, RLP10, RLP56, and RLP90 of the Adopted Local Plan as a result of its poor design, layout and architectural detailing, insufficient visitor parking, poor internal amenity and shortfall of external amenity space. The building would appear as an alien and incongruous feature in the local context as a result of there being too many units proposed to be successfully accommodated within the constraints of this site.
- 13.2.7 The quality of the amenity for the flats is far from acceptable, as both internally and externally there are too many compromises to what can only be considered as an over-developed site that would fail to provide the quality and standards of good design, including enabling future residents to feel safe and secure.

### **Impact upon Neighbouring Residential Amenity**

- 13.2.8 The proposal would also have an unacceptable impact on the amenity of No.27 Masefield Road and the flat above No.35. Full weight can be afforded to Policy SP7 of the Section 1 Plan and Policies RLP3, RLP10, RLP56 and RLP90 of the Adopted Local.
- 13.2.9 The proposed development would similarly conflict with Policies LPP1, LPP45, LPP50 and LPP55. This conflict can be afforded significant weight due to the stage it is at towards adoption.

### **Section 106 Obligations**

- 13.2.10 Policy CS10 of the Core Strategy and RLP138 require that mitigation is secured to offset the impact of new development. There is no agreed Section 106 Agreement to secure the above identified open space contribution. The failure to acquire the required contribution would result in additional pressure on existing public open space. Given the scale of the development significant weight is afforded to this harm.

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

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

### **Delivery of Market Housing**

- 13.3.2 The proposal would provide 11 new residential units however, given the scale of the development and the poor quality of design, this benefit can only be afforded limited weight.

### **Previously Developed Land**

- 13.3.3 The proposal would bring previously developed land back into use which should be given significant weight in accordance with the NPPF, however, given the scale of the development and the poor quality of the design, this benefit can only be afforded moderate weight.

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

- 13.3.4 The site is within one of the District's main towns and is adjacent to local shops with good access to services and public transport opportunities. In view of the scale of the development and the poor quality of the design, this benefit can only be afforded limited weight.

### **Economic and Social Benefits**

- 13.3.5 The proposal would undoubtedly deliver economic and social benefits during the construction phase and following occupation of the development,

however, due to the scale of development proposed, this benefit is afforded only limited weight.

### **Environmental Benefits**

- 13.3.6 The proposal would have environment benefits by remedying an untidy site that makes no contribution to the street scene, however as this would be at the expense of good design and over-development, only limited weight can be afforded.

### **13.4 Planning Balance**

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

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

### **14. RECOMMENDATION**

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

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

## APPENDIX 1:

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

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

<b>Plan Description</b>	<b>Plan Ref</b>	<b>Plan Version</b>
Location Plan	PL-000	N/A
Block Plan	PL-001	N/A
Proposed Ground Floor Plan	PL-004	N/A
Proposed 1st Floor Plan	PL-005	N/A
Proposed 2nd Floor Plan	PL-006	N/A
Proposed Roof Plan	PL-007	N/A
Proposed Elevations	PL-008	N/A
Proposed Elevations	PL-009	N/A
Proposed Elevations	PL-010	N/A
Proposed Elevations	PL-011	N/A
Existing Site Plan	PL-003	N/A
Proposed Site Plan	PL-002	N/A

#### Reason(s) for Refusal

##### Reason 1

The proposed development would introduce an overly large and dominant building which would appear alien and incongruous. It would not only fail to respond to local context but would also exacerbate the acknowledged negative qualities of the local environment. The entrance to the building on the west side is disjointed in its detailing, lacks legibility and is at odds with the more symmetrical treatment of the elevation onto Masefield Road. The set back of the west elevation at 0.76m is also too narrow and would result in residents walking straight out onto the highway and for visitors to wait in the road. The rendered panels on all facades are superficial and would lack depth and articulation over the large flat mass of the building. The vertical emphasis of the fenestration is alien to the horizontal emphasis of the building and of other buildings in the area. It is also marred by the Juliet balconies on the front elevation which are pointless, shallow and dysfunctional. As such, the proposed development represents poor design that fails to consider local context or the constraints of the site which clearly cannot accommodate the quantum of development proposed here without unacceptable compromises to the visual amenity of the locality. The development is therefore contrary to the NPPF, Policy SP7 of the Adopted Shared Strategic Section 1 Local Plan (2021), Policies RLP3, RLP10, RLP56 and RLP90 of the Adopted Braintree District Local Plan Review (2005), and Policies LPP37, LPP45, LPP50 and LPP55 of the Publication Draft Braintree District Section 2 Local Plan (2017).

##### Reason 2

The proposed development would fail to secure a high standard of amenity for existing and future residents as a result of the poor design and contrived layout. Six of the flats would have a single aspect, with 2 being north facing. Many of the flats do not have access to daylight in kitchens, bathrooms or internal hall areas. The overly

deep rooms of some of the flats will compromise daylight, leading to a dependency on artificial lighting, particularly the living rooms of Flats 6 and 7 which would extend the whole depth of the building. The layout of Flat 1 means that it would look out onto vehicle parking spaces from its primary window. There is also no defensible space for the secondary windows on the west side due to the close proximity of the building to the highway edge, reducing the privacy and perception of safety of the potential residents. Moreover, the orientation of the habitable rooms to Flat 6 will overlook the private garden of No.27 Masefield Road. The building would also be some 9.2m forward of the existing building line of the shops, with the height of the building measuring 5.6m, rising to 8.2m at second floor. As such, it would affect the outlook of the existing flat above No.35 Masefield and is likely to result in overshadowing as the sun moves to the west during the day. The impact on neighbouring residential amenity and the poor quality of the internal space is not only unacceptable but is also indicative that the site is too small to accommodate the amount of development proposed, contrary to the NPPF, Policies RLP3, RLP10 and RLP90 of the Adopted Braintree District Local Plan Review (2005), Policies LPP50 and LPP55 of the Publication Draft Braintree District Section 2 Local Plan (2017), and The Essex Design Guide.

### Reason 3

The advice with the Council's adopted Essex Design Guide indicates that 11 flats should have a total of 275sq.m of amenity space based on the recommendation of 25sq.m per flat. In this case the amenity area to the north equates to approximately 180sq.m and lacks surveillance. It is also adjacent to a publicly accessible area and would be enclosed by a close boarded fence with the paved area acting as a rear access to the flats. This area is insufficient in size and usability and would always be in shade. The amenity space to the front of the building is small and hard up to the highway edge, and is also impeded by the parking bays making it completely dysfunctional. There is only one properly functional balcony and that is to Flat 10. Overall it is considered that there is no more than 160sq.m of private or usable communal amenity space for the flats, resulting in a shortfall of 115sq.m. This is not acceptable given the compromised layouts of the flats and is contrary to the aims of the NPPF, Policies RLP3, RLP10 and RLP90 of the Adopted Braintree District Local Plan Review (2005), and Policies LPP50 and LPP55 of the Publication Draft Braintree District Section 2 Local Plan (2017).

### Reason 4

The development sets out to provide 11 vehicle parking spaces, 7 of which are external. The recommendations set out in the Council's adopted Vehicle Parking Standards require that an additional 2 spaces should be provided for visitors. Parking spaces should measure 5.5m x 2.9m and where parking areas have end bays adjacent to solid structures, the width of the bays should be increased by 1m to allow for maneuverability. Whilst a slight shortfall in terms of size can be tolerated, 3 of the parking spaces fall short of the Standards in terms of their width. The area allocated for bin storage within the car park, would also inhibit the usability of the garages and the vehicle parking spaces within this area. In addition, the proposed location of the cycle storage lockers would impede the usability of the communal hall and would be impractical to use. The lack of conformity to the Adopted Standards represents poor design and is therefore contrary to the NPPF, Policies RLP10, RLP51, RLP56 and



RLP90 of the Adopted Braintree District Local Plan Review (2005) and Policies LPP47, LPP55 of the Publication Draft Braintree District Section 2 Local Plan (2017), and the Adopted Parking Standards.

#### Reason 5

In the absence of a completed Section 106 Legal Agreement or a Unilateral Undertaking, the proposed development fails to mitigate against its direct impacts with regards to open space. The proposed development is therefore contrary to the NPPF, Policy CS10 of the Adopted Braintree District Core Strategy (2011), Policies RLP138 of the Adopted Braintree District Local Plan Review (2005), and Policy LPP82 of the Publication Draft Braintree District Section 2 Local Plan (2017).

#### Positive and Proactive Statement

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

## APPENDIX 2:

### POLICY CONSIDERATIONS

#### National Planning Guidance

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

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

CS7 Promoting Accessibility for All  
CS8 Natural Environment and Biodiversity  
CS10 Provision for Open Space, Sport and Recreation

#### Braintree District Local Plan Review 2005

RLP2 Town Development Boundaries and Village Envelopes  
RLP9 Design And Layout of Housing and Mixed Use Areas  
RLP10 Residential Density  
RLP51 Cycle Parking  
RLP56 Vehicle Parking  
RLP69 Sustainable Drainage  
RLP74 Provision of Space for Recycling  
RLP80 Landscape Features and Habitats  
RLP90 Layout and Design of Development  
RLP138 Provision of Open Space in New Housing Developments

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

SP1 Presumption in Favour of Sustainable Development  
SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)  
SP3 Spatial Strategy for North Essex  
SP4 Meeting Housing Needs  
SP7 Place Shaping Principles

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

LPP1 Development Boundaries  
LPP17 Housing Provision and Delivery  
LPP37 Housing Type and Density  
LPP44 Sustainable Transport  
LPP45 Parking Provision  
LPP50 Built and Historic Environment  
LPP51 An Inclusive Environment  
LPP53 Provision for Open Space, Sport and Recreation  
LPP55 Layout and Design of Development  
LPP68 Protected Species, Priority Spaces and Priority Habitat

LPP70	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP73	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
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

### Other Material Considerations

Site Allocations and Development Management Plan

Essex Design Guide:

Page 76 and 77 – amenity space

Page 81-109 - Design

Essex Parking Standards

Public Open Space Supplementary Planning Document

### Statement on Draft Local Plan

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

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

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

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

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

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

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

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

### APPENDIX 3:

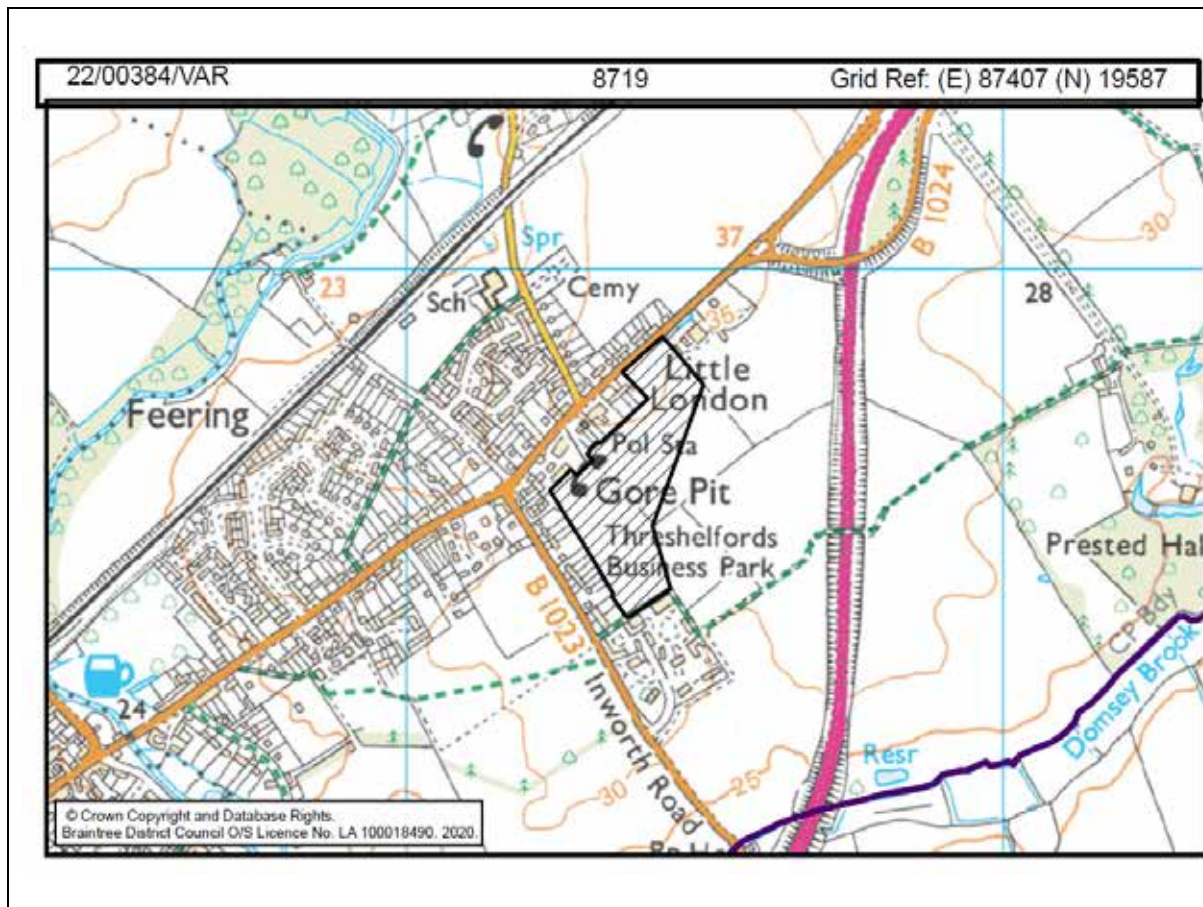
#### SITE HISTORY

<b>Application No:</b>	<b>Description:</b>	<b>Decision:</b>	<b>Date:</b>
90/00627/PFBN	Erection Of Kitchen And Bottle Store Extension	Granted	25.05.90
96/00072/FUL	Erection of single storey extension of existing bar area	Granted	09.04.96
97/01127/FUL	Erection of single storey front extension	Granted	22.10.97
98/01726/FUL	Proposed side and rear two storey extensions	Granted	25.01.99
11/00310/OUT	Demolition of public house, erection of two storey building with roof accommodation containing 4 no. ground floor commercial units (Classes A1, A2, A3, A5) with 8 self-contained flats above, layout parking and amenity area and form new vehicular access onto Betjeman Close.	Refused	13.05.11
11/01456/OUT	Demolition of public house and erection of a three-storey building containing 4 no. ground floor commercial units (Classes A1, A2, A5) with 8 no. self-contained flats above, layout parking and amenity areas and form new vehicular access onto Betjeman Close	Refused	08.12.11
12/00563/OUT	Demolition of public house and erection of a three-storey building containing 11 no. self-contained flats, layout parking and amenity areas and formation of new vehicular access onto Betjeman Close	Granted with S106 Agreement	19.07.12

14/01115/FUL	Erection of 14 no. flats, new vehicular access, basement parking and amenity areas	Granted with S106 Agreement	15.12.14
15/00537/FUL	Application for a minor material amendment relating to approved application 14/01115/FUL - Erection of 14 no. flats, new vehicular access, basement parking and amenity areas - Proposed internal alterations	Granted	18.11.15
17/01244/DAC	Application for approval of details reserved by condition nos. 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 ,19 and 20 of approved application 14/01115/FUL	Refused	21.02.18
18/00195/FUL	Erection of 14no. flats, new vehicular access, basement parking and amenity areas	Withdrawn	06.08.19
19/00265/FUL	Erection of 14 No. flats with car parking at ground floor and new access.	Withdrawn	06.08.19
20/01274/FUL	Erection of a three-storey building to provide 11 x 1 bedroomed flats with associated parking.	Refused	14.12.20

<b>Report to:</b> Planning Committee		
<b>Planning Committee Date:</b> 28th June 2022		
<b>For:</b> Decision		
<b>Key Decision:</b> No		<b>Decision Planner Ref No:</b> N/A
<b>Application No:</b>	22/00384/VAR	
<b>Description:</b>	Variation of Condition 1 (Approved Plan) of approved application 21/02167/VAR granted 11.02.2022. Variation would allow for: First floor internal reconfiguration and rear elevation amendment to Dekker house type (see report for full description).	
<b>Location:</b>	Land North East of Inworth Road, Feering	
<b>Applicant:</b>	Mr Craig Attmere Bloor Homes Eastern, Marauder House, Bury St Edmunds, Skyliner Way, IP32 7YA	
<b>Date Valid:</b>	14th February 2022	
<b>Recommendation:</b>	It is RECOMMENDED that the following decision be made:  § Application GRANTED subject to the Condition(s) & Reason(s) and Informative(s) outlined within Appendix 1 of this Committee Report.	
<b>Options:</b>	The Planning Committee can:  a) <b>Agree</b> the Recommendation b) <b>Vary</b> the Recommendation c) <b>Overturn</b> the Recommendation d) <b>Defer</b> consideration of the Application for a specified reason(s)	
<b>Appendices:</b>	<b>Appendix 1:</b>	Approved Plan(s) & Document(s) Condition(s) & Reason(s) and Informative(s)
	<b>Appendix 2:</b>	Policy Considerations
	<b>Appendix 3:</b>	Site History
<b>Case Officer:</b>	Mathew Wilde For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2512, or by e-mail: <a href="mailto:mathew.wilde@braintree.gov.uk">mathew.wilde@braintree.gov.uk</a>	

## Application Site Location:



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



	<p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
<b>Background Papers:</b>	<p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> <li>§ Application Form</li> <li>§ All Plans and Supporting Documentation</li> <li>§ All Consultation Responses and Representations</li> </ul> <p>The application submission can be viewed online via the Council's Public Access website:  <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a> by entering the Application Number: 22/00384/VAR.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> <li>§ National Planning Policy Framework (NPPF)</li> <li>§ Braintree District Local Plan Review (2005)</li> <li>§ Braintree District Core Strategy (2011)</li> <li>§ Braintree District Shared Strategic Section 1 Local Plan (2021)</li> <li>§ Braintree District Publication Draft Section 2 Local Plan (2017)</li> <li>§ Neighbourhood Plan (if applicable)</li> <li>§ Supplementary Planning Documents (SPD's) (if applicable)</li> </ul> <p>The National Planning Policy Framework can be viewed on the GOV.UK website: <a href="http://www.gov.uk/">www.gov.uk/</a>.</p> <p>The other abovementioned policy documents can be viewed on the Council's website:  <a href="http://www.braintree.gov.uk">www.braintree.gov.uk</a>.</p>

1. EXECUTIVE SUMMARY

- 1.1 The Planning Practice Guidance states that in deciding an application under Section 73 of the Town and Country Planning Act 1990, the Local Planning Authority must only consider the condition/s that are the subject of the application – it is not a complete re-consideration of the application. It also states that the original planning permission will continue to exist whatever the outcome of the application under Section 73.
- 1.2 This Section 73 application proposes to amend Condition 1 (plans) pursuant to Application Reference 21/02167/VAR and seeks approval for changes to the Dekker House type to include an additional rear en-suite window at first floor level. There are a total of 14 Dekker house types at the site. This application is intended to cover all 14 of these units. The application is partly retrospective as several of the Dekker houses have already been constructed with the additional rear window in place. However, this has no bearing (positive or negative) upon the consideration of the current application which must be considered on its merits.
- 1.3 In considering the merits of the application, it is not considered that the additional window would lead to a harmful impact on the overall appearance of the Dekker house type. Furthermore, the additional window would not result in further harm to the setting of Cobham Oak Cottage (Grade II\* Listed Building) and would not lead to an unacceptable impact on neighbouring dwellings with regard to overlooking.
- 1.4 The proposed en-suite would result in a reduction in the overall floorspace of bedroom 1 to approximately 9sq.m which would be below the required 11.5sq.m to comply with the Nationally Described Space Standards (NDSS) requirements for a double bedroom. However, bedroom 2 would have 11.83sq.m of floorspace, which would be above the standard required. In order to address this, the developer reversed the ordering of the bedrooms, so that the bedroom with the en-suite (formerly bedroom 1) would become bedroom 2, while bedroom 1 (formerly bedroom 2) would be the master bedroom. The unit would therefore remain as a two bed three person unit and continue to comply with the NDSS.
- 1.5 Overall, Officers consider that the additional window is acceptable from an external and internal amenity and design perspective, and thus the application to change the Dekker house type is recommended for approval.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

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

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

- 5.1 The application site comprises an irregularly-shaped, but broadly triangular area of what was previously arable land of about 5.5ha. The site forms part of a wider strategic allocation for Feering and has planning permission to erect 162 dwelling units. These dwellings are currently in the process of being built out, with a number now occupied.
- 5.2 In terms of context, the site lies to the east of Gore Pit Corner at the junction between London Road and Inworth Road. Most of the north western boundary of the site follows the rear boundaries of the builder's merchant and houses in London Road but the site has a frontage to London Road of about 86m between Holmfield House and Exchange Court. This is marked by a hedgerow with a field access at its north eastern end.
- 5.3 The south west boundary of the site follows the rear garden boundaries of houses in Inworth Road with a short south eastern boundary with Threshelfords Business Park. The longest (eastern) side of the site stretches from the corner of the business park to a point to the rear of Exchange Court. This boundary cuts diagonally across fields and does not follow any defined boundaries. The site also includes a narrow strip of land along the north east boundary of the business park that links the site with the public footpath that runs from the rear of the business park to the pedestrian bridge across the A12.
- 5.4 In terms of topography, the land drops gently from London Road towards the business park with an overall fall of approximately 4m.

6. PROPOSAL

- 6.1 This Section 73 application proposes to amend Condition 1 (approved plans) pursuant to Application Reference 21/02167/VAR. The full description of the proposal is as follows:

*Variation of Condition 1 (Approved Plan) of approved application 21/02167/VAR granted 11.02.2022 for: Variation of Condition 1 of planning permission 19/01222/REM granted 15.06.2020 for: Application for approval of reserved matters following outline approval 16/00569/OUT - Approval of Reserved Matters (layout, scale, appearance, and landscaping) comprising the construction of 162 dwellings, new public open space, car parking and associated infrastructure works. Variation would allow for: first floor internal reconfiguration and rear elevation amendment to Dekker house type.*

6.2 This application seeks permission for changes to the Dekker House type to include an additional en-suite window at first floor level on the rear elevation of the dwelling type which would serve a new en-suite to the master bedroom. There are a total of 14 Dekker house types at the site. This application is intended to cover all 14 of these units.

6.3 It should be noted that this change to the Dekker house type is part-retrospective, as several plots have now been built and occupied not in accordance with the approved plans but with the additional en-suite and its associated window.

## 7. SUMMARY OF CONSULTATION RESPONSES

### 7.1 Historic England

7.1.1 No objection – refer to local Historic Buildings Consultant.

### 7.2 Historic Buildings Consultant

7.2.1 Raised no objection to the application.

## 8. PARISH / TOWN COUNCIL

### 8.1 Feering Parish Council

8.1.1 Raise concerns with regards to the retrospective nature of some of the works. Offered no objection to the changes to the floor plans.

## 9. REPRESENTATIONS

### 9.1 Ward Members

9.1.1 Consultation responses were received from both Ward Members (Cllr Thorogood and Cllr Sandum) who objected to the application on the following grounds:

- Retrospective application
- Increase the amount of overlooking on neighbouring properties
- Compound impact on Grade II\* Heritage Asset
- Request that the application be called in to Committee

## 9.2 Members of the Public

- 9.2.1 Three objections from two neighbouring properties ('Lenda' and 'Cobham Oak Cottage', Inworth Road) have been received setting out the following summarised concerns:
- Not been constructed in line with approval – should be no retrospective applications
  - Developer continued construction despite enforcement action
  - Set precedent if allow this retrospective application
  - Identified as sensitive boundary in initial development documents
  - Increase in exposure and reduction of privacy further
  - Gross overdevelopment
  - Windows look busy in elevation
  - Sensitive boundary with Grade II\* Listed Building
  - No heritage impact report submitted

## 10. PRINCIPLE OF DEVELOPMENT

### 10.1 National Planning Policy Framework (NPPF)

- 10.1.1 As set out in Paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 of the NPPF explains that achieving sustainable development means that the planning system has three overarching objectives: economic; social; and environmental; which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives).
- 10.1.2 Paragraph 9 of the NPPF outlines that planning decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area. In addition, paragraph 38 of the NPPF prescribes that local planning authorities should approach decisions on proposed development in a positive and creative way and that decision makers at every level should seek to approve applications for sustainable development where possible.
- 10.1.3 Paragraph 12 of the NPPF sets out that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making. In addition, paragraph 47 of the NPPF states that planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise.
- 10.1.4 The NPPF underlines the Government's objective of significantly boosting the supply of homes. In this regard, Paragraph 60 of the NPPF highlights the importance of ensuring that there is a sufficient amount and variety of

land that can come forward where it is needed, that specific housing requirements are met, and that land with permission is developed without unnecessary delay. Paragraph 74 of the NPPF outlines that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against (in the case of Braintree District) our 'local housing need' plus the relevant buffer.

- 10.1.5 In this regard, and in considering the overall planning balance as to whether the proposed development subject to this application constitutes sustainable development, an important material consideration in this case is whether the Council can robustly demonstrate a 5 Year Housing Land Supply. This will affect whether Paragraph 11 of the NPPF is engaged and consequently the weight that can be attributed to the Development Plan (see below).

10.2 5 Year Housing Land Supply

- 10.2.1 The Council publishes a 5 year housing land trajectory as of 31st March each year. The most recent position therefore is that of 31st March 2021. Within the published trajectory, the forecast supply amounted to a 5.1 year supply of housing based on a 5% buffer.
- 10.2.2 At its Full Council meeting on 22nd February 2021, Braintree District Council approved the adoption of the Shared Strategic Section 1 Local Plan. On its adoption, the Council must meet the housing requirement set out in that Plan. This is a minimum of 14,320 homes between 2013-2033 or an annual average of 716 new homes per year. This replaces the previous consideration of housing need based on the Standard Methodology.
- 10.2.3 The latest Housing Delivery Test (HDT) results were published in January 2022. The new results (which include an allowance for the impact of the current pandemic) confirm that Braintree District achieved 125% supply against target and the usual 5% buffer is maintained. This applies from the day of publication of the results.
- 10.2.4 The Council's Housing Land Supply position has recently been contested as part of an appeal at Land off Brain Valley Avenue, Black Notley (Appeal Reference: APP/Z1510/W/21/3281232). Within the appeal decision dated 20th January 2022, the Inspector concluded at Paragraph 54 that the housing supply 2021-2026 would be in excess of the 5,352 requirement; and that therefore the Council can demonstrate an up-to-date housing land supply and the titled balance pursuant to Paragraph 11d) of the NPPF is not engaged.
- 10.2.5 Accordingly, given all the evidence before it, including the housing requirement from the Shared Strategic Section 1 Local Plan and the use of a 5% buffer, and having regard to the above appeal decision, the Council considers that the current 5 Year Housing Land Supply for the District is 5.1 years.

- 10.2.6 In addition, the current supply position does not include sites which are proposed to be allocated within the Section 2 Local Plan but do not yet have planning permission or a resolution to grant planning permission.
- 10.2.7 These allocations without permission are being tested at the Section 2 Plan Examination. Once the Section 2 Plan is adopted, these sites will become adopted allocations and greater weight can be given to them. It will also improve the prospects of these being included within the deliverable supply, where there is clear evidence that there is a realistic prospect that housing will be delivered on the site within five years.
- 10.3 The Development Plan
- 10.3.1 Currently the Council's statutory Development Plan consists of the Braintree District Local Plan Review (2005), the Braintree District Core Strategy (2011), and the Braintree District Shared Strategic Section 1 Local Plan (2021).
- 10.3.2 The principle of development for this site is established under the original outline planning permission for up-to 165 dwellings (Application Reference 16/00569/OUT).
- 10.3.3 Reserved Matters approval at the site has also subsequently been granted under Application Reference 19/01222/REM. This was for the erection of 162 residential dwellings pursuant to the original outline planning permission (Application Reference 16/00569/OUT).
- 10.3.4 A Section 73 application was also submitted (Application Reference 21/02167/VAR) which sought to make some minor material amendments to the approved plans attached to Application Reference 19/01222/REM. This application sought to include a number of solar panels to specific plots, while also amending slightly the position of Plots 107-102 and Plot 90 at the bottom corner of the site and including some additional canopy reduction works to an Oak Tree. This Section 73 application (21/02167/VAR) was approved and therefore forms the most up-to-date consent for the site which is being built out.
- 10.3.5 This Section 73 application proposes to further amend Condition 1 (plans) pursuant to Application Reference 21/02167/VAR. This is because retrospective changes to the approved Dekker house type have been made without prior consent and at the Applicant's risk. This application therefore seeks to regularise these changes.
- 10.3.6 The Planning Practice Guidance states that in deciding an application under Section 73 of the Town and Country Planning Act 1990, the local planning authority must only consider the condition/s that are the subject of the application – it is not a complete re-consideration of the application. It also states that the original planning permission will continue to exist whatever the outcome of the application under Section 73.

- 10.3.7 As such, the principle of development at the site has already been firmly established and is not for re-consideration, however the changes to the Dekker House type require a detailed assessment to determine whether they are acceptable or not.

## 11. SITE ASSESSMENT

### 11.1 Location of the Dekker House Types

- 11.1.1 The Dekker house type is a two bedroom dwelling. There are 14 Dekker house types, these are:

- § Plots 15 and 16 – Semi-detached pair on eastern boundary;
- § Plots 117-114 – Row of terraced houses on southern boundary (with Inworth Road);
- § Plots 130-129 – Middle units in a terrace of other units on southern boundary (with Inworth Road);
- § Plot 132-135 – Row of terraced houses on western boundary;
- § Plot 137 – One part of a semi-detached pair on western boundary (with London Road);
- § Plot 160 – One part of a semi-detached pair on western boundary (with London Road).

- 11.1.2 The change to the Dekker house type is to accommodate an additional bathroom window in the rear elevation. This additional window is as a result of first floor amendments to the Dekker House type to include an en-suite which would serve the second bedroom. Previously the Dekker house type only had a single bedroom window on the rear elevation and no en-suite.

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

- 11.2.1 Originally, the single first floor rear bedroom window of the Dekker was positioned centrally above the rear patio doors. The first floor rear bedroom window has now been moved across so that it is off centre from the patio doors, and closer to one edge of the rear elevation. This is to accommodate the new en-suite window, which is located in close proximity to the other edge of the rear elevation.

- 11.2.2 The additional en-suite window has therefore unbalanced what was previously symmetrical in terms of the first and ground floor fenestration relationship. However, the revised rear elevation is not in itself so unbalanced that it creates a conflict between the first and ground floor fenestration, and indeed the void to solid ratio would not be unacceptable in planning terms. The rear fenestration would now also be more akin to the front elevation which proposes a similar configuration with a bigger and smaller bedroom window (although it is acknowledged that the front is symmetrical in design owing to the separate door and window at ground floor).



11.2.3 Overall, owing to the above, it is not considered that the additional window would lead to a harmful impact on the overall appearance of the Dekker house type, nor that its inclusion would justify refusing planning permission on design grounds. The proposed amendment is therefore considered acceptable in this regard.

### 11.3 Heritage

11.3.1 The site is located near to Cobham Oak Cottage, a Grade II\* listed building (list entry number: 1123836). The impacts on this listed building were considered extensively at the time of the Reserved Matters application, with less than substantial harm (at the lower end of the scale) being identified. In that case however the significant benefits of the scheme were considered to outweigh the heritage harm.

11.3.2 In this case, the Historic Buildings Consultant has assessed the additional window to determine whether there would be an increase in harm to the listed building as a result of changes to plots 130-129 (closest to the Listed Building).

11.3.3 The Historic Buildings Consultant considered that while the proposal results in additional windows to Plots 130 and 129, they would not result in further harm to the setting of Cobham Oak Cottage. The Historic Buildings Consultant therefore raised no objection to the development.

### 11.4 Internal Amenity and Nationally Described Space Standards

11.4.1 The additional rear window has come about due to the first floor internal re-configuration of the Dekker house type to include an en-suite bathroom to serve what was previously bedroom 1 (i.e. the master bedroom). However, in adding the en-suite, the overall floorspace of this bedroom would be reduced to approximately 9sq.m. This Bedroom was previously 13.16sq.m, therefore the en-suite would take up approximately 4.16sq.m of space.

11.4.2 To comply with the standards set out in the Nationally Described Space Standards (NDSS), a double bedroom needs to measure at least 11.5sq.m in overall floor area (which can include in-built storage), as well as be 2.75m wide (full technical requirements set out in 11.4.7 below).

11.4.3 In this case, the en-suite would result in a reduction in the overall floorspace of this bedroom to approximately 9sq.m. This would be below the required 11.5sq.m to comply with the NDSS requirements for a double bedroom. For the avoidance of doubt, it is considered that an en-suite does not count towards the overall bedroom floorspace. This is because it does not serve the same function as the bedroom floorspace, and there is no opportunity for meaningful storage in the en-suite. While it may be a potential benefit to future occupants to have an additional sanitary facility, the NDSS notes are clear that:

*“2. GIAs for two and three storey dwellings include enough space for one bathroom and one additional WC (or shower room). Additional sanitary facilities may be included without increasing the GIA provided that all aspects of the space standard have been met.”*

- 11.4.4 In this case, the en-suite would constitute an additional sanitary facility over and above the approved first floor bathroom and downstairs toilet. As above, the NDSS states that these additional sanitary facilities can be included providing that all aspects had been met. The addition of the en-suite would mean that this Bedroom is now deficient at 9sq.m instead of the required 11.5sq.m and must therefore function as a single bedroom.
- 11.4.5 However, one of the changes to what was previously bedroom 2 was to remove a built-in wardrobe, which allowed more floorspace to accommodate a double bed (previously with this built in wardrobe bedroom 2 could only accommodate a single bed). Bedroom 2 still however retains a bulk storage cupboard/wardrobe. The bulk storage cupboard is not a full floor to ceiling wardrobe, instead it is approx. 0.6m high off of the floor, rising up to the height of the ceiling inside. The storage space internally would therefore have a headroom of 1.68m and a total floorspace of 0.72sq.m.
- 10.4.6 If this bulk storage area is included in the overall bedroom floorspace requirements, bedroom 2 would measure 11.83sq.m, which is above the required 11.5sq.m to comply with the NDSS for a double bedroom. However, if the bulk storage cupboard was not to be included in the floorspace calculation, then bedroom 2 would be deficient in terms of floorspace under the requirements of the NDSS (11.11sq.m).
- 11.4.7 Officers deliberated at length whether the bulk storage cupboard would indeed count towards the bedroom floor area requirements, with reference to the following technical criteria set out in the NDSS:
- a) *The dwelling provides at least the gross internal floor area and built-in storage area set out in the table (the overall floorspace requirements);*
  - b) *A dwelling with two or more bedspaces has at least one double (or twin) bedroom;*
  - c) *In order to provide one bedspace, a single bedroom has a floor area of at least 7.5m<sup>2</sup> and is at least 2.15m wide;*
  - d) *In order to provide two bedspaces, a double (or twin bedroom) has a floor area of at least 11.5m<sup>2</sup>;*
  - e) *One double (or twin bedroom) is at least 2.75m wide and every other double (or twin) bedroom is at least 2.55m wide;*
  - f) *Any area with a headroom of less than 1.5m is not counted within the Gross Internal Area unless used solely for storage (if the area under the stairs is to be used for storage, assume a general floor area of 1m<sup>2</sup> within the Gross Internal Area);*
  - g) *Any other area that is used solely for storage and has a headroom of 900-1500mm (such as under eaves) is counted at 50% of its floor area, and any area lower than 900mm is not counted at all;*

- h) *A built-in wardrobe counts towards the Gross Internal Area and bedroom floor area requirements, but should not reduce the effective width of the room below the minimum widths set out above. The built-in area in excess of 0.72m<sup>2</sup> in a double bedroom and 0.36m<sup>2</sup> in a single bedroom counts towards the built-in storage requirement;*
  - i) *The minimum floor to ceiling height is 2.3m for at least 75% of the Gross Internal Area.*
- 11.4.8 Criteria D is the criteria that is currently under question assessing bedroom 2. The other criteria however in this list assist in determining whether the built-in bulk storage cupboard in bedroom 2 counts as floorspace. Specifically, points f) and h) above, which state that a built-in wardrobe counts towards the Gross Internal Area and bedroom floor area requirements. These criteria however introduce some uncertainty, as they do not specify what the cupboard needs to be to constitute useable storage space and floor space. However, the wording 'wardrobe' suggests that the storage area must be useable and fit for its intended purpose.
- 11.4.9 The dictionary definition of a wardrobe is as follows: *"a tall cupboard in which you hang your clothes."* In this case, having been to site, Officers consider that the bulk storage cupboard is large enough to act as a wardrobe to hang clothes should a future occupier decide to put up a hanger rail inside. As such, having regard to all of the above, Officers have concluded that the bulk storage cupboard could act as a wardrobe for the purposes of the technical requirements in the NDSS and can be included in the overall floor space calculations. Moreover, bedroom 2 would comply with the other technical requirements as set out above and is therefore able to function as the master bedroom. As such, Officers consider that the re-configuration of the Dekker house type would still result in a NDSS compliant unit. It is therefore considered that the overall internal amenity of the Dekker house type would remain at an acceptable level to provide good amenity for future occupiers.
- 11.4.10 The developer has submitted revised plans for clarity which reversed the bedrooms, so that bedroom 2 becomes bedroom 1 (the master bedroom), and bedroom 1 becomes bedroom 2 (the secondary single bedroom).
- 11.5 Impact upon Neighbouring Residential Amenity
- 11.5.1 12 of the 14 Dekker house types back onto a site boundary; the ones of note are Plots 117-114 and 130-129 on the southern boundary (with Inworth Road) and Plot 132-135 on the western boundary with London Road.
- 11.5.2 At the time of considering the original reserved matters application (Application Reference 19/01222/REM), it was determined that the proposed development would not have a detrimental impact on neighbouring amenity. This in part was due to plot distances from common boundaries, as well as the depth of existing gardens of the adjoining neighbouring properties. These distances are all remaining as previously

approved. Therefore from an overbearing and overshadowing perspective, the additional window in the Dekker house type would not affect either of these aspects.

- 11.5.3 An additional window does however facilitate the possibility of additional overlooking, although even if a clear glazed window it is not the case that this additional overlooking would automatically be considered unacceptable in planning terms. It is noted that a number of objections have been received from neighbouring residents with regard to increased overlooking. However in this case, the additional window in question is a small bathroom window. Bathroom windows are not primary windows serving habitable accommodation. They are usually obscurely glazed to protect the privacy of those using said bathrooms.
- 11.5.4 In this case, it is considered that the additional bathroom window would not lead to a detrimental rise in overlooking comparatively to the previously approved Dekker house type. The back to back distances between new and existing dwellings remain of an acceptable standard to safeguard against any unacceptable loss of privacy in planning terms from windows in the new dwellings rear elevations at first floor level. Furthermore, the additional window is a bathroom window.
- 11.5.5 Notwithstanding the above, in order to assist in mitigating residents' concerns, the developer has agreed to a condition that the additional rear en-suite windows on the Dekker house type are obscurely glazed. The windows would however still be able to be opened below 1.7 in the same way as the approved rear bedroom window.
- 11.5.6 Overall, it is considered that the additional rear bathroom window would be acceptable from a neighbouring amenity impact perspective.

## 11.6 Retrospective Nature of Works

- 11.6.1 Objections have been received on the basis that the current application is retrospective. As set out above, the fact that an application is retrospective is not in itself grounds for refusal and the application must be considered on its merits and without prejudice. The applicant has proceeded at their own risk and while this approach is not supported by the Local Planning Authority, this is not a material consideration in the consideration and assessment of this application.

## 11.7 Habitat Regulations Assessment (HRA / RAMS)

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

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

- 11.7.2 To compensate for the impacts of development, HRA mitigation was secured via legal agreement at the time of considering Application Reference 19/01222/REM. It is therefore unnecessary to include a legal agreement in this case for any further funding as the HRA payment has already been made, the trigger being prior to commencement of development on the overall site.

## 12. PLANNING OBLIGATIONS

- 12.1 There are no new planning obligations that need to be secured in this case, owing to the fact that this is a Section 73 variation to a Reserved Matters and not to the Outline planning permission, meaning that the original Section 106 Agreement for the development remains in force and would not need to be varied.

## 13. PLANNING BALANCE AND CONCLUSION

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

existing policies should not be considered out-of-date simply because they were adopted prior to the publication of the Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater weight that may be given).

- 13.1.6 In this case the basket of policies which are considered to be the most important for determining the application are Policies SP1 and SP3 of the Section 1 Plan, Policies RLP2, RLP90, RLP95 and RLP100 of the Adopted Local Plan and Policy CS5 of the Core Strategy. Policy LPP55 of the Braintree District Publication Draft Section 2 Local Plan (2017) is also of particular relevance.
- 13.1.7 Policy SP1 of the Section 1 Plan states that when considering development proposals the Local Planning Authority will take a positive approach that reflects the presumption in favour of sustainable development contained within the NPPF, and will seek to approve proposals wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. Policy SP3 of the Section 1 Plan sets out the spatial strategy for North Essex, namely to accommodate development within or adjoining settlements according to their scale, sustainability and existing role both within each individual Districts, and where relevant, across the wider strategic area. Further growth will be planned to ensure existing settlements maintain their distinctive character and role, to avoid coalescence between them and to conserve their setting. As the Section 1 Plan has been found to be sound and recently adopted by the Council, it is considered that both policies are consistent with the NPPF and can be afforded full weight. Neither are out-of-date.
- 13.1.8 Whilst the primary purpose of Policy RLP2 of the Adopted Local Plan is to restrict development to development boundaries, and thus resist it in the countryside, it is considered that the policy remains broadly consistent with the Framework's approach of protecting the countryside from harmful development, and is not hindering the Council in delivering housing growth within the District. The policy is not out-of-date, and can be given moderate weight. The aims of Policy CS5 of the Core Strategy are much wider as the policy seeks to amongst other things, protect and enhance the landscape character and amenity of the countryside. As it is effectively seeking to preserve the intrinsic character and beauty of the countryside – an objective contained within the NPPF – it is considered that this policy is not out-of-date and can be given significant weight.
- 13.1.9 Policy RLP100 inter alia seeks to preserve and enhance the settings of listed buildings by appropriate control over the development, design and use of adjoining land. In respect of conserving and enhancing the historic environment, the NPPF states at Paragraph 199 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), irrespective of whether this amounts to substantial harm, total loss or less

than substantial harm to its significance. Paragraphs 201 and 202 then set out the criteria for circumstances where a proposal would lead to substantial harm/total loss and less than substantial harm respectively. Policy RLP100 pre-dates the NPPF and lacks the balancing exercise contained in the Framework which requires that the identified harm in the less than substantial category should be weighed against the public benefits of the proposal. The policy is considered to be partially consistent with the NPPF, and therefore not out-of-date and accordingly can only be afforded reduced weight. However, as set out above, the Council also have a statutory duty when assessing planning applications that affect Listed Buildings and although the Development Plan policies carry reduced weight it is clear that significant weight must be attributed to fulfilling these statutory duties.

- 13.1.10 Policy RLP90 and Publication Draft Local Plan Policy LPP55 require residential developments to provide a good standard of accommodation and amenity for prospective occupants and seek to safeguard the amenity of existing residents. Both are consistent with the NPPF in this regard. The Publication Draft Local Plan is at a very advanced stage and significant weight can be given to Policy LPP55 as it can to Policy RLP90 of the Adopted Local Plan.
- 13.1.11 When considering the basket of the most important policies for the determination of this application as a whole, it is considered that the policies are not out-of-date and are broadly consistent with the Framework.
- 13.1.12 Given that the Council can demonstrate a 5 Year Housing land Supply, and the basket of policies are not otherwise out-of-date, the 'flat' (or untilted) planning balance must still be undertaken which weighs the adverse impacts of the proposed development, including the conflict with the Development Plan, against the public benefits of the proposal.
- 13.1.13 In undertaking this flat planning balance, such an assessment must take account of the economic, social and environmental impact of the proposed development. As set out in Paragraph 8 of the NPPF, achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and needed to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):
  - an economic objective (to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure);
  - a social objective (to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible

- services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being); and
- an environmental objective (to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy).

## 13.2 Summary of Adverse Impacts

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

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

- 13.2.2 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Paragraph 15 of the NPPF emphasises that the planning system should be “genuinely plan led”.
- 13.2.3 The proposed development would conflict with Policy RLP2 of the Adopted Local Plan and Policy CS5 of the Core Strategy with regard to the Council's spatial strategy as the development is located outside of defined development boundaries and within the countryside. However, the principle of development has already been established for the development through the grant of the outline planning permission and subject Reserved Matters approval. This Section 73 application seeks to make detailed changes to the Reserved Matters approval for the development. Against this context, no weight is attached to the above conflict.

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

- 13.2.4 The site, along with a wider area, is allocated for development in the Section 2 Plan. Therefore the development would comply (in part) with the Section 2 Plan. Similarly to the above, as the principle of development has already been established for the development no weight is attached to the above conflict.

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

- 13.2.5 The proposed additional window would not lead to a significantly harmful impact on the overall appearance of the Dekker house type.

### **Heritage**

- 13.2.6 No detrimental impact on the setting of Listed Buildings.



### **Harm to Neighbouring Residential Amenity**

- 13.2.7 The additional proposed en-suite window would not have a detrimental impact upon neighbouring residential amenity. However, the developer has agreed to a condition for an opening, but obscurely glazed window, in order to assist in addressing residents' concerns regarding any increased overlooking.

### **Harm to the Amenity of Future Occupiers**

- 13.2.8 The inclusion of the en-suite window, which would serve a new en-suite would reduce the overall floorspace of what was previously bedroom 1. However, with the re-configured bedroom 2, this would now act as the master bedroom, therefore complying with the Nationally Described Space Standards. As such, the en-suite floorspace loss is not considered to cause any specific harm.

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

- 13.3.1 The scheme would still deliver significant benefits including new housing, affordable housing, open space, S106 contributions and new tree planting.

### **13.4 Planning Balance**

- 13.4.1 When considering the flat planning balance and having regard to the adverse impacts and benefits outlined above, and having regard to the requirements of the NPPF as a whole, Officers have concluded that the benefits of the proposal outweigh the adverse impacts. Consequently it is recommended that planning permission is granted for the proposed development.
- 13.4.2 Notwithstanding the above, even if the 'tilted balance' was engaged, it is considered that the adverse impacts would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Against this context, it would be recommended that planning permission be granted for the proposed development.

### **14. RECOMMENDATION**

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

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

## APPENDIX 1:

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

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

<b>Plan Description</b>	<b>Plan Ref</b>	<b>Plan Version</b>
Proposed Plans	NSS.277_NSS.277-1.PL-01	C
Proposed Floor Plan	NSS.823.PL-03_A DEKKER	N/A
Proposed Elevations	NSS.823.PL-01_A DEKKER	N/A
Proposed Floor Plan	NSS.810-1.PL-05	N/A
	A_BUXTON_DEKKER	
Proposed Elevations	NSS.810-1.PL-01	N/A
	A_BUXTON_DEKKER	
Proposed Floor Plan	NSS.376.RV701_281.PL-02	N/A
	B_LAWRENCE_DEKKER	
Proposed Elevations	NSS.376.RV701_281.PL-01	N/A
	B_LAWRENCE_DEKKER	
Proposed Floor Plan	NSS.372_281.PL-03	N/A
	B_BUXTON_DEKKER_LAW	
Proposed Elevations	NSS.372_281.PL-02	N/A
	B_BUXTON_DEKKER_LAW	
Proposed Elevations	NSS.372_281.PL-01	N/A
	B_BUXTON_DEKKER_LAW	
Proposed Plans	RV402.470-1.PL-01	N/A
Proposed Plans	RV402.470-1.PL-02	N/A
Proposed Elevations	RV401.476-1.PL-02	N/A
Proposed Floor Plan	RV402.472-1.PL-05	N/A
Proposed Elevations	RV401.476-1.PL-01	N/A
Proposed Plans	RV401.477-1.PL-01	N/A
Proposed Plans	RV401.487-1.PL-01	N/A
Proposed Elevations	RV401.489-1.PL-02	N/A
Proposed Floor Plan	NSS.M2B4P.PL-02	N/A
Proposed Elevations	NSS.M2B4P.PL-01	N/A
Proposed Plans	NSS.374.PL-05	N/A
Proposed Plans	NSS.375PL-05	N/A
Proposed Plans	RV402.470.PL-01	N/A
Proposed Plans	NSS.375-1.PL-05	N/A
Proposed Elevations	384_384-1.PL-06	N/A
Proposed Floor Plan	RV501.472-1.PL-05	N/A
Proposed Plans	RV401.477.PL-01	N/A
Proposed Plans	RV401.487.PL-01	N/A
Proposed Elevations	RV401.489.PL-01	N/A
Proposed Elevations	RV401.489.PL-08	N/A
Proposed Floor Plan	RV501.489.PL-06	N/A
Proposed Floor Plan	NSS.282-1.PL-01	A
Proposed Plans	NSS.375.PL-01	N/A
Proposed Elevations	NSS.807.PL-01	N/A

Proposed Floor Plan	NSS.807.PL-03	N/A
Proposed Elevations	NSS.807-1.PL-01	N/A
Proposed Floor Plan	NSS.807-1.PL-03	N/A
Proposed Plans	BSP960.PL-01	N/A
Proposed Plans	BSP961.M3BB5P.PL-01	N/A
Proposed Elevations	BL0-007	N/A
Proposed Floor Plan	BSP961.M3BB5P.PL-02	N/A
Proposed Elevations	RV1-NSS.M861.PL-01	N/A
Proposed Floor Plan	RV1-NSS.M861.PL-02	N/A
Proposed Floor Plan	BL0-008	N/A
Proposed Elevations	RV301-NSS.M3B5P.PL-01	N/A
Proposed Plans	BSP978-NSS.M3B6P25	N/A
Proposed Elevations	RV1-NSS.M866-1.PL-01	N/A
Proposed Floor Plan	NSS.M866-1.PL-02	N/A
Proposed Floor Plan	RV301-NSS.M3B5P.PL-02	N/A
Landscape Masterplan	EA142-LS-001F	N/A
Landscape Masterplan	EA142-LS-02F	N/A
Landscape Masterplan	EA142-LS-03G	N/A
Landscape Masterplan	EA142-LS-04G	N/A
Landscape Masterplan	EA142-LS-05G	N/A
Tenure Plan	010	K
Location Plan	18-2758-001	N/A
House Types	16319/BUXTON	N/A
House Types	16319/DEKKER	N/A
House Types	16319/GWYNN	N/A
Proposed Plans	GL01.PL-01	N/A
Proposed Plans	SH02-1.PL-01	N/A
Proposed Plans	GL02.PL-01	N/A
Street elevation	015	D
Specification	012	L
Dimension plan	013	K
Street elevation	014	F
Street elevation	016	D
General	060	N/A
Proposed Elevations	BSP958-1.PL-01	B
Proposed Elevations	BSP958-1.PL-02	B
Proposed Floor Plan	BSP958-1.PL-03	A
Proposed Floor Plan	BSP958-1.PL-04	A
Proposed Floor Plan	BSP958-1.PL-05	A
Proposed Elevations	BS959.PL-01	A
Proposed Elevations	BS959.PL-02	A
Proposed Floor Plan	BS959.PL-03	A
Proposed Floor Plan	BS959.PL-04	A
Proposed Floor Plan	BS959.PL-05	A
House Types	16319/SANSOM	N/A
House Types	16319/HALLAM	N/A
House Types	16319/HEATON	N/A
House Types	16319/SUTHERLAND	N/A
House Types	16319/WARTON	N/A

Proposed Plans	EA142-SL-301A(SOLAR PANELS LOCATION)	N/A
Specification	800341.6(SOLAR PANEL DETAILS)	N/A
Specification	18-2758-006 P (BOUNDARY TREATMENT PLAN)	N/A
House Types	NSS.372.PL-01	N/A
House Types	RV401.477.PL-02	N/A
House Types	NSS.394.PL-01	N/A
Floor Plan	NSS.394.PL-06	N/A
Garden Study	18-2758-008V	N/A
Massing Plan	18-2758-003P	N/A
Parking Strategy	18-2758-005P	N/A
Refuse Information	18-2758-004N	N/A
Site Plan	18-2758-002AR	N/A
Tree Plan	8271-D-EXTRACT	N/A
Materials Details	EA142-PD-920D	N/A
Proposed Plans	NSS.374.PL-01	N/A
Proposed Floor Plan	384-384-1.PL-05	N/A
Proposed Plans	NSS.375.PL-01(Tudor)	N/A
Proposed Elevations	384-384-1.PL-01	N/A
Proposed Elevations	RV401.472-1-PL-01	N/A
Proposed Floor Plan	RV401.472-1.PL-05	N/A
Proposed Elevations	RV401.476-1.PL-03	N/A
Proposed Floor Plan	RV401.476-21.PL-06	N/A
Proposed Elevations	RV401.489-1.PL-03	N/A
Proposed Floor Plan	RV501.489-1.PL-06	N/A
Proposed Plans	NSS.372.PL-02	N/A
Proposed Plans	NSS.375.PL-02	N/A

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

##### Condition 1

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.

##### Condition 2

The development shall implement the Badger Mitigation Method Statement (SES Ltd, June 2020), as approved by Natural England on 20/0114/DAC.

Reason: To enhance Protected and Priority Species/habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species). This is necessary to ensure that this application provides net gains for biodiversity, as outlined under paragraph 170d of the NPPF.

##### Condition 3

The development shall be carried out in accordance with the approved Lighting Design Scheme to Protect Biodiversity (Southern Ecological Solutions Ltd, July 2020)

as discharged under 20/01231/DAC.

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

#### Condition 4

The development hereby permitted shall not be occupied until the first floor en-suite window on the rear facing elevation of Plots 15, 16, 114, 115, 116, 117, 129, 130, 132, 133, 134, 135, 137 and 160 have been fitted with obscured glazing to a minimum of level 3 and thereafter retained as such.

Reason: In the interests of residential amenity and in order to secure the privacy of adjoining occupiers.

#### Informative(s)

##### Informative 1

Glazing to provide privacy is normally rated on a Pilkington or equivalent scale of 1-5, with 5 providing the most privacy.

#### Positive and Proactive Statement

*The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and has granted planning permission in accordance with the presumption in favour of sustainable development, as set out in the National Planning Policy Framework.*

## APPENDIX 2:

### POLICY CONSIDERATIONS

#### National Planning Guidance

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

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

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

#### Braintree District Local Plan Review 2005

RLP2     Town Development Boundaries and Village Envelopes  
RLP7     Housing and Mixed Use Sites  
RLP8     House Types  
RLP10    Residential Density  
RLP22    Accessible Housing and Lifetime Housing  
RLP49    Pedestrian Networks  
RLP50    Cycleways  
RLP51    Cycle Parking  
RLP52    Public Transport  
RLP53    Generators of Travel Demand  
RLP54    Transport Assessments<sup>2</sup>  
RLP55    Travel Plans  
RLP56    Vehicle Parking  
RLP63    Air Quality  
RLP64    Contaminated Land  
RLP65    External Lighting  
RLP69    Sustainable Drainage  
RLP70    Water Efficiency  
RLP71    Water Supply, Sewerage and Land Drainage  
RLP72    Water Quality  
RLP74    Provision of Space for Recycling  
RLP77    Energy Efficiency  
RLP80    Landscape Features and Habitats  
RLP81    Trees, Woodlands, Grasslands and Hedgerows  
RLP84    Protected Species  
RLP90    Layout and Design of Development  
RLP91    Site Appraisal  
RLP92    Accessibility  
RLP93    Public Realm

- RLP100 Alterations and Extensions and Changes of Use to Listed Buildings, and their settings
- RLP105 Archaeological Evaluation
- RLP106 Archaeological Excavation and Monitoring

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

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

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

- LPP1 Development Boundaries
- LPP17 Housing Provision and Delivery
- LPP22 Strategic Growth Location - Land at Feering
- LPP33 Affordable Housing
- LPP37 Housing Type and Density
- LPP44 Sustainable Transport
- LPP45 Parking Provision
- LPP49 Broadband
- LPP50 Built and Historic Environment
- LPP52 Health and Wellbeing Impact Assessment
- LPP53 Provision for Open Space, Sport and Recreation
- LPP55 Layout and Design of Development
- LPP60 Heritage Assets and their settings
- 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
- LPP75 Energy Efficiency
- LPP77 Renewable Energy Within New Developments
- LPP79 Surface Water Management Plan
- LPP80 Sustainable Urban Drainage Systems
- LPP81 External Lighting

#### Other Material Considerations

Essex Design Guide.

#### Statement on Draft Local Plan

On the 22nd February 2021, Braintree District Council adopted the Shared

## Strategic Section 1 Local Plan.

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

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

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

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

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

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

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



### APPENDIX 3:

#### SITE HISTORY

<b>Application No:</b>	<b>Description:</b>	<b>Decision:</b>	<b>Date:</b>
15/00012/SCR	Town & Country Planning Act 1990 (as amended), Town & Country Planning (Environmental Impact Assessment) Regulations 2011 - Screening & Scoping Opinion Request - Residential development comprising of 180 dwellings.	Screening/ Scoping Opinion Adopted	02.10.15
16/00569/OUT	Outline planning application to include up to 165 dwellings (C3), vehicular access from London Road, public open space, landscaping, associated infrastructure, drainage works and ancillary works. Detailed approval is sought for access arrangements from London Road, with all other matters reserved.	Granted with S106 Agreement	19.12.17
19/00013/DAC	Application for approval of details reserved by condition no 3 of approval 16/00569/OUT - Outline planning application to include up to 165 dwellings (C3), vehicular access from London Road, public open space, landscaping, associated infrastructure, drainage works and ancillary works. Detailed approval is sought for access arrangements from London Road, with all other matters reserved.	Granted	29.05.19
19/01222/REM	Application for approval of reserved matters following outline approval 16/00569/OUT - Approval	Granted with S106 Agreement	08.06.20

	of Reserved Matters (layout, scale, appearance, and landscaping) comprising the construction of 162 dwellings, new public open space, car parking and associated infrastructure works		
19/01437/DAC	Application for approval of details reserved by condition 5 of approved application 16/00569/OUT	Part Grant, Part Refused	06.09.19
19/01438/DAC	Application for approval of details reserved by conditions 6 and 13 of approved application 16/00569/OUT	Granted	11.10.19
19/01439/DAC	Application for approval of details reserved by conditions 9, 12 and 14 of approval 16/00569/OUT	Granted	09.07.20
19/02234/REM	Application for approval of reserved matters following outline approval 16/00569/OUT - Approval of Reserved Matters (layout, scale, appearance, and landscaping) comprising the construction of 162 dwellings, new public open space, car parking and associated infrastructure works.	Withdrawn	10.08.20
20/00780/DAC	Application for approval of details reserved by condition nos. 22 and 27 of approved application 16/00569/OUT	Granted	30.07.20
20/00781/DAC	Application for approval of details reserved by condition 24 of approved application 16/00569/OUT	Granted	30.07.20
20/00782/DAC	Application for approval of details reserved by condition 25 of approved application 16/00569/OUT	Granted	30.07.20
20/00973/DAC	Application for approval of	Granted	25.09.20

	details reserved by condition 11 of approved application 16/00569/OUT		
20/01007/DAC	Application for approval of details reserved by condition 4 (samples) of approval 19/01222/REM	Granted	30.07.20
20/01114/DAC	Application for approval of details reserved by condition 2 of approved application 19/01222/REM	Granted	25.09.20
20/01231/DAC	Application for approval of details reserved by condition no. 3 of approved application 19/01222/REM	Granted	25.09.20
20/01495/DAC	Application for approval of details reserved by condition 4 of approval 19/01222/REM	Withdrawn	11.11.20
20/01594/DAC	Application for approval of details reserved by condition 22 of approved application 16/00569/OUT	Granted	02.11.20
20/00004/C19CWH	Proposed modification of Construction Working Hours approved under application reference 19/01438/DAC to: 7.30am - 6pm Monday to Friday and 7.30am - 1:30 pm Saturdays.	Granted	04.11.20
20/00002/PPA	Application for approval of reserved matters following outline approval 16/00569/OUT - Approval of Reserved Matters (layout, scale, appearance, and landscaping) comprising the construction of 162 dwellings, new public open space, car parking and associated infrastructure works	Pending Consideration	
21/00413/DAC	Application for approval of details as reserved by condition 17 of approved application 16/00569/OUT	Granted	25.03.21

21/00415/DAC	Application for approval of details as reserved by condition 5 of approved application 16/00569/OUT	Granted	28.06.21
21/00892/NMA	Non-Material Amendment to permission 19/01222/REM granted 08.06.2020 for: Application for approval of reserved matters following outline approval 16/00569/OUT - Approval of Reserved Matters (layout, scale, appearance, and landscaping) comprising the construction of 162 dwellings, new public open space, car parking and associated infrastructure works. Amendment would allow:- Plot substitutions for plots 36, 37, 90, 96 and 102-107 only.	Pending Consideration	
21/02167/VAR	Variation of Condition 1 of planning permission 19/01222/REM granted 15.06.2020 for: Application for approval of reserved matters following outline approval 16/00569/OUT - Approval of Reserved Matters (layout, scale, appearance, and landscaping) comprising the construction of 162 dwellings, new public open space, car parking and associated infrastructure works. Variation would allow for: -Addition of Photovoltaic Panels -Plot Substitutions -Additional Tree Works	Granted	11.02.22
21/03675/NMA	Non-Material Amendment to permission 19/01222/REM granted 08.06.2020 for: Application	Refused	09.02.22

	<p>for approval of reserved matters following outline approval 16/00569/OUT - Approval of Reserved Matters (layout, scale, appearance, and landscaping) comprising the construction of 162 dwellings, new public open space, car parking and associated infrastructure works. Amendment would allow:- Internal layout to Bedroom 1 of Dekker house type amended with the addition of en-suite including an additional window.</p>		
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